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Federal Register

Thursday
May 15, 1986

Selected Subjects

Aviation Safety
Federal Aviation Administration

Chemicals
Environmental Protection Agency

Disaster Assistance
Federal Emergency Management Agency

Education of Handicapped
Education Department

Equal Access to Justice
National Labor Relations Board

Hazardous Waste
Environmental Protection Agency

Marine Mammals
National Oceanic and Atmospheric Administration

Maritime Carriers
Federal Maritime Commission

Radio
Federal Communications Commission

Seamen
Maritime Administration

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Presidential Documents

Title 3—

The President

Proclamation 5477 of May 13, 1986

National Osteoporosis Awareness Week, 1986

By the President of the United States of America

A Proclamation

Osteoporosis, a degenerative bone disease, affects 15 to 20 million Americans, mostly women, and takes a terrible human toll of pain, impaired mobility, and disruption of daily activities. Its victims lose their independence, and their families share in the heartache.

Often called a silent disease, osteoporosis may begin and then progress without any warning signs. Bone mass decreases, causing bones to be more susceptible to fracture. Each year more than 1.3 million Americans over 45 years of age suffer bone fractures as a result of this malady. Fractures of the spine, hips, and wrist are the most common, although any of the bones may be affected.

As the number of elderly persons increases, so will the magnitude of the problem. However, we now know that osteoporosis may not be an inevitable part of aging. New research findings and new approaches to prevention, diagnosis, and treatment are being developed to eliminate osteoporosis as a cause of human suffering. Working together, the Federal government and private voluntary organizations have developed a strong and enduring partnership in osteoporosis research. I am confident we will uncover the cause and cure of this major public health problem and promote measures to prevent or delay its occurrence.

The Congress, by Senate Joint Resolution 285, has designated the week beginning May 11 through May 17, 1986, as "National Osteoporosis Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 11 through May 17, 1986, as National Osteoporosis Awareness Week, and I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of May, in the year of our Lord ninteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-11093
Filed 5-13-86; 2:47 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-82-AD; Amdt. 39-5312]

Airworthiness Directives; Mitsubishi Models MU-300 and MU-300-10

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Mitsubishi Model MU-300 and MU-300-10 airplanes, which requires placards, a revision to the Airplane Flight Manual (AFM), and replacement of the presently installed faulty starter relays with newly designed relays. This action is prompted by reports of electrical malfunctions of these relays during engine starting operations, which in one case, resulted in arcing of the relay contacts and overheating of components in the starter relay area. This condition, if not corrected, could result in a cabin fire.

EFFECTIVE DATE: June 2, 1986.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Beech Aircraft Corporation, 9709 E. Central, Wichita, Kansas 67201. They may be examined at the FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas; FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas; or FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Neil Christenson, FAA, Southwest Region, Airplane Certification Branch, ASW-150, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 877-2599.

SUPPLEMENTARY INFORMATION: Starter relay malfunctions have occurred on twelve (12) Mitsubishi Model MU-300 airplanes. Arcing and overheating of the starter relay and adjacent components have occurred on one of these airplanes. An evaluation of the reasons for these failures showed that they happened during engine starting operation and were annunciated by a continued illumination of the engine START light. Investigation revealed that one set of starter contacts stuck closed, while the other set generated a continuous arc which overheated the relay and adjacent components. Continuous starter excitation was applied to the starter and could only be removed by turning off the battery switch. In another incident, the right starter generator was destroyed during a left generator-assisted start. Investigation of this incident revealed that it was also caused by stuck starter relay contacts. This condition, if not corrected, could result in cabin or engine compartment fires.

The manufacturer has published Mitsubishi Service Bulletins (SB) 74-001 and 74-002, both dated April 25, 1986, which specify the replacement of the faulty relays with Cutler Hammer Part No. SM400 D16 relays, and make other improvements to the relay circuitry.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued to require compliance with Mitsubishi Service Bulletins 74-001 and 74-002, which describe the installation of the new relay. This AD also requires that, prior to the installation of the new relays, placards must be installed to instruct pilots that continued operation with any engine "start" or disengage annunciation is prohibited; and AFM operations must be revised accordingly.

Because a condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and a good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and if this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation of Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive (AD):

Mitsubishi: Applies to Model MU-300, Serial Numbers A003SA through A091SA; and Model MU-300-10, Serial Numbers A-1001SA through A1011SA; certificated in any category. To prevent cabin and engine compartment fires, accomplish the following:

A. Within 15 days after the effective date of this AD, affix a placard immediately adjacent to the engine START switch, worded as follows: "AFTER ENGINE(S) START, CONTINUED OPERATION WITH ANY ENGINE *START* OR DISENGAGE ANNUNCIATION IS PROHIBITED." This placard must consist of 0.1-inch red letters on a white background and may be of a plastic adhesive type, purchased locally. The placard, which is contained with Beech Aircraft Corporation MU-300/MU-300-10 Safety Communique, dated April 1986, is an acceptable placard. The placard may be removed from MU-300 airplanes when the Airplane Flight Manual for these airplanes has been changed in accordance with paragraph B., below, and the airplane has been modified in accordance with paragraph C., below. The placard may be removed from MU-300-10 airplanes when the airplane has been modified in accordance with paragraph C., below.

B. Within 15 days after the effective date of this AD, incorporate the following into the Normal Procedure *Starting Engines* Section of the MU-300 (Diamond I) Airplane Flight

Manual: "CHECK STARTER DISENGAGEMENT AT APPROXIMATELY 32% N_2. IF STARTER HAS NOT DISENGAGED BY 45% N_2, PLACE THRUST LEVER IN CUTOFF POSITION AND REMOVE ALL ELECTRICAL POWER." This may be accomplished by including a copy of this AD in the airplane flight manual.

C. Within the next 200 hours time-in-service after the effective date of this AD, replace the airplane starter relay in accordance with Mitsubishi Service Bulletin SB 74-001, dated April 25, 1986 (for Model MU-300 airplanes), or SB 74-002, dated April 25, 1986 (for Model MU-300-10 airplanes), or later FAA-approved revisions.

D. Special flight may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

E. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Airplane Certification Branch, FAA, Southwest Region.

This amendment becomes effective on June 2, 1986.

Issued in Seattle, Washington, on May 8, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10893 Filed 5-14-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-23115; File No. S7-41-85]

Amendment Relating to the Options Disclosure Document

Correction

In FR Doc. 86-8967 beginning on page 14980 in the issue of Tuesday, April 22, 1986, make the following correction:

On page 14982, in the third column, in 2(c), the amendatory language should read: "Adding a new paragraph (c)(5) to read as follows:"

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[T.D. 8084]

Excise Taxes; Second Tier Excise Taxes

Correction

In FR Doc. 86-9954 beginning on page 16300 in the issue of Friday, May 2, 1986, make the following correction: On page 16304, in § 53.4963-1(e)(3)(iv), in the third line, "4904" should read "4940".

BILLING CODE 1505-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules Amendments

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: On 25 July 1985, Congress passed Pub. L. 99-80, 99 Stat. 183, amending and reauthorizing the Equal Access to Justice Act, retroactive to 1 October 1984. On 5 August 1985, the President signed the legislation and the amended Equal Access to Justice Act became law. The rules of the National Labor Relations Board have not been changed since initially established in October 1981. These revisions change the rules as they are affected by the 1985 amendments to the Equal Access to Justice Act and, in one instance, conform language in the rules to the statutory language.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, D.C. 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (29 U.S.C. 156), and in accordance with the requirements of section 504(c)(1) of the Equal Access to Justice Act (5 U.S.C. 504(c)(1)), the National Labor Relations Board is revising its rules implementing the Equal Access to Justice Act governing the award of fees and other expenses to eligible parties who prevail in litigation before the Agency. In 1985, the Equal Access to Justice Act was amended with the changes in the Act made applicable to any case commenced after 1 October 1984. The amendments require a revision of the Board's rules to increase the net worth eligibility limits and to add small local governmental units as parties eligible for an award.

As stated in the rulemaking notice (51 FR 9467), in promulgating these rules, consideration was given to the model prepared by the Administrative Conference of the United States (50 FR 46250) when appropriate. The Administrative Conference also submitted comments to the Board's proposed rules. These comments were directed, in large part, to additions and modifications in the rules that were not included in the Board's proposed changes. These comments were fully considered in the determination to publish the rules unchanged from their proposed form.

The revisions to the rules will be effective immediately upon publication. The remaining provisions of the Board's rules regarding the administrative award of fees and expenses under the Equal Access to Justice Act remain unchanged.

Section 102.143(c) of the Board's rules presently provides that applicants who are eligible to receive awards include individuals with net worth of no more than $1 million, and the sole owner of an unincorporated business, a partnership, a corporation, an association, or a public or private organization with a net worth of not more than $5 million and not more than 500 employees. This section is revised to substitute the new net worth limitations of $2 million and $7 million for $1 million and $5 million, respectively. In addition, this section of the rules is revised to provide that a "unit of local government" is a party eligible to receive an award.

Section 102.144(a) is revised to include the statutory language "substantially justified" to evaluate the position of the General Counsel in place of the phrase "reasonable in law and fact." To avoid any confusion or misunderstanding, the statutory language has been used in place of the phrase presently in the rule.

Section 102.147(b) is revised to require that an application for an award include a statement that net worth does not exceed $2 million for an individual and $7 million for all other applicants, reflecting the higher net worth figures in the amended Act.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Equal access to justice.

PART 102—RULES AND REGULATIONS, SERIES 8, AS AMENDED

Accordingly, 29 CFR Part 102 is amended as follows:

1. The authority citation for 29 CFR Part 102 is amended by adding the following citation:

Authority: * * * Sections 102.143(c), 102.144(a), and 102.147(b) also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.143 is amended by revising paragraph (c) to read as follows:

§ 102.143 "Adversary adjudication" defined; entitlement to award; eligibility for award.

* * * * *

(c) Applicants eligible to receive an award are as follows:

(1) An individual with a net worth of not more than $2 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, unit of local government, or public or private organization with a net worth of not more than $7 million and not more than 500 employees.

* * * * *

3. Section 102.144 is amended by revising paragraph (a) to read as follows:

§ 102.144 Standards for awards.

(a) An eligible applicant may receive an award for fees and expenses incurred in connection with an adversary adjudication or in connection with a significant and discrete substantive portion of that proceeding, unless the position of the General Counsel over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible applicant is on the General Counsel, who may avoid an award by showing that the General Counsel's position in the proceeding was substantially justified.

* * * * *

4. Section 102.147 is amended by revising paragraph (b) to read as follows:

§ 102.147 Contents of application; net worth exhibit; documentation of fees and expenses.

* * * * *

(b) The application shall include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

* * * * *

Dated: Washington, DC, May 9, 1986.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 86-10912 Filed 5-14-86; 8:45 am]

BILLING CODE 7545-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322). Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates to be used in valuing benefits and certain assets as of valuation dates that occur within that calendar month. This amendment adds a series of interest rates to that table and republishes the table in full.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202-956-5050 (202-956-5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal establishes rules for valuing assets and benefits of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15 of the regulation prescribes an interest assumption to be used in performing these valuations. Paragraph (c) of that section contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates to be used in any valuation performed as of a valuation date within the calendar month.

This amendment to the regulation adds the next monthly rate series to the table in § 2676.15(c). This rate series is for the month of June 1986 and applies to valuation dates occurring within that month. The PBGC intends to publish a new entry in the table each month, whether or not the new entry contains rates different from those prescribed for the preceding month. The PBGC expects to publish each month's rates on or about the fifteenth of the preceding month.

Due to a printing error, the table entry for May 1986, as published at 52 FR 16022 (April 30, 1986), was headed "April 1986." A correction of the error has been published, but to avoid confusion, this amendment republishes the table in full.

The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533(b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN ASSETS AND PLAN BENEFITS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219 (c)(1)(D), and 4281(b), Pub. L. 93-406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96-364, 94 Stat. 1302, 1237-1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is revised to read as follows:

§ 2676.15 Interest

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
April 1986	.09875	.095	.09	.085	.08	.07375	.07375	.07375	.07375	.07375	.0675	.0675	.0675	.0675	.0675	.06
May 1986	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06
June 1986	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 8th day of May, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-10789 Filed 5-14-86; 8:45 am]

BILLING CODE 7708-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1153

Authorities and Delegations

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Final rule: Authorities and delegations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board at its September 11, 1985 meeting adopted amendments to its Authorities and Delegations, which set forth the duties and responsibilities of the ATBCB, its officers and committees. The amendments were adopted to effect changes from the previous authorities and delegations and are being published so that all affected persons will be fully informed about the responsibilities and authorities of ATBCB officials.

EFFECTIVE DATE: September 11, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Laurinda Steele, Office of Administration and Management, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Washington, D.C. 20202, Phone (202) 245-1801 voice or TDD. Copies of this notice are also available on tape for visually impaired persons.

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (ATBCB or Board) adopted Authorities and Delegations on July 12, 1983. The Authorities and Delegations were published at 48 FR 53074 (1983) and codified at 36 CFR Part 1153. The ATBCB adopted amendments to the Authorities and Delegations on September 11, 1985. The reasons for the amendments were to achieve a better balance of authority among the Board, officers, staff, and committees.

List of Subjects in 36 CFR Part 1153

Authority delegations, Archives and records, Consultants, Equal employment opportunity, Freedom of information, Government procurement, Handicapped, Organization and functions.

For the reasons stated in the preamble, 36 CFR Part 1153 is revised to read as follows:

PART 1153—AUTHORITIES AND DELEGATIONS

Sec.

Authority: 29 U.S.C. 792, Pub. L. 93-112, as amended by Pub. L. 95-602.

§ 1153.1 The Board.

The Board is the governing body of the agency. The composition of the Board and its functions are established by section 502 of the Rehabilitation Act of 1973. The Board has the following duties and responsibilities, including:

(a) To carry out its responsibilities under section 502 of the Rehabilitation Act of 1973, as amended. In carrying out these responsibilities, the Board may hold public hearings throughout the country.

(b) To establish policies and issue regulations in accordance with its statutory mandate.

(c) To resolve issues that are within its jurisdiction.

(d) To determine and adopt a contracting and procurement policy for the agency. In carrying out this responsibility, the Board will enter into contracts only in accordance with its contracting and procurement policy, published in the **Federal Register.**

(e)(1) To effect the prompt and efficient disposition of all matters within its jurisdiction. In carrying out this responsibility, the Board in accordance with Article VI of its Statement of Organization and Procedures:

(i) By majority vote delegate to the Executive Committee authority to implement its decisions.

(ii) By two-thirds vote delegate to the Executive Committee any other of its authorities, to the extent permitted by law.

(iii) To the extent permitted by law, delegate other duties to its officers, committees, or staff by a vote of two-thirds of the membership of the Board at the time the vote is taken.

(2) A separate delegation is necessary for each action the Board desires the Executive Committee to implement. Unless so permitted in the original delegation, an officer, committee, or staff person shall not redelegate authority.

(f) To make to Congress, at the end of each fiscal year, an annual report of the Board's activities during that fiscal year. The annual report shall include such material as it is required by law to include and such other material as the Board may decide.

(g) To make to the President and Congress such other reports as it is required by law to make, and such recommendations as it considers necessary or desirable to eliminate environmental barriers confronting handicapped individuals.

(h) To allocate funds appropriated by the Congress for such activities as conducting investigations and surveys, initiating public hearings, collecting data on past and current studies, and providing stenographic or other services, as necessary, appropriate, and in accordance with law.

(i) To determine the jurisdiction of each standing committee of the Board.

§ 1153.2 Chairperson.

The Chairperson represents the Board as the head of the agency, whenever an applicable Federal statute or regulation imposes a duty or grants a right or authority to the head of the agency. The Chairperson or his or her designee has the following duties and responsibilities:

(a) To coordinate and organize the work of the Board in such a manner as to promote the prompt and efficient disposition of all matters within the jurisdiction of the Board. In carrying out these responsibilities, the Chairperson is delegated the authority to:

(1) Supervise the Executive Director.

(2) Direct the Executive Director concerning appropriate action to implement decisions of the Board.

(3) Evaluate the Executive Director's performance, and approve performance evaluations of employees who report directly to the Executive Director. A delegation of this authority may only be made to the Vice-Chairperson of the Board.

(4) Authorize domestic travel for the Executive Director, which authority may be delegated, and authorize foreign travel for staff, Board members and the Executive Director, which authority may not be delegated.

(5) Make necessary administrative decisions for the agency and direct the Executive Director concerning implementation of such decisions during periods when the Board is not in session.

(6) Review and approve publication of the Board newsletter and press releases which contain expressions of Board policy.

(7) Appoint members and chairpersons to the Board's subject matter committees, and appoint the chairperson of the Executive Committee.

(8) Nominate one or more Board members to serve, with their consent, at each public hearing which may be held by the Board.

(9) Request from departments or agencies represented on the Board such technical, administrative, or other assistance as may be required to carry out the Board's activities.

(10) Hire and fire staff at the GS–14 level and above, and approve promotions to the GS–14 level and above, with the consent of the Executive Committee. The authority to fire staff may only be delegated to the extent permitted by applicable Office of Personnel Management regulations.

(11) Nominate the General Counsel, who is to be confirmed by the Board, and appoint division directors, with the consent of the Executive Committee.

(b) To preside at all meetings and sessions of the Board.

(c) To represent the Board in all matters relating to congressional testimony and legislative reports. However, any other Board member may present his or her own or minority views on supplemental reports.

(d) To represent the Board in all matters involving submissions of comments on agencies' proposed regulations and responses to published directives of the Office of Management and Budget. The Board shall be given advance written notice of any action taken under this authority. The Chairperson may file comments on agencies' draft notices of proposed rulemaking (NPRMs), published NPRMs, final rules, other notices published in the **Federal Register**, only with advance approval of the Executive Committee.

(e) To call a special meeting of the Board at the request of the Executive Committee, to take action on a request to the Board to enter litigation as *amicus curiae*.

(f) To maintain going liaisons with constituency groups and other organizations and with staff of interested congressional committees to keep them informed of general Board policies and activities and to obtain information for use by the Board in formulating policy, developing budget requests, and drafting recommended legislative changes.

(g) To carry out other duties and responsibilities as may be delegated by the Board.

§ 1153.3 Vice Chairperson.

The Vice Chairperson shall, in the absence of the Chairperson from a Board meeting, or in the event of his or her death or disqualification, perform the duties and exercise the powers of the Chairperson, and shall generally assist the Chairperson and perform such other duties as may be directed by the Chairperson or the Board.

§ 1153.4 Executive Director.

The Executive Director is appointed by the Board and is responsible to the Board under the supervision of the Chairperson. He or she has the following duties and responsibilities:

(a) To assist the Chairperson in carrying out the administrative and executive responsibilities of the Chairperson in a manner that may be directed by the Chairperson. These duties may include acting as the administrative head of the agency and in connection therewith assisting in the planning, directing, coordinating, and managing of the administrative affairs of the Board. In carrying out these responsibilities, the Executive Director may exercise authority delegated to him or her in accordance with the Board's contracting and procurement policy published in the **Federal Register**. In addition, the Executive Director is delegated the authority to:

(1) Authorize travel expenses for consultants, specialists, experts, witnesses, and other persons whose presence is deemed essential for attendance at Board meetings, hearings, advisory committee meetings or other functions of the Board.

(2) Reimburse members of the Board who are not regular full-time employees of the United States for travel, subsistence, and other necessary expenses incurred in carrying out their duties.

(b) To recommend to the Executive Committee matters that should be considered by the Board or any of its designated committees.

(c) To review with the Board and with heads of the several units and offices, the program and procedures of the Board and to make recommendations thereon as may be necessary to administer Section 502 of the Rehabilitation Act of 1973 most effectively in the public interest.

(d)(1) To provide sustained administrative leadership, and supervision and management of staff activities in carrying out the policies and decisions of the Board under the direction and supervision of the Chairperson. Supervision of staff includes:

(i) Authority to detail, reassign and train all staff, hire and fire staff at the GS–13 level and below, and promote staff to the GS–13 level.

(ii) Making recommendations to the Chairperson on hiring and firing staff at the GA–14 level and above, and promoting to the GS–14 level and above.

(iii) Evaluating the performance of all staff who report directly to the Executive Director and approving the performance evaluations of all other staff.

(iv) Advance approval of work activities which are outside the normal scope of the employee's job duties.

(v) The utilization and assignment of staff in support of any Board member or Board committee.

(vi) All other utilization and assignment of staff.

(2) In carrying out these responsibilities, the Executive Director is delegated the authority to:

(i) Authorize domestic travel for all staff, within the Board designated levels in the budget. Approval by the Executive Committee is required for any travel expenditures above those designated levels.

(e) To direct compliance and enforcement activities in accordance with the procedures set forth in 36 CFR Part 1150 including:

(1) Issuing citations and determinations not to proceed.

(2) Conducting negotiations for compliance, and entering into agreements for voluntary compliance.

(3) All other actions authorized by law pertaining to compliance and enforcement not otherwise reserved to the Board by 29 U.S.C. 792.

(4) Issuing staff manuals which have been approved by the Board, to provide guidance to staff in interpreting the Architectural Barriers Act of 1968 and section 502 of the Rehabilitation Act of 1973, as amended, and standards and guidelines issued pursuant to those Acts. Positions taken in any such manuals will not be inconsistent with established Board policy, and administrative and court rulings, to the maximum extent possible. The manuals will be for staff guidance and will be available to the public upon request.

(f) To direct and supervise the development and execution of routine technical assistance and public information programs, as authorized by law. These activities may be carried out in cooperation with state and local government units, other Federal agencies, and interested consumer groups. Public information program initiatives other than routine program activities shall be approved by the Board in advance.

(g) To provide special administrative assistance to the Board at the request of the Chairperson.

(h) To direct investigation and research of initiatives submitted by staff or Board members regarding technical assistance or other Board functions.

(i) To propose and implement changes in the functional organization of the Board staff offices, following a written notification to the Board of the nature and reasons for the proposed changes. Personnel actions necessary to implement such changes shall not be approved until there has been a meeting of the Board, following the Board's written notification of the changes, and shall be taken consistent with § 1153.2 (a)(10).

(j) To submit biweekly reports to the Chairperson.

(k) To incorporate proposed revisions in the minutes if corrections or additions have been submitted, and present both the original and the corrected minutes to the Board for final approval. The Executive Director shall distribute the approved minutes within the (10) days after approval to: (1) Board members; (2) the House Education and Labor Committee, the House Public Works and Transportation Committee, the Senate Labor and Human Resources Committee, and the Senate Environment and Public Works Committee; and make minutes available to others upon request.

(l) To refer correspondence by the Board which involves a specific department or agency, to that department or agency for reply.

(m) To account to the Board for the administration of program expenditures and keep records which disclose disposition of any funds and the nature and extent of the Board's activities.

(n) To report semi-annually, in writing, to the Board on each procurement regardless of amount entered into to date in the fiscal year, listing each procurement separately with its amount and date. In addition, the report shall list all procurements then in progress that have not been awarded and any procurements being considered for any future time.

(o) To maintain and keep current a separate file containing all delegations of authority, which shall be in writing, and provide copies of all delegations to the Board as they occur.

§ 1153.6 General Counsel.

The General Counsel is nominated by the Chairperson and confirmed by the Board. He or she is responsible to the Board under the supervision of the Executive Director. The General Counsel has the following duties and responsibilities:

(a) To coordinate and organize the work of the legal staff in order to provide prompt and comprehensive legal advice to the Board.

(b) To provide legal interpretation of statutes, regulations, and rules of procedure for the Board's consideration.

§ 1153.61 Committees of the Board.

(a) *Committee chairpersons.* Committee chairpersons are appointed by the Chairperson of the Board. They have the following duties and responsibilities:

(1) To preside at all meetings of their respective committees.

(2) To provide, after each committee meeting (with the exception of teleconference meetings), an evaluation of the performance of the Board staff person assigned as liaison to the committee. Providing assistance to the committee shall be included as a critical element in the performance standards of each committee liaison staff person. The evaluations are to be considered by the supervisor of each Board committee liaison staff person in the annual performance evaluation.

(3) The chairperson of the Budget and Planning committee will ensure that work on each Board budget is begun no later than 21 months prior to the date on which the budget is to become operative.

(b) *Executive Committee.* The Executive Committee has the following duties and responsibilities:

(1) To report directly to the Board on matters submitted to it by members and subject matter committees, and all other matters that are within its jurisdiction.

(2) To review and consider recommendations and proposals from the various subject matter committees, and take appropriate action thereon. This may result in placing a proposal on the Board agenda for Board action, referring it back to the subject matter committee for further refinement of its proposal or revision of its reports, or referring it to another committee for appropriate actions.

(3) To issue recommendations to the Board concerning proposals on the agenda.

(4) To place items of business on the Board's agenda.

(5) To ensure the orderly functioning of the committees' work and the process for reviewing matters that are proposed for the Board's consideration.

(6) To assist the Chairperson in other circumstances at his or her request.

(7) To arrange joint meetings among the appropriate subject matter committees whenever two or more committees have jurisdiction over a matter, or other related responsibilities.

(8)(i) To review requests to the Board to enter litigation as *amicus curiae.*

(ii) In carrying out these responsibilities, the Executive Committee is delegated the authority to disapprove such requests and make recommendations to the Board to approve such requests. Board approval shall be required prior to any *amicus* filing. The Committee may request the Chairperson of the Board to call a special meeting of the Board to expedite Board action on the Committee's recommendations.

(9) To review and make recommendations to the Board to amend or approve the Board's statement of organization and procedures, formal policy statements, and authorities and delegations.

(10) To carry out other duties and responsibilities as may be duly delegated by the Board.

(c) *Subject matter committees.* Each subject matter committee studies and reports to the Executive Committee on matters that are within the subject matter committee's province, and has the following duties and responsibilities:

(1) To review and consider recommendations or proposals submitted by Board members,

committees, and other individuals and entities.

(2)(i) To identify issues and develop policy recommendations for review by the Executive Committee. This includes further refinement of matters that are referred from the Executive Committee, and submission of reports containing recommendations or proposals on which action is to be taken by the Board.

(ii) In carrying out these responsibilities, each subject matter committee is delegated the authority to arrange briefings, reports and research by designated staff, experts, or Federal member agency staff through requests to the Chairperson or the Executive Director, whichever is appropriate.

(3) To formulate and present projections of matters to be undertaken by the committee to the Budget and Planning Committee.

(4) To project and formulate the need for staff assistance in performing the committee's functions.

(5) To report, at the direction of the Chairperson of the Board or the committee, the status of matters that are within the committee's particular jurisdiction.

(6) To advise the Executive Committee to forward materials originating within the subject matter committee to other committees with jurisdiction over the matter involved.

(c) *Special Committees.* A Special Committee has the duties and responsibilities specified by its creator, who shall report the names of its members and chairperson to the Chairperson of the Board.

§1153.7 Chief Procurement Officer.

The Chief Procurement Officer is designated by the Head of the Procuring Activity in accordance with the Board's contracting and procurement policy published in the **Federal Register.** He or she has the following duties and responsibilities:

(a) To ensure that staff is provided with equipment and other basic supplies and services that are necessary to perform their duties.

(b) To report to the Head of the Procuring Activity in all other matters pertaining to the agency's needs for supplies and services.

§1153.8 Equal employment opportunity.

(a) The Director of Equal Employment Opportunity (EEO Director) is designated by the Chairperson. The EEO Director has the responsibility on a collateral duty basis, to carry out the functions of the EEO Director, Federal Women's Program Coordinator, Hispanic Employment Program Manager, and Handicap Program Coordinator, in accordance with regulations of the Equal Employment Opportunity Commission.

(b) For the purposes of 29 CFR 1613.221, the Chairperson shall make the final decision of the Board on a complaint based on information in the complaint file. The Chairperson may designate another Board member to discharge this responsibility. A person designated to make the decision for the head of the agency shall be one who is fair, impartial and objective.

§1153.9 Freedom of Information Officer.

(a) The Board has the responsibility to disseminate information on matters of interest to the public and to disclose on request all information contained in records in its custody insofar as it is compatible with the discharge of its responsibilities and consistent with the Freedom of Information Act, as amended, 5 U.S.C. 552 and the Board regulations "Public Availability of Information" (36 CFR Part 1120).

(b) The Board designates the Executive Director as the Freedom of Information (FOI) Officer. The FOI Officer has the responsibility for implementing the policies and procedures to ensure compliance with the requirements of the Freedom of Information Act and the Board regulations. The Executive Director may delegate that responsibility.

§1150.10 Delegations records.

All delegations authorized by these Authorities and Delegations shall be made in writing. Records of all such delegations will be maintained by the Executive Director in a separate file.

Adopted September 11, 1985, Meeting of the ATBCB.

Charles Hauser,

Chairman, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 86-11000 Filed 5-14-86; 8:45 am]

BILLING CODE 4000-07-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-2-FRL-3016-1]

New York; Decision on Final Authorization of the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Determination on Application of New York for Final Authorization.

SUMMARY: New York has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed New York's application and has reached a final determination that New York's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program.

DATE: Final authorization of New York's program shall be effective for purposes of judicial review at 1:00 p.m. eastern standard time on May 29, 1986. This approval shall become effective on May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Golumbek, U.S. Environmental Protection Agency Region II, 26 Federal Plaza, Room 907, New York, New York 10278. Telephone (212) 264-7309.

SUPPLEMENTARY INFORMATION: Section 3006 of RCRA allows the EPA to authorize state hazardous waste programs to operate in the state in lieu of the Federal hazardous waste program. To qualify for final authorization, a state program must: (1) Be "equivalent" to the Federal program, (2) be consistent with the Federal program, and (3) provide for adequate enforcement. (Section 3006(b) of RCRA, 42 U.S.C. 6226(b)).

On November 5, 1985, New York submitted a complete application to obtain final authorization to administer the RCRA program. On January 7, 1986, EPA published a tentative decision announcing its intent to grant New York final authorization. Further background on the tentative decision to grant final authorization appears at Vol. 51, No. 4, page 631, January 7, 1986.

Along with the **Federal Register** notice of tentative determination, EPA also announced the availability of New York's application for public inspection and copying, the dates of the public comment period, the date of the EPA public hearing on New York's application and EPA's tentative determination to grant the State final authorization via a special press release, issued by Region II, and appearing Statewide in various newspapers, as well as on radio and television news programs. The public hearing was held on February 7, 1986, in Albany, New York, and the public comment period ended at 5 p.m. on Tuesday, February 11, 1986.

Responsiveness Summary

By the close of the public comment period, EPA received comments from three persons on the tentative

determination to grant final authorization to New York. Each of the commentors opposed authorization of the State's hazardous waste program. The significant issues raised by these commenters and EPA's responses are summarized below.

Issue—The New York State Department of Environmental Conservation has sought to apply the State program to the handling of a broad range of functional electrical equipment which has not served its original intended purpose, and is still in productive use. This material is not a solid waste within the meaning of RCRA or EPA's RCRA program, and New York's program as applied to this equipment is neither equivalent to nor consistent with the Federal or state programs applicable on other states. Federal authorization should be denied for these reasons.

Response—The Federal program does not preclude states from adopting and enforcing regulations which are either more stringent than or broader in scope than the Federal program. New York's regulation of electrical equipment containing PCB wastes represents a program area in which the State's regulatory authority is broader in scope than the Federal program. EPA's approval of New York's hazardous waste program does not include the State's broader-in-scope regulations.

Issue—New York seeks to regulate a broad range of electrical equipment as a "hazardous waste" under the provisions of 6 NYCRR 371.4(e), thereby creating a separate and intricate scheme for regulating wastes containing PCBs. Such equipment is already subject to comprehensive regulation under EPA's Toxic Substances Control Act (TSCA). New York's program under 6 NYCRR Parts 370–373 is in conflict with the TSCA program, and with the regulatory policies on which that program is based. The State's program is therefore preempted by TSCA, and for this reason EPA has no authority to authorize its implementation.

Response—The EPA believes that the statutory scheme and legislative history of TSCA clearly demonstrate Congress' intention to preserve authority to the states to regulate the disposal of toxic wastes, including PCBs. Although Congress included an express Federal preemption provision in Section 18 of the Act, it concurrently recognized the importance of allowing the states to regulate local matters pertaining to the safety and health of their citizens, such as the disposal of PCBs. As a result, Congress specifically exempted the disposal of toxic wastes from the preemption provision of section 18. However, while Congress exempted the disposal of toxic wastes from Federal preemption, it did not give the states the authority to impede constitutional restraints, such as imposing a burden on interstate commerce.

The EPA has consistently interpreted sections 6 and 18 of TSCA as authorizing the states to regulate the disposal of PCBs since the Agency promulgated its PCB regulations in 1978. In view of EPA's interpretation of its statutory mandate and TSCA's legislative history, many states have adopted programs regulating the use and disposal of PCBs as a hazardous substance. The EPA supports the states' initiative and enforcement actions in the spirit of cooperative federalism, and as a necessary adjunct to the Federal PCB disposal program. Indeed, the states' PCB disposal programs have become an important part of the national effort to ensure proper and safe disposal of PCBs.

Issue—New York's inclusion of PCBs and items containing that substance as "hazardous waste" under the State program is not authorized by RCRA and is in conflict with the policy of national uniformity which Congress has required under the statute. New York's attempt to impose a set of separate and unique PCB regulations in the State renders its hazardous waste program not equivalent to, and inconsistent with, the Federal and state programs applied in other states. Final authorization should be denied for these reasons.

Response—New York's hazardous waste regulatory program is broader in scope than was the Federal program, in that the State lists as hazardous wastes . . . all solid wastes containing 50 parts per million by weight or greater of polychlorinated biphenols (PCBs). . .", with certain exclusions. Such wastes are not regulated by the EPA under the RCRA program. In accordance with 40 CFR 271.1(i) and 272.121(e)(2), state-imposed requirements which are beyond the coverage of the Federal program are not part of the Federally-approved program. Therefore, EPA approval of New York's hazardous waste program does not include the State's PCB regulation. Also pursuant to 40 CFR 271.1.(i), the State may adopt or enforce requirements which are more stringent than the Federal requirements. In either case, the State may adopt and enforce programs that are either broader in scope or more stringent than the Federal program, while remaining consistent with and equivalent to the Federal program under RCRA for the purpose of program authorization.

Region II conducted a comprehensive Capability Assessment, evaluating past State program performance and State resource capacity for future program implementation. The Capability Assessment, together with the Letter of Intent, highlighted the areas in which New York needed improvement and the measures that EPA and New York will take to ensure that these improvements are implemented. These areas were the taking of timely enforcement actions against facilities with Class I violations; the use and documentation of the EPA penalty policy; and timely and appropriate reporting. Since the publication of the tentative determination, Region II has continued to monitor the progress of the New York program in the above-noted areas of concern. Region II has found that New York continues to make progress in those areas.

Decision

After reviewing the State's application, capability to implement a quality hazardous waste management program and the public comments received on EPA's January 7, 1986 tentative determination and February 7, 1986 public hearing, I conclude that New York's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, New York is granted final authorization to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984) (HSWA). New York now has the responsibility for permitting hazardous waste treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program.

New York also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA. New York is not authorized to operate the RCRA program on Indian lands, and this authority will remain with EPA.

As stated above, New York's authority to operate a hazardous waste program under Subtitle C of RCRA is limited by the November 8, 1984 HSWA amendments to RCRA. Prior to that date, a state with final authorization administered its hazardous waste management program entirely in lieu of the EPA. The Federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities that the state was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the state was obligated to

enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized state until the state adopted those requirements as state law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized states at the same time as they take effect in non-authorized states. EPA is directed to carry out these requirements and prohibitions in authorized states, including the issuance of full or partial Federal permits, until the state is granted authorization to do so. While states must adopt HSWA-related provisions as state law to retain final authorization, HSWA provisions apply in authorized states in the interim. As a result of HSWA, there will be a dual State/Federal regulatory program in New York. To the extent the authorized State program is unaffected by HSWA, the State program is hereby authorized to operate in lieu of the Federal program. Where HSWA-related requirements apply, however, EPA will administer and enforce them in New York until the State receives authorization to do so. Any State requirement that is more stringent than its analogous HSWA provision also remains in effect; thus, the universe of the more stringent provisions in HSWA and the approved State program defines the applicable Subtitle C requirements in New York.

New York is not now being authorized for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time, the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a **Federal Register** notice that explains in detail HSWA and its effect on authorized states. That notice was published in the July 15, 1985 **Federal Register** (at 50 FR 28702), and should be referred to for further information.

Effective Date

Final authorization of New York's program takes effect at 1:00 p.m. eastern standard time, on May 29, 1986.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New York's program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure; Confidential business information; Hazardous materials transportation; Hazardous waste; Indian lands; Intergovernmental relations; Penalties; Reporting and recordkeeping requirements; Water pollution control; Water supply.

Authority: Sec. 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6926 and 6974(b), EPA Delegation 8-7.

Dated: March 28, 1986.

Christopher J. Daggett,

Regional Administrator.

FR Doc. 86-10941 Filed 5-14-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-3-FRL-3015-9]

West Virginia; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Determination on West Virginia's Application for Final Authorization.

SUMMARY: The State of West Virginia has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed West Virginia's application and has reached a final determination that West Virginia's hazardous waste management program satisfies all of the requirements necessary to qualify for Final Authorization. Thus, EPA is granting Final Authorization to the State of West Virginia to operate its hazardous waste program in lieu of the Federal program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA).

EFFECTIVE DATE: Final Authorization for the State of West Virginia shall be effective at 1:00 pm May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Renee Gruber, Program Manager, VA/WV Section, Waste Management Branch (3HW31), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-3436.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984. To qualify for Final Authorization, a State's program must: (1) Be "equivalent" to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6926(b)).

B. The State of West Virginia

On October 29, 1985, the State of West Virginia submitted an official application to obtain Final Authorization to administer the RCRA program. On January 13, 1986, EPA published a tentative decision announcing its intent to grant West Virginia Final Authorization. Further background on the tentative decision to grant authorization appears at 51 FR 1394, January 13, 1986.

Along with the tentative determination EPA announced the availability of the application for public review and comment and the date of a public hearing on the application. The public hearing was not held as scheduled on February 13, 1986, since neither EPA nor the State received sufficient interest in holding the hearing. In addition, no written comments were received on the application.

C. Decision

I conclude that West Virginia's application for Final Authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the State of West Virginia is granted Final Authorization to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA). In accordance with 40 CFR 271.21(e)(1) (i), official State applications shall be reviewed on the bases of Federal self-implementing statutory provisions that were in effect twelve months prior to the State's submission of its official application and the regulations in 40 CFR Parts 124, 260-266, 270 and 271 that were promulgated twelve months prior to the State's submission of its official application. In addition, a State may receive Final Authorization for any

provision of its program corresponding to a Federal provision in effect on the date of the State's authorization. Therefore, West Virginia is receiving Final Authorization for its program corresponding to any Federal self-implementing statutory provisions that were in effect on October 29, 1984, and to the Federal regulatory program promulgated up to October 29, 1984, as well as for the technical amendment issued on November 21, 1984 (49 FR 46094), and the amended interim status standards for landfills issued on April 23, 1985 (50 FR 16044–48).

West Virginia now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program, subject to the HSWA. West Virginia also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA. The State has not sought the authority to operate the RCRA program on Indian Lands.

As stated above, West Virginia's authority to operate a hazardous waste program under Subtitle C of RCRA is limited by the November 1984 HSWA amendments to RCRA. Prior to that date, a State with Final Authorization administered its hazardous waste program entirely in lieu of the EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial Federal permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain Final Authorization, the HSWA applies in authorized States in the interim.

As a result of HSWA, there will be a dual State and Federal regulatory program in West Virginia. To the extent the authorized State program is unaffected by the HSWA, the State program is authorized to operate in lieu of the Federal program. Where HSWA-related requirements apply, however, EPA will administer and enforce them in West Virginia until the State receives authorization to do so. Any State requirement that is more stringent than a HSWA provision also remain in effect; thus, the universe of more stringent provisions in the HSWA and the approved State program define the applicable Subtitle C requirements in West Virginia.

West Virginia is not being authorized now for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, West Virginia's program in that area will operate in lieu of the Federal program. Unitl that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291: The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under The Regulatory Flexibility Act: Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of West Virginia's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: Sec. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act is amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 22, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86–10942 Filed 5–14–86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50518A; FRL-2926-9]

Benzoic Acid, 3,3'-Methylenebis [6-Amino-, Di-2-Propenyl Ester; Significant New Uses

Correction

In FR Doc. 86–10102 beginning on page 16684 in the issue of Tuesday, May 6, 1986, make the following correction: On page 16684, in the third column, in the **DATES** paragraph, in the fifth line, remove "14 days".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

Merchant Marine Training

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is amending its merchant marine training regulations to effect a reduction in the entering classes at the United States Merchant Marine Academy.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin M. Hackett, Academies Program Officer, Office of Maritime Labor & Training, Maritime Administration—DOT, 400 Seventh Street, SW., Room 7302, Washington, DC 20590. Telephone: (202) 426–5759.

SUPPLEMENTARY INFORMATION: MARAD is amending Subpart C of 46 CFR Part 310—Admission and Training of Midshipmen at the United States Merchant Marine Academy—to lower quotas for all geographical areas that are eligible to send students to the United States Merchant Marine Academy (Academy). State quotas are set in proportion to a state's representation in Congress (House and Senate), with no state having a quota of less than one.

The Academy regulations were amended in 1983 and 1984 to reduce the size of the classes entering the Academy in each of those years. The two reductions were necessary because it was estimated that there would be substantially more deck and engine officers than needed to sustain an adequate deck and engine officer work force for our current and projected active fleet of large oceangoing ships.

The additional reduction in the entering class size, to be effected by this rule, is warranted by continuing unfavorable employment opportunities for merchant marine officers. A reduction in the number of licensed merchant marine officers being trained is further justified by the fact that, if unemployed in their profession, these young persons would have wasted four years of training and the Federal expenditure involved would be a waste of national resources. This reduction also complies with a recommendation by the President's Private Sector Survey on Cost Control that the enrollment at the United States Merchant Marine Academy be substantially cut from its level in pre-1983 years, to help reduce the Federal budget deficit. After this reduction, the enrollment at the Academy will remain at a level that is necessary to accomplish training program objectives that support our national maritime policy.

Cost and Benefits

This rule imposes no costs on the private sector. It reduces each entering class, in the first year of each class, by 27 students. The reduction in enrollment falls to 23 in the second year of enrollment for each entering class and 21 by the third and fourth years, based on estimated attrition. The cost savings in each year result from a reduction in four expense items: Food, uniforms, textbooks and travel. These expenses are identical in the first and fourth years, when the students remain at the Academy, and are higher than during the second and third years, when they are away from the Academy for six months of training aboard merchant ships.

The reduction in enrollment and cost savings are as follows:

REDUCTION IN ENROLLMENT [1]

[School years beginning]

Class (year)	1986	1987	1988	1989
First	27	27	27	27
Second		23	23	23
Third			21	21
Fourth				21
Total	27	50	71	92

[1] Uses 1984 entering class base of 242 and assumes an attrition of 4 students in the second year and 2 students in the third year.

TOTAL COST SAVINGS AS A RESULT OF REDUCTION [1]

[School year beginning]

1986	1987	1988	1989
$76,000	$109,000	$139,000	$198,000

[1] Cost per student in the first and fourth years is $2,832, and cost per student is $1,416 in second and third years. Calculation assumes constant costs.

E.O. 12291, Statutory Requirements and DOT Procedure

This is not a major rule under Executive Order 12291. Pursuant to DOT regulatory policies and procedures (44 FR 11034, February 26, 1979), this rule is considered to be significant, because there is substantial Departmental and Congressional interest in the selection process for, and allocation of appointments to the United States Merchant Marine Academy. Since it affects only students and applicants to the USMMA, the economic impact of this final rule has been found to be so minimal that further regulatory evaluation is unnecessary. The rule will only affect individuals. Therefore, the Maritime Administrator certifies that the rule will not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.)

The regulation contains no new or amended reporting requirement within the scope of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Since the Congressional nomination process for the class entering July 1986 has already begun, it is imperative that the amendment to Subpart C be published as a final rule. Delay would create confusion for Congressional nominating authorities who initiate nominations, expecting the appointments to be made under current state quotas. A delay would also seriously affect the selection process at the admissions office of the United States Merchant Marine Academy, where the number of appointments are awarded based on precise knowledge of freshman vacancies available. The Maritime Administration has regularly issued regulations on merchant marine training as final rules, without opportunity for comment. Based on past experience, we do not expect to receive any comment on this change.

Therefore, pursuant to provisions of 5 U.S.C. 533, good cause exists for finding that notice and public comment are impracticable and unnecessary. In addition, due to the urgency surrounding the candidate selection process, the Maritime Administration finds good cause to make this regulation effective immediately.

List of Subjects in 46 CFR Part 310

Grant programs, Education, Maritime Administration, Schools, Seamen.

Accordingly, Subpart C of 46 CFR Part 310 is amended as follows:

PART 310—MERCHANT MARINE TRAINING

1. The authority citation for Part 310 continues to read as follows:

Authority: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); 49 CFR 1.66 (46 FR 47458, September 28, 1981).

Subpart C—Admission and Training of Midshipmen of the United States Merchant Marine Academy

§ 310.53 [Amended]

Section 310.53, Nominations and vacancies, is amended by revising paragraph (b)(5) to read:

* * * * *

(b) * * *

(5) The distribution of each entering class by State is:

Alabama....4
Alaska....1
Arizona....3
Arkansas....2
California....19
Colorado....4
Connecticut....4
Delaware....1
Florida....10
Georgia....5
Hawaii....2
Idaho....2
Illinois....9
Indiana....3
Iowa....4
Kansas....3
Kentucky....2
Louisiana....4
Maine....2
Maryland....5
Massachusetts....5
Michigan....7

Minnesota	3
Mississippi	3
Missouri	3
Montana	2
Nebraska	2
Nevada	2
New Hampshire	2
New Jersey	6
New Mexico	2
New York	15
North Carolina	6
North Dakota	1
Ohio	8
Oklahoma	2
Oregon	3
Pennsylvania	10
Rhode Island	2
South Carolina	4
South Dakota	1
Tennessee	4
Texas	13
Utah	2
Vermont	1
Virginia	5
Washington	5
West Virginia	2
Wisconsin	4
Wyoming	1

* * * * *

Dated: May 8, 1986.

By Order of the Maritime Administrator.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 86-11129 Filed 5-14-86; 9:33 am]

BILLING CODE 4910-81-M

Proposed Rules

Federal Register
Vol. 51, No. 94
Thursday, May 15, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-86-6]

Petitions for Rulemaking; Summary of Petitions Received From Air Transport Association (ATA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petition for rulemaking (14 CFR Part 11), this notice contains a summary of a petition from the Air Transport Association (ATA) requesting a 6-month delay in the effective date of amendments which require certain air carriers to carry emergency medical equipment. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the legal status of any petition or its final disposition.

The agency finds that good cause exists to reduce the public comment period on this petition in order to permit a decision to be made on ATA's request well in advance of the August 1, 1986, effective date of Amendment Nos. 11–29 and 121–188.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before June 4, 1986.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB–10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 9, 1986.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
21369	Air Transport Association	Description of Petition: To extend the August 1, 1986, compliance date for Part 121 air carriers, to place on-board their aircraft medical equipment and drugs for use in the diagnosis and treatment of medical emergencies that might occur during flight time and to comply with related training and record keeping requirements. Regulations Affected: 14 CFR §§ 11.101, 121.309, 121.417, 121.715 and Appendix A. Petitioner's Reason for Rule: Interested vendors and a majority of air carriers have no experience in purchasing, storing, shipping or providing prescription drugs, and there remains a question concerning the inclusion of the medical kits in Minimum Equipment Lists (MEL). Thus, a 6-month delay of the compliance date of the rule could serve the public interest.

[FR Doc. 86–10894 Filed 5–14–86; 8:45am]
BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–NM–63–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) applicable to certain Boeing Model 747 airplanes that would require repetitive inspections for cracking, and repair as necessary, of lower lobe body frames (Sections 42 and 46) of the fuselage, and an inspection of certain cargo side guide support brackets, and repair, if necessary. This proposed AD is prompted by a recent finding of numerous body frame structure cracks in the lower lobe of the fuselage. Failure of the structure could lead to rapid decompression.

DATE: Comments must be received on or before July 7, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rule Docket No. 86–NM–63–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The service bulletins specified in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. They may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle Washington, or the Seattle Aircaft Certification Office, 9010 East Marginal Way South, Seattle Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM–120S; telephone (206) 431–2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–NM–63–AD, 17900 Pacific Highway South, C–86966, Seattle, Washington 98168.

Discussion: There have been numerous reports of cracking of body frame structure in the lower lobe (Sections 42 and 46) of the fuselage. This cracking has been found on airplanes with 6,874 to 18,954 flight cycles. Recently, four adjacent frame webs were found severed on an airplane with 16,493 flight cycles. Another finding has been of a single frame and fail-safe chord severed on an airplane with 17,769 flight cycles. It has been determined that this cracking is attributed to cabin pressure cyclic loading. Such cracking can lead to failure of associated structure, which could lead to rapid decompression of the airplane.

Boeing has issued Alert Service Bulletin 74–53A2237, Revision 1, dated March 28, 1986, which provides procedures to inspect for body frame structure cracking in the lower lobe (Sections 42 and 46) of the fuselage, and repair of cracking, as necessary.

Two operators have reported cracking or complete separation of the frame inner chord and web on 12 airplanes with 12,483 to 20,002 flight cycles. Among the 12 airplanes, there were a total of 25 frames affected. Cracking began at the last fastener common to the cargo side guide support bracket and frame inner chord, and progressed to where 14 frames had separated the frame inner chord and web. Frames that are broken could eventually cause extensive skin cracks in the adjacent area and rapid decompresson of the airplane. Boeing has issued Alert Service Bulletin 747–53A2259, dated March 28, 1986, which describes an inspection and modification to maintain the structural integrity of lower lobe frames in the aft cargo compartment by installing a tapered strap adjacent to all cargo side guide support brackets found not tapered.

Since this situation is likely to exist or develop in airplanes of the same type design, this AD would require inspection for cracking of body frame structure in the lower lobe (Sections 42 and 46) of the fuselage, inspection of the cargo side guide support bracket for proper machined tapering, and repair, if necessary, in accordance with the alert service bulletins mentioned above.

It is estimated that 112 airplanes of U.S. registry would be affected by this AD, that it would take approximately 370 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,657,600.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Alert Service Bulletins 747–53A2259, dated March 28, 1986, and 747–53A2237, Revision 1, dated March 28, 1986, certificated in any category.

To detect cracking of body frame structure in the lower lobe (Sections 42 and 46) of the fuselage, accomplish the following, unless already accomplished:

A. For airplanes listed in Boeing Alert Service Bulletin 747–53A2237, Revison 1, dated March 28, 1986:

1. Perform a detailed visual inspection for frame cracking from fuselage stations 540 to 760, and 1820 to 1900, stringers 35 left to 42 left, in accordance with Section III of Boeing Service Bulletin 747–53A2237, Revision 1, dated March 28, 1986, or later FAA-approved revision, in accordance with the following schedule after the effective date of this AD:

a. Within 300 landings for airplanes that have accumulated over 12,000 landings on the effective date of this AD.

b. Within 800 landings for airplanes that have accumulated 10,000 to 12,000 landings on the effective date of this AD.

c. Within 800 landings or upon the accumulation of 10,000 landings, whichever occurs later, for airplanes that have accumulated less than 10,000 landings on the effective date of this AD.

2. If cracking is found, repair prior to further flight in accordance with FAA-approved procedures.

3. Repeat the inspections required by paragraph A.1., above, at intervals not to exceed 3,000 landings until terminating action is performed.

4. Terminating action is modification of the frames in accordance with Boeing Service Bulletin 747–53A2237, Revision 1, dated March 28, 1986, or late FAA-approved revision.

B. For airplanes listed in Boeing Alert Service Bulletin 747–53A2259, dated March 28, 1986:

1. Perform a visual inspection of cargo side guide support brackets from fuselage stations 1500 to 1800, right and left hand side, for a proper machined taper in accordance with the Boeing Service Bulletin 747–53A2259, Section III, dated March 28, 1986, or later FAA-approved revision, in accordance with the following schedule after the effective date of this AD:

a. Within 300 landings for airplanes that have accumulated over 12,000 landings on the effective date of this AD.

b. Within 800 landings for airplanes that have accumulated 10,000 to 12,000 landings on the effective date of this AD.

c. Within 800 landings or upon the accumulation of 10,000 landings, whichever occurs later, for airplanes that have accumulated less than 10,000 landings on the effective date of this AD.

2. If any cargo side guide support bracket is improperly tapered, perform a detailed visual inspection of the frame area adjacent to the

untapered bracket for cracking in accordance with Boeing Service Bulletin 747–53A2295, dated March 28, 1986, or later FAA-approved revision.

3. Repeat the inspections required by paragraph B.2., above, at intervals not to exceed 3,000 landing until terminating action is performed.

4. If cracking is found, repair prior to further flight in accordance with FAA-approved procedure.

5. Terminating action is the installation of a tapered strap adjacent to the affected brackets in accordance with Boeing Service Bulletin 747–53A2259, dated March 28, 1986, or later FAA-approved revision.

c. For Boeing Model 747SR airplanes only, based on continued mixed operation of cabin pressure differentials, the initial inspection thresholds and reinspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor.

D. For the purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 psi.

E. An alternate means of compliance or adjustment to the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service bulletins from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 8, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–10897 Filed 5–14–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–33–AD]

Airworthiness Directive; Fokker Model F27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require a one-time inspection of the elevator trim tab bracket attachment, and repair, if necessary, on certain Fokker Model F27 series airplanes. The use of incorrect rivets was a contributing factor in one case of rubber tab further; there is evidence that the same incorrect rivets may have been used in the elevator trim tab. Flutter could lead to structural failure.

DATE: Comments must be received on or before July 7, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (ANM–7), Attention: Airworthiness Rules Docket No. 86–NM–33–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Manager of Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 11172J Schiphol Oost, the Netherlands. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Baldwin, Standardization Branch, ANM–113; telephone (206) 431–2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–NM–33–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: The Ministerie van Verkeer en Waterstaat, Rijksluchtvaartdienst (RLD), the Civil Aviation Authority of the Netherlands, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition that may exist on certain Fokkar Model F27 airplanes.

Incorrect rivets were reported to have been used in the assembly of at least one rubber tab, which contributed to flutter. There is evidence that the same incorrect rivets may have been used in the assembly of the elevator trim tab control bracket attachment, which could result in inadequate strength and elevator trim tab flutter. Elevator trim tab flutter can result in structural failure and loss of flight control. Fokker issued Service Bulletin F27/55–59, June 3, 1985, and Revision 1, October 15, 1985, requiring a one-time visual inspection and correction, if necessary, of the elevator trim tab. The RLD issued an airworthiness directive on July 12, 1985, making the bulletin mandatory by October 1, 1985.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection, and repair if necessary, of certain Fokker Model F27 series airplanes that may be operated on the U.S. Register.

It is estimated that 40 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,600.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act

that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A final evaluation has been prepared for this regulation and placed in the docket.

List of subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F27 airplanes; serial numbers 10105 to 10648 inclusive, 10654, 10658, 10659, 10660, 10662 to 10667 inclusive, 10669, 10672 and 10678; certified in any category. To ensure structural integrity of the elevator trim tab, accomplish the following, unless already accomplished:

A. Within 60 days after the effective date of this AD, conduct a one-time visual inspection of the elevator trim tab in accordance with Fokker Service Bulletin F27/55-59, Revision 1, dated October 15, 1985.

B. If incorrect rivets are installed, repair the tab before further flight in accordance with the above service bulletin.

C. An alternate means of compliance or adjustment of compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposed directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Manager of Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schiphol Oost, the Netherlands. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 8, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10898 Filed 5-14-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Eligibility of Mexican Inner Tubes for GSP Duty-Free Treatment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed interpretive rule; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of several domestic interested parties with respect to a Customs ruling that certain inner tubes imported from Mexico would be eligible for duty-free treatment under the Generalized System of Preferences (GSP). The petitioner contends that the inner tubes do not qualify for GSP duty-free treatment because the threshold Customs determination that the imported material from which the inner tubes are produced undergoes a substantial transformation into a separate and distinct article of commerce which, in turn, is used as a constituent material in producing the final article which is imported into the U.S., is incorrect. The petitioner believes that duty should be assessed on the inner tubes under the appropriate provision of the Tariff Schedules of the United States. This document invites comments with respect to the correctness of the determination of GSP-eligibility.

DATE: Comments must be received on or before July 14, 1986.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, DC 20229 (202-566-8237).

FOR FURTHER INFORMATION CONTACT: Myles B. Harmon, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), a domestic interested party petition has been filed with respect to a decision in which Customs ruled that certain inner tubes imported from Mexico would be eligible for duty-free treatment under the Generalized System of Preferences (GSP).

Under the GSP program established pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), certain articles imported directly from a beneficiary developing country (BDC) may be eligible for duty-free treatment if considered the growth, product, manufacture or assembly of the BDC, and if the sum of the cost or value of materials of the BDC, plus the direct costs of processing performed in the BDC, is not less than 35 percent of the appraised value of the article at the time of its entry into the U.S. The GSP program is implemented by §§ 10.171-10.178, Customs Regulations (19 CFR 10.171-10.178). Pursuant to § 10.177(a)(2), Customs Regulations (19 CFR 10.177(a)(2)), materials of which a GSP-eligible article is comprised, if not wholly the growth, product, or manufacture of a BDC, must be substantially transformed in the BDC into a new and different article of commerce in order for those materials to be considered to be produced in the BDC so that their cost or value may be counted toward the 35 percent value-content requirement. In other words, for the cost of materials from a non-BDC to be counted toward the 35 percent value-content requirement, the materials first must be substantially transformed into a new and different intermediate article of commerce and then must be used in the production of a new and different final article of commerce which is imported into the U.S.

On August 8, 1984, Customs issued ruling 071703 (C.S.D. 85-12, 19 Cust. B. and Dec. No. 7 at 22, February 13, 1985), which stated that when finished vulcanized rubber tubes were produced in Mexico, a BDC, from material known as masterbatch which was imported from a non-BDC, there was a substantial transformation of the masterbatch into a new and different intermediate article of commerce, unvulcanized tubes. Therefore, the cost or value of the masterbatch could be counted toward the GSP 35 percent value-added requirement when the final product, finished vulcanized rubber tubes, were imported into the U.S. The conclusion that the unvulcanized tubes were a separate and distinct article of commerce from the masterbatch and from the finished vulcanized rubber tubes was based upon review of the Explanatory Notes to the international Customs Cooperation Council

Nomenclature (CCCN) and the future international Harmonized System (HS) of tariff classification. Because Customs determined that the unvulcanized tubes were separate and distinct articles of commerce, the value of the masterbatch was permitted to be counted toward the 35 percent value-added requirement. Accordingly, the inner tubes imported from Mexico would be eligible for duty-free treatment under the GSP.

On December 24, 1985, a petition was submitted on behalf of several domestic interested parties who are manufacturers and producers in the U.S. of a class or kind of merchandise similar to the merchandise which is imported from Mexico. The petitioner claims that the processing in Mexico of masterbatch material imported from a non-BDC into finished inner tubes does not involve the production of a new and different intermediate article of commerce before the final article is produced. Uncured or unvulcanized tubing is not an intermediate constituent material, as Customs ruled, because it has no practical commercial viability. Trade in unvulcanized tubing suitable for making inner tubes is not possible as the short shelf-life of the tubing does not permit maintenance of commercial inventories.

The petitioner also contends that the international classification provisions relied upon in Customs decision do not support the conclusion reached inasmuch as the Explanatory Note to the CCCN referenced in the decision is concerned with a different product than tubing used in the manufacture of inner tubes.

For these reasons, the petitioner believes that the requirement in § 10.177(a)(2), Customs Regulations, is not satisfied and the cost or value of the masterbatch, imported to Mexico from a non-BDC, may not be counted toward the GSP value-content requirement.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: April 30, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 10834 Filed 5-14-86; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42050B; FRL-2975-2(b)]

Toxic Substances; Proposed Testing Standards for Certain Chlorinated Benzenes

Correction

In FR Doc. 86-7476 beginning on page 11756 in the issue of Monday, April 7, 1986, make the following corrections: On page 11759, in the first column, in § 799.1052(c)(1)(ii), in the sixth line, "§ 799.2750" should read "§ 796.2750"; and in § 799.1053(c)(1)(ii), in the fifth line "§ 799.2750" should read "§ 796.2750".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

Individual and Family Grant Programs

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises current Individual and Family Grant (IFG) regulations at 44 CFR 205.54. The Federal Emergency Management Agency (FEMA) is proposing these changes to: increase the economy and efficiency of administration, reduce certain flood insurance requirements, clarify the requirement for home ownership in certain grant categories, clarify the funding provisions and debt collection provisions, comply with the Single Audit Act of 1984, and update the States' appeal rights.

DATES: Comments will be accepted until July 14, 1986.

ADDRESS: Comments should be mailed to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Agnes C. Mravcak, Emergency Management Specialist, Disaster Assistance Programs, Federal Emergency Management Agency, Room 710, 500 C Street SW., Washington, DC 20472, (202) 646-3660.

SUPPLEMENTARY INFORMATION: Each of the significant changes is identified and explained below.

Duplication of Benefits Changes

FEMA has determined that low dollar value "consumable" items such as linens, clothing, and basic kitchenware are not to be considered as duplicate assistance if they are provided by more than one disaster assistance agency. The staff time involved in tracking these things, item by item, is not warranted. Therefore, a new definition, "expendable items," is added as (c)(5), and a sentence is added to explain that such assistance does not include expendable items.

Ownership Provisions: Housing and Personal Property Categories

There has been much confusion over the forms of documentation required to prove ownership, which is a condition of assistance in the housing and personal property categories. This problem has occurred particularly in the political jurisdictions which are not States (e.g., Puerto Rico and the Indian tribes). To clarify what is being required as proof of ownership, two new language changes are being proposed. First, to the current definition of "owner occupied" a provision is added to the effect that where an applicant does not have legal proof of ownership, a State, Commonwealth, or local government attorney's affidavit may be allowed. It must explain that, under applicable State law, the applicant does legally own the residence, and explain the basis for this conclusion. If the attorney certifies this to be true, and one form of proof of occupancy is presented, the ownership criteria are deemed to be met. Second, to the eligibility section, a new provision is added to further amplify this, in terms of FEMA obtaining the information for verification purposes.

Definitions

Clarifying changes have been made to the definitions of "individual" and "family" at paragraph (c). A definition of "flowage easement" has been added.

Flood Insurance Requirements

FEMA is proposing changes to the flood insurance maintenance requirements imposed on IFG recipients. The IFG program is proposing that the "economic life of the project" concerning housing and personal property repair and replacement is three years. Hence, FEMA will require that a grant recipient obtain a flood insurance policy which covers the amount of funds granted for housing and personal property and maintain it for three years. If the cost for this coverage is less than the minimum premium, the remainder of the premium shall be used to buy additional building coverage. After the three years, no penalty will be imposed on an IFG recipient who fails to maintain the policy. During the three years, a recipient who fails to maintain the coverage is ineligible for subsequent grant assistance. FEMA is proposing this relaxed requirement because of the costs involved in maintaining records in perpetuity, and the inability of States to effectively police and enforce this activity for the allowed administrative expense.

This position is being taken because of the comparatively low dollar value of grants in the housing and personal property categories (on the average, for Fiscal Years 1982, 1983, and 1984, $2,100 for housing repairs and $1,000 for personal property), balanced against the allowable administrative costs for administration of the IFG program (only 3 percent of the Federal share of the program). Another reason for the change is the result of FEMA's review of repeat declarations, which indicates that only 64 of 1,189 counties (5.4 percent of the total) have been designated twice or more in Presidential declarations in a 6½ year period between 1979 and 1985. In any one given year, this translates to a .8 percent chance of being declared twice or more for flowing, or 99.2 percent chance of not being designated. The flood insurance requirement is thus proposed to be relaxed in Presidential declarations.

Certification of Eligibility

The current provision allows an applicant to self-certify that he/she meets the criteria for an automatic turndown by the Small Business Administration (SBA), and therefore need not first apply to SBA. This provision has not been used in recent IFG programs. In its place, States have preferred to use SBA's own procedures for automatic declines. These procedures call for SBA to interview the applicant and determine if he/she is qualified to apply to SBA. Thus, SBA exercises the authority to make its own determination, not the State on SBA's behalf. Since this certification provision is now unnecessary, it is being deleted.

Assumption of Risk

It is proposed that a new provision be added to make those who knowingly assumed the risk of living in certain disaster prone areas ineligible for a grant in the housing and personal property categories. The only cases in which FEMA proposes to enforce this restriction are: where property is located within a flowage easement, in an area between a river and a levee (where the family built the home after the levee was built or was compensated for future flood damage at the time the levee was built), and where a residence is located on land leased to an individual where that lease holds the government harmless from the risk of damage. A recent example of the latter occurred when the U.S. Army Corps of Engineers leased property to individuals along the Illinois and Missouri Rivers, with a hold harmless clause in the lease, specifically eliminating any cause of action against the government. The definition of "flowage easement" has been added to paragraph (c), Definitions Used in This Section.

National Eligibility Criteria

The section on transportation expenses, (d)(2)(iii), is being modified to eliminate the requirement that public transportation be unavailable prior to authorization of repair or replacement of a private vehicle.

FEMA is removing most verification responsibilities from the State and also eliminating the need for applicant supplied estimates for the housing and personal property categories. Hence, (d)(2)(viii) is modified. New subparagraph (d)(4) has been added, and (e)(1)(ii)(D), which is new (e)(1)(ii)(C), has been amended to include the new verification methods.

Requirements for State Administrative Plans

Several changes are proposed for paragraph (e) regarding items to be included in the State administrative plan.

First, the section on verification procedures is being modified to require only a review of FEMA supplied verifications in most cases. Since FEMA will be conducting verifications, provisions are necessary for the State to accomplish this only in cases like late applications and appeals.

Second, the State will not be required to recover funds, and will not be issued a Bill for Collection (BFC), when it makes a grant based on incorrect verification information provided by FEMA. A grant based on this incorrect information will not be subject to the State's normal recovery of funds procedures. The Office of General Counsel has determined that this procedure is legally sufficient.

Third, the requirement for program by program State audits is being eliminated. The Single Audit Act of 1984 no longer authorizes such audits. Only those compliance type audits imposed by the Act are required. However, the paragraph on voucher analysis (paragraph h) now indicates what items of information FEMA will be looking for when approving the State's final claim.

Fourth, a new provision is added for ensuring that the State repays any advanced State share by the agreed upon date. The State will have to specify in the letter requesting IFG program implementation what steps it will take to ensure that the loan of the State share is going to be repaid on time. The Regional Director cannot approve funding for the State share unless it repays any delinquent debt for the State share in a previous IFG program; the State may elect to allow offsetting against other funds payable to it by FEMA to eliminate this delinquency. (See the "Funding" section below.) This provision is being added because of the large amount of outstanding IFG debts, and the considerable collection efforts being undertaken by FEMA. The second portion of this change is that excess Federal share debts will be eliminated by requiring the State to return them immediately or face withholding of the Federal share in a current IFG program. The same offsetting action will be available, however.

Fifth, the State will now be required to include a management/staffing section in their administrative plan. This section should deal with functional planning for the workload in the IFG program, and with management and oversight of IFG staff. This provision will hopefully enable States to devote staff attention to track its cases, identify where management attention is needed, properly staff the program, and have the official sanctions it needs to fully implement the plan's provisions.

Sixth, States will not be required to submit a revised administrative plan every January. This requirement is being imposed because of the extreme

workload on States and FEMA regional office staff in making hasty changes at the beginning of each disaster operation. Each State should be in a condition of readiness to administer a program at any time. A recent review of the status of response ready IFG plans showed many which were dated 1979 and early 1980's; the new provision will ensure response ready plans, and will ensure that the States have material from which to train IFG personnel in a timely way.

Funding

Issues involving approval, obligation, and advances of funds have been clarified.

Up front funding for new IFG programs is being tied to timely repayment of debts from old programs. The Regional Director is being directed to withhold funds if delinquencies exist in repaying advances from prior programs. However, as mentioned above, an option is being provided to the State to eliminate the debt by offset against other funds due the State by FEMA.

Withdrawal of advances is also being tied to incremental increases in the Letter of Credit (LOC) to assure that large sums of Federal money are not on hand at the State level. The Governor is being requested to indicate the specific actions to be taken to repay the State share, in order that the Regional Director may exercise the fiscal management responsibility of determining whether or not to authorize additional funds.

Debt collection issues also are being clarified. The reader is being referred to FEMA's debt collection regulations (44 CFR Part 11) for general debt collection procedures; the more specifically applicable procedures for IFG are stated in this part.

The kinds of payable costs have been expanded for clarity. The new section states that certain costs which normally would be ineligible (misapplied grants and duplicated grants, for example) may be payable if the State takes steps outlined in its administrative plan to remedy the problems. Where the State did not take remedial steps, the costs would be suspended.

A new section on voucher analysis has been added. If details the responsibilities of FEMA regional office staff to perform analysis of the State's request for final payment. It also lists, for the State's information, what information will be required for payment of a final voucher. This section is necessary because the requirement for program by program State audit has been lifted, thus eliminating a significant source of information upon which to base final payment.

Appeals

The current section on appeals has been revised. Specific information on treatment of appeals regarding BFC's has been added. It includes the policy statement that interest starts accruing on the day a BFC is issued. If an appeal is successful, interest will not be charged. If unsuccessful, interest beginning on the day of issuance is charged, unless the State pays the debt within 30 days of issuance. Any debt not erased by appeal and not paid within 30 days of BFC issuance bears interest.

The State may also appeal any other determination of the Regional Director; information for this appeal is provided.

Audits

The requirement for program by program audits by States has been lifted by the Single Audit Act of 1984. A new audit section stating compliance with the new Act has been provided.

Environmental Consideration

According to the provisions of 44 CFR 10.8(c)(2), most IFG actions are categorically excluded from the requirements of the National Environmental Policy Act of 1969. Those not excluded are the subject of a FEMA environmental assessment recently prepared to accompany a proposed rule change regarding floodplain management in the IFG program. That environmental assessment is available in the Office of Disaster Assistance Programs, Individual Assistance Division, Federal Emergency Management Agency, Room 710, 500 C Street, SW., Washington, DC 20472. It may be inspected during normal office hours of 8:30 a.m. until 5:00 p.m. Monday through Friday. An additional environmental assessment will not be prepared.

Reporting Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. et seq., and has assigned OMB control number 3067–0146.

List of Subjects in 44 CFR Part 205

Disaster assistance, grant programs—housing and community development.

PART 205—FEDERAL DISASTER ASSISTANCE (PUB. L. 93–288)

Accordingly, it is proposed to amend 44 CFR Part 205 as follows:

1. The authority citation for Part 205 continues to read as follows:

Authority: 42 U.S.C. 5001; Reorganization Plan No. 3 of 1978; Executive Order 12148.

2. Section 205.54 is revised to read as follows:

§ 205.54 Individual and Family Grant (IFG) programs.

(a) *General.* The Governor may request that a Federal grant be made to a State for the purpose of such State making grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The total Federal grant under this section will be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expenses not to exceed 3 percent of the Federal grant (see computation of State administrative expenses in paragraph (g)(6) of this section). The total Federal grant is made only on condition that the remaining 25 percent of the actual cost of meeting individuals' or families' necessary expenses or serious needs is paid from funds made available by the State. With respect to any one major disaster, an individual or family may not receive a grant or grants under this section totaling more than $5,000, including both the Federal and State shares. The Governor or his/her designee is responsible for the administration of the grant program.

(b) *Purpose.* The grant program is intended to provide funds to individuals or families to permit them to meet those disaster-related necessary expenses or serious needs for which assistance from other means is either unavailable or inadequate. Meeting those expenses and needs as expeditiously as possible will require States to make an early commitment of personnel and resources. States may make grants for emergency needs in instances where there is an unreasonable delay in receiving assistance from other means, with a commitment from the applicant that when assistance is received from other means the State must be reimbursed. The grant program is not intended to indemnify disaster losses or to permit purchase of items or services which may generally be characterized as nonessential, luxury, or decorative.

(c) *Definitions used in this section.*

(1) "Necessary expense" means the cost of an item or service essential to an individual or family to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

(2) "Serious need" means the requirement for an item or service essential to an individual or family to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

(3) "Family" means a social unit living together and comprised of a husband and wife and dependents, or comprised of unmarried persons jointly forming a household unit (such as those who jointly own or share real estate and common household type personal property); or comprised of couples (and dependents of couples) who are joined in a common law marriage; or a household comprised of an unmarried person living with and supporting a dependent son, stepson, daughter, stepdaughter, or a dependent descendant of a son or daughter. Families may file only one IFG application.

(4) "Individual" means a person who is not a member of a family, as defined in paragraph (c)(3) above. Renters who live together are individuals. When one individual owns real property, and another lives there in a tenant-type relationship (whether or not rent is charged), the owner may file one IFG application for home repair and the personal property of the owner; and the other individual may file an IFG application for his/her own property.

(5) "Expendable items" means consumables such as linens, clothes, and basic kitchenware.

(6) "Assistance from other means" means assistance, including monetary or in-kind contributions, from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other that those of the individual or family. It does not include expendable items.

(7) "Owner-occupied" means that the residence is occupied by: the legal owner; a person who does not hold formal title to the residence but is responsible for payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights in the residence with formal title vested in another. Those who do not have documentation proving home ownership may prove such ownership by presenting an affidavit executed by a State, Commonwealth, or local government attorney stating that the applicant is considered owner of the residence for legal purposes, and identifying the basis for this conclusion, and by presenting one form of proof of occupancy.

(8) "Flowage easement" means an area where the landowner has given the right to overflow, flood, or submerge the land to the government or other entity for a public purpose.

(d) *National eligibility criteria.* In administering the IFG program, a State shall determine the eligibility of an individual or family in accordance with the following criteria:

(1) *General.* (i) To qualify for a grant under this section, an individual or family representative must:

(A) Make application to all applicable available governmental disaster assistance programs for assistance to meet a necessary expense or serious need, and be determined not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need;

(B) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made; and

(C) Certify to refund to the State that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.

(ii) Individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, their residency in the major disaster area, or their residency within the State in which the major disaster has been declared.

(iii) The Flood Disaster Protection Act of 1973, Pub. L. 93–234, as amended, imposes certain restrictions or approval of Federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements Pub. L. 93–234 for FEMA assistance generally. This paragraph refines those requirements for the IFG program. To the extent that this paragraph is inconsistent with Subpart K, this paragraph applies.

(A) For the purposes of this paragraph, "financial assistance for acquisition or construction purposes" means a grant to an individual or family to repair, replace, or rebuild the insurable portions of a home, and/or to purchase or repair insurable contents.

(B) A State may not make a grant for acquisition or construction purposes where the structure to which the grant assistance relates is located in a designated special flood hazard area which has been identified by the Director for at least one year as flood-prone, unless the community in which the structure is located is participating in the National Food Insurance Program (NFIP). However, if a community qualifies for and enters the NFIP during the six-month period described in 44 CFR 205.253(a)(3)(i), the Governor's Authorized Representative (GAR) may request a time extension (see paragraph (j)(1)(ii) of this section) from the Regional Director for the purpose of accepting and processing grant applications in that community. The Regional Director or Associate Director, as appropriate, may approve the State's request if those applicable governmental disaster assistance programs which were available during the original application period are available to the grant applicants during the extended application period.

(C)(*1*) The State may not make a grant for acquisition or construction purposes in a designated special flood hazard area in which the sale of flood insurance is available under the NFIP unless the individual or family agrees to purchase adequate flood insurance and to maintain such insurance for three years, or as long as they live in the affected residence, whichever is less. Adequate flood insurance, for the purposes of the IFG program, means a policy which buys as much building and contents coverage (to cover at least the grant amount in the housing category for homeowners, or the personal property category for renters) as is available for the minimum premium charged by the NFIP. If the cost for this coverage is less than the minimum premium, the remainder of the premium shall be used to buy additional building coverage first. If the grant recipient fails to obtain the required flood insurance, he/she must return to the State the amount of the grant received for acquisition and construction on insurable real estate and personal property, and the flood insurance premium. If a grant recipient cancels a required policy within the three year period, he/she is ineligible for subsequent IFG assistance for the remainder of the three year period for such items up to the amount which should have been insured by the flood insurance policy. The cost of the first year's policy is considered a necessary expense for those who are required under this section to obtain flood insurance.

(*2*) After a determination that flood insurance is required and after disbursement of a grant, States shall require the grant recipient to provide proof of purchase of the required flood insurance.

(D) A State may not make a grant for acquisition or construction purposes where an applicant who is required to apply to SBA or FmHA in accordance with paragraph (d)(1)(i)(A) of this section is denied loan assistance because of failure to have obtained and/

or maintained a flood insurance policy required as a condition of previous loan assistance.

(E) A State may not make a grant for acquisition or construction purposes when the applicant is deemed to have assumed the risk knowingly, that is, when property is located within a flowage easement, or in an area between a river and a levee (where the family built the home after the levee was built, or was compensated for future flood damage at the time the levee was built), or when a residence is located on land leased to an individual where that lease holds the government harmless from the risk of damage. This restriction does not apply if an applicant is going to use the funds to move out of the risk area.

(iv) In order to comply with the President's Executive Orders on Floodplain Management (EO 11988) and Protection of Wetlands (EO 11990), the State must implement the IFG program in accordance with FEMA regulations 44 CFR Part 9. That part specifies which IFG program actions require a floodplain management decision-making process before a grant may be made, and also specifies the steps to follow in the decision-making process. Should the State determine that an individual or family is otherwise eligible for grant assistance, the State shall accomplish the necessary steps in accordance with that section, and request the Regional Director to make a final floodplain management determination.

(2) *Eligible categories.* Assistance under this section shall be made available to meet necessary expenses or serious needs by providing essential items or services in the following categories:

(i) Housing. With respect to primary residences (including mobile homes) which are owner-occupied at the time of the disaster, grants may be authorized to:

(A) Repair, replace, or rebuild;

(B) Provide access. Where an access serves more than one individual or family, an owner-occupant whose primary residence is served by the access may be eligible for a proportionate share of the cost of jointly repairing or providing such access. The owner-occupant may combine his/her grant funds with funds made available by the other individuals or families if a joint use agreement is executed (with no cost or charges involved) or if joint ownership of the access is agreed to;

(C) Clean or make sanitary.

(D) Remove debris from such residences. Debris removal is limited to the minimum required to remove health or safety hazards from, or protect against additional damage to the residence;

(E) Provide or take minimum protective measures required to protect such residences against the immediate threat of damage; and

(F) Minimization measures required by owner-occupants to comply with the provisions of 44 CFR Part 9 (Floodplain Management and Protection of Wetlands), to enable them to receive assistance from other means, and/or to enable them to comply with a community's floodplain management regulations.

(ii) Personal property such as:

(A) Clothing;

(B) Household items, furnishings, or appliances. If a pre-disaster renter receives a grant for household items, furnishings, or appliances and these items are an integral part of mobile home or other furnished unit, the pre-disaster renter may apply the funds awarded for these specific items toward the purchase of the furnished unit, and toward mobile home site development, towing, set-up, connecting and/or reconnecting;

(C) Tools, specialized or protective clothing, and equipment which are required by an employer as a condition of employment;

(D) Repairing, cleaning or sanitizing any eligible personal property item; and

(E) Moving and storing to prevent or reduce damage.

(iii) Transportation. Grants may be authorized to repair, replace, or provide privately owned vehicles, or to provide public transportation.

(iv) Medical or dental expenses.

(v) Funeral expenses. Grants may include funeral and burial (and/or cremation) expenses.

(vi) Cost of the first year's flood insurance premium to meet the requirements of this section.

(vii) Cost for estimates required for eligibility determinations under the IFG program. Housing and personal property estimates will be provided by the government. However, an applicant may appeal to the State if he/she feels the government estimate is inaccurate. The cost of an applicant-obtained estimated to support the appeal is not an eligible cost.

(viii) Other. A State may determine that other necessary expenses and serious needs are eligible for grant assistance. If such a determination is made, the State must summarize the facts of the case and thoroughly document its findings of eligiblility. Should the State require technical assistance in making a determination of eligibility, it may provide a factual summary to the Regional Director and request guidance. The Associate Director also may determine that other necessary expenses and serious needs are eligible for grant assistance. Following such a determination, the Associate Director shall advise the State, through the Regional Director, and provide the necessary program guidance.

(3) *Ineligible categories.* Assistance under this section shall not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses and self-employment;

(ii) Improvements or additions to real or personal property, except those required to comply with paragraph (d)(2)(i)(F) of this section;

(iii) Landscaping;

(iv) Real or personal property used exclusively for recreation; and

(v) Financial obligations incurred prior to the disaster.

(4) *Verification.* The State will be provided most verification data on IFG applicants who were not required to first apply to the Small Business Administration (SBA), and on those who were required to apply to SBA but also had expenses unrelated to SBA's disaster loan program. The FEMA Regional Director shall be responsible for performing most of the required verifications in the categories of housing (to include documentation of home ownership and primary residency); personal property; and transportation (to include documentation of vehicle ownership and/or registration, as appropriate to the State's administrative plan). Certain verifications may still be required to be performed by the State, such as on late applications or reverifications, when FEMA or its contractors are no longer available. Eligibility determination functions shall be performed by the State. The SBA will provide copies of verifications performed by SBA staff on housing and personal property (including vehicles) for those applicants who were first required to apply to SBA. This will enable the State to make an eligibility determination on those applicants. When an applicant disagrees with the grant award, he/she may appeal to the State. The cost of any estimate provided by the applicant in support of his/her appeal is not eligible under the program.

(e) *State administrative plan.* (1) The State shall develop a plan for the administration of the IFG program that includes, as a minimum, the items listed below:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Procedures for:

(A) Notifying potential grant applicants of the availability of the program, to include the publication of application deadlines, pertinent program descriptions, and further program information on the requirements which must be met by the applicant in order to receive assistance;

(B) Establishing local application centers after the closing of Disaster Application Centers and accepting applications there;

(C) Reviewing verification data provided by FEMA and performing verifications for medical, dental and funeral expenses, and also for all grant categories in the instance of late applications and appeals;

(D) Determining applicant eligibility and grant amounts, and notifying applicants of the State's decision;

(E) Determining the requirement for flood insurance;

(F) Preventing duplication of benefits between grant assistance and assistance from other means;

(G) At the applicant's request, reconsidering the State's determinations;

(H) Processing applicant appeals, recognizing that the State has final authority. Such procedures must provide for:

(*1*) The receipt of oral or written evidence from the appellate or representative;

(*2*) A determination on the record; and

(*3*) A decision by an impartial person or board;

(I) Disbursing grants in a timely manner;

(J) Verifying by random sample (no less than a 5% sample) that grant funds are meeting applicants' needs, are not duplicating assistance from other means, and are meeting floodplain management and flood insurance requirements;

(K) Recovering grant funds obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, not expended or committed as of the date the State requests Federal reimbursement, or authorized for acquisition or construction purposes where proof of purchase of flood insurance is not provided to the State. Except for those mentioned in the previous sentence, grants made properly by the State on the basis of Federally sponsored verification information are not subject to recovery by the State. As an attachment to its voucher, the State must identify each case were recovery actions have been taken or are to be taken, and the steps taken or to be taken to accomplish recovery;

(L) Conducting any State audits that might be performed in compliance with the Single Audit Act;

(M) Reporting to the Regional Director, and to the Federal Coordinating Officer as required; and

(N) Reviewing and updating the plan each January.

(iii) National eligibility criteria as defined in paragraph (d) of this section.

(iv) Provisions for compliance with 44 CFR Part 11, Claims, and the State's own debt collection procedures.

(v) Pertinent time limitations for accepting applications, grant award activities, and administrative activities, to comply with Federal time limitations.

(vi) Provisions for specifically identifying, in the accounts of the State, all Federal and State funds committed to each grant program; for repaying the advanced State share as of the date agreed upon by the Governor and the Regional Director; and for immediately returning, upon discovery, all Federal funds that are excess to program needs.

(vii) Provisons for safeguarding the privacy of applicants and the confidentiality of information, except that the information may be provided to agencies or organizations who require it to make eligibility decisions for assistance programs, or to prevent duplication of benefits, to State agencies responsible for audit or program review, and to FEMA or the General Accounting Office for the purpose of making audits or conducting program reviews.

(viii) A section identifying the management and staffing functions in the IFG program, the sources of staff to fill these functions, and the management and oversight responsibilities of:

(A) The GAR;

(B) The department head responsible for the IFG program;

(C) The Grant Coordinating Officer; and

(D) The IFG program manager.

(2) The Governor or his/her designee may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement this program.

(3) The Governor shall submit a revised State administrative plan each January to the Regional Director. The Regional Director shall review and approve the plan annually. In each disaster for which assistance under this section is requested, the Regional Director shall request the State to prepare any amendments required to meet current policy guidance. The Regional Director must then work with the State until the plan and amendment(s) are approved.

(4) The State shall make its approved administrative plan part of the State emergency plan, as described in § 205.4 of these regulations.

(f) *State initiation of the IFG program.* To make assistance under this section available to disaster victims, the Governor must, either in the request to the President for a major disaster declaration or by separate letter to the Regional Director, express his/her intention to implement the program. This expression of intent must include an estimate of the size and cost of the program. In addition, this expression of intent represents the Governor's agreement to the following:

(1) That the program is needed to satisfy necessary expenses and serious needs of disaster victims which cannot otherwise be met;

(2) That the State will pay its 25 percent share of all grants to individuals and families;

(3) That the State will return immediately upon discovery advanced Federal funds that exceed actual requirements;

(4) To implement an administrative plan as identified in paragraph (e) of this section;

(5) To implement the grant program throughout the area designated as eligible for assistance by the Associate Director; and

(6) To maintain close coordination with and provide reports to the Regional Director.

(g) *Funding.* (1) The Regional Director may obligate funds incrementally for the Federal share of the IFG program based upon the determination that:

(i) The Governor has indicated the intention to implement the program, in accordance with subparagraph (f) of this section;

(ii) The State's administrative plan meets the requirements of this section and current policy guidance; and

(iii) There is no excess advance of the Federal share due FEMA from a prior IFG program. The State may eliminate any such debt by paying it immediately, or by accepting an offset of the owed funds against other funds payable by FEMA to the State. When the excess Federal share has been repaid, the Regional Director may then obligate funds for the Federal share for the current disaster.

(2) The Regional Director may increase the State's letter of credit in increments of funds to meet the Federal share of program needs if the above conditions are met. The State may withdraw funds for the Federal share in the amounts made available to it by the Regional Director.

(3) The Regional Director may obligate funds incrementally for the State share

of the IFG program based upon the Governor's request (for subsequent obligations, the GAR may request). Along with an estimate of the total amount needed to meet the State's 25 percent share, the initial request for authority to borrow the State share shall include:

(i) A certification that the State is unable immediately to pay its 25 percent share, and the reasons for this inability;

(ii) A statement of the specific actions the State will take to enable it to pay its 25 percent share; and

(iii) A certification that the State will repay the advance, and the date for this repayment, which will be agreed upon in the FEMA/State agreement. A Bill for Collection (BFC) will be issued on the repayment date if the advance is not repaid as agreed. Prior to the repayment date, the State may request, and the Regional Director may approve, a revision to the FEMA/State agreement to extend the State share due date if good cause exists.

(4) The Regional Director may increase the State's letter of credit in increments of funds to meet the State share of program needs if the above conditions are met, and if the State is not delinquent in repaying State share debts from previous IFG programs. The State may eliminate this debt by accepting an offset of the owed funds against other funds payable to the State by FEMA.

(5) The Regional Director must recover any advance of the State share not repaid by the date established in accordance with subparagraph (g)(3)(iii), and any excess advance of the Federal share not repaid immediately upon discovery of the excess by using debt collection procedures at 44 CFR Part 11. Debt collection procedures must also be used when recovering funds due FEMA upon examination of the State's final voucher.

(6) Payable costs include 75 percent of the costs of meeting necessary expenses or serious needs, and expenses incurred in administering the grant program. The amount payable for administrative purposes is computed by dividing the payable Federal cost of meeting necessary expenses and serious needs by .97, and subtracting the payable Federal costs of meeting such expenses or needs from the quotient. Costs for grants that are improperly or inadequately documented are not payable. Costs for grants that are not in conformance with national eligibility criteria or the approved State administrative plan are not payable. Costs for grants that have not been expended or committed by the grant recipient at the time the State submits its final voucher may be payable only if the Regional Director determines, based on justification provided by the State, that adequate steps are being taken to correct the deficiency. Costs for grants made on the basis of fraudulent information, that were misapplied by the grant recipient, that duplicate assistance from other means, or that were authorized for acquisition or construction where proof of purchase of flood insurance was not provided by the grant recipient, may be payable only if the State has taken the steps required by its administrative plan to recover the funds. If the State has been unable to recover the funds, the Regional Director shall consider the costs payable, but shall institute debt collection procedures against the individual when fraud or misapplication are involved. If the State did not take the steps required by its administrative plan, the costs are not payable, and shall be suspended. The State must identify each case where deficiencies exist but for which it is requesting payment, and the steps it has taken to remedy the deficiency.

(h) *Voucher analysis.* Final reimbursement to the State, or final debt collection, shall be based on examination of a voucher filed by the State within the time limitations stated in paragraph (j) of this section. The voucher is either the final SF-269, Financial Status Report (used when the funding method is letter of credit), or FEMA Form 90-27, Request for Advance or Reimbursement (used when the Treasury check or wire transfer is the funding method).

(1) If no significant deficiencies were found during the mid program review, a second review and narrative summary shall be prepared, along with examination of the fiscal portion of the voucher. The review shall include the following determinations:

(i) That the State specifically identified in its accounts all Federal and State funds committed to the IFG program;

(ii) That the State's share was provided from funds made available by the State;

(iii) That the State has repaid, or is taking the necessary steps to enable it to repay, the State share and any excess advances of the Federal share which exceed program needs; and

(iv) That the claimed administrative costs were correctly calculated.

(2) If significant deficiencies (25 percent of case files examined) existed during the mid program review, a second review shall be prepared, along with an additional case file sample and a document containing the determinations in paragraph (h)(1) above and the following additional determinations that the grant payments:

(i) Meet eligibility criteria stated in the approved State administrative plan;

(ii) Were disaster related;

(iii) Are based on adequate FEMA verification documentation, and other documentation (flood insurance requirement, information on assistance from other means, grant award document, etc.);

(iv) Do not exceed $5,000;

(v) Were spent by the named disaster victim and spent as indicated in the grant award document;

(vi) Do not represent cases of fraud, misapplication or duplication of benefits, where the State has failed to take measures appropriate to its administrative plan; and

(vii) If based on an appeal, contain adequate justification for the final determination.

Voucher analysis results in approval of the final voucher in whole or in part, disapproval of the final voucher, request for a Federal audit, or suspension until deficiencies have been corrected by the State.

(i) *Audits.* The State should perform the audits required by the Single Audit Act of 1984. All programs are subject to Federal audit.

(j) *Time limitations.* (1) In the administration of the IFG program:

(i) The Governor shall indicate his/her intention to implement the IFG program no later than seven days following the day on which the major disaster was declared and in the manner set forth in paragraph (f) of this section;

(ii) Applications shall be accepted from individuals or families for a period of 60 days following the declaration date, and for a minimum of 30 days thereafter when the State determines that extenuating circumstances beyond the applicants' control (such as, but not limited to, hospitalization, illness, or inaccessibility to application centers) prevented them from applying in a timely manner;

(iii) The State shall complete all grant award activity, including eligibility determinations, disbursements, and disposition of appeals, within 180 days following the declaration date. The Regional Director shall suspend all grant awards disbursed after the specified completion date; and

(iv) The State shall complete all administrative activities and submit final reports and vouchers to the Regional Director within 90 days of the completion of all grant award activity.

(2) The GAR may submit a request with appropriate justification for the extension of any time limitation. The

Regional Director may approve the request for a period not to exceed 90 days. The Associate Director may approve any request for a further extension of the time limitations.

(k) *Appeals.* (1) *Bills for Collection (BFC's).* The State may appeal the issuance of a BFC by the Regional Director. Such an appeal shall be made in writing within 30 days of the issuance of the bill. The appeal must include information justifying why the bill is incorrect. The Regional Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, or his/her decision. Interest on BFC's starts accruing on the date of issuance of the BFC, but is not charged if the State pays within 30 days of issuance. If the State is successful in its appeal, interest will not be charged; if unsuccessful, interest is due and payable, as above.

(2) *Other appeals.* The State may appeal any other decision of the Regional Director. Such appeals shall be made in writing within 30 days of the Regional Director's decision. The appeal must include information justifying a reversal of the decision. The Regional Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, of his/her decision.

(3) *Appeals to the Associate Director.* The State may further appeal the Regional Director's decisions to the Associate Director. This appeal shall be made in writing within 30 days of the Regional Director's decision. The appeal must include information justifying a reversal of the decision. The Associate Director shall review the material submitted and notify the State, in writing, within 15 days of receipt of the appeal, of his/her decision.

(l) *Exemption from Garnishment.* All proceeds received or receivable under the IFG program shall be exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. No rights under this provision are assignable or transferable. The above exemptions will not apply to the requirement imposed by paragraph (e)(1)(ii)(K) of this section.

(m) *Debt collection.* In cases involving fraud or misapplication of IFG funds, the Regional Director shall institute debt collection activities against the individual according to the procedures outlined in 44 CFR Part 11, Claims.

Dated: April 28, 1986.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 86-9990 Filed 5-14-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 510, 580, and 582

[Docket No. 86-19]

Anti-Rebating Certification by Those Engaged in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its rules governing the filing of anti-rebating certificates in the foreign commerce of the United States. The purpose of the proposed rule is to establish uniform application of anti-rebating rules with respect to ocean common carriers, non-vessel operating common carriers and freight forwarders, and provide that companies which function in more than one capacity need file only one anti-rebating certificate. The proposed rule also specifies the time period covered by the anti-rebate certification and provides a uniform due date for submission of the certificate.

DATE: Comments due by June 16, 1986.

ADDRESS: Comments (original and 15 copies) to: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is responsible for continued surveillance over all common carriers by water in the foreign commerce of the United States to ensure against rebating. Parts 510 and 582 of 46 CFR require the Chief Executive Officer of each common carrier and ocean freight forwarder to file with the Commission a certificate under oath attesting to the company's anti-rebating policies and efforts. Current regulations require the certification by common carriers to be filed by May 15 of each year. Freight forwarder certificates must be filed by March 1. In addition to the filing of a certificate, 46 CFR Part 580 requires that the tariff of each common carrier contain a provision stating that the company has a policy against rebating and that this policy has been certified to the Federal Maritime Commission. 46 CFR 580.5(c)(2)(ii).

The proposed rule establishes a common due date of December 31 by which all certificates must be filed, and specifies the time period to which each certificate is applicable. It also requires each common carrier to file a certificate with its initial tariff and each ocean freight forwarder to file its initial certificate with its license application. The proposed rule takes into account situations wherein a single company or firm functions in more than one capacity, i.e., both as a non-vessel operating common carrier and an ocean freight forwarder. In such instances, a single certificate would satisfy the annual filing requirement for that company or firm.

The proposed rule removes the tariff notification requirement contained in 46 CFR 582.3. This provision is duplicative of that contained in 46 CFR 580.5(c), where it properly resides.

The Commission has determined that the proposed rule is not a "major rule" as defined in Executive Order 12291, February 27, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies that, although this proposed rule may affect a substantial number of small entities, particularly small businesses, the economic impact is not considered to be significant.

The collection of information requirements contained in this proposed rule have been submitted to the Office of Management and Budget (O.M.B.) for review under section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h). A copy of the request for OMB review and supporting documentation may be obtained from the Commission's Secretary. Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs of O.M.B., Attention: Desk Officer for the Federal Maritime Commission. Collection of information requirements contained in original Parts 510, 580, and 582 were approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned control numbers 3072-0009, 3072-0018, 3072-0028, 3072-0044, and 3072-0046.

List of Subjects

46 CFR Part 510

Exports, Freight forwarders, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 580

Anti-trust, Cargo, Cargo vessels, Contracts, Exports, Harbors, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

46 CFR Part 582

Cargo, Cargo vessels, Exports, Foreign relations, Freight forwarders, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

Therefore, it is proposed that Parts 510, 580, and 582 of Title 46, Code of Federal Regulations, be amended as follows:

PART 510—[AMENDED]

1. The authority citation to Part 510 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718.

2. Section 510.25 is revised to read as follows:

§ 510.25 Anti-rebate certifications.

(a) An anti-rebating certificate shall be filed by every applicant for an ocean freight forwarder license with its license application and, thereafter, on or before December 31 of each year.

(b) The anti-rebating certificate shall comply with the requirements of Part 582 of this title, and, except for a certificate filed with a license application, shall apply to the calendar year following the December 31 filing date.

PART 580—[AMENDED]

1. The authority citation to Part 580 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707–1709, 1712, 1714–1716, and 1718.

2. Section 580.5(c)(2) is revised to read as follows:

§ 580.5 Tariff contents.

* * * * *

(c) The body of the tariff shall contain the following:

* * * * *

(2)(i) The full legal name of each participating common carrier, appropriately identified as a Non-Vessel-Operating Common Carrier or Vessel Operating Common Carrier and the address of its principal office. Where a joint service participates, the FMC number of the agreement authorizing the joint service shall also be shown.

(ii) An anti-rebate tariff provision to be effective upon filing which shall read substantially as follows (*see* Exhibit No. 2 to this part):

(Name of company) has a policy against the payment of any rebate by the company or by any officer, employee, or agent thereof, which payment would be unlawful under the United States Shipping Act of 1984. Such policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act of 1984 and the regulations of the Commission set forth in 46 CFR 582.

(A) When the common carrier's tariff is a conference tariff, the common carrier shall ensure that the conference publishes the common carrier's anti-rebate tariff provision in the conference tariff.

(B) In addition to the anti-rebate tariff provision, an anti-rebating certificate shall be filed by every common carrier with its initial tariff, and on each succeeding December 31. The anti-rebating certificate shall comply with the requirements of Part 582 of this title, and, except for a certificate filed with an initial tariff, shall apply to the calendar year following the December 31 filing date.

PART 582—[AMENDED]

1. The authority citation to Part 582 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701, 1702, 1707, 1709, 1712, 1714, 1715, and 1716.

2. Section 582.1 is revised to read as follows:

§ 582.1 Scope.

(a) The requirements set forth in this part are binding upon every common carrier by water and ocean freight forwarder in the foreign commerce of the United States and, at the discretion of the Commission, will apply to any shipper, shippers' association, marine terminal operator, or broker.

(b) Information obtained under this part will be used to maintain continuous surveillance over common carrier and ocean freight forwarder activities and to deter rebating practices. Failure to file the required certificate may result in a civil penalty of not more than $5,000 for each day such violation continues.

3. Section 582.2 is revised to read as follows:

§ 582.2 Form of certification.

The Chief Executive Officer, i.e., the most senior officer within the firm designated by the board of directors, owners, stockholders or controlling body as responsible for the direction and management of the firm, of each common carrier and ocean freight forwarder and, when so ordered by the Commission, the Chief Executive Officer of any shipper, shippers' association, marine terminal operator or broker, shall file with the Secretary, Federal Maritime Commission, a written certification, under oath, as prescribed in the format in Appendix A to this part, attesting to the following:

(a) That it is the stated policy of the filing firm that the payment, solicitation or receipt of any rebate by the firm, which is unlawful under the provisions of the Shipping Act of 1984, is prohibited;

(b) That the policy of the firm described in paragraph (a) of this section was promulgated recently (together with the date of such promulgation) to each owner, officer, employee, and agent of the filing firm;

(c) The details of the efforts made within the firm or otherwise to prevent or correct illegal rebating; and

(d) That the filing firm will fully cooperate with the Commission in its efforts to end those illegal practices.

§ 582.3 [Removed]

4. Section 582.3 is removed.

5. Section 582.4 is redesignated as § 582.3 and revised to read as follows:

§ 582.3 Reporting requirements.

(a) Every common carrier required by this part to file a written certification, as prescribed in § 580.5(c)(2)(ii) of this title and required by § 582.2, shall file such certification with its initial tariff and, thereafter, on or before December 31 of each year.

(b) Every ocean freight forwarder required by this part to file a written certification, as prescribed in § 510.25 of this title and required by § 582.2, shall file such certification with its license application and, thereafter, on or before December 31 of each year.

(c) The certification required by this section shall apply to the remainder of the calendar year following the initial filing of a tariff or application for an ocean freight forwarder license and, thereafter, the calendar year following the December 31 filing date specified in 46 CFR sections 510.25, 580.5(c)(2)(ii) and 582.3 (a) and (b).

(d) Every person other than a common carrier which is ordered by the Commission to file a written certification under § 582.2 shall file the initial certification on the date designated by the Commission and,

thereafter, as the Commission may direct.

(e) In those instances in which a single firm operates in more than one capacity, such as both a non-vessel-operating common carrier and an ocean freight forwarder, a single certificate may be submitted to satisfy the annual reporting requirement.

6. Appendix A to Part 582 is revised to read as follows:

Appendix A—Certification of Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States

46 CFR Part 582

I, (name of affiant), state under oath that I am the Chief Executive Officer (state exact title) of (Exact Names of firm), hereinafter referred to as "The Firm", and that:

1. It is, and shall continue to be, the policy of The Firm to prohibit its participation in the payment, solicitation, or receipt of any rebate, directly or indirectly, which is unlawful under the provisions of the Shipping Act of 1984.

2. Each owner, officer, employee and agent to The Firm was notified or reminded of this policy on ———. (Date)

3. The Firm affirms that it will cooperate fully with the Federal Maritime Commission in any investigation of suspected rebating in United States foreign trades.

4. Attached hereto is a description of the details of measures instituted, within The Firm or otherwise, to prohibit its involvement in the payment or the receipt of illegal rebates in the foreign commerce of the United States.

The period covered by this Certification is from ——— (Date) to ——— (Date).

The Firm a (check each block applicable):

——— Broker
——— Freight Forwarder (License No.———)
——— Marine Terminal Operator
——— Non-Vessel-Operating Common Carrier
——— Shipper
——— Shippers' Association
——— Vessel Operating Common Carrier

(Signature of affiant).

Subscribed to and sworn before me this ——— day of ———, 19 ———.

Notary Public.

By the Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-10949 Filed 5-14-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 83-1376; FCC 86J-2]

Integration of Rates and Services Between Alaska and the Contiguous States

AGENCY: Federal Communications Commission.

ACTION: Order Requesting Data and Inviting Comments.

SUMMARY: The Federal-State Joint Board in *Integration of Rates and Services* (CC Docket No. 83-1376) is requesting carriers associated with the provision of telecommunication services in Alaska and between Alaska and the contiguous states to provide data on the telecommunication market for Alaska. This data is needed to allow the Joint Board to evaluate the alternative market structures for the Alaska market and to further evaluate the extent of the high costs associated with telecommunication service in Alaska.

DATES: The requested data are to be filed on or before July 15, 1986. Proposals for structuring the Alaska market and comments on the issues before the Federal-State Joint Board are to be filed on or before October 31, 1986. Oppositions or further comments in light of the market structure proposals and initial comments may be filed on or before December 16, 1986. Reply comments may be filed on or before January 15, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal-State Joint Board's *Order Requesting Data and Inviting Comments*, CC Docket No. 83-1376, adopted April 23, 1986, and released May 9, 1986.

The full text of this Joint Board order is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this order may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order Requesting Data and Inviting Comments

The Commission convened this Federal-State Joint Board (Joint Board) pursuant to section 410(c) of the Communications Act, 47 U.S.C. section 410(c) by issuing a *Notice of Proposed Rulemaking, Integration of Rates and Services*, 50 FR 41714 (Oct. 15, 1985). The Joint Board was asked to prepare recommendations concerning: (1) What, if any, market structure changes are necessary to harmonize the Commission's rate integration and procompetitive policies for the Alaska market; and (2) what separations or other rule changes, if any, would be necessary to implement any market structure changes. The Joint Board was also directed to consider the high cost of service in Alaska in reaching its recommended decision, and asked us to study whether there is a need for subsidization of telecommunication service in Alaska, and, if so, to explore alternative sources for such support. By this *Order*, the Joint Board requests interested persons to submit information and data concerning the provision of telecommunication services within the state of Alaska and between Alaska and the contiguous states. The Joint Board requests data that identifies: (1) The costs associated with Alaska's interstate and intrastate telecommunication services in order to determine the extent to which these services are characterized by high costs; (2) the location of those costs within the network hierarchy to permit the evaluation of cost allocation, market structure, or separations alternatives; and (3) the cost of the various interstate and intrastate service offerings of the Alaska carriers to allow evaluation of the market structure proposals. Data is requested from Alaska exchange carriers, the state of Alaska, Alascom, Inc. (Alascom), General Communication Incorporated (GCI), and the American Telephone and Telegraph Company (AT&T).

Each carrier providing interstate service between points in the contiguous states and points in Alaska and/or intrastate interexchange service in Alaska is requested to identify its current service offerings and explain how those services are provided. Alascom is requested to describe in detail the operation of its earth station network, including an explanation of how Alascom interconnects its network with the Alaska exchange carrier facilities. Alascom and GCI shall identify any telecommunication facilities that they own or lease located outside Alaska and shall describe the operational characteristics and cost of such facilities. Alascom and GCI shall identify each point of interconnection with the facilities of AT&T or another inter exchange carrier in the contiguous states. Any other interexchange carrier offering interstate or intrastate service in the Alaska market is requested to provide a description of its operations and information concerning the investment, expenses, and revenues associated with its Alaska service.

Alascom is requested to describe in general terms the application of the separations procedures to its investment and expenses. It is requested to describe

the manner in which "equivalent circuit miles" are used in the development of the conversation minute mile factor, the allocation of television transmission facilities and single channel per carrier transmission facilities used for communications to small earth stations, and the allocation of its investment and expenses to private line services.

The state of Alaska is requested to provide information concerning the population demographics of Alaska, the pattern of income distribution within the state, the state's business environment, and other relevant data. The state of Alaska is also requested to provide information on the types and amounts of telecommunication services purchased by it during 1985.

We are asking Alaska exchange carriers to file actual and projected data showing investment, expenses, and revenues separately for interstate and intrastate services for specified years. Each exchange carrier is requested to identify, to the extent possible, any instances in which it applies the separations procedures in a manner that differs from the application by the Bell Operating Companies in the lower-48 states. Alasks exchange carriers are also asked to file data on the charges for residential and business exchange service and basic private line exchange service. Each Alaska exchange carrier is further requested to provide data on the number of subscriber lines and private lines by NNX. Each Alaska exchange carrier is also requested to identify its interstate and intrastate subscriber line usage factors and its interstate frozen subscriber plant factor for 1983–85.

Alacsom and GCI shall each provide specified actual and projected investment, expense, and revenue data. This information shall be presented with billed revenues and settlements shown separately, as well as showing separately amounts associated with interstate exchange access and intrastate settlements with the Alaska exchange carriers. Alascom shall also specify the allocation of each account balance to the appropriate separation categories or subcategories and identify the allocation of each separations category or subcategory to the appropriate interstate or intrastate service.

AT&T shall provide a statement of its actual and projected billed revenues for Alaska service and its settlements with Alascom for specified years. AT&T is to estimate its cost, excluding settlements, of distributing the traffic of Alascom and GCI in the lower-48 states.

Alascom is requested to file the results of a study on the effect of using more than one separation study area for Alaska on its cost allocations and settlements. It is requested to project the results forward to 1985 and to calculate separately the costs of serving Ketchikan, Sitka, Nome, and Cordova. Alascom shall also state its investment and expenses by major separations categories, disaggregated to specified geographic areas.

Alascom, AT&T and GCI are requested to quantify the impact that the implementation of the final step of rate integration and termination of the transitional supplement would have had on their 1985 operations and estimate the effect on their 1986–87 projections under two stated assumptions. Alascom and CGI shall provide information showing the rates and rate design for the interstate and intrastate services they offered on January 1, 1986.

Alascom and GCI shall separately identify their actual and projected total interstate and their total intrastate massages and minutes for specified periods, showing northbound and southbound interstate messages and minutes separately. Alascom, GCI, and AT&T shall each provide information on its respective interstate and/or intrastate average length of haul. Alascom, AT&T and GCI shall each provide data concerning the capacity and usage of their earth stations, transponders, and microwave facilities, as appropriate.

Interested persons are invited to file comments, oppositions, and reply comments on the issues before the Joint Board in accordance with the time schedule set forth in the ordering clauses. Any person planning to submit a market structure proposal should do so in its initial comments in order to ensure an opportunity for other persons to respond. Interested persons should also address the question of the high cost of Alaska telecommunication service. Interested persons should identify the baseline criteria to be used in determining the extent of the high cost levels and should file such data if it is not already available, or state where it is available. Finally, interested persons should address any changes in the separations rules or other Commission rules necessary to address the high cost issue in light of possible market structure revisions.

Paperwork Reduction Act

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

Accordingly, it is ordered, pursuant to sections 1, 4 (i) and (j), 201–205, 221, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154 (i) and (j), 201–205, 221, and 410(c), That the persons specified herein are directed to file the requested data on or before July 15, 1986. Interested persons may file proposals for structuring the Alaska market and comments on the issues before the Federal-State Joint Board on or before October 31, 1986. Oppositions for further comments in light of the market structure proposals and initial comments may be filed on or before December 16, 1986. Reply comments may be filed on or before January 15, 1987. An original and six (6) copies of the data submissions and comments shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554. Additionaly, one (1) copy of each data submission or comment shall be filed with each person listed in Appendix A.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–10952 Filed 5–14–86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 86–163]

Private Land Mobile Service, Frequency Allocations; Buffalo et al.

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Commission has adopted a Notice of Proposed Rule Making proposing to amend Part 90 of the rules to provide for private land mobile operation in the 421–430 MHz band in the Detroit, Cleveland, and Buffalo urban areas.

DATES: Comments due June 23, 1986. Reply comments due July 8, 1086.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Overby, Private Radio Bureau (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (Notice)*, adopted April 18, 1986 and released May 2, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street NW, Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. On September 26, 1985, the Commission released a *Report and Order* in Gen. Docket No. 85–113, 50 FR 40016 (October 1, 1985), which allocated segments of the 421–430 MHz band for private land mobile operation within 50 miles of Detroit, Cleveland, and Buffalo. A total of 6.1 megahertz of spectrum was allocated for use in each of the Detroit and Cleveland areas, and 2.85 megahertz of spectrum was allocated for use in the Buffalo area. The *Report and Order* dealt only with the allocation and did not address implementation of rules governing systems operating on these bands. Accordingly, the Commission has adopted the above-captioned *Notice* proposing service rules for use of this spectrum.

2. The *Notice* proposes to divide this spectrum into 25 kHz channels, and to apportion the channels equally between a public safety/special emergency pool and a general access pool. Channels in the general access pool would be available to private land mobile entities that do not fall into the public safety/special emergency category. The proposal would provide a total of 47 channel pairs in Buffalo and 112 channel pairs in both Detroit and Cleveland, along with 20 single channels in each of the three areas. Channels would be assigned on a shared basis with no frequency exclusivity given to any licensee. Since the spectrum allocation was limited to within 50 miles of Detroit, Cleveland, and Buffalo, the Commission proposed to allow base stations to locate within 30 miles of these cities and to specify mobile operating areas of up to 20 miles around each base station. The proposed rules are listed are included in the original item.

3. This action is taken pursuant to sections 4(i), 303(r), and 331 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 332.

4. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will make additional channels available for private land mobile eligibles, some of which are small businesses. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 23, 1986, and reply comments on or before July 8, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 90

Private land mobile radio, Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–10958 Filed 5–14–86; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 51, No. 94
Thursday, May 15, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Plant Genetic Resources Board; Renewal

The Department of Agriculture has renewed the National Plant Genetic Resources Board for a 2-year period.

The Board was originally established in July 1975 by the Secretary and was last renewed on May 4, 1984.

The purpose of the Board is to advise the Secretary of Agriculture and officers of the National Association of State Universities and Land-Grant Colleges in order to assess national needs and identify high-priority programs for conserving and utilizing plant genetic resources, including such things as collection, maintenance and description of genetic stocks, and utilization of the stocks in plant improvement programs.

The Secretary has determined that continuation of the Board is necessary and in the public interest in order to assure adequate supplies of food, feed, and fiber by minimizing the genetic vulnerability of crops.

Done at Washington, DC, this 8th day of May 1986.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 86-10931 Filed 5-14-86; 8:45 am]

BILLING CODE 3410-03-M

Commodity Credit Corporation

Proposed Determinations Regarding Support Prices for Pulled Wool and Mohair for the 1986 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: This notice sets forth certain proposed determinations concerning the price support levels for pulled wool and mohair for the 1986 marketing year. These determinations are required to be made pursuant to the National Wool Act of 1954, as amended.

EFFECTIVE DATE: Comments must be received on or before June 16, 1986 in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3758, South Building, P.O. Box 2415, Washington, D.C. 20013 or call (202) 475–4645. A Preliminary Regulatory Impact Analysis has been prepared and is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major." It has been determined that these proposed determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that the Commodity Credit Corporation (CCC) publish a notice of proposed rulemaking in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published by 48 FR 29115 (June 24, 1983).

The title and number of the Federal assistance program that this notice applies to are: National Wool Act Payments, 10.059, as found in the Catalog of Federal Domestic Assistance.

Section 703(a) of the National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, purchases, payments or other operations. It has been determined that the prices of wool and mohair will be supported for the 1986 to 1990 marketing years by means of payments to producers.

Section 703(b) of the Wool Act provides that the level of support for shorn wool for each of the marketing years 1982 through 1990 shall be 77.5 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent. Based on current reported parity indices the calculation for the 1986 shorn wool support price (grease basis) is as follows:

(1) Average parity index, calendar years 1982–1984	1103.0
(2) Average parity index, calendar years 1958–1960	297.3
(3) Ratio of 1103.0 to 297.3	3.7101
(4) 3.7101 x 62 cents per pound (1965 support price)	$2.3003
(5) 77.5% x 2.3003	$1.7827
(6) 1.7827 rounded to nearest full cent	$1.78

Section 703(c) of the Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary of

Agriculture determines will maintain normal marketing practices for pulled wool, and as the Secretary determines is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Section 703(c) further provides that the support price for mohair must be within a range of 15 per centum above or below the comparable percentage of parity at which shorn wool is supported.

The Wool Act provides that the Secretary shall establish and announce, to the extent practicable, support price levels for wool and mohair sufficiently in advance of each marketing year, as will permit producers to plan their production for such marketing year. Accordingly, the following method for calculating the support prices for pulled wool and mohair for the 1986 marketing year are being proposed.

Proposed Determinations

A. *Support Price-Pulled Wool.* The support price for pulled wool for the 1986 marketing year cannot be determined until the 1986 average market price for shorn wool is calculated, which should occur by April 1987. It is proposed that the method for calculating the support price for pulled wool shall be as follows. Once the average market price for shorn wool is known, the support price for pullled wool will be determined by subtracting the 1986 average market price for shorn wool from the 1986 support prices of shorn wool and multiplying that number by 5 pounds (the amount of wool pulled from the pelt of an average 100-pound unshorn lamb). The result is then multiplied by 80 percent which is a quality adjustment factor which recognizes that unshorn lamb pelts contain a shorter staple and a lower quality wool than wool shorn from other sheep.

B. *Support Price-Mohair.* It is proposed that the support price for mohair for the 1986 marketing year shall be determined based on the October 1985 parity prices for mohair and shorn wool. The following percentages are being considered in the final computation of the mohair support price:

(1) 85 pecent of the percent of parity at which shorn wool is supported.

(2) A percentage equal to the percent of parity at which shorn wool is supported.

(3) 115 percent of the percent of partity at which shorn wool is supported.

Interested persons are encouraged to comment on the proposed method of calculation for payments on pulled wool and the proposed level of price support for mohair. Consideration will be given to any data, views and recommendations which are submitted with respect to the above items.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).

Signed at Washington, DC, on May 9, 1986.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86–10932 Filed 5–14–86; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Intent To Amend the Routt, Pike and San Isabel; and Arapaho and Roosevelt National Forest Land and Resource Management Plans; Jefferson, Douglas, Park, Grand, Summit, Gilpin and Boulder Counties, CO

On February 12, 1985, the Rocky Mountain Region, Forest Service, U.S. Department of Agriculture, published a notice "Update of the Status of Participation in the Systemwide Site-Specific Metropolitan Denver Water Supply Environmental Impact Statements" (Vol. 50, No. 29, Page 5804). In that notice the Forest Service indicated that projects discussed in the Systemwide Site-Specific Environmental Impact Statement had the potential to affect the land use allocations of four National Forest Land and Resource Management Plans (Forest Plans). The National Forest administrative units identified in the February notice were the Arapaho and Roosevelt, the Pike and San Isable, the Routt, and the White River National Forests.

The notice also said that the sponsors expected to identify the projects which will have to be built in the near-term (10 to 15 years) and apply for the necessary land use authorizations and permits in October 1985. Additionally, if the projects identified did have the potential to affect Forest Plans, the Forest Service was to publish a Notice of Intent to prepare an Environmental Impact Statement to Amend the Forest Plans.

On March 4, 1986, the Forest Service received from the Denver Board of Water Commissioners an application for the construction and operation of the Two Forks Dam and Reservoir. Preliminary analysis shows that there may be a need to amend the Pike and San Isabel National Forest Plan to accommodate the proposed project. Additionally, operation of the proposed project or some of its alternatives may affect the operation of other elements of Denver's water collection system located on other National Forests. As a result there may be impacts on the Arapaho and Roosevelt and Routt National Forests that may require a Forest Plan amendment. The proposed project would inundate 5,250 acres of the Pike and San Isabel National Forests and potentially affect five different management area prescriptions under the current Forest Plan. Lesser National Forest acreages are inundated by alternatives to the proposed project, but some National Forest System land is required for each project alternative.

On April 10, 1986, the Denver Board of Water Commissioners applied to the Forest Service for approval to occupy National Forest System land within the Arapaho National Forest for the construction and operation of the extension and enlargement of the Williams Fork Diversion Project. The proposed project is located in a portion of the Arapaho National Forest that is administered by the Routt National Forest, and the lands are covered by the Routt's Land and Resource Management Plan. Preliminary analysis shows that there may be a need to amend the Routt National Forest Plan to accommodate the proposed project. Approval and construction of the proposed project or its alternative may also affect the operation of other elements of Denver's water collection system located on the Arapaho and Roosevelt National Forests, so the need for a Forest Plan amendment will also be evaluated for that Forest.

The Corps of Engineers (COE) is the lead agency in preparing the Environmental Impact Statement which will contain details sufficient to make the Forest Plan amendment decisions as well as land use authorization decisions. On April 9, 1982, the COE published a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** (Vol. 47, No. 69, Page 15405). In that notice the Forest Service was identified as a cooperating agency under the National Environmental Policy Act. The notice contained the schedule of scoping meetings.

Subsequent to analysis the scope of the EIS changed to emphasize site-specific projects and the COE published a second Notice of Intent to prepare an EIS in the **Federal Register** on April 9, 1984 (Vol. 49, No. 77 page 15600). The public was again asked to comment and to help define the scope of the issues to be analyzed in the EIS.

In addition to the two COE notices and requests for comments and the scoping meeting which were held, the Forest Service requested comments on the projects in their February 1985

notice referred to above. No additional scoping meetings have been scheduled, however, written comments and concerns may be sent to the Regional Forester, USDA Forest Service, P.O. Box 25127, Lakewood, CO 80225.

There will be a public comment period after the Draft EIS is released for public review and prior to preparation of the Final EIS. Public meetings will be conducted by the COE and the Forest Service to receive public input on the Draft EIS. These meetings will be held in the metropolitan Denver area as well as locations on Colorado's west slope and will be publicized through local news media.

S. H. Hanks,

Deputy Regional Forester.

[FR Doc. 86-10902 Filed 5-14-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of an Environmental Impact Statement for Geothermal Leasing; Lassen National Forest, CA

The Department of Agriculture, Forest Service, and Department of the Interior, Bureau of Land Management, has jointly prepared an environmental impact statement for proposed geothermal leasing on part of the Lassen National Forest. The land area involved covers 206,500 acres including the 56,750 acres within the Lassen Known Geothermal Resource Area (KGRA), south of Lassen Volcanic National Park.

Five alternatives have been considered, ranging from no leasing, to leasing with standard and various additional stipulations for protection of surface an subsurface resources.

Public involvement highlighted the following four issues that were addressed in two different development scenarios, 75MW & 300MW: (1) Impacts to geothermal features of Lassen Volcanic National Park and adjacent private lands; (2) impacts to wilderness areas, the Pacific Crest Trail, private land, and Lassen Volcanic National Park; (3) impacts to air, suface water, ground water, fish, wildlife, recreation, visual resources, cultural resource, sound levels, timber, range, sensitive plants, and other vegetation (4) the types and degree of geothermal activities permitted, their potential effects, and protective measures to mitigate those effects. Such activities include: Use of heavy equipment, road construction, truck traffic, buildings, dust emissions, well drilling, steam and gas discharge, fluid and solid waste discharge, and well abandonment.

The preferred alternative recommends the leasing of only National Forest lands within noncompetitive application areas north of LVNP in which rocks derived from the Lassen Volcanic center do not occur. These areas would be leased with standard lease terms and special stipulations. The rest of the study area including the KGRA is recommended to not be leased.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations.

Copies of the Draft EIS are available for review at the public libraries in Lassen, Plumas, Shasta and Tehama Counties, as well as Lassen National Forest, Supervisor's Office, 55 S. Sacramento, Susanville, CA and Susanville District Office, Bureau of Land Management, 705 Hall Street, Susanville, CA.

A limited number of single copies of the statement can be obtained by contacting the Forest Supervisor, Lassen National Forest or the District Manager, BLM-Susanville District.

DATE: The public comment period is open for 45 days from the date EPA published their Availability Notice, May 2, 1986. The comment period closes June 16, 1986.

Written comments should be sent to Mr. Richard A. Henry, Forest Supervisor, Lassen National Forest, 55 South Sacramento Street, Susanville, California 96130, phone (916) 275-2151; or to Mr. C. Rex Cleary, District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, phone (916) 257-5381.

FOR FURTHER INFORMATION CONTACT: Jim Saake, Lassen National Forest, (916) 257-2151 or John Bosworth, BLM-Susanville District, (916) 275-5381.

Dated: May 8, 1986.

W.S. Swanson,

Acting Forest Supervisor.

Bob Sherve,

Acting District Manager.

[FR Doc. 86-10905 Filed 5-14-86; 8:45 am]

BILLING CODE 4410-40-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Aquidneck Island Watershed, RI; Finding of No Significant Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Aquidneck Island Watershed, Newport County, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Richard N. Duncan, State Conservationist, Soil Conservation Service, Alderic Complex, 46 Quaker Lane, West Warwick, Rhode Island, 02893-2120, telephone (401) 828-1300.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard N. Duncan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include land treatment on cropland consisting of enduring practices (terraces), management practices (contour farming), and one agricultural waste storage facility.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Richard N. Duncan.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

Dated: May 7, 1986.

(Catalog of Federal Domestic Assistance Program No. 10-904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Richard N. Duncan,

State Conservationist.

[FR Doc. 86-10903 Filed 5-14-86; 8:45 am]

BILLING CODE 3410-16-M

Jumper Creek Watershed, FL; Intent to Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Jumper Creek Watershed project, Sumter County, Florida.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, State Conservationist, Soil Conservation Service, 401 SE First Avenue, Room 248, Gainesville, Florida 32601 telephone (904) 377–0946.

Jumper Creek Watershed, Florida; Notice of Intent to Deauthorize Federal Funding

SUPPLEMENTARY INFORMATION: A determination has been made by James W. Mitchell that the proposed works of improvement for the Jumper Creek project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from James W. Mitchell, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the Federal Register.

James W. Mitchell,

State Conservationist.

May 7, 1986.

[FR Doc. 86–10904 Filed 5–14–86; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Advisory Standard for Chairs Used Primarily for Enplaning and Deplaning Physically Disabled Passengers

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Invitation for public comment on proposed advisory standard.

SUMMARY: Aircraft boarding chairs, wheelchair-like devices used to transport disabled passengers onto airplanes, have been cited for safety and other problems. Responding to a survey distributed through the **Federal Register**, (49 FR 36210, September 14, 1984), passengers using aircraft boarding chairs reported complaints regarding safety, comfort, independent mobility, and personal dignity. In response to these problems and complaints, the Architectural and Transportation Barriers Compliance Board (ATBCB) sponsored a research effort to examine aircraft boarding chairs. The objective of the research effort was to develop a non-binding federal advisory standard aimed at improving aircraft boarding chair design and use.

ATBCB retained the services of a human factors engineering consulting firm to perform the research effort and develop this advisory standard. A human factors team, which included human factors engineer and both a physician and physical therapist specializing in wheelchair design and prescription, analyzed existing aircraft boarding chairs in both their static state and during use. This approach permitted a comprehensive evaluation of the physical features of aircraft boarding chairs and the "human-machine" interactions. A Draft Advisory Standard was reviewed by industry experts, boarding chair designers, airline personnel, airport operators and aircraft boarding chair users.

This publication of a proposed advisory standard incorporates the reviewers' comments on the draft. It contains a thorough overview of the development effort as well as background information which should facilitate advisory standard implementation. The body of this advisory standard contains detailed guidance for boarding chair design and use as well as training. Technical assistance on this and related issues is available through the ATBCB.

DATE: To be assured of consideration, comments must be in writing and must be postmarked on or before July 14, 1986.

ADDRESS: Comments should be sent to: Docket Trans-1–86, U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Room 1010, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For information on techical issues concerning this standard, contact Mr. Dennis Cannon, Office of Technical Services, (202) 472–2700 (Voice or TDD). Legal questions should be addressed to Ms. Debra Fischer, Deputy General Counsel (202) 245–1801 (Voice or TDD). These are not toll free numbers. Copies of this notice are also available on tape for visually impaired persons.

SUPPLEMENTARY INFORMATION:

I. The Purpose of the Advisory Standard

This advisory standard is intended to promote improvements in the accessibility of facilities and services to disabled people. As described in Section II, this particular advisory standard is part of a larger effort by the ATBCB to eliminate architectural and transportation barriers encountered by disabled people. The ATBCB's mechanism for accomplishing this goal is the implementation of an advisory standard on the design and use of aircraft boarding chairs.

1. What Is an Advisory Standard?

An advisory standard is non-binding and considered guidance only. An advisory standard can, at a later point, be enforced but this would require action by federal agencies (other than the ATBCB) who have rulemaking and enforcement authority. The initial approach of developing and implementing an advisory standard,

rather than a binding one, is an effective way to introduce guidance in cooperative manner, working together with industry, user, and governmental entities to improve conditions.

2. Why Was This Advisory Standard Established?

This advisory standard was established to promote and facilitate improvements in aircraft boarding chair design and use. The need for the advisory standard arises from persistent safety problems and complaints regarding aircraft boarding chairs. The advisory standard provides a range of guidance that is intended to help eliminate problems encountered by disabled passengers and airline attendants.

The advisory standard development effort is the result of several years' work in the aircraft boarding chair area. Over several years, representatives of the government, airlines, airport operators, aircraft boarding chair manufacturers and wheelchair users have organized and worked together in an effort to identify problem areas and make efforts to improve aircraft boarding chair design and use.

Many of the reported problems have been attributed to physical design problems. However, some problems have been the result of improper use of the devices, a result of inadequate or improper training. The advisory standard addresses both of these problem causes.

3. Who Should Use This Advisory Standard?

The major advisory standard end-users are expected to be aircraft boarding chair designers, airlines, aircraft designers, general public disabled passengers, and insurance companies.

Use by Aircraft Boarding Chair Designers

Aircraft boarding chair designers can benefit from the advisory standard through the comprehensive design guidance. It can be utilized as the basis for detailed design criteria or specifications when the designer develops a new design or enchances an existing one or to develop product specifications and evaluation checklists. The advisory standard is written in a manner that recognizes an aircraft boarding chair design as an optimization problem that requires tradeoff analysis. Guidance is performance-oriented rather than prescriptive to allow for creative, trade-off solutions. The advisory standard provides data on desirable design features based on user testing and preferences to which the designer may not otherwise have access. Aircraft boarding chair designers and manufacturers should apply the guidance provided in the advisory standard since the airlines (the customer) may be encouraged by the government and, potentially, by insurance companies to specify and purchase aircraft boarding chairs that conform to the guidance.

Use by the Airlines

Airlines may use the advisory standard to select the best aircraft boarding chair for purchase. The advisory standard identifies performance requirements for aircraft boarding chairs that the purchaser should look for in devices on the market and identifies how a specific feature should operate or be designed to satisfy passenger and attendant needs. The advisory standard can be used as the basis for purchase specification. It can also be used to make improvement in areas such as aircraft boarding chair maintenance and airline attendant training. Airlines may use the advisory standard initially to evaluate the aircraft boarding chairs they are currently using and determine if there is a need to replace them with improved products. The guidelines may also be useful when designing training courses.

Use by Aircraft Designers

Aircraft designers, including those who design the airframe, cabin layouts, and seating may use the advisory standard in an effort to accommodate the needs of disabled passengers who need wheelchair or boarding chair access. Ideally, all commercial aircraft, including small, commuter aircraft, should permit wheelchair or boarding chair access to all seat locations. Cabin doorways and aisles should be designed to allow wheelchair or boarding chair maneuverability and effective passenger transfers. Basic anthropometric and boarding chair dimensional data contained in this advisory standard should assist aircraft designers in achieving these goals.

Use by the General Public/Disabled Passengers

Disabled passengers may use the advisory standard as a technical resource to explain to airlines the need for safe and efective boarding chairs.

Use by Insurance Companies

Insurance companies that underwrite airline passenger services may consider requiring that the airlines use boarding chairs that conform to the advisory standard in order to obtain insurance coverage. This would ensure that airlines utilize the safest boarding chairs available. This could reduce the airlines' vulnerability to claims resulting from accidents involving boarding chairs.

4. What is the Scope of this Advisory Standard?

The advisory standard applies specifically to aircraft boarding chairs. It is not intended to be applied directly to devices used for functions other than aircraft boarding, such as on-board chairs used for in-flight mobility or wheelchairs used for mobility within the airport terminal. However, if a product such as an on-board chair is used for the purpose of aircraft boarding, the advisory standard is applicable.

The scope of the guidance provided in this advisory standard is broad enough to account for the many types of aircraft boarding chairs currently in use. The broad scope also supports the objective of sustaining or increasing the number of aircraft boarding chair manufacturers. The advisory standard is not intended to restrict design freedom. The performance-based guidelines are designed to eliminate safety hazards while permitting different and creative solutions to the engineering problems.

Not all of the guidance provided will or can be applied to a single type of aircraft boarding chair design. This is due to the fact that aircraft boarding chairs have competing design requirements such as maximum adjustability and mechanical simplicity. It is considered the responsibility of the advisory standard user to interpret the guidelines and determine where specific guidelines apply. Technical assistance to supplement the advisory standard and provide guidance for advisory standard interpretation and implementation will be available through the ATBCB.

5. How is the Advisory Standard Organized?

This advisory standard with preamble is divided into seven sections. Sections I–II of the preamble's supplementary information provide background information regarding the functions of the advisory standard and the topic of architectural barriers and aircraft boarding chairs. Section III identifies particular questions on which public comment is invited. The Advisory Standard itself is in four parts. Part 1 provides a list of key terms. Part 2 defines the physical characteristics of the users, both the passenger and attendant, and the environment in which the boarding chairs are used. The remainder of the standard, Parts 3 and 4,

consists of guidelines for boarding chair design. Appendix A provides the adopted ISO test procedures. Appendix B contains guidelines on personnel training and defines who should be trained, how often training should be conducted, and the extent of training needed.

II. Project Background

1. The need for an Advisory Standard

There is a continuing need to provide disabled people with equal access to places and services. With improved recognition of the rights of disabled people, many public works and services have been modified to provide access. However, modifications have not included provisions for complete, unhindered access to aircraft. While many airport terminals now provide accessible restrooms, electric doors and ramps, aircraft manufacturers have not widened the airplane aisle to allow standard wheelchair access.

Because a standard wheelchair will not fit down the airplane aisle (17" wide), it is necessary that some other device be used for boarding and deplaning disabled passengers. It would seem that wheelchair manufacturers solved the problem already by designing aircraft boarding chairs (examples of existing boarding chairs are shown in Figure II–1). However, aircraft boarding chairs do not fulfill all of the needs of the passengers and attendants. Reports of accidents and near-accidents involving existing aircraft boarding chairs have indicated that improvements in aircraft boarding chair design are needed. An advisory standard that provides for the basic needs of aircraft boarding chair users is essential in eradicating existing architectural barriers for disabled persons in air transportation.

BILLING CODE 6820-BP-M

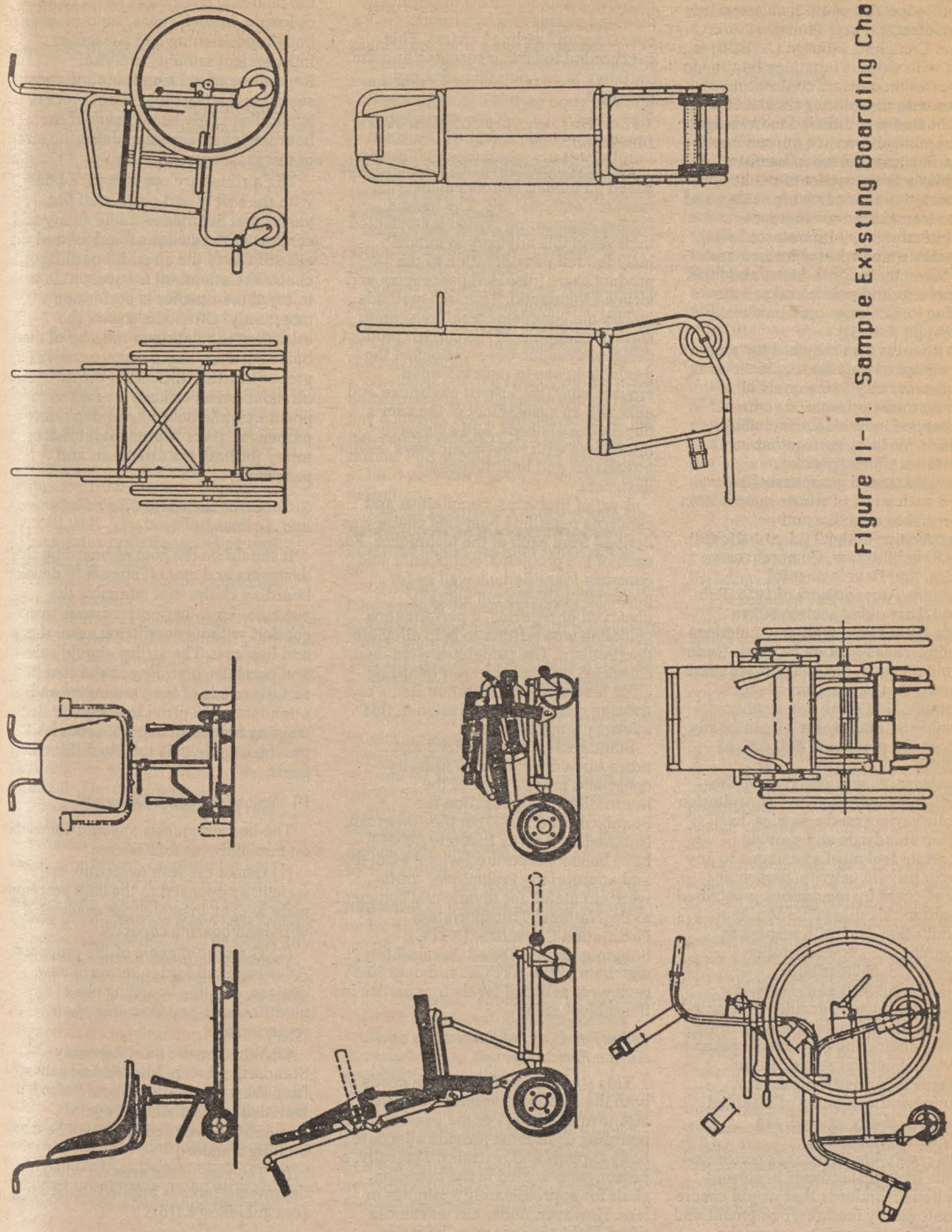

Figure II-1. Sample Existing Boarding Chairs

BILLING CODE 6820-BP-C

2. The Role of ATBCB

Under section 502 of the Rehabilitation Act of 1973, as amended, the Architectural and Transportation Barriers Compliance Board (ATBCB) is vested with various functions relating to transportation barriers confronting persons with disabilities (29 U.S.C. 792). First, the Board is directed to investigate and examine alternative approaches to eliminating transportation barriers, particularly with respect to public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and to determine what measures are being taken by Federal, State, and local governments and public and private agencies to eliminate such barriers. (id at 792(b) (2) and (3)).

The Board is also required to "prepare plans and proposals for . . . actions as may be necessary to the goals of adequate transportation . . . for handicapped individuals, including proposals for bringing together in cooperative effort, agencies, organizations, and groups working toward such goals of whose cooperation is essential to effective and comprehensive action" (id. at 792(c)(3)).

The Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–502) amended section 502 to provide the ATBCB with new functions regarding transportation barriers. Under the Amendments, the Board is required to "insure that public conveyances, including rolling stock, are readily accessible to, and usable by physically handicapped persons" (29 U.S.C. at 792(b)(8)).

The Amendments also require the ATBCB, in cooperation and consultation with other concerned agencies, to "develop standards and provide appropriate technical assistance to any public or private activity, person or entity affected by regulations prescribed pursuant to this title [Title V of the Rehabilitation Act] with respect to overcoming . . . transportation . . . barriers" (id. at 792(d)(3)).

Since the ATBCB had received a number of reports of accidents or near-accidents involving the use of aircraft boarding chairs, the Board had reason to believe that current practices and standards regarding their use for enplaning and deplaning of disabled passengers, if any existed, are inadequate and unsafe.

As a result, the Board was concerned with the lack of standards in current regulations-standards that would ensure adequate safety features, equipment and procedures necessary to secure the safe enplaning and deplaning of physically disabled passengers by airport operators and airline carriers. This concern led to further research and the initiative to develop this advisory standard.

3. How This Advisory Standard Was Developed

The development of this standard was based on human factors engineering research and analysis. The human factors engineering research conducted to develop this advisory standard included full consideration of the product users (disabled passengers and airline attendants). Research methods included a complete literature search, static evaluations of the current product designs, dynamic observations of the products in use in their intended environment (the airport skybridge and aircraft), an assessment of the user's physiological needs, and extensive interviews with wheelchair users, airline attendants and boarding chair designers.

A set of problems, complaints, and concerns regarding boarding chairs was derived from each of the techniques. For each of the problems, complaints, and concerns identified, as well as for potential problems not actually observed or reported, a performance guideline was written to help alleviate the problem. The guidelines were then classified by topic (aircraft boarding chair feature, documentation issue, or training concern) for inclusion in this advisory standard.

Standards or standardized test procedures developed by industry consensus groups such as the International Organization for Standardization (ISO) or the American National Standards Institute (ANSI) have been incorporated where available and appropriate. Preliminary drafts were circulated for review and comment to the National Transportation Facilitation Committee (NTFC) Subgroup on Air Travel Accessibility, members of the ATBCB, and over 60 reviewers selected for their expertise in the subject area.

4. The needs of the Passengers and Airline Personnel

This standard addresses the needs of both the disabled passenger and the airline attendants. For the passenger, the boarding chair must provide adequate body support and restraint. Typically, a passenger is seated in the boarding chair for approximately 5 minutes or less. However, under circumstances when flight changes must be made, delays occur, or a standard wheelchair is unavailable, the time spent seated in the boarding chair can extend to an hour or longer. In such cases, support, ease of body repositioning and passenger independent mobility are vital. Regardless of the length of time spent seated in the boarding chair, proper support can only be achieved if the boarding chair accommodates the size of the passenger.

The airlines are concerned not only with the safety and comfort of the passenger, but also with the safety and comfort of the airline attendant and the ease of use of the aircraft boarding chair. The attendant is susceptible to injury if the transfer is performed incorrectly. Often, the size of the attendant in relation to the size of the boarding chair and passenger makes a proper transfer difficult. If the airline attendant must assume an awkward position while boarding or deplaning a passenger, there is a potential risk of injury for both the attendant and passenger.

5. Goals for Boarding Chair Designers and Airlines

It should be the goal of boarding chair designers and manufacturers to develop boarding chairs that minimize the potential for injury and increase overall comfort without sacrificing ease-of-use and low cost. The airline should select and purchase boarding chairs that best suit the needs of the passengers and attendants and provide adequate training for personnel. This standard provides guidelines to help fulfill these goals.

III. Areas for Public Comment

The board requests specific comments on the following four issues:

(1) Use of the 99th percentile male weight, as opposed to the 95th percentile male weight, in guidelines associated with load bearing capacity.

(2) The cost impacts of the proposed Advisory Standard in terms of new designs, existing boarding chair modifications and boarding chair replacement.

(3) Whether the final Advisory Standard, when published and provided for public information, should also be included in the Code of Federal Regulations even though it will be a non-binding standard.

(4) The size of the area on which the downward force is applied to the seat (see guideline 4.1(d)).

By vote of the Board, March 12, 1986.

Charles R. Hauser,

Chairperson, Architectural and Transportation Barriers Compliance Board.

Advisory Standard

Part 1. Definition of Key Terms

Air Carrier Airport: Airport that serves airlines utilizing aircraft that seat fifty or more passengers or receive federal funds for terminal facilities. (49 CFR Part 27, § 27.5)

Aircraft Boardng Chair: Narrow, wheelchair-like device used to transport non-ambulatory passengers between the airport terminal gate, via a skybridge or aircraft steps, and the aircraft seat.

Anthropometrics: Measurement of various human physical traits such as size, mobility (range-of-motion) and strength.

Attendant: Any individual who participates in the task of transporting and transferring a passenger; can be an airline employee, a service contractor, or a passenger's private assistant.

Boarding: The process of moving a passenger from the terminal, via a skybridge or aircraft steps, to the aircraft seat. The boarding task incorporates both transporting and transferring tasks.

Boarding Chair: Same as aircraft boarding chair.

Channeling: A groove used to direct or guide an attached mechanical part such as a strap in a specified direction.

Clarity of Function: Degree to which it is obvious how a boarding chair feature should be used.

Deplaning: The process of moving a passenger from the aircraft seat, via a skybridge or aircraft steps, to the airport terminal. The deplaning task incorporates both transporting and transferring.

Extended Periods: A duration of 15 minutes or longer. (period of time)

5th Percentile Female: An adult woman who is smaller than 95% of the female population for a given parameter.

Independent Mobility: The capability of moving without the help of another person while using a manual device.

ISO (Test) Dummy: A test apparatus, developed by the International Organization for Standardization (ISO), used as an equivalent human load for wheelchair testing. The dummy is equivalent to a male weighting 220 lbs with a standing height of 78 inches and is constructed according to Draft International Standard ISO-DIS 7176/11.

Lifting Device: Device used to elevate disabled passengers to the aircraft cabin entrance level, eliminating the need to use a stairway (REF: 44 Fed Reg 31442, Subpart D, Section 27.71(a)(2)(v))

95th Percentile Male: An adult man who is larger than 95% of the male population for a given parameter.

Quadriplegia: Paralysis involving the trunk and all limbs.

Repositioning: Shifting body position to redistribute weight.

Restrain: To restrict body movement or keep the body under control.

Skin Ulceration: Breakdown of skin tissue caused by prolonged external pressure on the skin.

Skybridge. Ramp that connects the airplane cabin door to the airport terminal gate entrance.

Standard Loading Mass: A regulation soccer ball (European football) filled with lead shot of approximately 3.0 mm to 4.0 in diameter to a specified weight (ISO definition).

Standard Loadng Pad: A rigid circular object 100 mm in diameter whose face has a convex spherical curvature of 300 mm radius with a 12 mm front edge radius. Pad should be faced with a layer of hard polyether foam 2 mm thick (ISO definition).

Storage Location: A place within the terminal (not on the aircraft) where boarding chairs are kept when not in use.

3.0 Safety Factor: A 200% increase in load capicity to ensure safety. To calculate load capacity with a 3.0 safety factor, multiply the baseline load by 3.0. This safety factor is generally accepted by wheelchair manufacturers and the ISO.

Transfer: The process of lifting up and moving a passenger from one seated position to another.

Transfer Board: Accessory used to bridge the gap between the aircraft boarding chair and aircraft seat. Passenger slides over the board thus reducing the time the passenger is held by the attendants.

Transport: The process of moving a passenger in a boarding chair whether it be by pushing, pulling or lifting.

Part 2. Human and Environmental Factors

2.1 *Physical Characteristics of Users.* Designing aircraft boarding chairs requires close attention to the physical dimensions and biomechanical capabilities (together termed anthropometrics) of the people who will use the devices: the disabled passenger and the airline attendant. The aircraft boarding chair, the disabled passenger, and the airline attendant together form a system which has several physical interrelationships or interfaces. Designing the interfaces which meet the anthropometric requirements of the users will help assure that the "Boarding Chair" system is easy and safe to operate.

Body Dimensions

The boarding chair user population includes both adult males and females. Therefore, the physical characteristics of the aircraft boarding chair must accommodate a large range of human dimensions and physical capabilities which varies from small females to large males. It is normal in engineering and design to develop a product to meet the anthropometric requirements of 95% of the user population; meeting a large range which approaches 100% is usually infeasible or unwarranted. The range of anthropometric data is normally defined in terms of percentiles. To match the anthropometrics of approximately 95% of the aircraft boarding chair user population, one needs to find minimum and maximum anthropometric values (for a given parameter) for the 5th percentile female and the 95th percentile male, respectively.

A percentile is determined as follows:

For a 5th percentile female dimension, 5 out of 100 females would be smaller in that dimension.

The result of calculating parameter values for the 5th percentile female and 95th percentile male is a practical range of physical characteristics that can be used as a basis for design. This approach optimizes a design but, while it does not exclude them, may not met as effectively, the needs of 5% of the (small) females and 5% of the (large) males in the user population. It is not the intent to exclude any portion of the population. In practice a "5th–95th" design usually accommodates more than 95% of the user population.

Anthropometric data is presented in Figures 2–1 and 2–2 for use in designing aircraft boarding chairs. Figure 2–1 provides overall dimensions for the 5th percentile female and the 95th percentile male. Figure 2–2 provides hand, arm, foot and head dimensions for the same anthropometric range. This data is references from the "Human Factors Design Handbook." Additional data that relates specifically to the aircraft boarding chair design problem is presented below. The data includes body weight and strength. Other anthropometric data can be found in NASA Reference Publication 1024, "Anthropometric Source Book, Volume I: Anthropometry for Designers."

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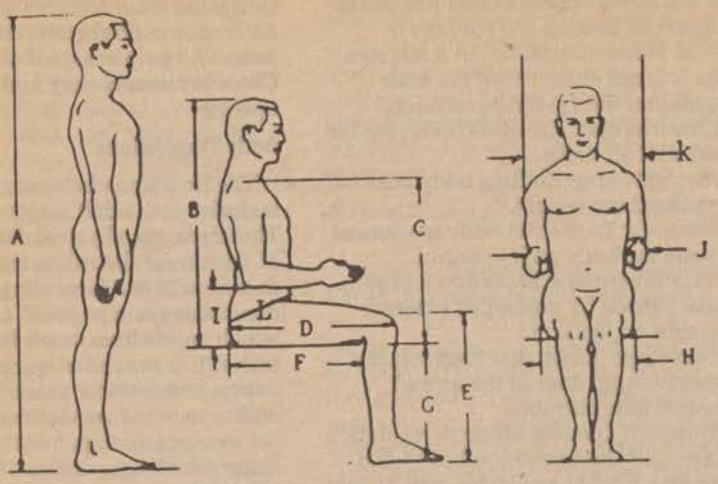
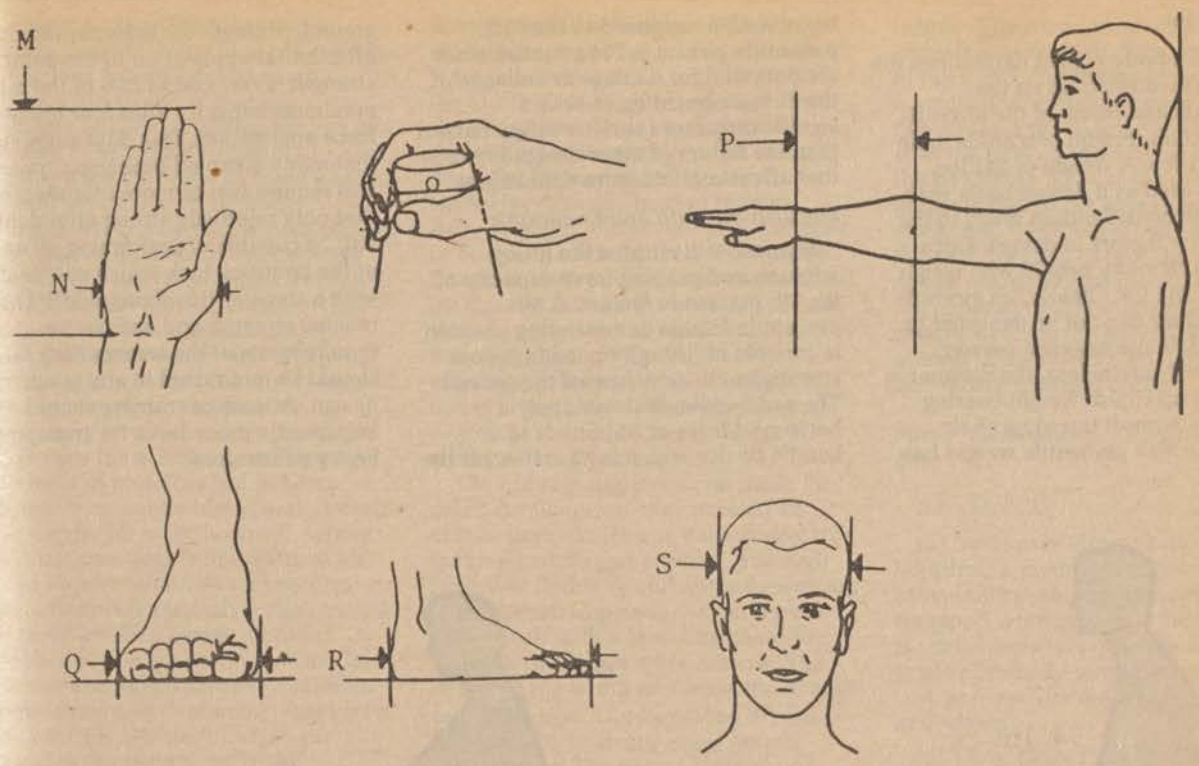


DIMENSION		5% Female	95% Male
A	Standing Height	59.0"	72.8"
B	Sitting Height	30.9"	38.0"
C	Shoulder Height	18.0"	25.0"
D	Upper Leg Length	20.4"	25.2"
E	Knee Height	17.9"	23.4"
F	Seat Length	17.0"	21.6"
G	Seat Height	14.0"	19.3"
H	Seat Width	12.3"	15.9"
I	Elbow Height	7.1"	11.6"
J	Elbow Room	12.3"	19.9"
K	Shoulder Breadth	14.4"	19.6"
L	Hip Circumference	37.0"	44.5"

		5th Female	99th Male
	Weight	104 lb	241 lb

Source: Woodson, Wesley E., Human Factors Design Handbook, 1981

Figure 2-1. Overall Anthropometric Data



DIMENSION	5% Female	95% Male
M Hand Length	6.4"	8.2"
N Hand Breadth	3.2"	4.4"
O Grip Diameter*	1.64"	2.1"
P Elbow to Wrist	9.6"	12.0"
Q Foot Breadth	3.2"	4.3"
R Foot Length	8.7"	11.2"
S Head Breadth	5.4"	6.4"

Sources: Woodson, Wesley E., Human Factors Design Handbook, 1981.

* NASA Reference Publication 1024.

Figure 2-2. Hand, Arm, Foot, and Head Anthropometrics

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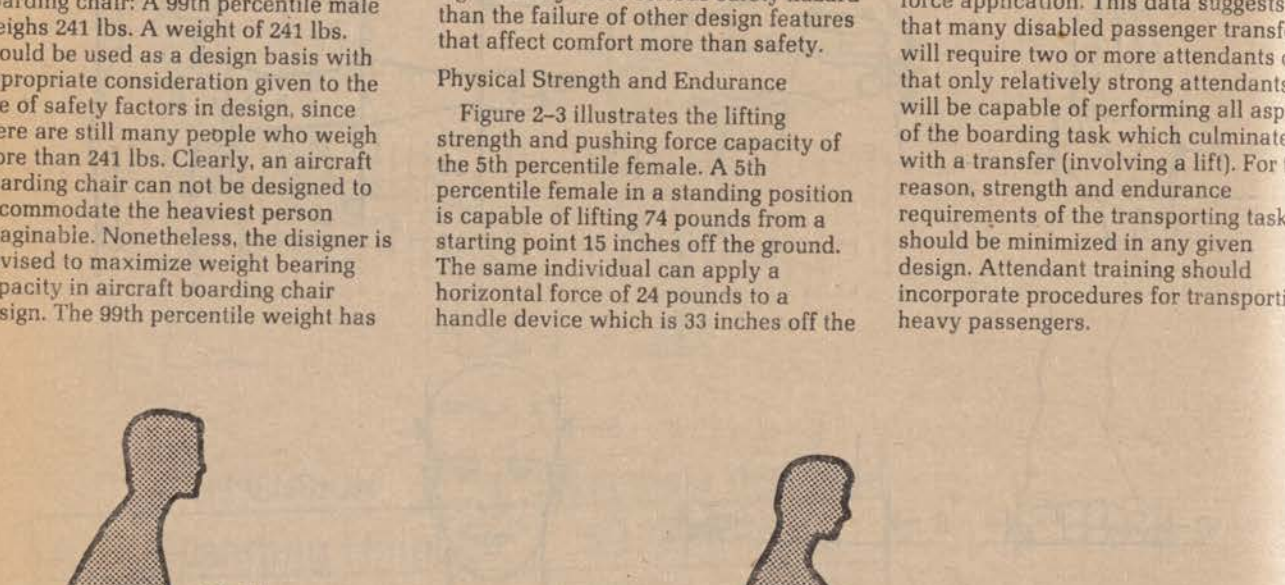
Body Weight

Maximum body weight determines the maximum load or stress on the components and frame of the aircraft boarding chair: A 99th percentile male weighs 241 lbs. A weight of 241 lbs. should be used as a design basis with appropriate consideration given to the use of safety factors in design, since there are still many people who weigh more than 241 lbs. Clearly, an aircraft boarding chair can not be designed to accommodate the heaviest person imaginable. Nonetheless, the disigner is advised to maximize weight bearing capacity in aircraft boarding chair design. The 99th percentile weight has been used, as opposed to the 95th percentile (which is 224 pounds), since the potential for damage or collapse of the aircraft boarding chair is a significantly more serious safety hazard than the failure of other design features that affect comfort more than safety.

Physical Strength and Endurance

Figure 2-3 illustrates the lifting strength and pushing force capacity of the 5th percentile female. A 5th percentile female in a standing position is capable of lifting 74 pounds from a starting point 15 inches off the ground. The same individual can apply a horizontal force of 24 pounds to a handle device which is 33 inches off the ground. Strength declines continuously after intital application to the point that strength is reduced to 25% of the original maximum capacity after four minutes of force application. This data suggests that many disabled passenger transfers will require two or more attendants or that only relatively strong attendants will be capable of performing all aspects of the boarding task which culminates with a transfer (involving a lift). For this reason, strength and endurance requirements of the transporting task should be minimized in any given design. Attendant training should incorporate procedures for transporting heavy passengers.



Sources Diffrient, Tilley and Harman Humanscale 4/5/6.
MIL-STD-1472C

Figure 2-3. 5th Percentile Female Lifting and Pushing Strength

Physical Disability

Aircraft boarding chairs should be designed for passengers with maximum disability. Therefore, a person with quadriplegic involving total loss of arm and leg control and weakened head control should be considered as the design basis. Designs should also consider the potential needs of individuals with missing limbs or deformities and/or involuntary movements.

2.2 The Aircraft Boarding Environment.

Aircraft are not optimized for wheelchair access. Aircraft cabin interiors and aisles, in particular, are designed to be narrow so that the cabin can accommodate the maximum number of people. The narrow aisle is one of the major complicating factors in disabled

passenger access. The other major factor is the continuing lack of skybridge connections to airplanes at many smaller airports and with many commuter airlines, requiring the use of a stairway to board an airplane. Stairways are still used at some airports to board even large, wide-body airplanes, especially during rush periods of the day when there are not always enough gates with skybridges available. The U.S. Department of Transportation requires that operators at federally assisted airports assure that adequate assistance is provided for enplaning and deplaning handicapped persons. Boarding by jetways and by passenger lounges are the preferred methods for movement of handicapped persons between terminal buildings and aircraft at air carrier airports; however, where this is not practicable operators at air carrier airport terminals that receive federal financial assistance shall assure that there are lifts, ramps, or other suitable devices not normally used for movement of freight that are available for enplaning and deplaning wheelchair users [49 CFR 27.71(a)(2)(v)]. A lift eliminates the need to carry the passenger up a stairway. However, lifts are not consistently available and stairways are often used.

Since stairways will continue to be a common means of aircraft access for the indefinite future, aircraft boarding chairs must be designed so that they are safe to use on stairways.

Stairway operation is the most critical mode of aircraft boarding chair use. In stairway operations, the dropping or tipping hazard is greatest for the passenger, while the physical exertion requirement for attendants is also at its peak. Such operations also cause the disabled passenger the greatest discomfort and anxiety. Boarding chair design and boarding methods must be implemented which minimize the risk of injury.

Skybridges are the preferred boarding approach. There are two basic types of skybridges: stationary and movable. Stationary skybridges have a fixed floor inclination. Movable skybridges have vertical and horizontal adjustability and can result in a steeper overall floor incline of up to 7.5 degrees (13%). The slope angle of the connecting ramps between skybridge sections may be as high as 13 degrees (25%). The movable skybridge is also narrower to enhance its movability but satisfies the width requirement for wheelchair access.

Passengers who use wheelchairs normally travel down the skybridge in standard-sized wheelchairs. At the base of the skybridge they are transferred into an aircraft boarding chair and brought onto the airplane. When a skybridge is used for access, the only potential architectural barriers outside the aircraft are the inclination of the skybridge floor and the gap at the threshold between the aircraft cabin door and the skybridge. A steep skybridge floor inclination requires extra strength to control the wheelchair or boarding chair (in the case that the boarding chair is used from the terminal gate point). Brakes are required in case there is a need to stop and hold the boarding chair on the incline. The threshold gap may require backward tilting of the aircraft boarding chair to overcome it and has implications in wheel and caster design.

The aircraft, depending on make and cabin configuraton, may present an access problem. This is particularly true for small commuter aircraft. Although the cabin doorway and entranceway are wide enough to permit easy entry into the aircraft with a boarding chair, the aisles between seats are narrow. The narrow aisle width increases the danger of a passenger's limbs getting wedged between the boarding chair and an aircraft seat. The narrowness of the aisle also presents a problem when the passenger must be moved from the boarding chair to the aircraft seat. The attendants are required to reach around the seated passenger to lift him or her into the aircraft seat. Space for the attendants' arms in the area between the aircraft seats and the boarding chair is tight. Therefore, in cases where the aircraft seat armrest does not pivot out of the way, transferring is further complicated. A fixed armrest necessitates that one attendant reach over the back of the aircraft seat and lift the passenger up over the armrest. This presents risk to the passenger and attendant. Reaching around the back of the seat does not permit the attendant to obtain secure grip of the passenger and the approach is generally less gentle and comfortable for the passenger. The attendant also risks back injury due to poor posture during lifting.

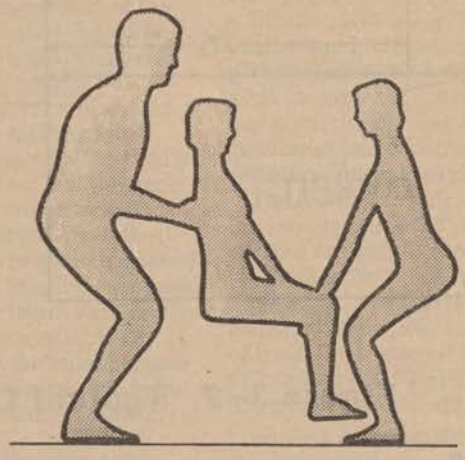
Part 3. Guidelines for Boarding Chair Use

3.1 Mobility.

(a) *Number of Attendants.* When boarding, a minimum of two airline attendants should be present to transport a passenger. If the passenger is particularly heavy or the attendant(s) is not physically strong, the transport task may require more than two attendants.

(b) *Time.* Once the boarding chair is at the aircraft entrance, the time to prepare the boarding chair for passenger seating should be less than two minutes.

(c) *Attendant Posture.* Transfers should not require the attendant to bend in awkward positions. Figure 3–1 illustrates the proper body posture that the boarding chair should permit.



- BEND AT THE KNEES
- KEEP CENTER OF GRAVITY OVER THE KNEES
- USE A SYMMETRICAL POSTURE - DO NOT TWIST
- HOLD A FIRM, BALANCED STANCE
- KEEP YOUR BACK STRAIGHT
- USE A SOLID GRIP - USE BOTH HANDS
- LIFT ABOVE THE CENTER OF GRAVITY

Figure 3-1 Proper Posture for Transferring an Aircraft Boarding Chair Passenger

(d) *Passenger Posture.* The boarding chair design should ensure proper passenger posture. Figure 1–1 illustrates a proper body posture for passengers seated in a boarding chair.

(e) *Boarding Chair Orientation.* The boarding chair should not require tilting for movement unless negotiating curbs, stairs, or similar barriers.

(f) *Turning.* The occupied boarding chair should be able to turn within the confines of the boarding environment and the aircraft cabin layout shown in Figure 3–2. Turning should not require tilting or rocking the boarding chair.

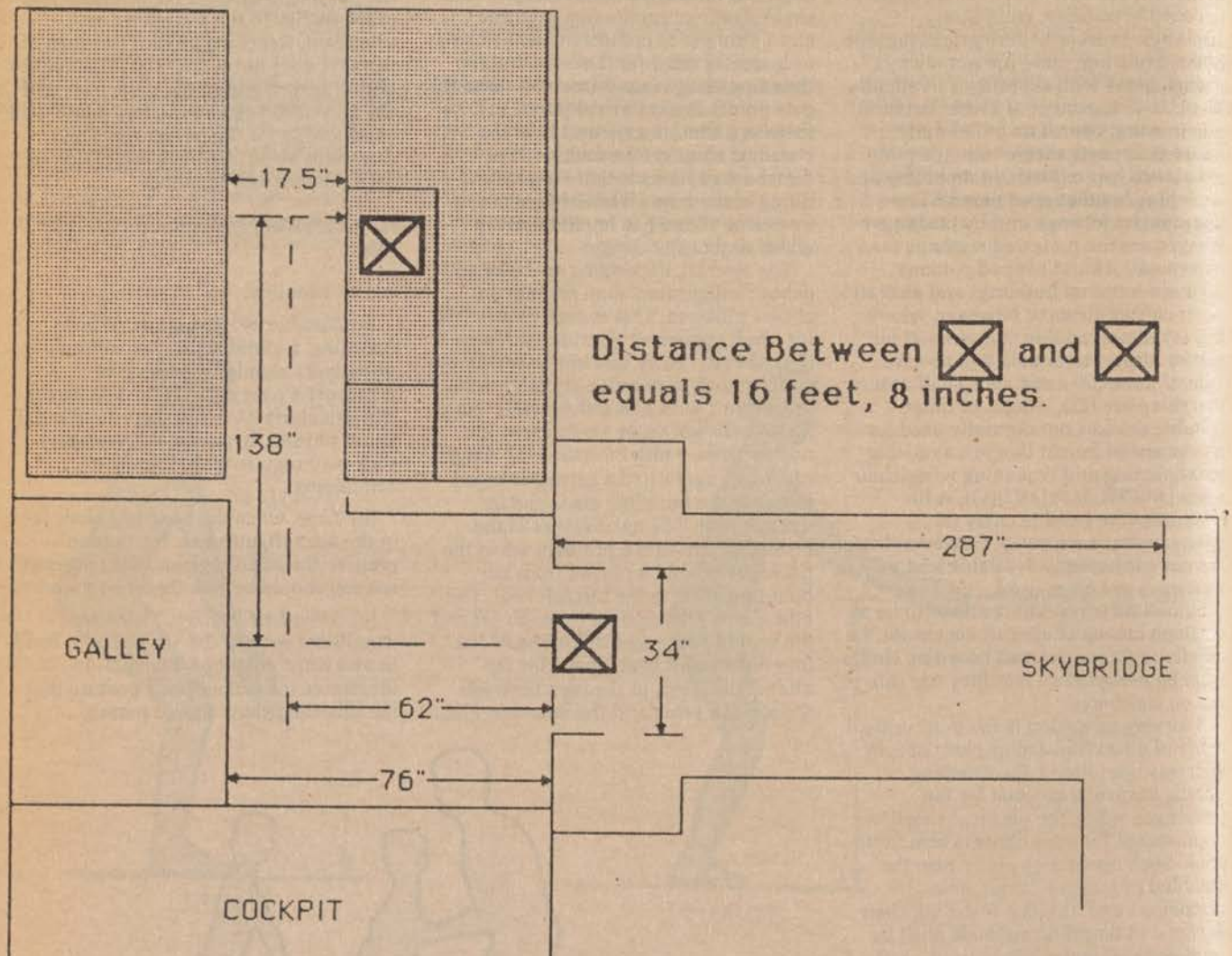


Figure 3–2. Typical Cabin Layout of a Jet Aircraft

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(g) *Ease of Movement.* The force required to push and turn (on a level surface) a boarding chair occupied by a 241 pound passenger (the 99th percentile male) should not exceed 24 pounds (the maximum force which can be exerted by a 5th percentile female).

(h) *Ease of Transfer.* The boarding chair should be designed to facilitate the use of a transfer board.

(i) *Vibration.* The boarding chair should be free of noticeable vibration when moving on a smooth surface such as a carpeted aircraft aisle.

(j) *Alignment.* When the boarding chair is pushed in a straight line it should continue to track accurately along that path.

(k) *Independent Mobility.* Boarding chairs designed to be used in the airport terminal should provide manual independent mobility for passengers who have manual independent mobility in their own wheelchairs.

(l) *Locking Mechanism.* Wheel locks should be accessible to the passenger. To the extent possible, the force required to engage/disengage locks should not exceed that which a passenger with limited hand and/or upper extremity function can exert. Wheel locks should hold the boarding chair (occupied by the 100 kg ISO dummy) motionless when placed at a 13 degree angle (maximum skybridge ramp angle) and faced either uphill or downhill. Wheel locks should not cause tire damage or excessive wear.

3.2 *Safety.*

(a) *Posture.* The boarding chair should be designed so that the passenger and attendant maintain proper posture during the passenger transport and transfer. (see Figure 1–1).

(b) *Support.* The boarding chair should provide adequate passenger body support for the full range of users, including quadriplegics and amputees. The passenger should not require supplementary seating or restraints outside those that are part of the boarding chair.

(c) *Restraints.* The restraining system should prevent the passenger from falling out of the boarding chair under all circumstances.

(d) *Hinges and Locking Mechanisms.* Hinges and locking mechanisms on movable and removable components should be located where they cannot pinch or damage the attendant's or passenger's skin or clothing.

(e) *Releases.* Releases (for components such as locks and footrests) should be located where they cannot be accidentally activated (released). Where accidental activation is possible and a safety concern, a guarded release or two-step release procedure should be used.

(f) *Rounded Edges.* The boarding chair design should incorporate rounded edges on all components to avoid injury to passenger, attendant or passerby and to protect the physical environment (stairway, skybridge, airplane).

3.3 *Maintenance.*

(a) *Preventive Maintenance.* Preventive maintenance tasks, task frequency, and specific procedures should be specified by the manufacturer. Maintenance task descriptions should include inspecting, cleaning, and performing minor repairs. All parts requiring maintenance should be easily accessible.

(b) *Cleaning.* Surfaces which come in contact with the passenger and attendant should be cleaned easily and cleaned as frequently as deemed appropriate by the airline. Boarding chair hardware components should be cleaned on a regular basis as deemed appropriate by the manufacturer. All surfaces and mechanisms requiring cleaning, as specified by the manufacturer, should be cleaned by airline personnel or the responsible contractor.

(d) *Inspection.* Parts which are subject to wear should be easily accessed and inspected on a regular basis. Inspection procedures should not require special knowledge, skills, tools, or equipment and should be performed by airline personnel or the responsible contractor.

(e) *Replacement of Parts.* Damaged or missing parts which are not part of the chair frame (main structure) should be available for purchase and replaceable according to paragraph 1.3(g).

(f) *Tools.* Only common tools should be required to perform maintenance tasks. Specialized or one-of-a-kind tools should not be required for maintenance tasks performed by airline personnel.

(g) *Spare Parts.* Components of the boarding chair which are easily replaced (such as fasteners and bearings) and not part of the chair frame (main structure) should be made readily available as spare parts stocked by the manufacturer and at least one other source. Available spare parts should be easily replaced.

3.4 *Storage.*

(a) *Damage Resistance.* Boarding chairs should be of durable construction to avoid damage during storage. Fabric on the chairs should be resistant to tears, stains, or fading which may occur during storage.

(b) *Compactness.* When possible, boarding chair design should utilize adjustable features which maximize compactness during storage.

(c) *Collapsibility.* Collapsible boarding chairs should lock in the collapsed position. Collapsible chairs should be easy to move when in the collapsed position. Reconfiguring the chair for use should be achieved easily and quickly.

(d) *Removable Items.* To avoid loss or theft, removable components should be attached to the chair during storage, though not necessarily in their operational configuration. Configuring components for storage should be performed easily and quickly. Small parts (such as nuts and bolts) should remain fastened to the chair during storage.

(e) *Loose Items.* There should be a clear method for storage of loose items (such as restraints) so they do not get lost or damaged.

(f) *Time Requirements.* Time required to prepare the boarding chair for storage should not exceed two minutes.

Part 4. Guidelines for Design Features

4.1 *General Physical Characteristics.*

(a) *Overall Dimensions.* The boarding chair should, to the extent possible, be sized to comfortably accommodate 95% of the passenger population (see Section 2.1), but should not exceed the dimensional limitations of the aircraft on which it is to be used.

(b) *Overall Weight.* Overall weight should be minimized.

(c) *Load Capacity.* The boarding chair should support 723 lbs. (the 99th percentile male body weight with 3.0 safety factor).

(d) *Static Stability.* The boarding chair should not structurally deflect (bend), rock or tip from the placement of a 241 lb. vertical, downward force at any point on the seat applied by a rigid circular object 4 inches in diameter (see definition for Standard Loading Pad).

The boarding chair should also meet the requirements for static stability as defined in Draft International Standard ISO/DIS 7176/1 (see Appendix A).

(e) *Static and Impact Strength.* For boarding chairs, the following sections of Draft International Standard ISO/TC173/SCI N3, "Static and Impact Strength Test", should be applied:

(1) 1—5.7 (Background Test Information)
(2) 6.1.1 Armrest Downward Static Load Test
(3) 6.1.2 Push Handle(s) Downward Static Load Test
(4) 6.1.3 Footrest Downward Static Load Test
(5) 6.1.4 Tipping Levers Downward Static Load Test
(6) 6.1.5 Hand Grip Static Load Test
(7) 6.1.6 Armrest Upward Static Load Test

(8) 6.1.7 Footrest Supports Upward Static Load Test
(9) 6.1.8 Push Handle(s) Upward Static Load Test
(10) 7.0 Conditions for Acceptance After Static Strength Test
(11) 8.1.1 Seat Impact Strength
(12) 8.1.2 Backrest Impact Strength
(13) 8.2.1 Drop Test Impact Strength
(14) 8.2.2 Rolling Test Wheels and/or Castors Impact Strength

For all above tests, the 220 lb. ISO dummy should be used (see Appendix A for test procedures).

(f) *Adjustable.* Where practical, adjustable features should be used to increase safety, support and comfort. The features should be easy to adjust and should not sacrifice chair and passenger stability.

(g) *Removable Parts.* To avoid loss, the number of removable parts should be minimized, or, if possible, eliminated.

(h) *Construction Materials.* Construction materials should be durable, damage resistant, fire retardant and low and high temperature resistant.

(i) *Protective features.* The boarding chair should have protective features (such as rounded edges and bumpers) to avoid damage to the aircraft boarding environment.

4.2 *Seating.*

(a) *Function.* Seating should accommodate 95% of the population and should be designed to facilitate transfers by proving unobstructed access for lifting.

(b) *Dimensions.* Seating should be sized according to the dimensions given in Figure 4–1.

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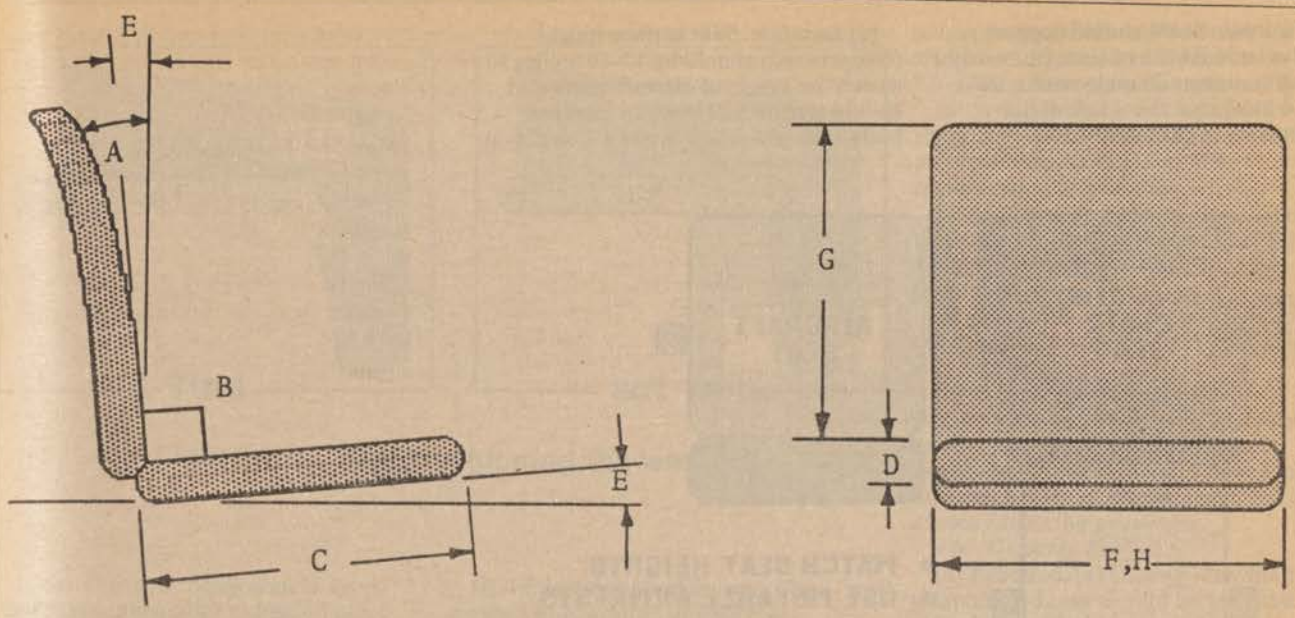

DIMENSION	VALUE
A Backrest, Optimum Angle (degrees)	8-10
B Backrest to Seat Angle (degrees)	90
C Seat depth (inches)	16
D Seat Thickness (inches)	2 (min)
E Seat Angle (degrees)	5
F Backrest width (inches)	15
G Backrest height (inches)	25
H Seat width (inches)	15

Figure 4-1. Seat and Backrest Dimensions and Angles

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(c) *Strength.* Seats should support a weight of at least 723 pounds (the weight of the 99th percentile male with a 3.0 safety factor) and should meet the requirements in guideline 4.1(e).

(d) *Location.* Seat surface height (compressed) should be 17–19 inches to match the height of aircraft seats and should incline 5 degrees to increase body restraint (see Figures 4–2 and 4–3).

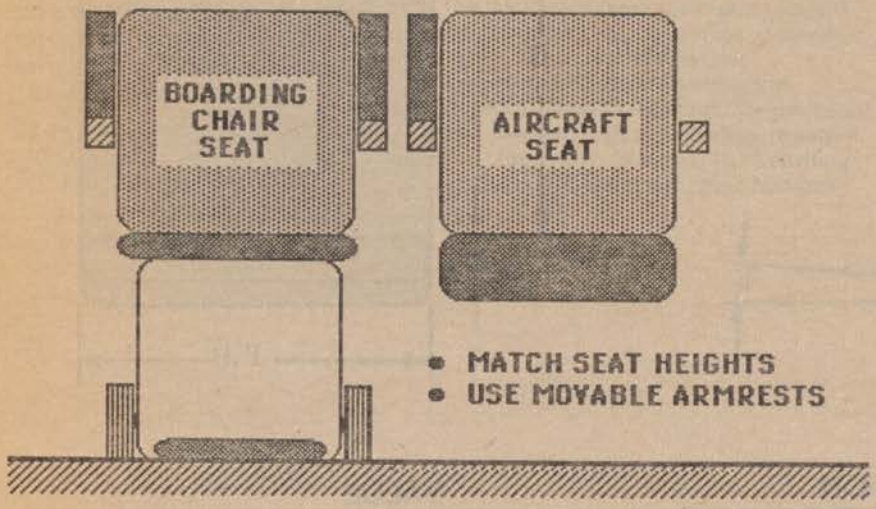

Figure 4-2. Seat Comparison

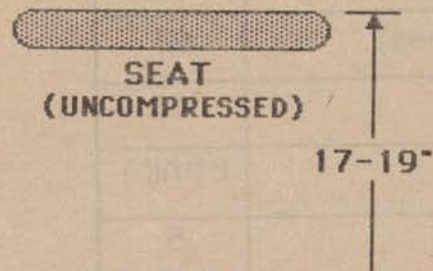

Figure 4-3. Seat Height

(e) *Shape.* Seat shape should provide passenger body support and restraint and distribute body weight evenly to avoid the risk of skin ulceration. Seat shape should not hinder passenger transfers.

(f) *Material.* Seat material should be water repellent, stain resistant, fire retardant, non-abrasive, durable, cleanable, and aesthetic. Based on ISO research, the cushion should be constructed of a good quality foam at least 2 inches thick with an indentation load deflection (ILD) of 70 as measured by ASTM Designation D 1564–71, "Standard Methods of Testing Slab Flexible Urethane Foam." The cushion cover should be stretchable or be fitted so that the top surface is 0.5 inches longer and wider than the foam pad. The cushion cover should be a color which is low in heat absorption so that the cover does not overheat (if left in the sun) and cause thermal trauma to passengers.

(g) *Texture.* Seat material texture should not be so rough (high friction) that it hinders passenger body positioning.

(h) *Cushioning.* Cushioned seating should be provided to distibute body weight evenly and to protect against skin ulceration. Seat cushions should not strike the back of the passenger's knee, thereby avoiding blood flow restriction and possible nerve damage (see Figure 4–4.)

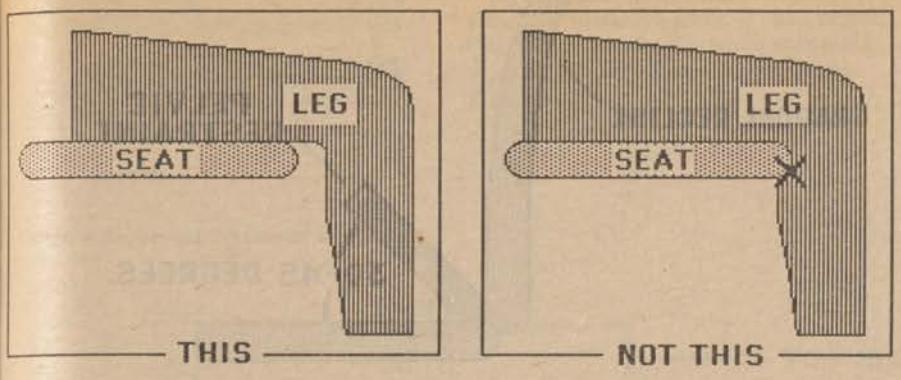

Figure 4-4. Seat Cushioning Placement

(i) *Construction.* Seats should keep their shape, even after extended use.

4.3 *Backrests.*

(a) *Function.* Backrests should support the passenger and aid in restraining the passenger's torso and be comfortable.

(b) *Dimensions.* Backrests should be sized according to dimensions given in Figure 4–1. Note: Where boarding chairs must be carried up stairways (i.e., at locations which are not air carrier airports) the backrest height should be a minimum of 38 inches. Refer to Section 4.4 Headrest.

(c) *Orientation.*. The angle between the base of the backrest and the seat should be 90 degrees. For comfort purposes, the middle to upper portion of the backrest may be gradually reclined as shown in Figure 4–1.

(d) *Strength.*. Backrests should meet the requirements in guideline 4.1(e).

(e) *Shape.* Backrests should be constructed to provide support, aid in restraining a passager, and avoid interference with passenger transfers.

(f) *Material.* Backrest material should be water repellent, stain resistant, fire retardant, non-abrasive, durable, cleanable, and attractive. For aesthetic purposes, cover material used on the backrest should be coordinated with the material used on the seat.

(g) *Texture.* Backrest cover material should not be so rough (high friction) that it hinders passenger body positioning.

(h) *Cushion.* The backrest cushion should provide a firm surface. However, cushion firmness should not compromise skin protection.

(i) *Folding.* Folding backrests should collapse in a manner which does not hinder transfers. Hinging mechanisms should automatically lock in place when the backrest is fully extended and folded.

(j) *Adjustment Mechanisms.* The method of operation of backrest adjustment mechanisms should be readily apparent and easy to perform.

4.4 Headrests.

(a) Function. Headrests should be provided to support the head, preventing the head from falling back or to the sides.

(b) *Dimensions.* Headrests should be dimensioned to accommodate 95% of the user population. (see Figure 2–2)

(c) *Location.* Headrests should support the passenger's head at ear level.

(d) *Strength.* Headrests should support a force of 30 lbs (the average weight of a male's head with a 3.0 safety factor) applied in the aft and both lateral directions and should meet the requirements in guideline 4.1(e).

(e) *Material.* Headrest material should be water repellent, stain resistant, fire retardant, non-abrasive, durable and cleanable.

(f) *Ease of Transfer.* The position of the headrest should be one which does not require an attendant to assume an awkward body position (with poor leverage) during a transfer. (e.g., the headrest could fold or retract out of the way).

4.5 *Armrests.*

(a) *Function.* Armrests should be provided to support the passenger's arms. Armrests should provide a firm gripping or resistance surface for passengers to push against when repositioning themselves and to assist in protecting the passenger from injury.

(b) *Dimensions.* Armrests should be sized to accommodate 95% of the passenger population for the dimension of arm length. (see Figure 2–2).

(c) *Location.* Armrests should be located at the seated elbow resting height optimized for 95% of the passenger population. The armrests should be adjustable over the range of 7.0–12.0 inches above the seat surface.

(d) *Strength.* Each armrest should support 241 lbs (the weight of the 99th percentile male) and meet the requirements in guideline 4.1(e).

(e) *Material.* Armrest material should be durable, non-slip, water repellent, stain resistant, fire retardant and cleanable.

(f) *Orientation.* Armrests should be oriented to provide vertical and lateral arm support.

(h) *Adjustability/Removability.* Armrests should be removable or fold away. Adjustable, folding, and/or removable armrests should have locking and quick release mechanisms that are accessible to the passenger.

4.6 *Gripping Surfaces.*

(a) *Function.* (a) Clearly identified gripping surfaces should be provided for attendants to hold onto during the transport of a passenger.

(b) *Number.* Gripping surfaces should be provided where needed for pushing, pulling, and lifting, as determined by defined operating procedures. As many gripping surfaces as possible should be provided to adapt to a variety of boarding chair-to-attendant orientations. As a minimum, the number of gripping surfaces should fulfill the requirements of paragraph 4.6(d).

(c) *Dimensions.* Gripping surface size should accommodate the 95th percentile male hand for width and length and the 5th percentile female hand for diameter (see Figure 2–2). Physical clearance between the gripping surface and surrounding boarding chair parts should be provided for the 95th percentile male hand.

(d) *Location.* As a minimum, gripping surfaces should be provided on the boarding chair frame near the shoulders and feet of the seated pasenger. The pushing surface should be located at the attendants' standing elbow height, 40–42 inches optimized for the 50th percentile of the total user population. (see Figure 2–1).

(e) *Material.* Gripping surface material should be textured, water repellent, stain resistant, temperature resistant, fire retardant and durable. Gripping surface materials should be firmly attached to avoid turning, slipping, or accidental removal.

(f) *Strength.* Each gripping surface should be capable of supporting (for all possible load applications) the total weight of the boarding chair plus 723 lbs (the 99th percentile male weight with a 3.0 safety factor). Each gripping surface should meet the requirements in guideline 4.1(e).

(g) *Body Posture.* The attendants should not be required to assume awkward positions (such as a twisted back or bent wrists) while pushing or lifting the chair.

(h) *Skin Protection.* The attendant's hands should be protected from contact with surrounding surfaces such as aircraft walls, seats, doors, or stairways while holding onto the gripping surfaces.

(i) *Clarity of Function.* Gripping surfaces should be readily apparent to the attendant.

(j) *Chair Stability.* When the boarding chair, ocupied by the 5th percentile female or 99th percentile male, is pushed, pulled or lifted by the gripping surfaces, the boarding chair should not tip or fall to either side.

4.7 *Restraints.*

(a) *Function.* Restraints, such as safety belts, should be used to secure a passenger in the boarding chair and ensure the safety of the passenger during transportation.

(b) *Placement.* Restraints should securely support:

(1) Torso.

(2) Pelvis.

(3) Knees.

(4) Feet.

Restraint placement should ensure that the passenger's body is centralized and stabilized in the boarding chair. Restraints should be attached rigidly to the boarding chair frame and held in their intended position of use by their method of attachment, channeling or some other means. Pelvic straps should be attached at a 30–45 degree angle from the seat connected at the seat and back joint to hold the pelvis against the back of the boarding chair (see Figure 4–5).

(c) *Material.* Material should be stain resistant, non-abrasive, fire retardant, water resistant, durable, cleanable and attractive.

(d) *Texture.* Material used should not cause skin irritation or promote skin ulceration at contact points.

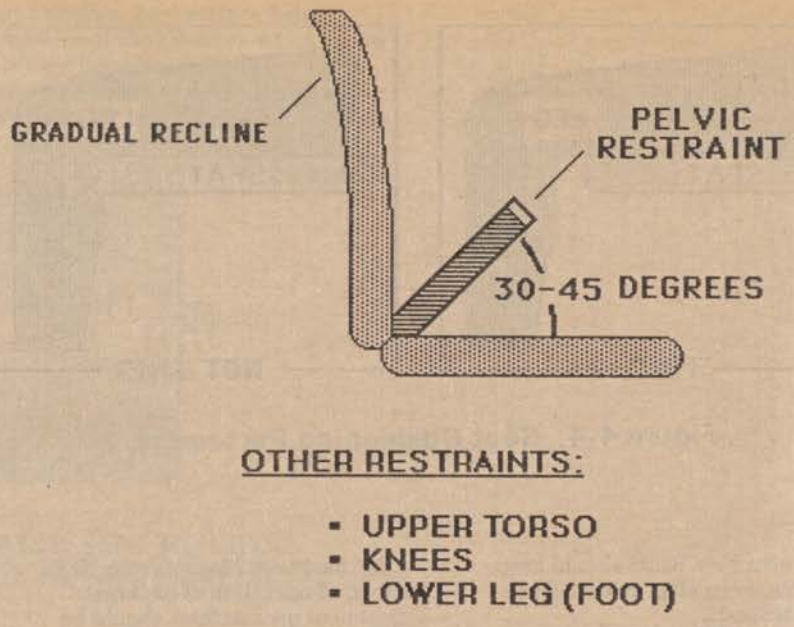

Figure 4-5. Pelvic Restraint Placement

(e) *Fastening Mechanisms.* Restraint connect and release mechanisms should require as few steps as possible to be secured effectively (1–2 steps is optimum). Fastening mechanisms should connect and release quickly and be within the passenger's reach. Fastening mechanisms should be able to be released by individuals with impaired strength and reduced hand and arm dexterity.

(f) *Adjustability.* Restraining devices should be easily adjustable in size to accommodate the body dimensions of passengers ranging from the 5th percentile female to the 95th percentile male (see Figure 2–1). Once a restraining device has been adjusted to fit a passenger, any excess portion of a strap should not interfere with boarding chair operation and create a potential hazard for tripping or catching.

(g) *Clarity of Function.* Restraining device method of use and connection should be obvious. Incorrect use should be impossible. The need for instructions on use shall be minimized. Coding techniques, such as color or shape, should be used to simplify the identification of interacting parts (see Figure 4–6).

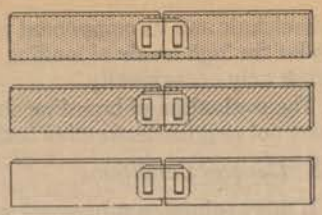

Figure 4-6. Visual Coding of Restraints

(h) *Strength.* Restraining devices should withstand a force of 723 pounds (the weight of the 99th percentile male with a 3.0 safety factor) as shown in Figure 4–7.

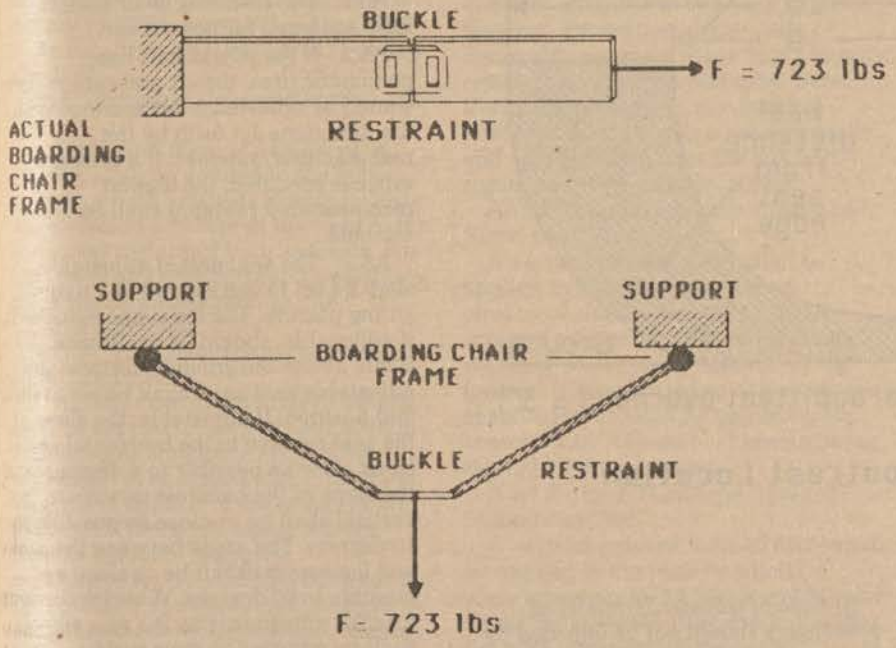

Figure 4-7. Static Testing of Restraints

(i) *Storage.* When not in use, restraining devices should not interfere with chair movement. Restraining devices not in use for a particular passenger should not interfere with operation or cause discomfort to the passenger. The method of restraint storage should be obvious and efficient.

4.8 Footrests

(a) *Function.* Footrests should be provided to support and stabilize the passenger's feet and legs during transport. The footrest should prevent the passenger's foot from slipping off the footrest when tilted back and should prevent the passenger's feet from sliding sideways or forward under all circumstances.

(b) *Dimensions.* Footrests should be a minimum of 4.3 inches in width for each foot. The depth of the footrest should maintain a secure and comfortable foot posture for extended periods. (See Figure 2–2).

(c) *Location.* The contact point between the foot and footrest should be located at an adjustable distance over the range of 16.0 to 29.0 inches from the front of the seat as shown in Figure 4.8.

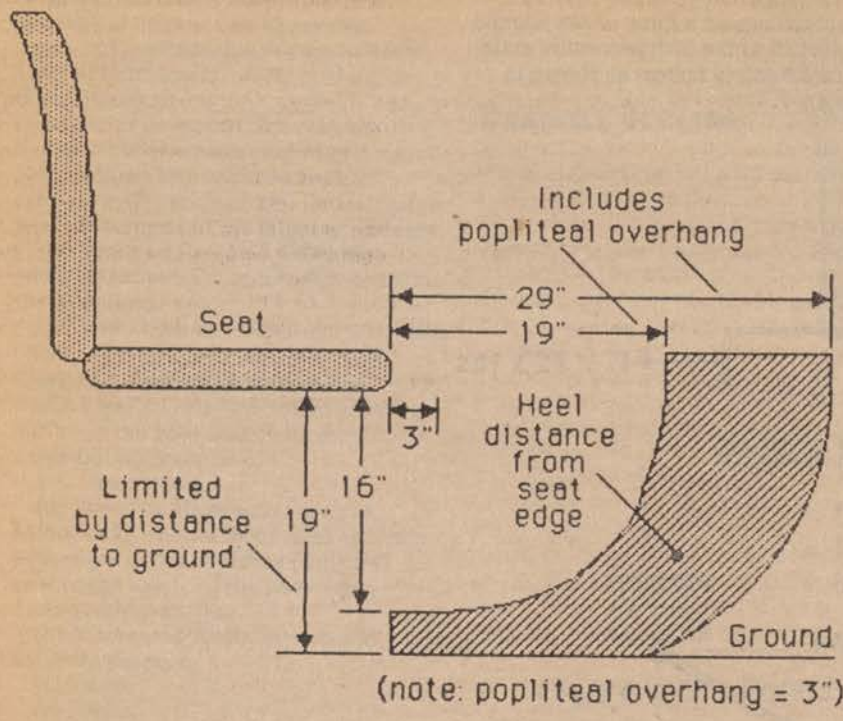

Figure 4.-8. Footrest Location

(d) **Orientation.** Footrests should allow the passenger's foot and lower leg to rest in the position typical to that person (this may not be directly side by side).

(e) *Adjustability.* Footrests should be easy to adjust.

(f) *Strength.* During operation, a collision between the footrest and a surrounding object should not cause passenger injury, alteration of passenger leg position, or damage to the boarding chair. Footrests should meet the requirements in guildeline 4.1(e).

(g) *Support.* Footrests should provide complete support to the passenger's feet and lower legs. Foot supports should prevent the passenger's feet and lower legs. Foot supports should prevent the passenger's feet from slipping beneath the boarding chair under all operating conditions.

(h) *Material.* Footrest material should be durable, resistant to cracking, chipping, or splintering, temperature resistant and cleanable.

(i) *Padding.* Footrests should not promote skin ulceration even after prolonged contact. Padding should be used, as necessary, to provide a comfortable contact surface; particularly in the area of the lower leg.

(j) *Ease of transfer.* Transfer of passengers should not be impeded by footrest size or location. If necessary, footrests should be retractable or swing away to ensure attendant and passenger safety.

Appendix A: Adopted ISO Test Procedures

Note.—Test Procedures have been paraphased and adapted for applicability to aircraft boarding chairs. For the complete Draft ISO Test Procedure Document, refer to ISO/173 SCI/WGI-220.

A1 Scopè

This part of ISO 7176 specifies a method for determining the static, impact and fatigue strength of manual wheelchairs.

A2 References

ISO 6440 Wheelchairs—Nomenclature, Terms and Definitions ISO/DIS 7176/11 "Wheelchairs—Part II: Test Dummies".

A3 Definitions

For the purpose of the part of ISO, 7176, the definitions of ISO 6440 apply.

A4 Test Principles

The Static Tests are intended to assess the static strength of the wheelchair and its component parts under the high levels of loading that occur only occasionally.

The evaluation of boarding chairs does not require destructive tests.

A5 General Conditions

If this evaluation protocol is adopted, the following conditions shall be established and recorded during the testing of boarding chairs.

A5.1 The boarding chair shall be fully equipped for normal use.

A5.2 If the wheelchair has pneumatic tires, the air pressure in them should be adjusted in accordance with the directions set forth by the manufacturer/supplier. If a pressure range is specified, the highest recommended pressure shall be selected.

A5.3 The seat unit, if adjustable, shall be set to correspond to a natural sitting posture. The leg support/footrest, if adjustable, should be positioned 50mm above the ground. Horizontally adjustable seat units shall be set at their mid position. If adjustable, the slope of the seat relative to the horizontal shall be as close as possible to 4 degrees, and the slope of the backrest relative to the vertical shall be as close as possible to 10 degrees. The angle between the seat and leg support shall be as close as possible to 90 degrees. Wheelchairs with fore/aft adjustment on the rear wheels shall be adjusted at their middle position.

A5.4 The wheelchair shall be inspected to insure that:

(1) All supporting wheels are contacting the ground.

(2) All wheels meet the specified alignment tolerance limits.

(3) The folding mechanism (if it exists) fully and readily deploys (a wheelchair with a folding X-frame should fold under the influence of gravity when laid horizontally).

(4) All detachable components detach and reassemble readily.

(5) The tires are firmly seated in their rims.

(6) There are no loose spokes (if existing).

A5.5 The dimensions shall be recorded before the commencement of the tests and again all tests have been completed. Before any measurements are taken, any free play in the structure of the boarding chair which might affect the measurements should be taken up by loading the wheelchair with appropriate ISO dummy (Refer to ISO/DES 7176/11) Measurement should be made from well-defined points on the structure to give maximum indication of

any deformation that might occur as result of the tests.

A5.6 Immediately before commencing each test procedure the components for which the test was conducted shall be thoroughly inspected. Any visible defects shall be noted, and any defects considered sufficiently significant as to affect further testing shall, if possible, be rectified.

A5.7 References to an appropriate standard test dummy shall mean a test dummy of 220 lb constructed according to the details in ISO/DIS 7176/11 of this standard.

A6.1 Armrests Donward Static Load Test.

A downward force of 147ON, at 45 degrees, shall be applied to the upper surface of both armrests simultaneously while loading a fixture at the front of the horizontal surface of both armrests. For tests on chairs with removable armrests, check that armrests remove and reinstall correctly.

A6.1.2 Push handle(s) Downward Static Load Test.

A vertical downward force of 1960N shall be applied to the push bar or both push handles simultaneously. If the wheelchair is equipped with a push bar, the force is applied to the center of the push bar. If there are separate push handles the force is applied simultaneously by placing a bar over the push handles and applying the force, using the standard loading pad, midway between the handles.

A6.1.3 Footrest Downward Static Load Test.

A downward force of 1320N shall be applied once vertically downward, to the center of each footrest plate. If the footrest is of one-piece construction, the specified force shall be applied to its center, using the standard loading pad. If the wheelchair has adjustable knee angle leg rests they shall be adjusted as close as possible to 90 degrees between the seat and leg rest. Adjustable height footrests shall be extended to their lowest position or 50 mm above the ground, whichever is higher. If the footplate is adjustable, adjust to 90 degrees to the leg reference plane. During this test, slippage of adjustment shall not exceed 25 mm. The movable caster shall be placed in its normal trailing position.

A6.1.4 Tipping Levers Downward Static load Test.

A vertical downward force of 1470N shall be applied to each tipping lever in turn. The force shall be applied over a length of 50mm at the end of each tipping lever. This applies to any rearward projection that might be used as a foot tipping lever.

A6.1.5 Hand Grip Static Load Test.

A force of 1600N shall be applied once to each handgrip using a loading fixture. The force should be applied for 10 seconds without the handgrip pulling off.

A6.1.6 Armrests Upward Static Load Test.

An upward force of 1600N shall be applied at 10 degrees to the vertical, outward to the side. Force shall be applied to the underside of each armrest simultaneously, in the middle of the armrest, using 50mm webbing or strap material. For test on chairs with removable armrests check that armrests remove and reinstall correctly. Note: Vertically pivoting or non-locking armrests should pivot or remove easily and will therefore pass the test with regard to safety considerations.

A6.1.7 Footrest Supports Upward Static Load Test.

A vertical force of 430N shall be applied to both footrest support structures simultaneously (or most forward projecting part), using 50mm webbing or strapping material. If the footrest is constructed in one piece, the specified force shall be applied to its center. Note: Adjustable knee angle leg rests shall not be tested.

A 6.1.8 Push Handle(s) Upward Static Load Test.

A vertical upward force of 850N shall be applied to the push handle(s) simultaneously using 50mm webbing or strapping material. If a push bar is used, the load is applied to the center.

A7 Conditions for Acceptance After State Strength Tests

The boarding chair shall be visually inspected after static strength tests are completed noting the following:

(1) Any fracture of any member, joint or component;

(2) Any fracture, cracking or discontinuity of the surface finish of the structure;

(3) Free play or loosening in the frame structure, folding mechanism, armrests, footrests, brakes, wheels or wheel bearings and any other component of the wheelchair, greater than that noted in the initial inspection;

(4) Any deformation or maladjustment of any part of the wheelchair, or its attachments, that will adversely affect its function;

(5) Wheel alignment shall be remeasured and recorded noting the tolerances given;

(6) The boarding chair dimensions shall be remeasured and recorded. These dimensions should be within 3mm of the pretest dimensions recorded;

A pass/fail disclosure shall be made based on the visual inspection and the alignment and dimensions noting the tolerances given.

A8.1.1 Seat Impact Strength.

The seat shall be tests for impact with the Standard Loading Mass filled with a weight of 25 kg. During these tests the wheelchair shall be secured to the floor to prevent folding or movement. With the wheelchair in the normal open position, the weighted mass shall be dropped onto different areas of the seat from a height of 200mm. The specified impact tests are as follows:

(1) Drop mass onto center of the seat.

(2) Drop mass onto each front corner of seat as near to the corner as possible. If the wheelchair has removable armrests they shall be removed.

A8.1.2 Backrest Impact Strength.

The backrest shall be tested for impact with the Standard Loading Mass with a weighted of 25kg. The specified impact tests for the backrest are as follows:

(1) Suspend the standard loading mass as a pendulum such that it impacts the center top edge of the backrest from the front at a 45 degree angle. The standard loading mass shall be dropped from a height of 500mm.

(2) Suspend the standard loading mass as a pendulum such that it impacts each back frame member at the top, from the front at a 45 degree angle. The standard loading mass shall be dropped from a height of 500mm. During this test the boarding chair shall be secured to the floor to prevent folding or movement.

A8.2.1 Drop Test Impact Strength.

(1) With all folding mechanism (if existing) deployed to the ready-to-use condition (open), lift the wheelchair loaded with the 220lb standard test dummy above a hard, flat surface at a height of 100mm. Using a quick release device drop the chair allowing it to fall freely under the influence of gravity to impact the flat surface. The wheelchair should be suspended from a single point so that it is tilted 10 degrees laterally (side-to-side) with an inclination 10 degrees aft so that a rear wheel will contact the floor first. The height of the chair should be measured from the floor to the lower surface of the wheel being tested.

(2) For folding chairs, repeat with an inclination fore 10 degrees so that a front wheel strikes the floor first.

A8.2.2 Rolling Test Wheels and/or Castors Impact Strength.

With the chair unfolded and loaded with the 220 lb standard test dummy, the chair is rolled on a straight line path at the velocity of 1.1 m/sec towards a standardized obstacle, which is securely fastened to the floor. The velocity

should be measured by use of a standardized procedure. The test dummy shall be securely fastened into the boarding chair. If there are removable/adjustable footrests or other projections, they should be adjusted to the most upward position in order to clear obstacles. If the distance between the floor and non-removable structures or footrests is less than the height of the standardized obstacle, the maximum possible height object should be used and recorded.

Each front wheel or castor should contact the standardized obstacle independently. The impact angle should be 45 degrees to the long dimension of the standardized obstacle.

A9 Conditions for Acceptance After Impact Strength Tests

The boarding chair shall be visually inspected after impact strength tests are completed. A pass/fail disclosure shall be made based on the criteria to be determined by the ISO.

Appendix B—Guidelines for Training

B1 Training Course Responsibility

Airlines or responsible contract personnel should conduct training courses. The airline will ensure that contract personnel conduct adequate training and will be ultimately responsible for training content, frequency, and adequacy.

B2 Frequency of Training

The airline or responsible contract personnel should train all personnel who will perform disabled passenger transports with aircraft boarding chairs before they are allowed to perform the boarding task on the job. Refresher courses should be taught when different equipment is acquired, new staff are hired, and routinely, according to an established schedule.

B3 Level of Training

All attendants should successfully perform a passenger transport and transfer using both a skybridge and stairway to gain access to the airplane.

B4 Training Course Content

Training courses should include the material covered in guidelines on passenger services, transfers and stairways.

B4.1 Effectiveness of Passenger Services.

Training courses should include the following topics to reduce the likelihood of passenger injury:

(a) Maintain proper attitude toward the passenger to avoid mistreatment.

(b) Consult with the passenger to identify the best method for transferring.

(c) Be aware of the risk of injury.

(d) Obtain the owner's chair during layovers if at all possible.

(e) Minimize the number of transfers per passenger.

(f) Restrain the passenger firmly, but not so tight as to cause injury.

(g) Take caution against legs and feet becoming dislodged from the support and getting caught on corners, seat braces or seats.

(h) Avoid pressure sores; allow the passengers to stay in their own wheelchairs, (that is specifically padded for them) for as long as possible.

(i) Know where the movable armrests are located on the aircraft.

(j) Know where the boarding chair can be parked (greatest percent incline without danger of brakes not holding.)

B4.2 Passenger Transfers.

Training courses should include the following information to reduce the likelihood of passenger or attendant injury:

(a) Consult with the passenger on the best way to accomplish the transport procedure.

(b) If possible, use a seat with a movable armrest.

(c) Do not lift a person who is too heavy for your strength.

(d) Stand with feet 12–18 inches apart, lift from the knees and not the back by keeping the back as straight as possible and stand as close to the passenger as possible.

(e) Engage brakes/locks on wheelchair and boarding chair whenever making a transfer.

(f) Allow the passenger to assist with the lift whenever possible.

B4.3 Use of Stairways for Boarding.

Training courses should include the following information to reduce the likelihood of injury:

(a) Whenever possible, avoid carrying a passenger up stairs.

(b) Locate and know how to utilize any lifting device provided at the airport.

(c) Before starting, make certain that all restraints are securely fastened, especially about the lower extremities that could splay and injure the attendant or upset the balance of the boarding chair.

(d) Place the less experienced attendant at the foot of the passenger and the more experienced attendant at the shoulders.

(e) Take a practice run if not fully familiar or comfortable with the layout. Practice with a heavy staff member.

(f) Keep the passenger informed at all times as to the progress.

(g) Make sure hands and gripping surfaces are not wet or slippery.

(h) Rest at each step to preserve stamina.

(i) Do not wear baggy clothing which could get caught. Wear non-slip footwear, such as rubber-soled shoes.

(j) Keep the boarding chair tilted back slightly as horizontally straight as possible. Even the slightest sideways tilting can jeopardize control.

[FR Doc. 81–11001 Filed 5–14–86; 8:45 am]
BILLING CODE 6820-BP-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 330]

Approval for Expansion of Foreign-Trade Zone No. 98, Birmingham, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the City of Birmingham, Alabama, grantee of Foreign-Trade Zone No. 98, has applied to the Board for authority to expand its general-purpose zone to include a warehouse complex in Birmingham, within the Birmingham port of entry;

Whereas, the application was accepted for filing on May 9, 1985, and notice inviting public comment was given in the **Federal Register** on June 11, 1985 (Docket No. 15–85, 50 FR 24551);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve zone services in the Birmingham area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the grantee is authorized to expand its zone in accordance with the application filed May 29, 1985. The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance

with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 8th day of May 1986.

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 86-10913 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 331

Approval For Expansion of Foreign-Trade Zone No. 2, New Orleans, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Board of Harbor Commissioners of the Port of New Orleans, Louisiana, grantee of Foreign-Trade Zone No. 2, has applied to the Board for authority to expand its general-purpose zone to include an industrial park site in New Orleans, within the New Orleans Customs port of entry;

Whereas, the application was accepted for filing on September 30, 1985, and notice inviting public comment was given in the **Federal Register** on October 11, 1985 (Docket No. 35-85, 50 FR 41545);

Whereas, as examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve zone services in the New Orleans area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the grantee is authorized to expand its zone in accordance with the application filed September 30, 1985. The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 8th day of May 1986.

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 86-10914 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-475-401]

Certain Brass Valves and Connections From Italy, for Use in Fire Protection Systems; Second Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order.

AGENCY: International Trade Administration/Import Administration/ Commerce.

ACTION: Notice.

SUMMARY: As a result of a remand from the United States Court of International Trade in *Badger—Powhattan* v. *United States et al* (Slip Op. 86-38 at 22, April 2, 1986), the Department of Commerce (the Department) is amending its final determination in this investigation and its antidumping duty order, and is directing the U.S. Customs Service to adjust the cash deposit for Rubinetterie A. Giacomini S.p.A. (Giacomini) and all other manufacturers/producers/ exporters of certain valves and connections, of brass, for use in fire protection systems, from Italy (fire protection products) from 1.28 percent to 6.74 percent based on margins found for single and double clapper siamese fire department connections and pressure restricting valves.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION: On November 30, 1984, we published a final determination of sales at less than fair value for fire protection products from Italy (49 FR 47066). Subsequently, we discovered and corrected clerical errors and amended our final determination (50 FR 1099). On February 19, 1985, in accordance with section 735(d) of the Act (19 U.S.C. 1673d), the United States International Trade Commission (ITC) notified the Department that imports of certain brass fire protection products, which include single and double clapper siamese fire department connections and pressure restricting valves, are materially injuring a United States industry. The ITC also notified the Department that fire hose coupling, fog/ straight stream nozzles, angle-type hose gate valves, wedge-disc hose gate valves, and pressure regulating valves are not materially injuring a United States industry. After being notified of these findings, the Department published an antidumping duty order covering the two products found to be materially injuring a United States industry (50 FR 8354). The cash deposit of 1.28 percent required by this order for Giacomini and all other manufacturers/ producers/exporters of fire protection products was based on the weighted-average of the less than fair value margins of Giacomini's sales of all seven products.

The United States Court of International Trade has directed the Department to amend its final determination and its antidumping duty order to reflect a weighted-average margin based only on margins found for single and double clapper siamese fire department connections and pressure restricting valves. Consequently, we are futher amending our final determination by changing the weighted-average margin to 6.74 percent based on the margins found for siamese fire department connections and pressure restricting valves.

We are also amending our antidumping duty order to reflect the weighted-average margin of 6.74 percent. Accordingly, the order is amended to read as follows: on and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins on single and double siamese fire department connections and pressure restricting valves as noted below:

Manufacturers/producers/exporters	Weighted-average margin (percent)
Rubinetterie A. Biacomini S.P.A.	6.74
All other manufacturers/producers/exporters	6.74

May 8, 1986.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-10917 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-489-501]

Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products From Turkey

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that welded carbon steel standard pipe and tube products from Turkey are being sold at less than fair value and that imports of this product from Turkey materially injure a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of this product made on or after January 3, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4136 or (202) 377-5288.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are welded carbon steel standard pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, currently classified in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242,. 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A-120, A-53 or A-135.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on January 3, 1986, the Department published its preliminary determination that there was reason to believe or suspect that certain welded carbon steel pipe and tube products from Turkey were being sold in the United States at less than fair value (51 FR 235). On April 17, 1986, the Department published its final determination that these imports were being sold at less than fair value (51 FR 13044).

On April 30, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673(d)), the ITC notified the Department that imports of welded carbon steel standard pipe and tube products from Turkey materially injure a United States industry. The ITC also notified the Department that a United States industry is not being materially injured or threatened with material injury by reason of imports of welded carbon steel line pipe from Turkey.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of welded carbon steel standard pipe and tube products from Turkey. These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after January 3, 1986, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as noted below.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit for that amount. Accordingly, the level of export subsidies, as determined in the final affirmative countervailing duty determination on certain welded carbon steel pipe and tube products from Turkey (51 FR 1268-1274) will be subtracted from the dumping margins shown below for deposit purposes.

Manufacturers/products/exporters	Weighted-average margin (percent)
Borusan Ithicat ve Dagitim	1.26
Erkboru Profil Sanayi ve Ticaret	23.12
Mannesmann-Sumerbank Boru Industrisi	23.12
All Others	14.74

This determination constitutes an antidumping order with respect to welded carbon steel standard pipe and tube products from Turkey pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex 1 of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 7, 1986.

[FR Doc. 86-10916 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-565-501]

Postponement of Final Antidumping Duty Determination; Certain Welded Carbon Steel Small Diameter Pipes and Tubes From the Philippines

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On April 24, 1986, Goodyear Steel Corporation, the respondent in the antidumping duty investigation of certain welded carbon steel small diameter pipes and tubes (pipes and tubes), requested by letter through Mitsubishi International Corporation that the final determination be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C.

1673d(a)(2)(A)). Pursuant to this request, we are postponing our final antidumping duty determination as to whether sales of pipes and tubes from the Philippines have been made at less than fair value until not later than September 11, 1986.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1756 or 377–3965, respectively.

SUPPLEMENTARY INFORMATION: On December 16, 1985, we published a notice in the **Federal Register** that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of pipes and tubes from the Philippines are being, or are likely to be sold at less than fair value (50 F.R. 51274). We issued our preliminary affirmative determination on April 22, 1986 (51 F.R. 15940). This notice stated that we would issue a final determination on or before July 7, 1986. On April 24, 1986, counsel for the single respondent requested that we extend the period for the final determination, in accordance with section 735(a)(2)(A) of the Act. This respondent accounts for a significant proportion of exports of the subject merchandise to the United States, and thus is qualified to make this request. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, we grant the request and postpone our final determination until not later than September 11, 1986, the 135th day after the date of publication of our preliminary determination in the **Federal Register**.

If requested, the public hearing will also be postponed until 2:00 p.m. on July 30, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 23, 1986.

This notice is published pursuant to section 735(d) of the Act.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 9, 1986.

[FR Doc. 86–10981 Filed 5–14–86; 8:45 am]

BILLING CODE 3510-DS-M

Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters; Establishment

SUMMARY: Subsection 135(c) of the Trade Act of 1974, 19 USC 2155, as amended by the Trade Agreements Act of 1979, (Pub. L. 95–39), and the Trade and Tariff Act of 1984 (Pub. L. 98–573), gives the President authority to establish advisory committees to provide general policy advice on trade. This authority has been delegated to the Secretary of Commerce (the Secretary), acting in conjunction with the United States Trade Representative (the USTR), according to Executive Order 11846 of March 27, 1975. It has now been determined by the Secretary and the USTR that the advisory committee listed below be established. This action is taken in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Part 101–6, as amended, Federal Advisory Committee Management Interim Rule.

Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters

The committee will provide technical and policy advice and information to the Secretary and the USTR on trade policy matters arising in connection with the administration of U.S. trade policy. Members of the committee will be appointed by and serve at the discretion of the Secretary and the USTR. It is proposed that each committee will meet at least semi-annually at the request of the Secretary and the USTR, and will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The Trade Advisory Center, International Trade Administration (ITA) of the Department of Commerce, administers the program.

Copies of the Committee charter will be filed with appropriate committees of the Congress and copies will be forwarded to the Library of Congress.

EFFECTIVE DATE: May 2, 1986.

Membership

Representatives from industry or industry associations wishing to be considered for appointment to serve on this committee are requested to make application in writing to the Trade Advisory Center, Room H–6816, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–3268. Comments and inquiries may be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jacob Moose, Acting Director, Trade Advisory Center, telephone (202) 377–3268.

Dated: May 8, 1986.

Marjory Searing,

Acting Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 86–10985 Filed 5–14–86; 8:45 am]

BILLING CODE 3510-OR-M

[C–122–507]

Countervailing Duty Order; Certain Fresh Atlantic Groundfish From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations, the United States Department of Commerce (the Department) and the United States international Trade Commission (ITC) have determined that certain fresh whole Atlantic groundfish from Canada are receiving benefits which constitute subsidies within the meaning of the countervailing duty law, and that imports of certain fresh whole Atlantic groundfish from Canada are materially injuring a United States industry. In its determination, the Department also found that certain fresh Atlantic groundfish fillets from Canada are receiving benefits which constitute subsidies within the meaning of the countervailing duty law. However, the ITC determined that imports of certain fresh Atlantic groundfish fillets are not materially injuring, threatening material injury to, or materially retarding the establishment of, a United States industry.

Therefore, based on these findings all entries of certain fresh whole Atlantic groundfish from Canada, which are entered or withdrawn from warehouse, for consumption on or after January 9, 1986, the date on which the Department published its preliminary countervailing determination in the **Federal Register**, will be liable for the possible assessment of countervailing duties. Furthermore, a cash deposit of estimated countervailing duties must be made on all such entries, or withdrawals from warehouse, for consumption, on or after the date of publication of this countervailing duty order in the **Federal Register**.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW.,

Washington, DC 20230; Telephone: (202) 377–0161.

SUPPLEMENTARY INFORMATION: The products covered by this order are certain fresh whole Atlantic groundfish, as currently provided for in items 110.1585, 110.1593, and 110.3560 of the *Tariff Schedules of the United States Annotated* (TSUSA).

In accordance with section 703 of the Act (19 U.S.C. 1671b), on January 9, 1986, the Department published its preliminary determination that there was reason to believe or suspect that imports of certain fresh Atlantic groundfish from Canada (including both whole and filleted groundfish) received benefits which constitute subsidies within the meaning of the countervailing duty law (51 FR 1010). In accordance with section 705 of the Act (19 U.S.C. 1671d), on March 24, 1986, the Department published its final determination that these imports are being subsidized (51 FR 10041).

On May 8, 1986, in accordance with section 705(d) of the Act [19 U.S.C. 1671d(d)], the ITC notified the Department of its determination that imports of certain fresh whole Atlantic groundfish are materially injuring a United States industry, and that imports of certain fresh Atlantic groundfish fillets are not materially injuring, threatening material injury to, or materially retarding the establishment of, a United States industry.

Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to setion 706(a)(1) and 751 of the Act [19 U.S.C. 1671e(a)(1) and 1675], countervailing duties equal to the amount of the net subsidy for all entries of certain fresh whole Atlantic groundfish from Canada. These countervailing duties will be assessed on all unliquidated entries of certain fresh whole Atlantic groundfish from Canada entered, or withdrawn from warehouse, for consumption on or after January 9, 1986, the date on which the Department published its notice of "Preliminary Affirmative Countervailing Duty Determination" in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated customs duties on this merchandise a cash deposit equal to 5.82 percent *ad valorem* on all entries of certain fresh whole Atlantic groundfish from Canada.

The Department also directs that suspension of liquidation be discontinued for entries of certain fresh Atlantic groundfish fillets. All estimated countervailing duties deposited on such entries shall be refunded and the appropriate bonds or other security released at time of liquidation.

This determination constitutes a countervailing duty order with respect to certain fresh whole Atlantic groundfish from Canada pursuant to section 706 of the Act (19 U.S.C. 1671e) and 355.36 of the Commerce Regulations (19 CFR 355.36).

We have deleted from the Commerce Regulations Annex III to 19 CFR Part 355 which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Mr. Richard Moreland at (202) 377–2768.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and 355.36 of the Commerce Regulations (19 C.F.R. 355.36).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 9, 1986.

[FR Doc. 86–10982 Filed 5–14–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–504]

Countervailing Duty Order; Certain Heavy Iron Construction Castings From Brazil

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In its investigation concerning certain heavy iron construction castings from Brazil (heavy castings), the United States Department of Commerce (the Department) has determined that heavy castings from Brazil are receiving benefits which constitute subsidies within the meaning of the countervailing duty law. In a separate investigation, the United States International Trade Commission (ITC) determined that an industry in the United States is materially injured by reason of imports of heavy castings from Brazil.

Therefore, based on these findings, all unliquidated entries, or withdrawals from warehouse for consumption of heavy castings from Brazil made on or between August 12, 1985, the date on which the Department published its preliminary countervailing duty determination notice in the **Federal Register**, and December 11, 1985, and all entries, and withdrawals for consumption, on or after May 7, 1986, the date on which the ITC published its final determination in the **Federal Register**, will be liable for the assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this countervailing duty order in the **Federal Register.**

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles, Office of Investigations, or Richard Moreland, Office of Compliance, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–3174 or (202) 377–2768.

SUPPLEMENTARY INFORMATION: The Products covered by this order are heavy iron construction castings which are defined for purposes of this proceeding as manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames; used for drainage or access purposes for public utility, water and sanitary systems. Manhole covers, rings and frames are currently provided for in item 657.0950 of the *Tariff Schedules of the United States Annotated* (TSUSA). All other heavy iron construction castings are subsumed in item 657.0990 of the TSUSA.

In accordance with section 703 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671b), on August 12, 1985, the Department published its preliminary determination that there was reason to believe or suspect that imports of heavy castings from Brazil received benefits which constitute subsidies within the meaning of the countervailing duty law (50 FR 32462). On March 19, 1986, the Department published its final determination that these imports are being subsidized (51 FR 9491).

In accordance with section 705(d) of the Act (19 U.S.C. 1671d(d)), the ITC notified the Department that such imports of heavy castings from Brazil

materially injure a United States industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 706(a)(1) of the Act (19 U.S.C. 1671e(a)(1)), countervailing duties equal to the amount of the estimated net subsidy for all entries of heavy castings from Brazil. These countervailing duties with be assessed on all unliquidated entries of heavy castings entered, or withdrawn from warehouse, for consumption or or between August 12, 1985, the date on which the Department published its preliminary affirmative countervailing duty determination notice in the **Federal Register** (50 FR 32462) and December 11, 1985, and on all entries and withdrawals made on or after may 7, 1986, the date of publication of the ITC final affirmative determination in the **Federal Register**. Entries of heavy castings on or between December 11, 1985, and the day prior to the date of publication of the ITC final determination in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot impose the suspension of the subject merchandise for more than 120 days without the issuance of a final affirmative ITC injury determination.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 3.40 percent *ad valorem* on all entries of heavy castings from Brazil.

This determination constitutes a countervailing duty order with respect to certain heavy iron construction castings from Brazil, pursuant to section 706 of the Act (19 U.S.C. 1671e) and section 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations, Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contract the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department hereby gives notice that, if requested, it will commerce an administrative review of this order. For further information regarding this review, contact Mr. Richard Moreland at (202) 377–2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 8, 1986.

[FR Doc. 86–10915 Filed 5–14–86; 8:45 am]

BILLING CODE 3510–DS–M

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

May 13, 1986.

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on May 29, 1986 at 10:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.)

General Session: 10:30 a.m. Review of import trends, international activities, report on conditions in the market, and other business.

Excutive Session: 11:30 a.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part (1982)) and listed in 5 U.S.C. 552b(c)(1) and (9).

The general session will be open to the public with the limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S. C553b(c)(1) and (c)(9) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room 6628, U.S. Department of Commerce, (202) 377–3031.

For futher information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–11100 Filed 5–13–86; 4:04 pm]

BILLING CODE 3510–DR–M

Management-Labor Textile Advisory Committee; Partially Closed Meeting

May 13, 1986.

A meeting of the Management-Labor Textile Advisory Committee will be held on May 28, 1986 at 1:00 p.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise Department officials on problems and conditions in the textile and apparel industry.)

General Session: 1:00 p.m. Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

Executive Session: 1:30 p.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part (1982) and listed in 5 U.S.C. 552(b)(1) and (9).

The general session will be open to the public with the limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 553b(c)(1) and (c)(9) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room 6628, U.S. Department of Commerce, (202) 377–3031.

For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–11099 Filed 5–13–86; 4:04 pm]

BILLING CODE 3510–DR–M

Wood Shake and Shingle Industry Prospects for Adjustment Assistance for Firms

AGENCY: International Trade Administration, Trade Development, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, pursuant to section 264 of the Trade Act of 1974, has conducted a study of firms in the wood shake and shingle industry; such a study is required whenever the U.S. International Trade Commission (USITC) begins an investigation under section 201 of the Trade Act.

In its report issued March 25, 1986, the Commission determined by a 5–0–1 vote that wood shakes and shingles were being imported into the United States in such increased quantities as to threaten serious injury to the domestic industry producing like or directly competitive articles. Three Commissioners recommended the imposition of a new 35 percent duty for a 5-year period. Two Commissioners recommended trade

adjustment assistance, while the sixth Commissioner opposed import relief.

According to section 202 of the 1974 Trade Act, the President shall determine within 60 days after receiving a report from the Commission containing an affirmative finding, whether to provide import relief and what methods and amounts of import relief will be provided.

In 1985, imports of wood shakes and shingles totaled 4.9 million squares (a "square" is the equivalent of 100 square feet of surface area and contains between three to five bundles of shakes and shingles), up about 29 percent from 1980 levels. During the 1978–84 period, industry employment declined 53 percent and domestic production declined by 49 percent.

Under Section 251 of the 1974 Trade Act, a firm may petition the Department of Commerce to be certified as eligible to apply for trade adjustment assistance; certification requires that increased imports of articles like or directly competitive with those produced by the petitioning firm contributed importantly to: (1) Absolute declines in sales or production, or both, and (2) the separation, or threat of separation, of a significant number or proportion of its workers. A trade-impacted producer may petition the Department for certification at any time regardless of a prospective Commission finding or its results.

As of the date of this report, 39 firms in the domestic wood shake and shingle industry have been certified and 24 of those firms have received assistance. Based on employment, sales, production, and import data obtained by the USITC in its investigation, it appears likely that several other firms could be certified as eligible for adjustment assistance under the 1986 Trade Act extension legislation. However, an approximate number cannot be determined without specific data on each company.

The program of adjustment assistance for firms authorized by the Trade Act under Title II, Chapter 3, and administered by the International Trade Administration (ITA) in the Department of Commerce, expired on December 18, 1985. The Consolidated Budget Reconciliation Act of 1986 extends the program authorization until September 30, 1991, but only technical assistance is available for trade-impacted firms (financial assistance is no longer available). Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Under the Public Works and Economic Development Act of 1965 (PWEDA), as amended, direct and indirect assistance to firms is available without Trade Act certification through the Economic Development Administration of the Department of Commerce. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit directly from business development loans and guarantees. It may also be possible for firms to benefit indirectly from public works financing. PWEDA authorizes technical assistance to firms regardless of location, and grants loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration (FmHA) of the Department of Agriculture has a program which may benefit firms in the industry. Loan guarantees are available to businesses located in areas other than cities with a population over 50,000. FmHA can also make loans to public bodies, such as local governments and development organizations, in areas other than cities of over 20,000 population.

The Small Business Administration (SBA) administers three programs of potential assistance to small businesses. Most wood shake and shingle producers would qualify as a "small business" under the SBA definition.

FOR FURTHER INFORMATION CONTACT: Donald W. Butts, Office of Forest Products and Domestic Construction, Room 4512, U.S. Department of Commerce, Washington, DC 20230, telephone 202–377–0382. Additional copies of the report, "Prospects for Adjustment Assistance for Firms in the Wood Shake and Shingle Industry" are available from the previous address.

David Diebold,

Deputy Assistant Secretary for Trade Development.

[FR Doc. 86–10986 Filed 5–14–86; 8:45 am]

BILLING CODE 3510-DR-M

Harvard School of Public Health; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85–054. Applicant: Harvard School of Public Health, Cambridge, MA 02138. Instrument: Mass Spectrometer System, Model MMZAB. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: See notice of 50 FR 27999.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a mass range of 1 to 10 000 atomic mass units at an accelerating potential of 10 000 volts, (2) a scan speed of 0.1 seconds per decade and (3) FAB capability. The National Institutes of Health advises in its memorandum dated May 7, 1985 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–10983 Filed 5–14–86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 60456-6056]

Proposed Federal Information Processing Standard for Computer Graphics Metafile (CGM)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal information processing standard (FIPS).

SUMMARY: This proposed standard adopts a voluntary industry standard, Computer Graphics Metafile, for Federal use. The American National Standards Institute (ANSI) is expected to approve this standard in July 1986 as an American National Standard (ANS). The FIPS will adopt the final standard as approved by ANSI.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval as a FIPS, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed Federal Information Processing Standard contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standard, draft proposed American National Standard (dpANS) CGM. Interested parties may obtain a copy of the technical specifications from the Computer and Business Equipment Manufacturers Association (CBEMA), Attn: Sang, X3 Secretariat, 311 First Street NW., Washington, DC 20001, (202) 737–8888.

DATE: To be considered, comments on this proposed FIPS must be received on or before August 13, 1986.

ADDRESS: Comments concerning the adoption of CGM as a FIPS are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for CGM, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Skall, Center for Programming Science and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–2431.

Dated: May 12, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication _____

(date)

Announcing the Standard for Computer Graphics Metafile (CGM)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

1. *Name of Standard.* Computer Graphics Metafile (CGM) (FIPS PUB _____).

2. *Category of Standard.* Software Standard, Graphics.

3. *Explanation.* This publication announces the adoption of the American National Standard for Computer Graphics Metafile, ANSI X3.122–1986, as a Federal Information Processing Standard (FIPS). ANSI X3.122–1986 is a graphics data interface standard which specifies a file format suitable for the description, storage, and communication of graphics (pictorial) information in a device independent manner. The purpose of the standard is to facilitate the transfer of graphical information between different graphical software systems, different graphical devices, and different computer graphics installations.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard X3.122–1986, Computer Graphics Metafile (CGM).

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201–8.1, Federal ADP and Telecommunications Standards.

b. American National Standard Graphical Kernel System, GKS, ANSI/ASC X3.124–1985.

8. *Objectives.* The primary objectives of this standard are:

—To allow the portability of graphics data among different graphics installations and devices. This encourages a uniform interface for noninteractive picture description.

—To promote the exchange of graphic information enabling installations to share data and reduce time spent recomputing in efforts to regenerate graphics data.

—To promote the use of a standard set of elements using standard terminology, which aids graphics programmers in using graphics methods.

9. *Applicability.*

a. This standard is intended for use in computer graphics applications that are either developed or acquired for government use.

b. The use of this standard is strongly recommended when one or more of the following situations exist:

—A graphics metafile is maintained at a central facility for a decentralized system that employs graphics devices of different makes and models that must utilize the data.

—A graphics metafile is required to preserve picture data when conversion or migration from one graphics system to another is necessary and the two systems are not necessarily compatible.

—A graphics metafile is intended for information interchange between a source system and a target system that are not necessarily compatible.

—A graphics metafile is intended for archival pruposes and the format and access to a standardized structure is critical to guarantee long life availability and utilization of the data.

c. Non-standard features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard features can be very useful, it should be recognized that the use of these or any other non-standard elements may make the interchange of graphics picture data and future conversion more difficult and costly.

10. *Specifications.* American National Standard ANSI X3.122–1986, Computer Graphics Metafile, defines the scope of the specifications, the syntax and semantics of the CGM elements and requirements for a conforming implementation. All of these specifications apply to Federal government implementation of this standard.

11. *Implementation.* The implementation of this standard involves two areas of consideration: acquisition of CGM implementations and interpretations of the standard.

11.1 *Acquisition of CGM Implementations.* This publication is effective (six months after the date of publication of final document in the **Federal Register**). Implementations acquired for Federal use after this date should implement the standard. Conformance to this standard should be considered whether computer graphics metafile systems are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce metafile systems conforming to the standard. The transition period begins on the effective date and continues for twelve (12) months thereafter. The provisions of this publication apply to orders placed after the date of this publication; however, a metafile package not conforming to this standard may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS CGM.* Resolution of questions regarding this

standard will be provided by NBS. Questions concerning the content and specifications should be addressed to: Director, Institute for Computer Sciences and Technology, ATTN: CGM Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

12. *Waivers.* Under certain exceptional circumstances the head of the agency is authorized to waive the application of provisions of this FIPS PUB. Exceptional circumstances which would warant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

[FR Doc. 86-10930 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Blank Park Zoo of Des Moines

On March 28, 1986, notice was published in the **Federal Register** (51 FR 10650) that an application had been filed by Blank Park Zoo of Des Moines for a permit to take for public display five (5) California sea lions (*Zalophus californianus*) and three (3) harbor seals (*Phoca vitulina*) from beached/stranded or captive born stocks.

Notice is hereby given that on May 8, 1986, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: May 9, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-10996 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Dr. Douglas Wartzok (P375)

On March 14, 1986, notice was published in the **Federal Register** (51 FR 8868) that an application had been filed by Dr. Douglas Wartzok, Professor and Chairman, Department of Biological Sciences, Purdue University, Fort Wayne, Indiana 46805 to take bowhead whales in the Beaufort Sea by radio-tagging and harassment.

Notice is hereby given that on May 6, 1986, as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220-222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: May 9, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-10995 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 16, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On March 12, 1986 a notice was published in the **Federal Register** (51 FR 8527), which announced extension of the limits established for Categories 333, 359, 636 and 659pt. (all TSUSA items except 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365), among others, produced or manufactured in Signapore and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, and extended, the Governments of the United States and Singapore have agreed to further amend their agreement to increase the limits for cotton and man-made fiber textile products, produced or manufactured in

Singapore and exported during the six-month period which began on January 1, 1986 and extends through June 30, 1986 in Category 333 from 9,669 dozen to 19,669 dozen, Category 359 from 76,087 pounds to 100,000 pounds, Category 636 from 25,000 dozen to 40,000 dozen, and Category 659pt. from 125,000 pounds to 160,000 pounds. The two countries also agreed to establish restraint limits for wool products in Categories 434 and 435 at a level of 2,926 dozen for each category, produced and manufactured in Singapore and exported during the period which began on January 1, 1986 and extends through June 30, 1986. The letter to the Commissioner of Customs which follows this notice implements the agreed amendments.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committe for the Implementation of Textile Agreements.

May 12, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of March 7, 1986 which directed you to prohibit entry of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during the six-month period which began on January 1, 1986 and extend through June 30, 1986.

Effective on May 16, 1986, the directive of March 7, 1986 is hereby amended to increase the limits established for the following categories:

Categories	6-mo. restraint limits [1]
333	19,669 dozen.
359	100,000 pounds.
636	40,000 dozen.
659pt.[2]	160,000 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.
[2] In Category 659pt., all TSUSA numbers in the category except 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365.

Also effective on May 16, 1986, the directive of March 7, 1986 is hereby amended to include limits for Categories 434 and 435 at a level of 2,926 dozen for each catetory.

Charges for Categories 434 and 435 that have been made to the groups and aggregate limits shall be the same charges, in correct units, made to the category limits established in this directive.

Textile products in Categories 434 and 435 which have been exported to the United States prior to January 1, 1986 shall not be subject to this directive.

Textile products in Categories 434 and 435 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), DEcember 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-10984 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DR-M

Extending Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore; Correction

May 19, 1986.

On March 12, 1986, a notice was published in the **Federal Register** (51 FR 8527), which announced the aggregate, group and individual category limits under a further extension of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended and extended, between the Governments of the United States and the Republic of Singapore. The limit for men's and boys' knit shirts of man-made fibers in Category 638, exported during the period which began on January 1, 1986 and extends through June 30, 1986, was inadvertently omitted from the letter to the Commissioner of Customs which followed that notice and should have been included as follows:

Category	6-month restraint limit (doz)
638	212,500

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-10987 Filed 5-14-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet June 17-18, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda for the meeting will consist of discussions of key issues related to national security policy and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in wriing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: May 7, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86-10919 Filed 5-14-86; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5

U.S.C app.), notice is hereby given that the Naval Research Advisory Committee Panel On U.S. Navy Anti-Submarine Warfare Technology 1986–1996 will meet on June 4–6, 1986, at the Naval Research Laboratory, Building 43, Washington, DC. The meeting will commence at 8:30 A.M. and terminate the 5:30 P.M. on June 4; and commence at 8:30 A.M. and terminate at 5:00 P.M. on June 5 and 6, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to evaluate the security of the present and future U.S. Navy surface fleet and undersea surveillance systems. The agenda will include technical briefings on the threat, surface ASW response, strategic and tactical performance requirements, undersea surveillance, and emerging technology. These briefings will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the pubic because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T. C. Fritz, U.S. Navy, Office of Naval Researach (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: May 9, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 10920 Filed 5–14–86; 8:45 am]

BILLING CODE 3810-AE-M

Board of Advisors to the President, Naval War College, Newport, RI; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is given that the Board of Advisors to the President, Naval War College, will meet on June 5, 1986, in Room 210, Conolly Hall, Naval War College, Newport, Rhode Island. The meeting will commence at 8:30 a.m., and the purpose is to elicit the advice of the Board on educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the college, and is open to the public. For further information contact: Mrs. Mary Guimond, Executive Assistant to the Dean of Academics, Naval War College, Newport, Rhode Island 02841–5010. Telephone number (401) 841–3589.

Dated: May 9, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86–10921 Filed 5–14–86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Guaranteed Student Loan Program and Plus Program

AGENCY: Department of Education.

ACTION: Notice of special allowance for quarter ending March 31, 1986.

The Assistant Secretary for Postsecondary Education anounces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087–1).

Pursuant to the requirements of section 252 of Pub. L. 99–177, Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as the Gramm-Rudman-Hollings Act), the President issued a sequestration order on February 4, 1986, directing implementation of the reductions contained in that law. Section 256 of Pub. L. 99–177 provides that if a sequestration order is issued, the special allowance formula for loans made after the order takes effect and before the end of the fiscal year is adjusted by reducing the rate provided in section 438(b)(2)(A)(iii) of the Higher Education Act by .4 percent. The reduction will apply to the first four special allowance payments on loans made on or after March 1, 1986, and before October 1, 1986.

Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending March 31, 1986, the special allowance will be paid at the following rates:

	Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate (percent) for quarter ending Mar. 31, 1986
I. GSLP loans or PLUS loans made prior to Oct. 1, 1981	7	3.625	0.90625
	9	1.625	0.40625
II. GSLP loans or PLUS loans made on or after Oct. 1, 1981:			
A. Loans *not* subject to reduction order.	7	3.56	0.89
	8	2.56	0.64
	9	1.56	0.39
	12	0.00	0.00
	14	0.00	0.00
B. Loans subject to reduction order.	7	3.16	0.79
	8	2.16	0.54
	9	1.16	0.29
	12	0.00	0.00

The Assistant Secretrary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.* Determine the average bond equivalent rate of the 91-day Treasury Bill auctioned during the quarter for which this notice applies (7.06 percent for the quarter ending March 31, 1986);

(b) *Step 2.* Subtract from that average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.* (1) Add 3.5 percent to the remainder, and, in the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent; or

(2) Add 3.1 percent to the remainder, in case of loans subject to the reduction order pursuant to Pub. L. 99–177; and

(d) *Step 4.* Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: May 9, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 86–10974 Filed 5–14–86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award (Grant); Restriction of Eligibility

AGENCY: U.S. Department of Energy (DOE); San Francisco Operations Office.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to conduct a competitive solicitation among the U.S. Territories and Puerto Rico inviting them to submit proposals for special energy projects. It is anticipated that the total amount of funding available for this program shall be $476,000. The Statutory Authority for use of a grant award is Pub. L. 95–91, DOE Organization Act, and Pub. L. 96–597.

Grant No. DE–FGO3–86SF16333

Scope of Project

The DOE proposes to establish a competitive solicitation among the U.S. Territories and Puerto Rico inviting them to submit proposals for projects to address priority needs and opportunities as identified in the 1982 *Territorial Energy Assessment*, which was prepared by DOE in response to a mandate in the Omnibus Territories Act, Pub. L. 96–597. The actual work to be accomplished will be determined by the several projects selected for awards. These will be chosen by an interagency selection panel made up of a designee by the Director of the Office of State and Local Assistance Programs in DOE, a designee from the DOI Office of Territorial Affairs and the Director of the Pacific Site Office of DOE. All projects selected will be in the general categories of promoting the use of proven technologies that employ indigenous renewable resources or serve to reduce the costs and dependencies of the territories on imported fuels. A requirement of the solicitation will be for the territorial energy offices to work with their resident expertise in preparing proposals to be submitted thru the territorial office.

This solicitation will be on a restricted eligibility basis to the U.S. Territories and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Robert S. Todaro, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in Oakland, California, April 28, 1986.

R.A. Du Val,

Manager, San Francisco Operations Office.

[FR Doc. 86–10887 Filed 5–14–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Mountain Fuel Supply Co. and Wexpro Co. Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order for $990,000 with Mountain Fuel and Wexpro and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATES: Comments by June 16, 1986.

ADDRESS: Send comments to: "Mountain Fuel/Wexpro Consent Order Comments," Office of the Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3H–017, RG–43, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Francine B. Pinto, Office of the Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3F–070, RG–43, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the proposed Consent Order may be obtained free of charge by writing or calling this office (202) 252–4102.

SUPPLEMENTARY INFORMATION: On April 18, 1986, the ERA executed a proposed Consent Order with Mountain Fuel Supply Company and Wexpro Company. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty (30) days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order, or issue the Consent Order as signed.

I. Background

During the period January 1, 1975 through December 31, 1980, Mountain Fuel Supply Company (Mountain Fuel) and Wexpro Company (Wexpro) engaged in the production and sale of crude oil from the Dry Piney Field located in Sublette County, Wyoming. Accordingly, Mountain Fuel and Wexpro were "producers" of crude oil, as defined in 19 CFR 212.31, and were subject to the regulations governing first sales of domestic crude oil in 10 CFR, Part 212, Subpart D. During the period January 1, 1975 to December 31, 1976 the Dry Piney Field was operated by Mountain Fuel. From January 1, 1977 to December 31, 1980 Wexpro operated the field. During this period the ERA conducted an audit of the sales of crude oil made by Mountain Fuel and Wexpro from the Dry Piney Field properties. The audit concluded that these sales were made at prices in excess of the maximum lawful ceiling prices provided by Subpart D.

On July 15, 1982, DOE issued a Proposed Remedial Order (PRO) to Mountain Fuel. The PRO alleged that Mountain Fuel caused overcharges in the amount of $468,849.16 during the audit period attributable to sales from the Dry Piney Field. Mountain Fuel and Wexpro filed a Joint Statement of Objections to the PRO on September 22, 1982. On December 13, 1984 ERA filed a motion to join Wexpro as a party to the proceedings. On December 21, 1984 Mountain Fuel and Wexpro filed a joint response to ERA's motion in which they stated that they did not oppose ERA's motion and acknowledged that on January 1, 1977 Wexpro became the operator of the Dry Piney Field properties.

In their Statement of Objections, the firms admitted that an invalid posted price had been utilized in pricing crude oil from the Dry Piney Field from January 1, 1975 through January 31, 1976 and acknowledged that Mountain Fuel was liable for the overcharges during this period. The firms contended, however, that the posted price which was used from February 1, 1976 through December 31, 1980 was a valid price and that no overcharges occurred after January 31, 1976. In addition Mountain Fuel and Wexpro generally challenged the application of the operator liability doctrine, specifically alleging that they should not be held responsible for overcharges related to any volumes of crude oil taken in kind by royalty and working interest owners in the Dry Piney Field. The firms also raised objections to the interest rates and remedial measures specified in the PRO.

After considering briefs and oral argument, DOE's Office of Hearings and Appeals issued the PRO as a Remedial Order (RO) to Mountain Fuel and Wexpro on November 8, 1985. In the RO, OHA found that prices contained in certain price bulletins circulated by Amoco Production Company constituted the highest posted prices applicable to production from the Dry Piney properties operated by the firms. The RO concluded that at different times during the audit period Mountain Fuel

and Wexpro exceeded the applicable Amoco prices. Under this decision, Mountain Fuel and Wexpro's liability, inclusive of interest, is approximately $1,246,000. On December 12, 1985, Mountain Fuel and Wexpro appealed this decision to the Federal Energy Regulatory Commission.

Throughout the foregoing proceeding, Mountain Fuel and Wexpro have claimed that the posted price utilized from February 1, 1976 to December 31, 1980 was a valid price and that no overcharges occurred after January 31, 1976. The firms have also maintained that they should not be held liable for overcharges related to volumes of crude oil taken in kind by interest owners because the interest owners set their own sales prices. Based on the analysis of the firms' arguments and the entire record in this proceeding, and in light of the expense to the government associated with any additional litigation, ERA believes that a payment of $990,000 is a satisfactory compromise of the issues raised in this audit. This amount includes interest.

II. Consent Order

The proposed Consent Order has been entered into in order to resolve all civil and administrative disputes, claims, and causes of action by DOE relating to Mountain Fuel's and Wexpro's compliance with the federal petroleum price and allocation regulations during the period January 1, 1975 through December 31, 1980. Although Mountain Fuel and Wexpro contend in all respects that they correctly construed and applied the applicable regulations, Mountain Fuel and Wexpro have entered into the proposed Consent Order to avoid the expense of litigation and the disruption of business. DOE believes that the proposed Consent Order is in the public interest and provides a satisfactory resolution of the issues raised by the audit.

III. Refunds

Under the terms of the proposed Consent Order, Mountain Fuel and Wexpro shall pay to DOE all of the monies deposited in the escrow account established by the firms on behalf of DOE inclusive of all interest accrued since January 31, 1986. The refund will be deposited in a suitable account for appropriate distribution by DOE.

IV. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of the proposed Consent Order to the address given above. The ERA will consider all comments it receives by 4:30 pm, local time, on the 30th day after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, DC on the 5th day of May, 1986.

Carl A. Corrallo,

Solicitor, Office of the Solicitor, Economic Regulatory Administration.

[FR Doc. 86-10883 Filed 5-14-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-30-NG]

ANR-TransCanada Energy Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 25, 1986, of an application filed by ANR-TransCanada Energy Company (ANR-TransCanada Energy) for blanket authorization to import up to 100 Bcf of Canadian natural gas for a period of two years beginning on the date of first delivery. The gas would be supplied from sources in Alberta, Canada, for sale on a short-term basis to U.S. purchasers. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. According to ARN-TransCanada Energy, the transactions it comtemplates will use existing pipeline facilities. ANR-TransCanada Energy proposes to file quarterly reports with the ERA giving the specific details of each transaction.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than June 16, 1986.

FOR FURTHER INFORMATION CONTACT:

Olga Ronkovich, National Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-8116

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 252-9478. They must be filed no later than 4:30 p.m., June 16, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any

request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of ANR-TransCanada Energy's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, May 5, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–10884 Filed 5–14–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–27–NG]

Michigan Consolidated Gas Co.; Application To Amend Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application to Amend Authorization to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 16, 1986, of an application from Michigan Consolidated Gas Company (MichCon) to amend its existing import authorization to increase the maximum daily import of Canadian natural gas from 13,000 Mcf to 50,000 Mcf, pursuant to exchange agreements with Esso Chemical Canada (ECC), a Division of Imperial Oil Limited (Imperial), and Shell Western E&P Inc. (Shell).

Notice of MichCon's application to import up to 13,000 Mcf per day on an interruptible basis was issued on November 15, 1985, (50 FR 48467). DOE/ERA Opinion and Order No. 96 (1 ERA ¶70,614), issued December 20, 1985, authorized this import for a three-year period beginning on the date of first delivery which occurred on January 23, 1986. The gas is purchased by Imperial from TransCanada PipeLines Limited (TransCanada) and transported from the point of importation to MichCon by Great Lakes Gas Transmission Company (Great Lakes). The import represented a part of a proposed energy exchange, on an equivalent Btu basis, of natural gas for ethane that was being sold by Shell to MichCon. The ethane would now be delivered to ECC, a division of Imperial. Under the arrangement, MichCon incurs no additional cost above what it was paying Shell prior to the energy exchange.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than June 16, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Ave., SW., Washington, DC 20585 (202) 252–9622

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–6667

SUPPLEMENTARY INFORMATION: Since the commencement of the natural gas/ethane exchange authorized by Opinion and Order No. 96, deliveries of gas by TransCanada to Great Lakes, and by Great Lakes to MichCon, have varied dramatically from 0 to 13,000 Mcf per day. At the same time, however, deliveries of ethane to ECC have been comparatively constant. As a result, a substantial imbalance has accumulated and continues to grow. The imbalance (839,826 Mcf as of March 31, 1986) is far in excess of what MichCon contemplated when it originally sought authorization for the importation. However, TransCanada has informed MichCon that it is able from time to time to deliver to Great Lakes, and Great Lakes has indicated that it can deliver to MichCon, volumes of gas in excess of 13,000 Mcf per day. MichCon wishes to be able to take advantage of these opportunities to reduce the sizable exchange imbalance more quickly than would otherwise be the case.

The proposed increase in the maximum daily quantity from 13,000 Mcf of gas per day to 50,000 Mcf per day is solely for the purpose of reducing the exchange imbalance described above and will not result in an increase in the total volume of gas to be imported over the term of the authorization.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitivenss as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.d.t., June 1, 1986.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request

that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordnace with 10 CFR 590.316.

A copy of MichCon's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A (202) 252-9478 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, DC, May 5, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-10885 Filed 5-14-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-29-NG]

Natgas (U.S.), Inc.; Application to Export Natural Gas

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Blanket Authorization to Export Natural Gas for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 22, 1986, of an application filed by Natgas (U.S.), Inc. (Natgas) for a blanket authorization to export up to 75 Bcf of natural gas for a two-year period beginning on the date of first delivery for sales on a short-term or spot basis primarily in Canada. Natgas, a U.S. corporation is a wholly-owned subsidiary of Pan-Alberta Resources Incorporated which is an affiliate of Pan-Alberta Gas Ltd. (Pan-Alberta), a Canadian company. Pan-Alberta, a reseller of Alberta gas in the Canadian domestic and U.S. export markets, currently supplies the gas imported by Northwest Alaskan Pipeline Company through the prebuild eastern and western legs of the Alaska Natural Gas Transportation System.

The gas for export would be supplied by Pan-Alberta or other Canadian or U.S. suppliers. Natgas anticipates that a very large percentage of the gas to be exported pursuant to a blanket authorization would be either gas produced in western Canada that is merely being transported across U.S. territory to buyers in eastern Canada, or Canadian and U.S. gas currently committed to U.S. buyers that woud be released by such buyers for spot or short-term sales in eastern Canada. Natgas proposes to export the gas either as an exporter on its own behalf or as a broker or agent on behalf of U.S. and/or Canadian suppliers and/or Canadian purchasers. The specific terms of each export and sale woud be negotiated individually in short-term or spot sale contracts, and would, Natgas contends, necessarily be market responsive. Natgas intends that the exported gas would be transported through existing pipeline facilities, and proposes filing quarterly reports to the ERA.

In support of its application, Natgas maintains that its proposed export arrangement is fully consistent with the public interest requirement of section 3 of the Natural Gas Act, and with the DOE's announced international gas trade policies that are designed to promote competition by fostering freely negotiated arrangements between commercial parties.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. e.d.t. on June 16, 1986.

FOR FURTHER INFORMATION CONTACT:

Norman Breckner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-9482

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the Secretary of Energy's Delegation Order to the Administrator of the ERA (49 FR 6690, February 22, 1984), under which the domestic need for the gas to be exported is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of the domestic need for the gas as set forth in the Delegation Order. The applicant asserts that there is no domestic need for this gas. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 (202) 252-9478. They must be filed no later than 4:30 p.m. e.d.t. June 16, 1986.

The Administrator intends to develop a decisional record on the application through response to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should

explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by the parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Natgas' application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076 (202) 252-9478, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., e.d.t. Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 5, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-10886 Filed 5-14-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

New Docket Prefix: TF; Gas Pipeline Tariffs Rate Adjustments

May 7, 1986.

Notice is hereby given that a new docket prefix has been created for interim rate adjustments pursuant to Purchased Gas Adjustment Provisions of FERC Gas Pipeline Tariffs.

The Commission has recently approved, on a case by case basis, procedures which will permit interstate natural gas pipelines to adjust their jurisdictional rates to reflect a revised average cost of gas between their regularly scheduled Purchased Gas Adjustment (PGA) adjustment dates. Such adjustments will be filed pursuant to the interim rate adjustment section of the Purchased Gas Adjustment Provisions (PGCA) of the General Terms and Conditions of their respective FERC Gas Tariffs.

These pipelines currently track changes in purchased gas costs under the *TA* docketing procedure whereby each pipeline is assigned an identification number and filings are docketed sequentially within each fiscal year. For example, TA86-2-42 identifies Transwestern Pipeline Corporation's (Transwestern) second PGA filing of FY 1986.

Although the interim rate adjustments are tendered pursuant to the pipelines' PGAC provisions and § 154.38(d)(iv) of the Commission's regulations they will not be subject to the same processing and review requirements of regular PGA filings. Accordingly, the Commission has established a new Prefix*TF* to identify such filings. Except for the TF prefix filings will be tracked under teh procedures establsished for the

Although the interim rate adjustments are tendered pursuant to the pipelines' PGAC provisions and§ 154.38(d)(iv) of the Commission's regulations they will not be subject to the same processing and review requirements of regular PGA filings. Accordingly, the Commission has established a new Prefix *TF* to identify such filings. Except for the *TA* prefix, filings will be tracked under the procedures established for the *TF* system. For example, the second adjustment in FY 1986 filed by Transwestern pursuant to section 19.6 (Interim Adjustments) of the PGA provision of its tariff will be designated *TF* 86-2-42. Filings made pursuant to Transwestern's overall PGA provision will retain the *TA* prefix.

The *TF* prefix is only applicable to those pipelines which have received specific Commission approval to make such interim rate adjustments.

The applicable filing fee for filings designated *TF* is the fee set forth in § 381.205 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10927 Filed 5-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9950-000, et al.]

Hydroelectric Applications; R.D. Bailey Hydro Partners et al.

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulation Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 9950-000.

c. Date Filed: March 21, 1986.

d. Application: R.D. Bailey Hydro Partners.

e. Name of Project: Bailey.

f. Location: Guyandotte River, Mingo and Wyoming Counties, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, MA 02116 (617) 424-1888.

i. Comment Date: June 13, 1986.

j. Competing Application: Project No. 9928-000 Date Filed: March 3, 1986. Due Date: May 23, 1986.

k. Description of Project: The proposed project would use the existing R.D. Bailey Dam and Lake, owned and operated by the U.S. Army Corps of Engineers, and would consist of: (1) a new 1,200-foot-long penstock 6.5 feet in diameter; (2) a concrete powerhouse approximately 50 feet wide and 75 feet long; (3) two new turbine-generators of 3.5-MW capacity each; (4) a new 69-kV transmission line 4 miles in length; and (5) appurtenant facilities.

The estimated annual energy production is 29 million kWh. The hydraulic head is 120 feet. Project power would be sold.

l. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under the preliminary permit would be $100,000.

2 a. Type of Application: Preliminary Permit.

B. Project No.: 9829-000.

c. Date Filed: December 31, 1985.

d. Applicant: Thomas J. Collins.

e. Name of Project: Fordam Hydropower Project.

f. Location: On Rock River Near Rockford, Winnebago County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas J. Collins, Suite 401, 600 West Jackson Boulevard, Chicago, IL 60606 (312) 454-1060.

i. Comment Date: June 16, 1986.

j. Description of Project: The proposed project would consist of: (1) an existing concrete dam 637 feet long and 10 feet high; (2) an existing reservoir with a normal surface elevation of 703 msl; (3) a proposed powerhouse housing two 300-kW generators for a total capacity of 600 kW; (4) a proposed 12-kV transmission line 1,000 feet long; and (5)

appurtenant facilities. The Applicant estimates that the average annual energy generation would be 4.0 GWh. The project energy would be sold to a utility or industry. The dam is owned by Commonwealth Edison Company, Chicago, Illinois.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope under this Permit: A perliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on result of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $95,000.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 9949–000.

c. Date Filed: March 20,, 1986.

d. Applicant: WV Hydro Corporation.

e. Name of Project: Morgantown.

f. Location: At the U.S. Army Corps of Engineers' Morgantown Lock and Dam on the Monongahela River in Monongalia County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James B. Price, President, WV Hydro Corporation, 120 Calumet Court, Aiken, SC 29801, (803) 642–2749.

i. Comment Date: June 19, 1986.

j. Description of Project: The proposed run-of-river project would utilize the U.S.Army Corps of Engineers' Morgantown Lock and Dam and would consist: (1) a new intake structure and powerhouse at the east end of the dam with one turbine-generator unit with an installed capacity of 8 MW; (2) a short tailrace (3) a new 138–kV, 4,400-foot-long transmission line: and (4) other appurtenances. Applicant estimates an average annual generation of 28,000 MWh.

k. Purpose of Project: Project energy would be sold to the Monongahela Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope under this Permit: A perliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $100,000.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 9974–000.

c. Date Filed: March 14, 1986.

d. Applicant: Robbins Lumber, Inc.

e. Name of Project: Robbins.

f. Location: St. George River in Waldo County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Edwin A. Heisler, Richardson, Hildreth, Tyler & Troubh, Attorneys at Law, 465 Congress Street, Portland, ME 04101 (207) 774–5821.

i. Comment Date: June 23, 1986.

j. Description of Project: The proposed project would consist of: (1) a new 18-foot-high, 100-foot-long concrete and timber crib dam; (2) a reservoir with a surface area of 16 acres, a storage capacity of 50 acre-feet, and a normal water surface elevation of 180 feet m.s.l.; (3) a new concrete intake structure; (4) a new concrete powerhouse containing one generating unit with a capacity of 42 kW and one generating unit with a capacity of 85 kW for a total installed capacity of 127 kW; (5) a new 30-foot-long earth tailrace; (6) a new transmission line, 180 feet long; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 550,000 kWh. The applicant owns the project property at the proposed dam site.

k. Purpose of Project: Project power would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a prelimiary permit for a period of 36 months during which time the applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for FERC license. The applicant estimates that the cost of the studies under permit would be $39,000.

5. a. Type of Applicant: Preliminary Permit.

b. Project No: 9945–000.

c. Date Filed: March 17, 1986.

d. Applicant: City of Fort Collins.

e. Name of Project: Horsetooth-Poudre.

f. Location: Horsetooth Reservoir, Soldier Canyon Dam, and Cache La Poudre River, near Fort Collins, in Larimer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Michael B. Smith, Director, Waste & Wastewater Utility, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed project would utilize the existing outlet works at the U.S. Bureau of Reclamation's Soldier Canyon Dam (Horsetooth Reservoir) and would consist of: (1) an existing 54-inch-diameter, 1,500-foot-long steel pipeline running from the outlet works to the Fort Collins Water Treatment Plant (WTP) No. 2; (2) a combination of existing 27-inch-diameter steel and 24-inch-diameter concrete pipelines, 38,000 feet long, running from the Fort Collins Water Treatment Plant No. 1 Cahe La Poudre River diversion to, (3) a new 36-inch-diameter, 16,000-foot-long pipeline to WTP No. 2; (4) a powerhouse containing 3 turbine-generator units with a total installed capacity of 850 MW and producing an estimated average annual generation of 0.19 GWh; and (5) a tap transmission line to interconnect the project to an existing 13.2 kV Public Service Company of Colorado (PSCC) line. Project power would be sold to PSCC.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 9940–000.

c. Date Filed: March 5, 1986.

d. Applicant: Birch Power Company.

e. Name of Project: Pines.

f. Location: On Springs tributary to the Pahsimeroi River, in Custer County, Idaho. Township 13N and Range 22E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contract Person: Mr. Ted S. Sorenson, 550 Linden Drive, Idaho Falls, ID 83401 (208) 522–8069.

i. Comment Date: June 23, 1986.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high diversion structure at elevation 5,600 feet; (2) a 29,400-foot-long feeder ditch; (3) a 6,100-foot-long, 34-inch-diameter steel penstock; (4) a powerhouse containing a single generating unit with a capacity 900 kW and an average annual generation of 5,500,000 kWh; and (5) a 0.05-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $45,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 9923–000.

c. Date Filed: March 3, 1986.

d. Applicant: Western Environmental Energy Company.

e. Name of Project: Mill Creek.

f. Location: On Mill Creek, a tributary to the Colorado River, near Moab, within Manti-La Sal National Forest, in San Juan County, Utah (In T26S, R24E; T26S, T23E; T27S, R23E; and T27S, R22E, S.L.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)—825(r).

h. Contact Person: Mr. James W. Oliver, Jr., 265 East Maple Street, Mapleton, UT 84663 (801) 489–7225. Mr. Grant D. Durtschi, 12090 South 2330 West, Riverton, UT 84065 (801) 254–0649.

i. Comment Date: Jnue 16, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) an 7-foot-high, 16-foot-long concrete diversion structure at elevation 7,674 feet msl; (2) a 30-inch-diameter, 28,600-foot-long steel penstock; (3) a powerhouse containing two turbine-generator units with a combined rate capacity of 7,309 kW operating under a head of 2,144 feet; and (4) a 12.5-kV, 18,500-foot-long transmission line interconnecting the project to an existing Utah Power and Light Company line. The project's estimated average annual generation of 36.493 GWh would be sold to Utah Power and Light Company.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9922–000.

c. Date Filed: March 3, 1986.

d. Applicant: City of Boulder, Colorado.

e. Name of Project: Boulder.

f. Location: City of Boulder Municipal Water System.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Eva J. Heinrich, City of Boulder, P.O. Box 791, Boulder, CO 80306 (303) 441–3205.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed project would consist of retrofitting the City of Boulder's municipal water transmission and distribution system for the installation of five conduit-type hydroelectric developments. Data on existing project structures in outlined in Tables 1 and 2. Data on proposed project works is outlined in Table 3. Applicant intends to interconnect the project with the existing Public Service Company of Colorado (PSCC) transmission grid. Project power would be sold to PSCC. The project would be partially located on Roosevelt National Forest lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $100,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9910–000.

c. Date Filed: February 12, 1986.

d. Applicants: Dam Nine Hydro Partners.

e. Name of Project: Kentucky River Lock and Dam No. 9.

f. Location: On the Kentucky River in Jessamine and Madison Counties, Kentucky.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ingolf Hermann, Ridgehill Professional Building, Suite 380, 2000 Plymouth Road, Minnetonka, MN 55343 (612) 546–5110.

i. Comment Date: June 16, 1986.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers Kentucky River Lock and Dam No. 9, having a water surface elevation of 550.6 feet msl and would consist of: (1) a new reinforced concrete powerhouse approximately 80 feet by 90 feet located in the right abutment containing two turbine/generator units having a total installed capacity of 5,100 kW operating at 17.3 feet of hydraulic head; (2) a new 1.8-mile-long 69-kV transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy production to be 18 GWh.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $200,000.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9898–000.

c. Date Filed: February 3, 1986.

d. Applicant: Scofield Hydro Associates.

e. Name of Project: Scofield Hydro Project.

f. Location: On Price River in Carbon County, Utah: SLB&M, T.12S., R.7E, Sec. 6.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mike Graham, P.O. Box N, Manti, Utah 84642.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's Scofield Dam and Reservoir, and would consist of: (1) a 60-inch-diameter penstock utilizing the existing outlet works; (2) a powerhouse with an installed capacity of 1,450 kW operating under a gross head of 125 feet; (3) a tailrace discharging downstream of the toe of the dam; (4) a 46-kV transmission line, about 4,000 feet long, connecting to an existing line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 8,896,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $23,000.

m. This notice also consist of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9833–000.

c. Date Filed: December 31, 1985.

d. Applicant: West Rutland Pumped Storage Hydrolectric, Inc.

e. Name of Project: West Rutland Pumped Storage.

f. Location: On the Castleton River, Rutland County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dermot A. McGuigan, West Rutland Pumped Storage Hydroelectric, Inc., c/o Vermont Hydroelectric, Inc, Chace Mill, 1 Mill Street, Burlington, VT 05401 (802) 658–5110.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed project would consist of: (1) a new upper reservoir of 40 acres surface area and storage capacity of 4,000 acre-feet at a normal maximum surface elevation of 550 feet mean sea level, to be located in an existing excavated marble quarry; (2) a lower reservoir in existing or new sub-surface excavations; (3) a new power tunnel 20 feet in diameter; (4) a new excavated powerhouse enclosing 3 new turbine/generators of 25 MW capacity each; (5) a new 345 kV transmission line one-half-mile long; and (6) appurtenant facilities.

The project would operate as a pumped-storage facility with an estimated annual power generation of 240,000,000 kWh. The hydraulic head is 500 feet. Project power will be sold. The existing facilities are owned by Gawet Marble & Granite, Inc.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $300,000.

12. a. Type of Application: Preliminary Permit.

b. Project No.: 9802–000.

c. Date Filed: December 30, 1985.

d. Applicant: Twin Lakes Associates, Inc.

e. Name of Project: Willis Gulch.

f. Location: On Willis Gulch, near Leadville, partially within Isabel National Forest, in Chaffee and Lake Counties, Colorado (In Section 2 of T12S, R81W, Sections 35 and 36 of T11S, R81W, and Sections 25, 26, 27, 28, 29, 30, and 31 of T11S, R80W, 6th P.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Dennis O'Neill, President, Twin Lakes Associates, Inc., P.O. Box 961, Leadville, CO 80461 (303) 486–3397.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) a 7-foot-high, 20-foot-long earthfill diversion structure at elevation 11,170 feet msl; (2) a 30-inch-diameter, 3,500-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,500 kW operating under a head of 570 feet; and (4) a 13.8–kV, 64,000-foot-long transmission line interconnecting the project to an existing Sangre de Cristo Rural Electric Association line. The project's estimated average annual generation of 11.118 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $35,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13. a. Type of Application: Preliminary Permit.

b. Project No.: 9800–000.

c. Date Filed: December 30, 1985.

d. Applicant: Twin Lakes Associates, Inc.

e. Name of Project: Oregon Gulch.

f. Location: On Lost Canyon Creek, near Leadville, partially within San Isabel National Forest, and within land administered by the Bureau of Land Management, in Chaffee and Lake Counties, Colorado (In Sections 25, 26, 27, 33, and 34 of of T11S, R80W, 6th P.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Dennis O'Neill, President, Twin Lakes Associates, Inc., P.O. Box 961, Leadville, CO 80461 (303) 486–3397.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) a 10-foot-high, 25-foot-long earthfill diversion structure at elevation 11,400 feet msl; (2) a 18-inch-diameter, 6,000-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,193 kW operating under a head of 1,760 feet; and (4) a 13.8–kV, 13,000-foot-long transmission line interconnecting the project to an existing Sangre de Cristo Rural Electric Association line. The project's estimated average annual generation of 8.591 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $35,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

14 a. Type of Application: Preliminary Permit.

b. Project No: 9796–000.

c. Date Filed: December 30, 1985.
d. Applicant: Twin Lakes Associates, Inc.
e. Name of Project: Lost Canyon.
f. Location: On Lost Canyon Creek, near Leadville, partially within San Isabel National Forest and within land administered by the Bureau of Land Management, in Chaffee and Lake Counties, Colorado (In Section 4 of T12S, R80W and Sections 25, 26, 27, 33, and 34 of T11S, R80W, 6th P.M.&B.).
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(A)–825(r).
h. Contact Person: Dr. Dennis O'Neill, President, Twin Lakes Associates, Inc., P.O. Box 961 Leadville, CO 80461 (303) 486–3397.
i. Comment Date: June 13, 1985.
j. Description of Project: The proposed project would consist of: (a) 40-foot-high, 1,200-foot-long zoned earth fill dam which would replace an existing 10-foot-high earth fill dam owned by John and Billy Lou Pearson and have a water surface elevation of 11,800 feet msl; (2) a reservoir with a storage capacity of 3,000 acre-feet and a surface area of 40 acres; (3) an 18-inch-diameter, 7,650-foot-long penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity 275 kW operating under a head of 400 feet; and (5) a 13.8-kV, 15,000-foot-long transmission line interconnecting the project to an existing Sangre de Cristo Rural Electric Association line. The project's estimated average annual generation of 1.953 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $35,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15 a. Type of Application: Preliminary Permit.
b. Project No: 9797–000.
c. Date Filed: December 30, 1985.
d. Applicant: Twin Lakes Associates, Inc.
e. Name of Project: Flume Creek.
f. Location: On Cache Creek Ditch, near Leadville, partially within San Isabel National Forest, in Lake County, Colorado (In Sections 25, 26, 27, and 28 T11S, R80W, 6th P.M.&B.).
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Dr. Dennis O'Neill, President, Twin Lakes Associates, Inc., P.O. Box 961 Leadville, CO 80461 (303) 486–3397.
i. Comment Date: June 13, 1986.
j. Description of Project: The proposed run-of-the-river project would consist of: (1) a 10-foot-high, 25-foot-high, 25-foot-long earth fill diversion structure at elevation 10,080 feet msl; (2) a 54-inch-diameter, 550-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,330 kW operating under a head of 260 feet; and (4) of 13.8-kV, 20,000-foot-long transmission line interconnecting the project to an existing Sangre de Cristo Rural Electric Association line. The project's estimated average annual generation of 2.519 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $35,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16 a. Type of Application: Preliminary Permit.
b. Project No: 9795–000.
c. Date Filed: December 30, 1985.
d. Applicant: Twin Lakes Associates, Inc.
e. Name of Project: Cache Creek No. 1.
f. Location: On Cache Creek, near Leadville, in Chaffee County, Colorado (In Sections 35 and 36 of T11S, R80W, Sections 1 and 2 of T12S, R80W, and Section 31 of T11S, R79W, 6th P.M.&B.)
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Dr. Dennis O'Neill, President, Twin Lakes Associates, Inc., P.O. Box 961, Leadville, CA 80461, (303) 486–3397.
i. Comment Date: June 13, 1986.
j. Description of Project: The proposed project would consist of: (1) a 130-foot-high, 1,200-foot-long zoned earth fill dam which would replace an existing 10-foot-high earth fill dam owned by Bond Cache Mining Trust and have a water surface elevation of 9,200 feet ms1; (2) a reservoir with a storage capacity of 7–620 acre-feet and a surface area of 170 acres; (3) a 40-inch-diameter, 750-foot-long penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity 400 kW operating under a head of 130 feet; and (5) a 13.8-kV, 3,000-foot-long transmission line interconnecting the project to an existing Sangre de Cristo Rural Electric Association line. The project's estimated average annual generation of 2.029 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $35,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17 a. Type of Application: Preliminary Permit.
b. Project No: 9760–000.
c. Date Filed: December 30, 1985.
d. Applicant: Re-Enertech.
e. Name of Project: Treadwell Ditch.
f. Location: On Treadwell Ditch, in the Burough of Juneau, Alaska.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: James D. Franklin, P.O. Box 1037, Oak Harber, WA 98277, (206) 679–4342.
i. Comment Date: June 23, 1986.
j. Description of Project: The proposed project would consist of: (1) a 5-foot-high wood diversion structure at elevation 550 feet; (2) a 2,250-foot-long, 30-inch-diameter penstock; (3) a powerhouse containing a generating unit with a capacity of 2,200 kW and an average annual generation of 8.8 GWh; and (4) a 0.5-mile-long transmission line.

A preliminary permit, does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $22,000. No new roads would be constructed during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

18 a. Type of Application: Preliminary Permit.
b. Project No.: 9738–000.
c. Date Filed: December 27, 1985.
d. Applicant: Taft Hydropower, Inc.

e. Name of Project: Rossie Hydropower Project.

f. Location: On Indian River near Rossie, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Lawrence R. Taft, 10315 Caughdenoy Road, Centeral Square, NY 13036, (313) 437–2547.

Mr. Neal F. Dunlevy, Stetson Dale Engineering, PC, 185 Genesee Street, Utica, NY 13501, (315) 797–5800.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed project would consist of: (1) reconstruction of an existing breached concrete and stone mansonry gravity dam 80 feet long and 9 feet high (breakaway flashboards 3 feet high will be considered); (2) an existing 30 acre reservoir with a storage capacity of 200 acre-feet at a surface elevation of 295 msl; (3) enlarging an existing canal to 7 feet wide, 7 feet deep, and 250 feet long; (4) a proposed concrete power flume 15 feet wide, 20 feet long, and 20 feet deep housing a 1,000 kW submerged bulb turbine generator; (5) a proposed tailrace 10 feet wide, 7 feet deep, and 20 feet long; (6) upgrading an existing transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 5.0 GWh. The project energy would be sold to Niagara Mohawk Power Company. The dam is owned by Richard Rogers, Rossie, New York, and Charles Hyatt, Clarence, New York.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

19 a. Type of Application: Preliminary Permit.

b. Project No: 9616–000.

c. Date Filed: November 12, 1985.

d. Applicant: John W. Delaney & Barbara Delaney.

e. Name of Project: Delaney.

f. Location: Squannacook River in Middlesex Country, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Warren Guinan, Power Technics, Inc., P.O. Box 1469, Dover, NH 03820, (603) 335–2606.

i. Comment Date: June 19, 1986.

j. Description of Project: The proposed project would consist of: 1) an existing 12-foot-high, 116-foot-long granite block dam owned by the Applicant; 2) an existing reservoir with a surface area of 14 acres and a storage capacity of 70 acre-feet at crest elevation 302 feet NGVD; 3) a proposed powerhouse at the base of the dam containing a generating unit with a rated capacity of 105-kW; and 4) a proposed 37-foot-long transmission line tying into the existing Fitchburg Gas and Electric system. The Applicant estimates a 281,800 kWh average annual energy production.

k. Proposed Scope of Studies under Permit: A preliminiary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $22,500.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

20 a. Type of Application: Preliminary Permit.

b. Project No: 9530–000.

c. Date Filed: October 7, 1985.

d. Applicant: Douglas Hydro, Inc.

e. Name of Project: Tahoe Tunnel Power Project.

f. Location: Tahoe Basin in Douglas County, Nevada; Mount Diablo Base & Meridian: T13N, R18E, Sec. 13 and 14; T13N, R19E, Sec. 19, 20, 21, 22.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David L. Pruett, Douglas Hydro, Inc., Route 2, Box 69, Gardnerville, NV 89410.

i. Comment Date: June 23, 1986.

j. Description of Project: The proposed project would be located on both Toiyabe National Forest and private lands, would utilize waters of Tahoe Basin waste treatment facilities, and would consist of: (1) an intake structure and a steel pipeline/penstock, 24 inches in diameter and about 24,000 feet long; (2) a powerhouse with an installed capacity of 2,500 kW operating under a head of 1,400 feet; (3) a tailrace discharging into an irrigation system; (4) a 12.5 KV transmission line, about 0.1 mile long, interconnecting with a Sierra Pacific Power Company line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 17,500,000 kWh.

k. Purpose of Project: Project energy would be sold to the Sierra Pacific Power Company or other power purchasers.

l. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $50,000.

m. This notice also consist of the following standard paragraphs: A5, A7, A9, B, C, and D2.

21a. Type of Application: Minor License.

b. Project No.: 7830–002.

c. Date Filed: December 6, 1985.

d. Applicant: Florida Water Conservancy District (FWCD).

e. Name of Project: Lemon Dam.

f. Location: On Lemon Dam and Reservoir, on the Florida River, near Durango, in La Plata County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Loyd N. Hess, President, FWCD, Lawrence McDaniel, General Counsel, FWCD, P.O. Box 1157, Durango, CO 81302, (303) 247–1113.

i. Comment Date: June 19, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's (Bureau) 215-foot-high earthfilled Lemon Dam, impounding a 40,100 acre-foot reservoir, and would consist of: (1) a penstock consisting of the existing 8-inch-diameter bypass pipe, beginning upstream of the outlet control gates, passing through the existing gate chamber and ending 26 feet below the outlet control gates; (2) modification of the existing gate chamber to house a single Worthington pump-induction generator unit with a rated capacity of 110 kW and producing an estimated average annual generation of 0.757 GWh; (3) the 0.48-kV generator leads; (4) a 12.5-kV service connection cable installed in the 200-foot-high elevator shaft and interconnected to an existing Colorado Ute Electric Association (CUEA) transmission line; (5) a 3-phase, 0.48/12.5-kV, 150-kVA transformer; (6) a 1,200-foot-long, 7.2.-kV distribution line serving the dam superintendent's home; and (7) appurtenant facilities. Project

power would be utilized at the superintendent's home and to operate the dam with excess power sold to CUEA. The project would be located on Bureau lands which were withdrawn from the San Juan National Forest. Applicant estimates project cost at $173,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

22 a. Type of Application: Minor License (5MW or Less).

b. Project No.: 4206–001.

c. Date Filed: February 10, 1986.

d. Applicant: STS Energenics Ltd.

e. Name of Project: Laguna Dam.

f. Location: On the Colorado River, in Imperial County, California, and Yuma County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Granville Smith II, STS Energenics Ltd., 1725 K Street, NW, Suite 112, Washington, DC 20006, (202) 463–8620.

i. Comment Date: June 13, 1986.

j. Description of Project: The proposed run-of-river project would utilize the existing Bureau of Reclamation's 43-foot-high, 166-foot-long, Laguna Dam located on the Lower Colorado River and would consist of: (1) an underground intake structure; (2) a 9-foot-diameter, 203-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 875 kW, operating under a head of 21.5 feet; (4) a 45-foot-long concrete tailrace; and (5) a 252-foot-long, 34.5 kV transmission line interconnecting the project to an existing Bureau of Reclamation line. The project's estimated average annual generation of 4.2 GWh would be sold to Southern California Edison Company. The project would affect Bureau of Reclamation lands. The estimated cost of constructing the project is $1,892,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" OR "MOTION TO INTERVENE", As Applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the

Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Perservation Act, the National Environmental Policy Act, Pub. L No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, the agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 9, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10924 Filed 5–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86–74–000]

Algonquin Gas Transmission Co. Complainant and Texas Eastern Transmission Corp. Respondent; Notice of Complaint

May 7, 1986.

Take notice that on May 6, 1986, Algonquin gas Transmission Company (Complainant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. RP86–74–000 a complaint, pursuant to Order No. 436 and § 385.206 of the Commission's rules of practice and procedure (18 CFR 385.206), against Texas Eastern Transmisison Corporation (Respondent), principal pipeline supplier to Complainant, for carrying out its current transportation program during the interim period of Order No. 436 in a manner that unduly discriminates against Complainant's New England LDC customers and unduly grants preference to Respondent's upstream customers, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Complainant states that it and its New England LDC customers are almost exclusively dependent on Respondent for its pipeline Gas supplies. It is further stated that Respondent's position is that it would have zero natural Gas Policy Act (NGPA) section 311 transportation capacity available to serve such New England LDC customers until all requests of Respondent's upstream LDC customers for such service have been satisfied.

Complainant alleges that Respondent is currently moving substantial quantities of NGPA section 311 gas for such upstream LDC customers and moving no gas for the New England LDC customers. Thus, it is asserted that Respondent is cutting off the New England LDC customers in clear violation of Order No. 436.

Complainant states that Respondent has advised that such action is required by a provision in Volume 1 of its FERC Gas Tariff (§ 12.6 of the General Terms and Conditions). Complainant claims that such an application of the tariff produces a result which violates the non-discrimination principles of Order No. 436.

Complainant, therefore, requests that Respondent be ordered, on an expedited basis, to cease and desist its acts, and apply § 12.6 of its Tariff in a manner which affords the New England LDC customers access to available NGPA section 311 transportation capacity on a basis that is on a parity with upstream LDC customers.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before May 19, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules. Complainant states that a copy of the complaint has been served on Texas Eastern. Texas Eastern's answer to the complaint shall also be due on or before May 19, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10925 Filed 5–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-287-000]

Electric Rates; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Waiver of Notice Requirements, and Establishing Hearing Procedures; Cambridge Electric Light Co.

Issued: May 8, 1986

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On February 6, 1986, as completed on March 13, 1986 [1] Cambridge Electric Light Company (Cambridge) submitted for filing a proposed interim agreement providing for the transmission by Cambridge of preference power from the Power Authority of the State of New York's (PASNY) Niagara Project to the Town of Belmont, Massachusetts (Belmont).[2] Under the terms of the agreement, Cambridge waives the provisions of its current full requirements tariff on file which mandate that Belmont purchase its entire requirements from Cambridge. Cambridge has no partial requirements rate schedule or tariff on file, but the company states that it will develop an appropriate rate to accommodate Belmont's new service as soon as possible. In the interim, Belmont will continue to be served at the full requirements rate. Cambridge proposes to wheel Belmont's PASY power at the proposed rate of $2.50/kW/month and to credit Belmont's power bills for an amount equal to Cambridge's average energy costs times Belmont's PASNY energy. Cambridge requests waiver of the notice requirements to permit an effective date of July 1, 1985, the date that Belmont began receiving PASNY power.

Notice of the original filing was published in the **Federal Register** [3] with comments due on or before March 7, 1986. Notice of the amended filing was published in the **Federal Register**,[4] with comments due on or before April 10, 1986.

On March 6, 1986, Belmont filed a motion to intervene and protest to Cambridge's original filing, requesting a one day suspension and hearing. Belmont further claimed that the filing was deficient and requested that Cambridge be required to supplement its filing with cost-of-service data required by § 35.13 of the Commission's regulations.[5] Belmont notes that the proposed filing, while crediting Belmont's power bills with the company's average energy costs, does not credit the bills for the capacity being provided by PASNY. Belmont alleges that it is entitled to capacity credits, arguing that, because of Belmont's PASNY allocation, Cambridge has benefitted by being able to reduce its New England Power Pool (NEPOOL) load commitments.

On March 21, 1986, Cambridge filed an answer to Belmont's motion, disputing Belmont's allegations and its request for suspension. Cambridge admits that it does not give Belmont a capacity credit on its requirements billing but notes, however, that, if PASNY power becomes unavailable to Belmont, Cambridge remains obligated to serve Belmont's full load. Cambridge claims that, during the period of this interim agreement, Belmont's PASNY allotment has only served to reduce the energy which would otherwise be supplied by Cambridge and that it is, therefore, unjustifiable to give Belmont a capacity credit during the interim period. With respect to Belmont's allegation that Cambridge obtained capacity benefits from NEPOOL, Cambridge answers that capacity acquisition commitments are made on a relatively long lead time and that, given the short notice afforded by Belmont, the company was unable to achieve any reduction in its costs of capacity, at least during this interim period. Cambridge concedes that, when the parties negotiate a partial requirements agreement, it may be appropriate to recognize the capacity value to Cambridge to the allotment.

On April 10, 1986, Belmont amended its March 6, 1986 protest. Belmont argues that Cambridge's charge for both transmission and full requirements amounts to a double payment for use of the company's transmission and interconnection facilities; that there is no merit to Cambridge's allegation that Belmont did not give adequate notice of its PASNY purchases; that these purchases provided capacity benefits to Cambridge which should be reflected in this filing; and that Cambridge erred in calculating the firm transmission rate.

Discussion

Under Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214), the timely, unopposed motion to intervene serves to make Belmont a party to this proceeding.

Our review of the company's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, we would generally impose a maximum suspension. We also noted that circumstances (such as customer agreement) might dictate a different result. Here, our examination suggests that the proposed rates may yield substantially excessive revenues. However, Belmont requires the transmission service to receive the benefits of its PASNY allotment. The town has supported waiver of notice and requested only a nominal suspension so that the rate may be effective as of July 1, 1985, the date on which the PASNY service began.[6] Under these circumstances, we believe that good cause exists to waive the notice requirements and impose a nominal suspension of the rates. Accordingly, we shall accept the rates for filing and suspend them to become effective on July 1, 1985, subject to refund.

Finally, we note that Cambridge's proposed rate is based, in part, upon payments made to Boston Edison Company (Edison) for the joint use of a substation owned by Edison. According to Cambridge's 1984 Form 1, this payment amounted to $1,253,756. The service is currently governed by Edison's filed Rate Schedule FPC No. 101; that rate schedule, however, provides for a charge of only $82,578.[7] Edison has been advised that it improperly failed to file increases in the substation charge from the level currently on file, and the company has indicated that it will make the necessary

[1] The company's original filing was deemed deficient by the Commission's Office of Electric Power Regulation, and additional information was submitted on March 13, 1986.

[2] *See* Attachment for rate schedule designations.

[3] 51 FR 7,329 (1986).

[4] 51 FR 11,605 (1986).

[5] Cambridge supplied additional cost data on March 13, 1986. *See* note 1.

[6] We note that, while both the company and the affected customer desire a July 1, 1985 effective date, neither has explained the reason for Cambridge's delay in tendering its submission. While we shall grant the request for waiver of the notice requirements in this proceeding, we admonish Cambridge to be more timely in future filings.

[7] Edison's substation charge is determined monthly pursuant to a formula. The formula lacked sufficient specificity to be accepted as the filed rate, however, and by letter order dated March 11, 1975, the Commission informed Edison that changes in the charges produced by the formula required a timely filing pursuant to the Commission's regulations.

filings. Because any Commission action regarding those filings may affect the inclusion of those costs in Cambridge's rate to Belmont, we shall make Cambridge's rate subject to the outcome of any Commission action on Edison's anticipated filing.

The Commission Orders:

(A) Waiver of the notice requirements is hereby granted for good cause shown.

(B) Cambridge's proposed rates are hereby accepted for filing and suspended, to become effective, subject to refund, on July, 1985, and, further, subject to the outcome of the Commission's action on the filing by Boston Edison Company of its charge for the joint use of the substation referred to in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Cambridge's rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convent a prehearing conference in this proceeding within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates, including the submission of a case-in-chief by Cambridge, and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure.

(E) Subdocket 000 in Docket No. ER86–287 is hereby terminated. Docket No. ER86–287–001 is assigned to the evidentiary hearing ordered in the **Federal Register.**

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Cambridge Electric Light Company Rate Schedule Designations

Docket No. ER86–287–000

Designation and Description

Other Party: Town of Belmont
Effective: July 1, 1985

(1) Rate Schedule FERC No. 33—Letter Agreement dated July 12, 1985
(2) Supplement No. 1 to Rate Schedule FERC No. 33—Town of Belmont letter dated July 16, 1985
(3) Supplement No. 2 to Rate Schedule FERC No. 33—Cambridge letter dated July 22, 1985
(4) Supplement No. 3 to Rate Schedule FERC No. 33—Exhibit 4—Transmission Rate
(5) Supplement No. 4 to Service Agreement No. 2 under FERC Electric Tariff, Original Volume No. 1—Exhibit 3—Billing credits to Rate RS–4.

[FR Doc. 86–10926 Filed 5–14–86; 8:45 am]
BILLING CODE 67127–01–M

Office of Conservation and Renewable. Energy

[Docket No. CAS–RM–80–304]

Industrial Energy Conservation Program; Identification of Corporations for Purposes of Industrial Energy Efficiency Improvement and Recovered Materials Utilization Reporting

AGENCY: Department of Energy.

ACTION: Notice of corporate identification.

SUMMARY: The Department of Energy (DOE) is identifying corporations which consumed at least one trillion British termal units (Btu's) of energy in calendar year 1985 in any of the major energy-consuming industries, as required by DOE's regulations at 10 CFR 445.15 which implements section 373(b) of the Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act.

Section 445.12 of these regulations requires certain corporations which consumed at least one trillion Btu's of energy in a calendar year in any of the 20 major energy-consuming industries identified by DOE to file a certified statement with DOE. The deadline to file this report with DOE was February 4, 1986. Based on the reports filed in response to this requirement and reports filed previously, DOE has identified the corporations listed in the appendix to this notice. Identified corporations are required to meet the reporting requirements of 10 CFR Part 445, Subpart C.

A Corporation may file a request with DOE to modify its identification on the grounds of technical or clerical error within 30 days of this notice as provided in 10 CFR 445.16.

Identified corporations are required to report on energy efficiency improvements and, if appropriate, recovered materials utilization in calendar year 1985 either directly to DOE or to DOE-approved sponsors of reporting programs, pursuant to Subpart C of 10 CFR Part 445 which implements the requirements of sections 374A, 375 and 376 of EPCA.

DATE: Requests for modification of identification must be filed by June 16, 1986.

ADDRESS: Modification requests should be submitted to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, U.S. Department of Energy, Docket Number CAS–RM–80–304 CE–60, Room 6B–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT:

Charles J. Glaser, Office of Industrial Programs CE–14, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2429.

Vivian S. Lewis, Office of General Counsel GC–12, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9507.

Issued in Washington, DC, May 2, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

List of Corporations Identified for Calendar Year 1985

SIC 20—Food and Kindred Products

A. E. Staley Maufacturing Compay (partial)
Adolph Coors Company
Amalgamated Sugar Company
American Crystal Sugar Company
American Maize-Products Company
AMFAC Inc.
Amstar Corporation
Anderson Clayton & Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Basic American Foods
Beatrice Foods Company (partial)
Bell Grain
Bell Mining
Borden Inc.
Bunge Corporation
Cadbury Schwepps Inc.
California & Hawaiian Sugar Company
Campbell Soup Company (partial)
Cargill Inc.
Carnation Company
Castle & Cooke Inc.
Central Soya Company Inc. (partial)
Chesebrough-Ponds Inc.
Coca Cola Company
Colonial Sugars Inc.
Conagra Inc.
Consolidated Foods Corporation (partial)
Continental Grain Company
CPC International Inc.
Curtice-Burns Inc.
Delta Sugar Company
Del Monte Corporation
E J Brach & Sons
Eli Lilly and Company

Excel Corporation
Farmland Industries Inc.
FDL Foods, Inc.
Federal Company
Flowers Industries Inc.
Foremost-McKesson Inc.
Froedtert Malt Corporation
G. Heileman Brewing Company Inc. (partial)
General Foods Corporation
General Mills Inc.
George A. Hormel & Company
Georgia Sugar Refinery
Gerber Products Company
Gold Kist Inc.
Grain Processing Corporation
Great Western Sugar Company
H.J. Heinz Company (partial)
Harvest States Cooperatives
Hershey Foods Corporation
Holly Sugar Corporation
Hubinger Company
IBP Inc.
IC Industries Inc.
Imperial Sugar Company
International Telephone & Telegraph Corporation
Interstate Bakeries Corporation
Iowa Beef Processors Inc.
J.R. Simplot Company
Joseph E. Seagram & Sons Inc.
Keebler Company
Kellogg Company
Kraft Inc.
Kroger Company
Ladish Malting Company
Land O'Lakes Inc. (partial)
Mars Inc.
McKesson Corporation
Michigan Sugar Company
Mid-America Dairymen Inc.
Midwest Solvents Company Inc.
Miller Brewing Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Moorman Manufacturing Company
Nabisco Brands Inc. (partial)
National Distillers & Chemical Corporation
National Starch & Chemical Corporation
Nestle Enterprises Inc.
Oscar Mayer & Company
Pabst Brewing Company
Pepsico Inc.
Perdue Inc.
Pet Inc.
Peter Paul Cadbury Inc.
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Quincy Soy Bean Company
R.T. French Company
Ralston Purina Company (partial)
Rath Packing Company
Refined Sugars Inc.
Richland Foods Inc.
Safeway Stores, Inc.
Sara Lee Corporation (partial)
Savannah Foods & Industries Inc. (partial)
SCM Corporation
Southern Minnesota Sugar Cooperative
Star-Kist Foods Inc.
Stroh Companies Inc.
Sunkist Growers Inc.
Sunshine Biscuits Inc.
Supreme Sugar Company Inc.
Swift and Company
Swift & Company
Swift Independent Packing Company
Thomas J. Lipton Inc.
Tri/Valley Growers Inc.
Union Sugar Company
Univar Corporation
Universal Foods Corporation
Wilson Foods Corporation

SIC 21—Tobacco Products

American Brands Inc.
Brown & Williamson Tobacco Corp.
Philip Morris Inc.
R.J. Reynolds Industries Inc.

SIC 22—Textile Mill Products

Armstrong World Industries Inc.
Avondale Mills Inc.
Bibb Company
Bigelow-Sanford Inc.
Burlington Industries Inc.
Cannon Mills Company
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Graniteville Company
Greenwood Mills Inc.
J.P. Stevens & Company Inc.
Johnson & Johnson
Kiddie Tot Hosiery Mills Inc.
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Mohasco Corporation
Northwest Industries Inc.
RCA Corporation
Reeves Brothers Inc.
Riegel Textile Corporation
Russell Corporation
Sara Lee Corporation
Sayles Biltmore Bleacheries Inc.
Shaw Industries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Industries Inc.
Standard Oil Company (Indiana)
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.
World Carpets Inc.

SIC 23—Apparel and Other Textile Products

None

SIC 24—Lumber and Wood Products

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Jim Walters
Koppers Company Inc. (partial)
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 25—Furniture and Fixtures

Steelcase Inc.

SIC 26—Paper and Allied Products

Abitibi-Price Southern Corporation
Alabama River Pulp Company Inc.
Alaska Lumber & Pulp Company Inc.
Appleton Papers Inc.
Arcata National Corporation
Armstrong World Industries Inc.
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Inc.
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers Inc.
Dennison Manufacturing Company
Dexter Corporation
Eddy Forest Products Limited
Frying Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper Limited
GAF Corporation
Garden State Paper Company Inc.
Genstar Roofing Products Company
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hearst Corporation
International Paper Company
International Telephone & Telegraph Corporation
Interstate Paper Corporation
James River Corporation of Virginia
Jefferson Smurfit Corporation
Jim Walter Corporation
Kimberly-Clark Corporation
Longview Fibre Company
Louisiana-Pacific Corporation
Macmillan Bloedel Inc.
Manville Corporation
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Merrimac Paper Company Inc.
Minnesota Mining & Manufacturing Company (partial)
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Group
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc.
P.H. Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Phillip Morris
Pope and Talbot Inc.
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
SCM Corporation
Scott Paper Company
Simpson Timber Company
Sonoco Products Company
Southeast Paper Manufacturing Company

Southwest Forest Industries
St. Joe Paper Company
Stone Container Corporation
Technographics, Inc.
Temple-Inland Inc.
Tenneco Inc.
Times Mirror Company
Union Camp Corporation
United States Gypsum Company
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.
Wisconsin Tissue Mills Inc.

SIC 27—Printing and Publishing

Arcata Graphics Company
PACE Industries Inc.
R.R. Donnelley & Sons Company
W.F. Hall Printing Company

SCI 28—Chemicals and Allied Products

Abbott Laboratories
A.H. Robins Company
Air Products & Chemicals Inc.
Airco Inc.
Akzo Inc.
Allied Corporation
Aluminum Company of America
AMAX Inc.
Amerada Hess Corporation
American Can Company
American Chrome & Chemicals Inc.
American Cyanamid Company (partial)
American Hoechst Corporation
American Petrofina Inc.
American Synthetic Rubber Corporation
Arcadian Corporation
Arizona Chemical Company
Asarco Incorporated
Ashland Chemical Company
Atlantic Richfield Company
Atlantic Refining & Marketing Corporation
Atlas Powder Company
Avtex Fibers Inc.
BF Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Beecham Laboratories
Beker Industries Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Bristol-Myers Company
Buffalo Color Corporation
CF Industries Inc.
Cabot Corporation
Cargill Inc.
Carus Chemical Company Inc.
Celanese Corporation
CF Industries Inc.
Chemical Products Corporation
Chemtech Industries Inc.
Chevron Chemical Company
CIBA-GEIGY Corporation
Citgo Corporation
Colgate-Palmolive Company
Columbia Nitrogen Corporation
Cominco American Inc.
Copolymer Rubber & Chemical Corporation
Corpus Christi Petrochemical Company
Cosden Oil & Chemical Company
CPC International Inc.
CPEX Pacific
Crompton & Knowles Corporation
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company (partial)
Dow Corning Corporation
E.I. du Pont de Nemours & Company (partial)
Eastman Kadak Company (partial)
Eli Lilly & Company
Emery Industries
Engelhard Corporation
Essex Chemical Corporation
Estech General Chemicals Corporation
Ethyl Corporation (partial)
Exxon Corporation (partial)
Farmland Industries Inc. (partial)
Ferro Corporation
Firestone Tire & Rubber Company
First Chemical Corporation
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation (partial)
Gardinier Inc.
G.D. Searle & Company
General Electric Company
General Tire & Rubber Company
GenCorp Inc.
Georgia-Pacific Corporation
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Green Valley Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Hardy Salt
Harshaw/Filtrol Pertnership
Hawkeye Chemical Company
Henkel Corporation
Hercules Inc. (partial)
Hoffmann-La Roche Inc.
ICI Americas Inc.
Inmont Corporation
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
J.M. Huber Corporation
J.R. Simplot Company
Johnson & Johnson
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc. (partial)
LCP Chemicals & Plastics, Inc.
Lever Brothers Company
Lithium Corporation of America
Lubrizol Corporation
Mallinckrodt Inc.
Merck & Company Inc.
Merichem Company
Miles Laboratories Inc.
Minnesota Mining & Manufacturing Company (partial)
Mississippi Chemical Corporation
Mobay Chemical Corporation
Mobil Chemical Corporation
Monsanto Company
Morton Thiokol Inc.
N-Ren Corporation
Nelco Chemical Company
National Starch & Chemical Corporation
Neville Chemical Company
Newmont Mining Corporation
North American Rayon Corporation
Occidental Chemical Corporation
Occidental Petroleum Corporation (partial)
Olin Corporation
Organon Inc.
Pennwalt Corporation
Pfizer Inc.
Phillips Chemical Company
Pilot Chemical Company
Polysar Gulf Coast, Inc.
PPG Industries Inc.
Procter & Gamble Company
Purex Industries Inc.
Reilly Tar & Chemical Corporation
Reynolds Metals Company
Rohm and Haas Company
SCM Corporation
Schering-Plough Corporation
Shell Oil Company
Sheperd Chemical Company
Sherex Chemical Company Inc.
Sherwin-Williams Company
Sohio Chemical Company
Soltex Polymer Corporation
Squibb Corporation
Standard Chlorine of Delaware, Inc.
Standard Oil Company (Indiana)
Standard Oil Company of California
Stauffer Chemical Company
Sterling Drug Inc.
Sun Olin Chemical Company
Tenneco Inc. (partial)
Terra Chemicals International Inc.
Texaco Inc.
Texasgulf Chemicals Company
Travenol Laboratories Inc. (partial)
Union Camp Corporation
Union Carbide Corporation
Union Oil Company of California
Uniroyal Chemical
United States Borax & Chemical Corporation
United States Industrial Chemical Corporation
United States Steel Corporation
Upjohn Company
USS Chemical (partial)
Velsicol Chemical Corporation
Vertac Inc.
Vista Chemical Inc.
Vulcan Materials Company (partial)
W.R. Grace & Company
Warner-Lambert Company
Westvaco Corporation
Weyerhauser Company
Williams Companies
Witco Chemical Corporation
Wycon Chemical Company

SIC 29—Petroleum and Coal Products

Agway Inc.
Amber Refining
Amerada Hess Corporation
American Petrofina Inc.
Amoco Corporation
Asamera Oil (US) Inc.
Ashland Petroleum Company
Atlantic Richfield Company
Atlantic Rifining & Marketing Company
Beacon Oil Company
Bird Inc.
Certainteed Corporation
Champlin Petroleum Company
Charter International Oil Company
Chevron Corporation
Citgo Petroleum Corporation
Clark Oil & Refining Corporation
Coastal Corporation
Conoco Inc.
CRA Inc.
Crown Central Petroleum Corporation
Diamond Shamrock Corporation

Dorchester Refining Company
Edgington Oil Company
Exxon Corporation USA
Farmers Union Central Exchange Inc.
Fletcher Oil & Refining Company
GAF Corporation (partial)
Great Lakes Carbon Corporation (partial)
Holly Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association, Inc.
Jim Walter Corporation
Kern Oil & Refinery Company
Kerr-McGee Corporation
Koch Refining Company
Koppers Company Inc. (partial)
Louisiana Land & Exploration Company
Manville Corporation
Marathon Petroleum
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association, Inc.
Navajo Refining Company
Owens-Corning Fiberglas Corporation
Pacific Resources Inc.
Pennzoil Company
Petrolite Corporation
Phillips Petroleum Company
Placid Refining Company
Pride Refining Inc.
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Company
Southland Oil Company
Standard Oil Company (Ohio)
Sun Company
Tenneco Oil Company
Tesoro Petroleum Company
Texaco Inc.
Texas Eastern Corporation
Time Oil
Tosco Corporation
Total Petroleum Inc.
United Refining Company
Unocal
USS Chemical Division (partial)
Witco Chemical Corporation

SIC 30—Rubber and Miscellaneous Plastics Products

American Cyanamid Company (partial)
Armstrong Rubber Company
B F Goodrich Company
Carlisle Corporation
Continental Plastic Containers Inc.
Cooper Tire & Rubber Company
Dart Industries Inc.
Dayco Corporation
Dunlop Tire & Rubber Corporation
Eagle Picher Industries Inc.
Ethyl Corporation
Exxon Company
Firestone Tire & Rubber Company
Gates Rubber Company
General Motors Corporation (Recovered Materials Only)
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Michelin Tire Corporation
Minnesota Mining & Manufacturing Company (partial)
Owens-Illinois Inc.
Teledyne Monarch Rubber Company
Travenol Laboratories Inc. (partial)
Union Carbide Corporation (partial)
Uniroyal Inc.
W.R. Grace & Company
Westinghouse Electric Corporation

SIC 31—Leather and Leather Products

None

SIC 32—Stone, Clay and Glass Products

Adolph Coors Company
Aetna Cement Corporation
AFG Industries Inc.
Allied Chemical Corporation (partial)
Allied Corporation
Allied Products Company
American Olean Tile Company
American Standard Inc.
Anchoring Glass Corporation
Arkansas Louisiana Gas Company
Armco Inc.
Armstrong World Industries Inc.
Ash Grove Cement Company (partial)
Austin White Lime Company
Atlantic Cement Company Inc.
Ball Corporation
Belden Brick Company
Bethlehem Steel Corporation (partial)
Bickerstaff Clay Products Company Inc.
Black River Lime Company
Blue Circle Atlantic
Blue Circle Industries
Boren Clay Products Company
Brockway Glass Company Inc.
California Portland Cement Company
Can-Am Corporation
Capitol Aggregates Inc.
Centex Corporation
CertainTeed Corporation
Cianbro Corporation
Clevepak Corporation
Coors Container Company
Continental Lime Company
Coplay Cement Company
Corning Glass Works (partial)
Cutler-Magner Company
Davenport Cement Company
Delta Brick & Tile Company Inc.
Detroit Lime Company
Diamond Bathurst Inc.
Dickey Company
Dixie Lime and Stone Company
Domtar Industries Inc. (partial)
Dragon Products Company
Dravo Lime Company
Dresser Industries Inc.
Dundee Cement Company
Eagle-Picher Industries Inc.
Ferro Corporation
Ford Motor Company
GAF Corporation (partial)
Gallo Glass Company
General Electric Company
General Dynamics Corporation
General Shale Products Corporation
General Telephone & Electronic Corporation
General Portland & Masonary Cement Company
General Shale Products Corporation
Genstar Cement Company
Genstar Gypsum Products Company
Genstar Lime Company
Georgia-Pacific Corporation
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Glen-Gery Corporation
GTE Corporation
Guardian Industries Corporation
Gulf Coast Portland Cement
Hawaiian Cement
Ideal Basic Industries Inc.
In Con Inc.
Independent Cement Company
Interpace Corporation
Jim Walter Corporation (partial)
Justin Industries Inc.
Kaiser Cement Corporation
Kerr Glass Manufacturing Corporation
Kohler Company
Lancaster Colony Corporation
Latchford Glass Company
Lehigh Portland Cement Company (partial)
Libbey-Owens-Ford Company
Liberty Glass Company
Lone Star Industries Inc.
Louisville Cement Company
LTV Steel Corporation
Manville Corporation
Martin-Marietta Corporation (partial)
Maryland Clay Products Inc.
Medusa Corporation
Merry Companies Inc.
Midland Glass Company Inc.
Minnesota Mining & Manufacturing Company (partial)
Mississippi Lime Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
Moore McCormack Cement Inc.
National Can Corporation
National Cement Company
National Gypsum Company
National Lime & Stone Company
National Refractories & Minerals Corporation
Newmont Mining Corporation
Northwestern State Portland Cement Company
Norton Company (partial)
Norton Simon Inc.
Ohio Lime Company
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)
Pacific Coast Building Products Company (partial)
Pete Lien & Sons
Pfizer Inc.
Philip Morris Inc.
Pine Hall Brick and Pipe Company
PPG Industries Inc.
Puerto Rican Cement Company Inc.
Rangaire Corporation
Raymark Corporation
Richards Brick Company
Rinker Portland Cement Corporation
River Cement Company
Robinson Brick & Tile Company
Rockwell Lime Company
South Dakota Cement Company
Southwestern Portland Cement Company
St. Clair Lime Company
St. Marys Peerless Cement Company
Streetley Resources Inc.
Tenn-Luttrell Lime Company
Texas Industries Inc. (partial)
Thatcher Glass Corporation
United States Gypsum Company (partial)
Victor Cushwa & Sons Inc.
Vulcan Materials Company (partial)
Warner Company
Western Lime & Cement Company

Wheaton Glass Company
WS Dickey Clay Mfg Company

SIC 33—Primary Metal Industries

A. Finkl & Sons Company
Alcan Aluminum Corporation
Allegheny International, Inc.
Allegheny Ludlum
Alumax Inc.
Aluminum Company of America
Amax Inc.
Amcast Corporation
American Can Company
American Cast Iron Pipe Company
Armco Inc.
Asarco Inc.
Atlantic Richfield Company (partial)
Atlantic Steel Company
AT&T Technology, Inc.
Babcock & Wilcox
Bethlehem Steel Corporation
Bridgeport Brass Corporation
Budd Company
Cabot Corporation
Cargill Inc.
Carpenter Technology Corporation
Caterpillar Tractor Company
Cerro Copper Products Company
Cerro Metal Products Company
Century Brass Products Inc.
CF&I Steel Corporation
Chicago Extruded Metals Company
Colt Industries Inc.
Consolidated Aluminum Corporation
Copperweld Corporation
Crucible Materials Corporation
Cyclops Corporation
Dow Chemical Company (partial)
Elkem Metals Company
Ethyl Corporation
Extruded Metals
Florida Steel Corporation
Foote Mineral Company
Ford Motor
General Motors Corporation
Georgetown Steel Corporation
Globe Metallurgical Inc.
Grede Foundries Inc.
Gulf & Western Industries Inc.
Hayes-Albion Corporation (partial)
Howmet Turbine Component Corporation
Huntington Alloys Inc.
Hussey Copper Ltd
IC Industries Inc.
Inland Steel Company
Inspiration Consolidated Copper Company
Interlake Inc.
JI Case—Tenneco Inc.
Jessop Steel Company
Kaiser Aluminum & Chemical Corporation
Kennecott Corporation (partial)
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
Lone Star Steel Company
Louisiana Land & Exploration Company (partial)
LTV Steel
Lukens Steel Company
Marmon Group Inc.
Martin Industries Inc.
Martin Marietta Corporation
MaLaclede
Meade Corporation
Midland-Ross Corporation
National Steel Corporation (partial)
National Standard Company
Newmont Mining Corporation (partial)
NL Industries Inc.
Noranda Aluminum Inc.
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Ohio Ferro-Alloys Corporation
Olin Corporation
Ormet Corporation
Phoenix Steel Corporation
Quanex Corporation
Pechiney Ugine Kuhlmann Corp (partial)
Phelps Dodge Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Rogue Steel
Sharon Steel Corporation
Shenango
SKW Alloys Inc.
SMI Steel Inc.
Slater Inc.
Southwire Company
St. Joe Minerals Corporation
Structural Metals Inc.
Teledyne Inc. (partial)
Textron Inc.
Timken Company
Tyler Pipe Industries Inc
United States Pipe Company
United States Steel Corporation
United Technologies Corporation
Vulcan Materials Company
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation
White Consolidated Industries Inc.

SIC 34—FABRICATED METAL PRODUCTS

Aluminum Company of America
American Can Company
American Standard Inc.
Armco Inc.
Ball Corporation
Bethlehem Steel Corporation
Cameron Iron Works Inc.
Campbell Soup Company
Combustion Engineering Inc.
Continental Group Inc.
Crown Cork & Seal Company Inc.
Cyclops Corporation
E.I. du Pont de Nemours & Company (partial)
Gulf & Western Industries Inc.
Harsco Corporation
International Telephone & Telegraph Corporation
Kaiser Aluminum & Chemical Corporation
Kohler Company
Martin Industries
Martin Marietta Corporation
McDermott Inc.
Miller Brewing Company
National Can Corporation
Reynolds Metals Company
Rockwell International Corporation
Stanley Works Inc.
Stroh Brewery Company
Textron Inc.
United States Steel Corporation
Wyman-Gordon Company

SIC 35—Machinery, Except Electrical

Allis Chalmers Corporation
American Standard Inc.
Borg-Warner Corporation
Briggs & Stratton Corporation
Bucyrus-Erie Company
Carrier Corporation
Caterpillar Tractor Company
Clark Equipment Company
Colt Industries Inc.
Control Data Corporation
Cooper Industires Inc.
Cummins Engine Company Inc.
Deere & Company
Digital Equipment Corporation
Dresser Industries Inc.
Emerson Electric Company
Ford Motor Company
General Electric Company
Harnischfeger Corporation
Honeywell Inc.
Hussman Refrigerator Company
Ingersoll-Rand Company
International Business Machines Corporation
International Harvester Company
JI Case–Tenneco Inc.
Johnson Controls Inc.
Outboard Marine Corporation
Preway Industries Inc.
Rexnord Inc.
SKF Industries Inc.
Sperry UNIVAC Corporation
Sundstrand Corporation
Timken Company
Trane Company
TRW Inc.
United Technologies Corporation
Westinghouse Electric Corporation
Xerox Corporation

SIC 36—Electric, Electronic Equipment

Airco Carbon
Allied Corporation
AT&T Technology, Inc.
Dart & Kraft Inc.
Emerson Electric Company
General Electric Company
General Telephone & Electronic Corporation
Great Lakes Carbon Corporation (partial)
Harvey Hubbel Inc.
Hughes Aricraft Company
Johnson Controls Inc.
Maytag Company
McGraw-Edison Company
Minnesota Mining & Manufacturing Company (partial)
Preway Industries Inc.
Raytheon Company
RCA Corporation
Reliance Electric Company
Rockwell International Corporation
Square D Company
Stackpole Company
Texas Instruments Inc.
Union Carbide Corporation
Western Electric Company
Westinghouse Electric Corporation
Whirlpool Corporation
White Consolidated Industries Inc.

SIC 37—Transportation Equipment

Allied Corporation
A.O. Smith Corporation
American Motors Corporation
Avco Corporation
Bethlehem Steel Corporation
Boeing Company
Borg-Warner Corporation
Budd Company
Chrysler Corporation
Dana Corporation
Eaton Corporation
Ford Motor Company

Fruehauf Corporation
General Dynamics Corporation (partial)
General Electric Company
General Motors Corporation
Goodyear Tire & Rubber Company
Grumman Corporation
Hercules Inc. (partial)
Hughes Aircraft Company
Lockheed Corporation
LTV Aerospace & Defense Company
Marquardt Company
Martin Marietta Corporation
McDonnell Douglas Corporation
Morton Thiokol Corporation
Northrop Corporation
PPG Industries Inc.
Rockwell International Corporation
Signal Companies Inc.
Sohio Chemical Company
Tenneco Inc. (partial)
Textron Inc.
TRW Inc.
United Technologies Corporation
Volkswagon of America
Vought Corporation

SIC 38—Instruments and Related Products

Eastman Kodak Company (partial)
G.D. Searle & Company
Johnson & Johnson
Minnesota Mining & Manufacturing Company (partial)
Polaroid Corporation

SIC 39—Miscellaneous Manufacturing Industries

Armstrong World Industries Inc.
Congoleum Corporation

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[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program; Exempt Corporations and Adequate Reporting Programs

AGENCY: Department of Energy.

ACTION: Notice of Exempt Corporations and Adequate Reporting Programs.

SUMMARY: As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is exempting certain corporations from the requirement of filing directly with DOE corporate energy efficiency progress reports including, if appropriate, progress on recovered materials utilization, and is determining as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulation set forth at 10 CFR Part 445, Subpart D. DOE compiled this list based on submissions filed by corporations and third party sponsors in accordance with 10 CFR 445.34 and 445.35. The deadline for these filings was February 4, 1986. These procedures, which allow identified corporations to be exempted from filing energy data directly with DOE, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations. Parentheses with the word "partial" follow any corporation which reports less than its total energy data in a particular 2-digit SIC code through the program sponsor under which it is listed. The corporation reports the rest of its energy data through another sponsor or directly to DOE. The exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to this notice.

FOR FURTHER INFORMATION CONTACT:

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Vivian S. Lewis, Office of General Counsel, GC-12, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9507.

Issued in Washington, DC, May 2, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—Food and Kindred Products

American Bakers Association

Anheuser-Bush Company
Campbell Soup Company (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
Interstate Bakeries Corporation
Ralston Purina (partial)
Sara Lee Corporation (partial)

American Feed Manufacturers Association

Bell Grain
Bell Mining
Cargill Inc.
Central Soya Company Inc. (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Quincy Soy Bean Company
Ralston Purina Company (partial)

American Frozen Food Institute

Campbell Soup Company (partial)
J.R. Simplot Company

American Meat Institute

Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
FDL Foods, Inc.
George A. Hormel & Company
IBP Inc.
Oscar Mayer & Company
Sara Lee Corporation (partial)
Swift Independent Packing Company
Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

Keebler Company
Nabisco Brands, Inc. (partial)
Sunshine Biscuits, Inc.

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A.E. Staley Manufacturing Company (partial)
American Maize-Products Company
CPC International Inc.
Grain Processing Corporation
Hubinger Company
National Starch & Chemical Corporation
Univar Corporation

Grocery Manufacturers of America, Inc.

A.E. Staley Manufacturing Company (partial)
American Home Products Corporation
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Basic American Foods
Beatrice Foods Company (partial)
Borden Inc. (partial)
Cadbury Schwepps
Carnation Company
Central Soya Company, Inc. (partial)
Chesebrough-Ponds Inc.
Coca Cola Company
E J Brach & Sons
General Foods Corporation
General Mills Inc.
H.J. Heinz Company (partial)
Hershey Foods Corporation
Kellogg Company
Kraft Inc.
Mars Inc.
Nabisco Brands, Inc. (partial)
PepsiCo Inc.
Pet Inc.
Pillsbury Company
Procter & Gamble Company
Quakter Oats Company
Ralston Purina Company (partial)
R.T. French Company
Sara Lee Corporation (partial)
Thomas J. Lipton Inc.
Universal Foods Corporation

National Food Processors Association

Campbell Soup Company
Castle & Cooke Inc.
Curtice-Burns Inc.
Del Monte Corporation
Gerber Products Company
H.J. Heinz Company (partial)
Star-Kist Foods Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.

Pharmaceutical Manufacturers Association

Eli Lilly and Company

U.S. Beet Sugar Association

Amalgamated Sugar Company
American Crystal Sugar Company
Delta Sugar Company
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
Union Sugar Company

The Beer Institute

Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Froedtert Malt Corporation
Ladish Malting Company
Miller Brewing Company
Pabst Brewing Company
The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

California & Hawaiian Sugar Company
Colonial Sugars Inc.
Georgia Sugar Refinery
Imperial Sugar Company
Refined Sugars Inc.
Savannah Foods & Industries Inc. (partial)
Supreme Sugar Company, Inc.

SIC 22—Textile Mill Products

American Textile Manufacturers Institute

Avondale Mills Inc.
Bibb Company
Burlington Industries inc.
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J.P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Russel Corporation
Sayles Biltmore Bleacheries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Industries Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.

Carpet & Rug Institute

Bigelow-Sanford Inc.
Mohasco Corporation
Shaw Industries Inc.
Standard Oil Company (Indiana)
World Carpets Inc.

SIC 24—Lumber and Wood Products

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Corporation (partial)
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Koppers Company Inc. (partial)

SIC 26—Paper and Allied Products

American Paper Institute

Abitibi-Price Southern Corporation
Alabama River Pulp Company Inc.
Appleton Papers Inc.
Arcata National Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Crown Zellerback Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Eddy Forest Products Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper Limtied
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hearst Corporation
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Jefferson Smurfit Corporation
Kimberly-Clark Corporation
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Merrimac Paper Company Inc.
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
Newark Group
Newton Falls Paper Mills Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Packaging Corporation of America
Penntech Papers Inc.
Pentair Industries Inc.
Pope and Talbot Inc.
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Timber Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries
St. Joe Paper Company
Stone Container Corporation
Technographics Inc.
Temple-Inland Inc.
Tenneco Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Corporation
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.
Wisconsin Tissue Mills Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Co. (partial)

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas

SIC 28—Chemicals and Allied Products

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemicals Inc.
Airco Inc.
Akzo Inc.
Allied Corporation
American Cyanamid Company (partial)
American Hoechst Corporation
Arizona Chemical Company
Ashland Chemical Company
Atlantic Richfield Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
Carus Chemical Company Inc.
Celanese Corporation
Chemical Products Corporation
Chemtech Industries Inc.
Chevron Chemical Company
CIBA-GEIGY Corporation
Columbia Nitrogen Corporation
Corpus Christi Petrochemical Company
Cosden Oil & Chemical Company
CPC International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company (partial)
Dow Corning Corporation
E.I. du Pont de Nemours & Company (partial)
Eastman Kodak Company (partial)
Emery Industries
Essex Chemical Corporation
Ethyl Corporation (partial)
Exxon Corporation (partial)
Firestone Tire & Rubber Company
First Chemical Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation (partial)
Georgia-Pacific Corporation
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Harshaw/Filtrol Partnership
Henkel Corporation
Hercules Inc. (partial)
ICI Americas Inc.

International Minerals & Chemicals Corporation (partial)
InterNorth Inc.
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc. (partial)
LCP Chemicals & Plastics, Inc.
Lever Brothers Company
Lubrizol Corporation
Mallinckrodt Inc.
Merichem Company
Minnesota Mining & Manufacturing Company (partial)
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton Thiokol, Inc.
Naloc Chemical Company
National Starch & Chemical Corporation
Neville Chemical Company
Occidental Chemical Corporation
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Chemical Company
Pilot Chemical Company
Polysar Gulf Coast, Inc.
PPG Industries Inc.
Procter & Gamble Company
Rielly Tar & Chemical Corporation
Rohm and Haas Company
Shall Oil Company
Shepherd Chemical Company
Sherex Chemical Company Inc.
Sohio Chemical Company
Soltex Polymer Corporation
Standard Chlorine of Delaware, Inc.
Standard Oil Company (Indiana)
Stauffer Chemical Company
Sun Olin Chemical Company
Tenneco Inc. (partial)
Texaco Inc.
Texasgulf Chemicals Company
Travenol Laboratories Inc. (partial)
Union Carbide Corporation (partial)
Uniroyal Chemical
United States Borax & Chemical Corporation
United States Industrial Chemicals Corporation
United States Steel Corporation
USS Chemicals (partial)
Velsicol Chemical Corporation
Vertac Inc.
Vista Chemical Company
Vulcan Materials Company (partial)
W.R. Grace & Company
Westvaco Corporation
Weyerhauser Company
Witco Chemical Corporation

Fertilizer Institute

Arcadian Corporation
Atlas Power Company
Baker Industries Corporation
CF Industries Inc.
CPEX Pacific
Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Inc.
Green Valley Chemical Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J.R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Terra Chemicals International Inc.
Union Oil Company of California
United States Steel Corporation (partial)
Williams Company
Wycon Chemical Company

Pharmaceutical Manufacturers Association

Abbott Laboratories
A H Robins Company
American Home Products Corporation (partial)
Beecham Laboratories
Eli Lilly & Company
G D Searle & Company
Hoffman-La Roche Inc.
Johnson & Johnson
Marck & Company Inc.
Miles Laboratories Inc.
Schering-Plough Corporation
Squibb Corporation
Upjohn Company
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute

Agway Inc.
Amber Refining
American Petrofina Inc.
Amoco Corporation
Asamera Oil (US) Inc.
Ashland Petroleum Company
Atlantic Richfield Company
Atlantic Refining & Marketing Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Chevron Corporation
Clark Oil & Refining Corporation
Coastal Corporation
Conoco Inc.
CRA Inc.
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Exxon Corporation USA
Farmers Union Central Exchange Inc.
Fletcher Oil & Refining Company
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Refining Company
Marathon Petroleum
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association, Inc.
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Corporation
Southland Oil Company
Standard Oil Company (Ohio)
Sun Company Inc.
Tenneco Oil Company
Tesoro Petroleum Company
Texaco Inc.
Texas Eastern Corporation
Time Oil
Tosco Corporation
Total Petroleum Inc.
Unocal
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation (partial)
Great Lakes Carbon Corporation (partial)
Koppers Company Inc. (partial)
USS Chemicals Div. (partial)

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association

American Cyanamid Company (partial)
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company (partial)
Travenol Laboratories Inc. (partial)
Union Carbide Corporation (partial)
W.R. Grace & Company

Rubber Manufacturers Association

Ames Rubber Corporation
Armstrong Rubber Company
B F Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Teledyne Monarch Rubber Company
Uniroyal Inc.

SIC 32—Stone, Clay and Glass Products

Brick Institute of America

Belden Brick Company
Brickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company, Inc.
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justice Industries Inc.
Maryland Clay Products, Inc.
Merry Companies, Inc.
Pine Hall Brick & Pipe Company
Richards Brick Company
Robinson Brick & Tile Company
Victor Cushwa & Sons, Inc.

Chemical Manufacturers Association

GAF Corporation (partial)
Minnesota Mining & Manufacturing Company (partial)
Valcan Materials Company (partial)

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Food Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass—Pressed & Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
CertainTeed Corporation
Corning Glass Works (partial
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Domtar Industries, Inc. (partial)
Genstar Gypsum Products Company
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
Unites States Gypsum Company (partial)

National Lime Association

Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Blue Circle Inc.
Can-Am Corporation
Continental Lime Company
Cutler-Magner Company
Detroit Lime Company
Dravo Lime Company
General Dynamics Corporation (partial)
Genstar Lime Company
National Lime & Stone Company
Pete Lien & Sons
Rockwell Lime Company
St. Clair Lime Company
Streetley Resources, Inc.
Tenn-Luttrell Lime Companies
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Aetna Cement Corporation
Arkansas Cement Corporation
Ash Grove Cement Company (partial)
Atlantic Cement Company Inc.
Blue Circle Industries
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Columbia Cement Corporation
Coplay Cement Manufacturing Company
Davenport Cement Company
Dragon Products Company
Dundee Cement Company
General Portland Inc.
Genstar Cement & Company
Giant Portland & Masonary Cement Company
Gifford-Hill & Company Inc.
Hawaiian Cement
Ideal Basic Industries
Independent Cement Corporation
Kaiser Cement Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Medusa Corporation
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
Moore McCormack Cement, Inc.
National Cement Company
Northwestern State Portland Cement Company
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southwestern Portland Cement Company
St. Marys Peerless Cement Company
Texas Industries Inc. (partial)

Refractories Institute

Allied Chemical Corporation (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Martin Marietta Corporation (partial)
National Refractories & Minerals Corporation
Norton Company (partial)
United States Gypsum Company (partial)

Tile Council of America

American Olean Tile Company

SIC 33—Primary Metal Industries

Aluminum Association

Alcan Aluminum Corporation
Alumax
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
International Light Metals Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Ormet Corporation
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hayes-Albion Corporation (partial)

American Foundrymen's Society

American Cast Iron Pipe Company
Amcast Corporation
Grede Foundries Inc.
Mead Corporation
Teledyne Inc. (partial)
United States Pipe Company

American Iron & Steel Institute

A. Finkl & Sons Company
Allegheny Ludlum
Atlantic Steel Company
Armco Inc.
Babcock & Wilcox
Bethlehem Steel Corporation
Cargill, Inc.
Carpenter Technology Corporation
Colt Industries Inc.
Cruciber Materials Corporation
Cyclops Corporation
Florida Steel Corporation
Ford Motor
Georgetown Steel Corporation
Inland Steel Company
Interlake
Jessop Steel
Keystone Consolidated Industries Inc.
Lone Star Steel Company
LTV Steel
Lukens Steel Corporation
McLaclede
National Steel Corporation (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Pheonix Steel
Sharon Steel Corporation
Shenago
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Inspiration Consolidated Copper Company
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
Marmon Group Inc.
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Chemical Manufacturers Association

Dow Chemical Company (partial)
N L Industries

Construction Industry Manufacturers Association

J I Case—Tenneco Inc.

Copper & Brass Fabricators Council

Atlantic Richfield Company (partial)
Bridgeport Brass Corporation
Cerro Copper Products Company
Cerro Metal Products Company
Chicago Extruded Metals Company
Extruded Metals
Hussey Copper Ltd.
Kennecott Corporation (partial)
Olin Corporation
Revere Copper & Brass Inc. (partial)

SIC 34—Fabricated Metal Products

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Campbell Soup Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Miller Brewing Company
National Can Corporation
Stroh Brewery Company

Chemical Manufacturers Association

E.I. du Pont de Nemours & Company (partial)

SIC 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute

Emerson Electric Company
Honeywell Inc.
Hussman Refrigeration Company
Johnson Controls Inc.
Sundstrand Corporation
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry UNIVAC Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Caterpiller Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
Ford Motor Company
Harnischfeger Corporation

Ingersoll-Rand Company
J I Case—Tenneco Inc.

SIC 36—Electric, Electronic Equipment

Chemical Manufactures Association

Great Lakes Carbon Corporation (partial)
Minnesota Mining & Manufacturing Company (partial)

National Electrical Manufacturing Association

Airco Inc.
Allied Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—Transportation Equipment

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
LTV Aerospace and Defense Company
Marquardt Company
Martin Marietta Corporation
McDonnell Douglas Corporation
Morton Thiokol Corporation
Northrop Corporation
Textron Inc.
TRW Inc.

Chemical Manufacturers Association

Hercules Incorporated (partial)
Tenneco Inc. (partial)

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—Instrument and Related Products

Chemical Manufactures Association

Eastman Kodak Company (partial)
Minnesota Mining & Manufacturing Company (partial)

Pharmaceutical Manufacturing Association

Johnson & Johnson

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Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders, Week of April 21 Through April 25, 1986.

During the week of April 21 through April 25, 1986, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggreived party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 2, 1986.

Exxon Junction Service Bowbells, North Dakota, Kee-0033

Exxon Junction Service filed an Application for Exception from the requirement that it file Form EIA-782B. On April 21, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Schaal Oil Company, Jefferson, Iowa, Kee-0025

Schaal Oil Company filed an Application for Exception from the requirement that it file Form EIA-782B. The exception request, if granted, would relieve Schaal from its monthly reporting obligation. On April 22, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-10888 Filed 5-14-86; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders, Week of April 14 through April 18, 1986.

During the week of April 14 through April 18, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Environmental Task Force, 4/17/86; KFA-0020

The Environmental Task Force (ETF) filed an Appeal from a determination issued to it by the Director of the Office of the Executive Secretariat (Director) of the Department of Energy (DOE). ETF sought information under the Freedom of Information Act (FOIA) concerning the formation of a DOE cabinet level group to review the status of nuclear power in America. In considering the Appeal, the Office of Hearings and Appeals found that the scope of the search for responsive documents was inadequate, and that the Director must provide a more detailed justification for withholding portions of one document pursuant to FOIA Exemption 4. Accordingly, the case was remanded to the Director for a further search and determination.

Remedial Order

Transco Trading Company, 4/14/86; HRO-0014

The Office of Hearings and Appeals (OHA) issued a Decision and Order determining that a crude oil reseller, its parent corporation, and its president violated the "layering" regulation. The Decision required the parties to refund $21,187,495.00 plus interest.

The OHA rejected the firm's argument that it provided traditional and historical reseller services by taking risks. The OHA stated that the action which caused the risk rather than the risk itself is the relevant factor in determining whether a service was provided.

The OHA's decision also denied a motion by the Economic Regulatory Administration (ERA) which sought to withdraw one of the ERA's theories of liability. The OHA found that Transco's parent corporation could be held responsible for Transco's violations on the theory that both companies constituted one "firm."

Motions for Discovery

Brazoria Energy, Inc; HRD-0276
Gerald W. Collum, 4/17/86; HRH-0276

Brazoria Energy, Inc; and Gerald W. Collum (collectively "Brazoria") filed a Motion for Discovery and Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order that was issued to Brazoria and Carl L. Counts. In the discovery motion, Brazoria sought discovery through interrogatories and the production of documents pertaining to (i) the audit of the firm, (ii) the administrative record of certain rulemakings applicable to crude oil resellers, and (iii) the DOE's contemporaneous construction of portions of the crude oil reseller regulations. The DOE determined that the discovery motion should be denied

since not only was it procedurally defective and failed to set forth clearly the information which was requested, but also because the discovery would not elicit evidence relevant and material to the issues raised in the Statement of Objections. Brazoria requested an evidentiary hearing to present evidence on the issue of whether certain crude oil resales were "layered" and on the issue of Gerald W. Collum's personal liability. The DOE partially granted an evidentiary hearing with regard to Collum's personal liability for the regulatory violations alleged in the PRO. The DOE further determined that Brazoria could submit written documentation relating to specific transactions covered in the PRO in which Brazoria alleges it performed traditional and historical reseller services.

Murphy Oil Corporation; HRD-0244 Economic Regulatory Administration, 4/16/86; HRD-0254

Murphy Oil Corporation filed Motion for Discovery in which it sought contemporaneous construction discovery concerning the treatment of revenues derived from the sale of fee-free import licenses. The discovery was requested in connection with the firm's objection to a Proposed Remedial Order in order to support its contention that the refiner price regulations did not require firms to treat such revenues as decreases in their crude oil costs. The Economic Regulatory Administration sought discovery pertaining to Murphy's method of accounting for revenues attributable to the sale of fee-free import licenses.

The DOE found that the agency had never taken an inconsistent position regarding fee-free import licenses and that the regulations were not sufficiently ambiguous to make contemporaneous construction discovery appropriate. Accordingly Murphy's discovery request was denied. With respect to the ERA's Motion, the DOE found that information pertaining to Murphy's method of accounting for fee-free license revenues was relevant to the issue of whether Murphy was entitled to reduce its May 1973 crude oil cost to reflect such revenues. Murphy had argued that although it did not actually receive any payments for fee-free licenses in May 1973, it should nevertheless be permitted to reduce its crude oil costs to reflect payments attributable to May 1973 under an accrual method of accounting. The DOE found, however, that the ERA's motion was unduly broad insofar as it sought information pertaining to the firm's accounting practices for years other than 1973, the year at issue. Accordingly, the ERA's discovery motion was granted in part.

Supplemental Order

C&H Refinery, Inc., 4/14/86; KRX-0012

A Remedial Order issued by DOE to C&H Refinery, Inc. on April 7, 1986 (Case No. KRO-0100) inadvertently included an incorrect ordering paragraph. This Supplemental Order deleted the incorrect paragraph, Ordering Paragraph (2).

Implementation of Special Refund Procedures

ELM City Filling Stations, Inc., 4/17/86; HEF-0067

The DOE issued a Decision and Order which establishes procedures for the distribution of funds totalling $172,193.63 obtained as a result of a Consent Order entered into between the DOE and Elm City Filling Stations, Inc. The Decision sets forth refund application procedures for customers who purchased No. 6 residual fuel oil from Elm City during the period covered by the Consent Order—November 1, 1973 through December 31, 1973. Specific information regarding the data to be included in refund applications is discussed in the Decision.

GCO Mineral Company, 4/15/86; HEF-0570

The DOE issued a Decision and Order setting forth procedures for distributing $1,800,000 plus accrued interest remitted to the DOE by GCO Mineral Company, a crude oil producer and a refiner, pursuant to a 1984 consent order. The DOE determined that the funds should be divided into two pools, one for crude oil claims and the other for refined products claims. The crude oil funds will be pooled with other crude oil funds in escrow to afford Congress the opportunity to select the means for distributing the funds. The remainder of the GCO settlement funds will be available to customers of GCO refined products who were injured by the firm's pricing practices during the consent order period, August 19, 1973 through June 30, 1979. The Decision outlines specific information to be included in refund applications.

Refund Applications

Allied Materials Corporation/Kitchen Oil Company, Kelley Oil Co., Paul Penley Oil Co., Inc., 4/16/86, FR194-1; RF194-3; FR194-5.

The DOE issued a Decision and Order concerning three Applications for Refund filed by Kitchen Oil Company, Kelley Oil Co., and Paul Penley Oil Co., Inc. Each of the applicants had purchased refined petroleum products from Allied Materials Corporation, and each sought a portion of the settlement fund obtained by the DOE through a consent order with Allied. Two of the three firms applied for refunds based upon the procedures for filing small claims outlined in *Allied Materials Corporation and Excel Corporation*, 13 DOE ¶ 85,095 (1985). The one remaining applicant was eligible to apply for a refund greater than $5,000, but chose to follow the small claims procedures. After examining the applications submitted by the firms, the DOE concluded that each of the three firms should receive a refund based on the per gallon volumetric refund amount. The total amount of refunds granted was $10,011.

Amtel, Inc./Highway Oil, Inc. et al., 4/15/86, RF46-22 et al.

The DOE issued a Decision and Order concerning eight refund applications filed in the Amtel, Inc. special refund proceeding. In the Decision, the DOE found that all eight claimants were spot purchasers from Amtel and that none of the claimants had rebutted the presumption that spot purchasers were not injured by Amtel's alleged overcharges. Accordingly, all eight applications were denied.

Amtel, Inc./Krum Oil Company, et al., 4/17/86, RF46-1 et al.

The DOE issued a Decision and Order granting 12 Applications for Refund filed in the Amtel, Inc. special refund proceeding. All but one of the applicants chose to rely on the per gallon volumetric presumption and the presumption of injury for small claims established in the *Amtel* implementation Decision. The DOE found that the remaining applicant, Mobley Oil Company, had failed to submit information sufficient to demonstrate that the firm should receive a refund in excess of the volumetric amount. Accordingly, all 12 applicants received refunds based on the per gallon volumetric amount. The total amount of refunds granted in this proceeding is $39,133 ($20,378 principal plus $18,755 interest).

Arkansas Louisiana Gas Co./Southern Marketing, Inc., 3/17/86, RF154-16.

The DOE issued a Decision concerning an Application for Refund from the Arkansas Louisiana Gas Co. (Arkla) escrow account filed by Southern Marketing, Inc. Southern was a spot purchaser of Arkla products. Spot purchasers must rebut the no-injury presumption by submitting sufficient evidence to establish that they were unable to recover the alleged overcharges they paid the consent order firm. Southern failed to provide substantial proof of injury. Accordingly, its refund claim was denied.

Boswell Oil Company/Belle Vernon Oil Company, 4/17/86, RF179-3; RF179-6; RF179-16.

The Department of Energy issued a Decision and Order concerning three separate applications for refund in the Boswell Oil Company special refund proceeding filed in connection with purchases of motor gasoline by Belle Vernon Oil Company from Boswell. In determining which applicant was the proper recipient of Belle Vernon's refund, the DOE found that, absent special circumstances, the impact of Boswell's pricing practices would have been felt by the firm's owners at the time of those alleged overcharges. Due to a legal dispute over the liquidation of Belle Vernon's assets, however, the DOE was unable to determine the extent of each owner's alleged injury. The DOE therefore concluded that the refund of $1,604.39 should go to Belle Vernon's Liquidating Receiver who will ultimately disburse the refund to the owners in accordance with the judgment of the court handling the liquidation.

Central Oil Co./Fred's Auto Repair, 4/18/86, RF209-1.

The DOE issued a Decision and Order concerning an Application for Refund filed by Fred's Auto Repair in the Central Oil Company special refund proceeding. Fred's Auto Repair was a reseller of motor gasoline purchased from Central during the consent order period (November 1, 1973 through October 3, 1974) and the volume of the firm's purchases rendered it eligible for a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the Fred's Auto Repair application under the standards specified in *Bayside Fuel Oil Depot Corp.*, 13 DOE ¶ 85,139 (1985). The refund granted in this proceeding totals $749, representing $492 in principal and $257 interest.

Gate Petroleum, Inc./Robert E. Hatcher, 4/14/86 RF205–4.

The DOE issued a Decision and Order granting an Application for Refund which Robert E. Hatcher filed in the Gate Petroleum, Inc. Special refund proceeding. In the Decision, the DOE found that Hatcher had purchased motor gasoline from Gate during the consent order period and that Hatcher's claim did not exceed the $5,000 presumption of injury for small claims. Accordingly, Hatcher was granted a refund of $208 ($136 principal plus $72 interest).

Lowe Oil Company/Jones Texaco, 4/14/86, RF206–4.

The DOE issued a Decision and Order concerning an Application for Refund filed by Jones Texaco. The applicant had purchased refined petroleum products from Lowe Oil Company, and thus sought a portion of the settlement fund obtained by the DOE through a consent order entered into with Lowe. The firm was identified in the DOE's audit files and was listed in the Appendix to the Decision establishing refund procedures for the distribution of the Lowe consent order fund. *See L&L Oil Company, Inc., Lowe Oil Company, and Moyle Petroleum Company*, 13 DOE ¶ 85,196 (1985). After examining the application submitted by the firm the DOE granted the applicant a refund of $412, representing $262 in principal, and $150 in accrued interest.

Richards Oil Company/Dayton's, 4/16/86, RF70–29.

The DOE issued a Decision and Order granting a refund in the Richards Oil Company special refund proceeding to a firm which had been identified by the Economic Regulatory Administration as having sustained overcharges alleged in the ERA's audit of Richards' sales of No. 2 fuel oil and Nos. 4, 5, and 6 residual fuel oil. The claimant's Application for Refund adequately demonstrated that it was injured by the alleged overcharges. The total amount of the refund granted in the Decision was $9,219, representing $5,819 in principal and $3,400 in interest.

Gulf Oil Corp., Township of Randolph et al., 4/17/86, RF40–1117 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by 85 end-users of petroleum products purchased indirectly from Gulf Oil Corporation. In accordance with the procedures established in the Gulf Special Refund Proceeding, the DOE determined that each applicant should receive a refund based on its purchase volumes of Gulf products during the consent order period. The total amount of refunds approved in this Decision is $16,630 ($13,994 principal plus $2,636 interest).

Gulf Oil Corporation/Region Oil Co. Inc., et al., 4/15/86, RF40–828, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by retailers and resellers of Gulf covered refined petroleum products. In accordance with the procedures established in the Gulf special refund proceeding, the DOE determined that each applicant should receive a refund based on its purchase volumes of Gulf products during the consent order period. The refunds granted in this decision total $78,777.

Little America Refining Company/Moyle Petroleum, 4/17/86, RF112–119.

The DOE issued a Decision and Order concerning an Application for Refund filed by Moyle Petroleum, a purchaser and reseller of products covered by a consent order the agency entered into with Little America Refining Company (Larco). Based on the principles established for evaluating Larco refund applications, the DOE concluded that the applicant was injured. Therefore, the DOE granted Moyle a refund of $17,428, representing its full volumetric share of $11,646 plus $5,782 in interest.

Little America Refining Company/Dunn Oil, et al., 4/17/86, FR112–93, et al.

The DOE issued a Decision and Order granting refunds from the Little America Refining Company (Larco) deposit escrow account to four resellers of Larco covered products. All four firms elected to limit their refund claims to the small claims threshold level of $5,000, and were therefore not required to submit further evidence of injury. The refunds to these firms total $29,928, representing $20,000 in principal and $9,928 in interest.

The Parade Company/Gulf States Oil & Refining Company, 4/17/86, RF74–3.

Gulf States Oil & Refining Company (Gulf States) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with The Parade Company (Parade). The DOE found that Gulf States paid above-market average prices for butane and pentane during most of the months of 1976 and 1977 in which purchases were made during the consent order period. Using a three-step competitive disadvantage methodology, the DOE calculated a range of Gulf States' competitive disadvantage. A refund of $52,324.98 was found to equitably compensate Gulf States for injury experienced as a result of Parade's alleged overcharges. In addition, the firm received accrued interest of $11,795.50 for a total refund of $64,122.48.

Dismissals

The following submissions were dismissed:

Name and case No.

Adkins Mid-Town Gulf, RF40–1308.
Almeda Gulf Service, RF40–3024.
Bannock Regional Medical Center, KEE–0029.
Barrett Gulf, RF40–1307.
Carolyn Park Gulf, RF40–1330.
Chronister Oil Company, RF40–130.
Coastal Refining & Marketing, RF189–7.
Commerce Gulf, RF40–1315.
Courtview Service Station, RF40–2985.
Danny's Gulf Service, RF40–221.
Donati's Auto Repair, RF40–1625.
E&M Tire Service Center, RF40–2980.
Fleming Garage, RF40–1732.
Fleuette's Automotive Service, RF40–1210.
Foulds, Inc., RF225–508.
Frank M. Speaks, Jr., RF215–6.
Gainsboro Oil Co., Trust, RF40–62.
Glen Ann Towing, RF40–1286.
Gogel's Gulf Service, RF40–1092.
Hall's Gulf Service, RF40–2502.
Homer's Gulf Service, RF40–1261.
Jack's Gulf Service, RF40–1283.
James Yingling Gulf, RF40–1293.
Lassalle Gas Co., Inc., RF40–502.
Leland Gulf & Grocery, RF40–1883.
Choate's Gulf Service, RF40–2278.
Mack-Miller Candle Co., Inc., RF225–513.
McCormick's Gas & Oil, RF46–47.
Modern Gas Co., Inc., RF40–1904.
Nick's Gulf Service, RF40–2984.
Schulte Oil Co., Inc., RF194–2.
Stepp Gulf, RF40–1303.
Swindle's Gulf, RF40–1262.
Wisconsin Electric Power Co., RF194–7.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 8, 1986.

[FR Doc. 86–10889 Filed 5–14–86; 8:45 am]

BILLING CODE 6750–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $20,965.53 obtained as a result of a Consent Order which the DOE entered into with Port Oil Company, Inc., a reseller-retailer of petroleum products located in Mobile, Alabama. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATES AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF–0153.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings

and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $20,965.53 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Port Oil Company, Inc. (Port). The funds were provided to the DOE by Port to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period April 1, 1979, through December 31, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order refunds should be distributed to firms and individuals that purchased Port motor gasoline during the consent order period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Port motor gasoline and to demonstrate that it was injured by Port's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisifed. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: May 5, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 5, 1986.

Name of Firm. Port Oil Company, Inc.
Date of Filing: October 13, 1983
Case Number: HEF–0153

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Port Oil Company, Inc. (Port).

I. Background

Port is a "reseller-retailer" of refined petroleum products as the term was defined in 10 CFR 212.31 and is located in Mobile, Alabama. A DOE audit of Port's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. The audit alleged that between April 1, 1979, and December 31, 1979, Port committed possible pricing violations amounting to $101,670.59 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Port and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Port and the DOE entered into a consent order on September 1, 1981 (modified on April 17, 1986). The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Port does not admit that it violated the regulations.

Under the terms of the consent order, Port was required, in a series of installments, to deposit $18,472.72, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Port made its final payment on February 23, 1983.[1]

[1] Port paid $20,965.53, including installment interest, into the escrow account. This amount represents the principal which will form the basis for refund calculations. The total value of the Port escrow account stood at $29,499.98 as of March 31, 1986.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from identifiable purchasers of motor gasoline who may have been injured by Port's pricing practices during the period April 1, 1979, through December 31, 1979. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

In the first stage of the Port refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by Port's alleged overcharges. As we have done in many prior refund cases, we propose to adopt certain presumptions and findings which will be used to help determine the level of a purchaser's injury.

The presumptions and findings we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficent way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly in all of Port's sales of motor gasoline made during the consent order period. This presumption is called a volumetric method. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. Finally, we are making proposed findings that end

users, certain types of regulated firms, and cooperatives were injured by Port's pricing practices.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product covered by the consent order. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Port motor gasoline that it purchased during the consent order period times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.002561 per gallon.[2] In addition, successful claimants will receive a proportionate share of the accured interest.

The second presumption we plan to use is that purchasers of Port motor gasoline seeking small refunds were injured by the firm's pricing practices. Under this presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of Port motor gasoline purchased if its refund claim is below $5,000. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85.069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm might make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[3]

A modification of the standard injury requirement is necessary in this proceeding because for 5½ months of the 9-month Port consent order period, retailers of motor gasoline were not required to computed MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 29,546 (1989). Instead, effective July 16, 1979, a retailer was required to calculate its MLSP under a fixed-marign approach set forth in the new rule. Unrecouped increased product costs could no longer be banked for later recovery. *Id.* Consequently, retailers were not required to maintain or compute cost banks during the 5½ month period. As a result, any requirement that a retailer claimant make a demonstration of injury like that contemplated for resellers, *i.e.*, based on unrecovered cost banks, would effectively eliminate all non-threshold retailer claimants for a portion of the consent order period. Therefore, in this proceeding, we will allow retailers which lack banks subsequent to July 16, 1979 to file a claim for a refund which exceeds $5,000.[4] However, like resellers, retailers will be required for the entire consent order period to show that market conditions prevented them from recovering those increased product costs, *e. g.*, through a demonstration of reduced profit margins, decreased market shares, depressed sales volumes or competitive disadvantage.[5]

If a reseller or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been inuured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. Firms which made only spot purchases of Port motor gasoline will not receive refunds unless they present evidence which rebuts the spot purchaser presumption and establishes the extent to which they were injured.

As noted above, we have concluded tht end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1963) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[6]

In addition, we propose that firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the motor gasoline overcharges alleged by ERA. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Port's alleged violations of the DOE regulations would routinely be passed through to the utilities' customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should

[2] This figure is computed by dividing the $20,965.53 received from Port by the 8,184,892 gallons of motor gasoline sold by the firm during the consent order period.

[3] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on August 19, 1973, and ending on July 16, 1979 for retailers, and on May 1, 1980, for resellers. Under the original rules, a reseller or retailer of motor gasoline was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973, with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recouped in a later month, if possible. *See* 10 CFR 212.93; 45 FR 29546 (1980).

[4] The cost bank requirement has been relaxed in other instances involving the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,005 at 88,017 n.1 (1982).

[5] Resellers or retailers who claim a refund in excess of $5,000 but who do not attempt to establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

[6] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. Applications for Refund

Any purchaser claiming a portion of the consent order funds will be required to file an application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule of its monthly purchases of Port motor gasoline as well as all relevant information necessary to support its claim in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

C. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Port Oil Company, Inc. pursuant to the Consent Order executed on September 1, 1981, as modified on April 17, 1986, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-10890 Filed 5-14-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementatation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $59,595 obtained as a result of a consent order which the DOE entered into with Petroleum Sales and Service, Inc. (PS&S), a reseller-retailer of refined petroleum products located in Buffalo, New York. The money is being held in escrow following the settlement of enforecement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the PS&S consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register.** All applications should refer to Case Number HEF-0151 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Petroleum Sales and Service, Inc. (PS&S) which settled all claims and disputes between PS&S and the DOE regarding the manner in which PS&S applied the federal price regulations with respect to its sales of motor gasoline during the period, April 1, 1979, through March 31, 1980 (consent order period). A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the PS&S consent order funds was issued on March 13, 1986. 51 FR 38189 (March 20, 1986).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by PS&S pursuant to the consent order. The DOE has decided to accept Applications for Refund from firms and individuals that purchased motor gasoline sold by PS&S during the consent order period. Eligible applicants downstream customers as well as first purchasers. In order to receive a refund, a claimant will be required to submit a schedule of its monthly purchases of PS&S motor gasoline and to demonstrate that it was injured by PS&S. pricing practices. A downstream purchaser must also submit the name of its immediate supplier and indicate why it believes the motor gasoline was originally sold by PS&S.

As the accompanying Decision and Order indicates, Applications for Refund may now be filed by customers that purchased motor gasoline sold by PS&S during the consent order period. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register.** The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: May 2, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 2, 1986.

Name of Firm: Petroleum Sales and Service, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0151.

Under the procedural regulations of the Department of Energy (DOE), the

Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Petroleum Sales and Service, Inc. (PS&S). This Decision and Order contains the procedures which the OHA has formulated to distribute the funds received pursuant to that consent order.

I. Background

PS&S is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Buffalo, New York. A DOE audit of PS&S's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The audit alleged that between April 1, 1979, and March 31, 1980, PS&S committed possible pricing violations amounting to $129,428 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between PS&S and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, PS&S and the DOE entered into a consent order on September 29, 1981. The consent order refers to ERA's allegations of overcharges but notes that there was no finding that violations occurred. Additionally, the consent order states that PS&S does not admit that it violated the regulations.

Under the terms of the consent order, PS&S was required, in a series of installments, to deposit $59,595, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. PS&S avoided paying any installment interest by remitting the full sum on September 30, 1981.[1]

II. Jurisdiction and Authority to Fashion Refund Procedures

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds received as the result of a consent order are set forth 10 CFR Part 205, Subpart V. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

On March 13, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable showing of injury as a result of PS&S's alleged violations in its sales of motor gasoline during the consent order period. 51 Fed. Reg. 38189 (March 20, 1986). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the Federal Register and comments regarding the proposed refund procedures were solicited. In addition, copies of the PD&O were sent to various petroleum dealers associations. Comments were submitted on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia concerning the distribution of any funds remaining after refunds have been made to injured parties. The purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the PS&S refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE at 85,055. Therefore, it would be premature for us to address the issues raised by the states' comments at this time. Since no comments were received concerning the first-stage procedures, they will be adopted as proposed.

III. Refunds to Identifiable Purchasers

In the first stage of the PS&S refund proceeding, we will distribute the funds currently in escrow to claimants that demonstrate that they were injured by the alleged overcharges. In order to be eligible to receive a refund, claimants will have to file an application and, with the three exceptions discussed below, show the extent to which they were injured by the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the consent order funds.

In this case we will adopt two rebuttable presumptions as well as two findings regarding injury. These presumptions and findings have been used in many previous special refund cases. First, we will presume that purchasers of PS&S motor gasoline that are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. Second, in the absence of compelling material, we will adopt a presumption that spot purchasers were not injured. Third, we will make a finding that end-users or ultimate consumers of PS&S motor gasoline whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. Lastly, we ill not require a detailed demonstration of injury from regulated utilities or agricultural cooperatives that purchased PS&S motor gasoline and passed the alleged overcharges associated with that product through to their end-user members. Prior OHA decisions provide detailed explanations of the bases of these presumptions and findings. *E.g., Peterson Petroleum, Inc.*, 13 DOE ¶ 85,191 at 88,508–10 (1985). The rationale for their use was also fully explained in the PD&O. 51 FR 9715 at 9716–17 (March 20, 1986). These presumptions and findings will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

In the PD&O we stated that a demonstration of "banks" of unrecovered product costs, along with information regarding an applicant's competitive disadvantage in its local market, would generally be a sufficient showing of injury for reseller or retailer applicants claiming refunds above the $5,000 threshold.[2] *See, e.g., Triton Oil and Gas Corp./Cities Service Company*, 12 DOE ¶ 85,107 (1984); *Tenneco Oil Company/Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). As outlined in the PD&O, we will continue to use this requirement for non-threshold reseller applicants, but we will use a modified requirement for retailers.

A modification of the standard injury requirement is necessary because for 8½ months of the 12 month PS&S consent order period, retailers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 29546(1980). Instead, effective July 16, 1979, a retailer

[1] The total value of the PS&S escrow account stood at $91,904.93 as of March 31, 1986.

[2] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on August 19, 1973, and ending on July 16, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer of motor gasoline was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973, with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recouped in a later month, if possible. *See* 10 CFR 212.93; 45 FR 29546 (1980).

was required to calculate its MLSP under a fixed-margin approach set forth in the new rule. Unrecouped increased product costs could no longer be banked for later recovery. *Id.* Consequently, retailers were not required to maintain or compute cost banks during the 8½ month period. As a result, any requirement that a retailer claimant make a demonstration of injury like that contemplated for resellers, *i.e.*, based on unrecovered cost banks, would effectively eliminate all non-threshold retailer claimants for a portion of the consent order period. Therefore, in this proceeding, we will allow retailers which lack banks subsequent to July 16, 1979 to file a claim for a refund which exceeds $5,000.[3] However, like resellers, retailers will be required for the entire consent order period to show that market conditions prevented them from recovering those increased product costs, *e.g.*, through a demonstration of reduced profit margins, decreased market shares, depressed sales volumes, or competitive disadvantage.[4]

A. Calculation of Refund Amounts

We will use a volumetric method to determine the refunds of eligible applicants. This method presumes that the alleged overcharges were spread equally over all the gallons of motor gasoline sold by PS&S during the consent order period. Under the volumetric method, a claimant will be eligible to receive a refund equal to the number of gallons of PS&S motor gasoline that it purchased during the consent order period times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.001074.[5] In addition, successful claimants will receive a proportionate share of the accrued interest.

We recognize that a particular purchaser could have incurred a disproportionate share of the alleged overcharges. Any purchaser who can make a showing of disproportionate overcharge may file a refund application based on such a claim.

As in previous cases, only claims for at least $15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

IV. Applications for Refund

We have determined that by using the procedures described above, we can distribute the PS&S consent order funds as equitably and efficiently as possible. Accordingly, we will now accept Applications for Refund from individuals and firms that purchased motor gasoline sold by PS&S between April 1, 1979, and March 31, 1980. Eligible applicants include downstream customers as well as first purchasers.

There is no specific application form which must be used. In order to receive a refund, each claimant must submit the following information:

(1) A schedule of its montly purchases of PS&S motor gasoline along with any relevant information necessary to support its claim in accordance with the presumptions and findings outlined above. If the applicant was a downstream purchaser it must also submit the name of its immediate supplier and indicate why it believes the motor gasoline was originally sold by PS&S.

(2) Whether the applicant has previously received a refund from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(3) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(4) Whether the applicant is or has been involved as a party in DOE enforcement or private action filed under § 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d); and

(5) The name and telephone number of a person who may be contacted by this Office for additional information.

Finally, each application must include the following statement: "I swear [of affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF–0151 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to Department of Energy by Petroleum Sales and Service, Inc. pursuant to the Consent Order executed on September 29, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: May 2, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86–10891 Filed 5–14–86; 8:45 am]

BILLING CODE 6450–01–M

[3] The cost bank requirement has been relaxed in other instances involving the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,005 at 88,017 n.1 (1982) (Tenneco).

[4] Resellers or retailers who claim a refund in excess of $5,000 but who do not seek to establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

[5] This figure is computed by dividing the $59,585 received from PS&S by the 55,481,424 gallons of motor gasoline estimated to have been sold by the firm during the consent order period. The volume estimate was derived from data concerning PS&S's purchases of motor gasoline during the first six months of the consent order period. Since the firm has limited storage capacity, it is resonable to assume that PS&S sales of motor gasoline were roughly equal to its purchases during a given period. After making this assumption, we then extrapolated from the six months data to arrive at a sales estimate for the entire consent order period.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $93,907.92 obtained as a result of a Consent Order which the DOE entered into with King and King Enterprises, Inc., a reseller-retailer of petroleum products located in Kansas City, Missouri. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0108.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $93,907.92 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with King and King Enterprises, Inc. (K&K). The funds were provided to the DOE by K&K to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period March 1, 1979, through June 30, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to the ten first purchasers identified in the ERA audit file. In order to obtain a refund, each of these claimants will be required to submit a schedule of its monthly purchases of motor gasoline from K&K or to submit a statement verifying that it purchased motor gasoline from K&K and is willing to rely on the data in the audit file. In addition, Applications for Refund will be accepted from purchasers not identified by the ERA audit. Unidentified customers that bought directly from K&K will be required to provide schedules of their monthly purchases during the consent order period. An indirect purchaser will also be required to provide the name of the firm from which the purchase was made as well as the reason why it believes the motor gasoline was initially sold by K&K. All claimants, whether identified or unidentified, will have to demonstrate that they were injured by K&K's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: May 1, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

May 1, 1986.

Name of Firm: King and King Enterprises, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0108.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with King and King Enterprises, Inc. (K&K).

I. Background

K&K is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Kansas City, Missouri. A DOE audit of K&K's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. A Notice of Probable Violation (NOPV) issued by ERA on September 29, 1980, alleged that between March 1, 1979, and June 30, 1979, K&K committed possible pricing violations amounting to $507,237.16 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between K&K and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, K&K and the DOE entered into a consent order on August 31, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there were no finding that violations occurred. Additionally, the consent order states that K&K does not admit that it violated the regulations.

Under the terms of the consent order, K&K was required, in a series of installments, to deposit $81,934.56, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. K&K made its final payment on August 18, 1983. This decision concerns the distribution of the funds inthe escrow account, including accrued interest.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identity readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (181) (*Vickers*).

[1] K&K paid $93,907.92, including installment interest, into the escrow account. This amount represents the principal which will form the basis for refund calculations. The total value of the K&K account stood at $130,721.28 as of March 31, 1986.

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of refined petroleum products who may have been injured by K&K's pricing practices between March 1, 1979, and June 30, 1979. In any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (182) (*Amoco*).

A. Refunds to Identified Purchasers

In order to recompense parties who were injured as a result of the alleged violations of the DOE regulations, we will rely in part upon the information developed by the ERA in its aduit of K&K. *See, e.g., Marion Corp,* 12 DOE ¶ 85,014 (1984) (*Marion*). With this type of material, a reasonably precise determination can be made as to the identity of possibly overcharged parties and the level of any overcharges.

During the DOE's audit of K&K, ten first purchaser-customers of the firm were identified as having been allegedly ovecharged. ERA also alleged ovecharges to other, unidentified customers. As in previous cases of this type, we propose that the funds in the escrow account be apportioned among (i) the first purchasers identified by the audit which adequately demonstrate that they were injured by the alleged overcharges, (ii) other injured first purchasers, and (iii) subsequent repurchasers that can also show injury. *See, e.g., Bob's Oil Co.,* 12 DOE ¶ 85,024 (1984); *Richards Oil Company,* 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, with the share of the settlement allotted to each by ERA, are listed in the Appendix to this Decision.

We plan to adopt certain presumptions and findings regarding injury which will allow claimants to participate in the refund process without incurring inordinate expenses and which will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we propose to adopt a presumption of injury with respect to small claims. Second, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. Third, we plan to use a volumetric presumption for applicants not identified by ERA. Finally, we are making proposed fundings that end users, certain types of regulated firms, and cooperatives were injured by K&K's pricing practices. The volumetric and spot purchaser presumptions as well as the three findings will be discussed below in Section B.

Under the small-claims presumption, if a refund claim is below a certain sum, a reseller- or retailer-claimant will not be required to making a showing of injury other than evidence of the volumes of K&K motor gasoline which it purchased. In this case, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel,* 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein. The record in this proceeding indicates that eight of the ten identified customers made small purchases.

A reseller or retailer which claims a refund of more than $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[2]

We propose to distribute a portion of the escrow funds to the firms listed in the Appendix to this Decision, provided that they file Applications for Refund and make any necessary demonstrations of injury.[3] Refunds will be authorized for those firms in the amounts indicated, plus accrued interest to the date they receive refunds.[4]

B. Refunds to Unidentified Purchasers

As noted above, this Decision concerns the distribution of the entire $93,907.92 that K&K deposited into the escrow account, plus accrued interest to date. Since the settlement amounts tentatively allotted to identified purchasers total only $23,683.59, the remaining portion of the K&K consent order funds may be distributed among first purchasers other than those identified by the ERA audit as well as to subsequent repurchasers that may have been injured by the alleged overcharges. To assist potential claimants in deciding whether to apply for a refund, we propose to use the small-claims presumption discussed above. In addition, we will adopt a presumption that the alleged overcharges allotted to unidentified purchasers were dispersed equally among all sales of motor gasoline made by K&K to those customers during the consent order period. In the absence of better information, this presumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any pruchaser may file a refund application based on a claim that it incurred a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon & Gasoline, Co., and Richardson Products Co. Siouxland Propane Co.,* 12 DOE § 85,054 at 88,164 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant that was not identified by the ERA audit will be eligible to apply for a refund equal to the number of gallons of K&K motor gasoline that it purchased times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.010441 per gallon.[5] In addition, successful claimants will receive a proportionate share of the accrued interest.

If a reseller or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada).

[3] One of the firms listed in the Appendix is itself involved in an enforcement proceeding with the DOE. On October 29, 1982, the ERA issued a Proposed Remedial Order (PRO) alleging overcharges by Highway Oil, Inc. on its sales of motor gasoline during the period November 1973 through April 1974. The alleged overcharges specified in the PRO totaled $2,806,430.55, including interest through September 1982. We may delay granting a refund to Highway until the issues underlying this enforcement proceeding are resolved.

[4] The share of the K&K escrow fund allocated to each firm listed in the Appendix represents 16.15 percent of the amount each was allegedly overcharged plus its proportionate share of the installment interest paid by K&K. This is consistent with the terms of the K&K consent order which settled for 16.15 percent of the total amount of overcharges alleged in the NOPV. However, purchasers identified in th ERA audit as having allegedly been overcharged may attempt to show that they should receive refunds larger than those indicated.

[5] This per gallon factor is computed by dividing the $70,244.33 available for distribution to unidentified purchasers by the 6,727,516 gallons of motor gasoline which K&K sold to those customers during the consent order period.

product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85, 396–97. Firms which made only spot purchases of K&K motor gasoline will not receive refunds unless they present evidence which rebuts the spot purchaser presumption and stablishes the extent to which they were injured.

As noted above, we are making a proposed finding that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[6]

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or that operate under the terms of a cooperative agreement not be required to demonstrate that they absorbed the motor gasoline overcharges alleged by ERA. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of K&K's alleged violations of the DOE regulations would routinely be passed through to their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,539 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and of how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money.

[6] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

C. Applications for Refund

Any purchaser claiming a portion of the consent order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant identified by ERA must submit either a schedule of its monthly purchases of motor gasoline from K&K during the consent order period or a statement verifying that it purchased motor gasoline from K&K and is willing to rely on the data in the audit file. A purchaser not identified by the ERA audit will be required to provide specific information as to the date, place, and volume of motor gasoline purchased as well as the name of the firm from which the purchase was made. All applicants, whether identified or unidentified, should also provide all relevant information necessary to support their claims in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* CFR 205.9(d).

D. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any funds remaining in the escrow account until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by King and King Enterprises, Inc. pursuant to the Consent Order executed on August 31, 1981, will be distributed in accordance with the foregoing decision.

APPENDIX—FIRST PURCHASERS

First purchaser	Share of settlement*
D&D Oil, 9524 Antioch, Overland Park, KS 66212	$104.21
EA-ZEE, 406 S. Main, Gardner, KS 66030	895.24
Fisca Oil, Post Office Box 3363, Kansas City, KAS 66103	404.99
Graves Truck, 4310 S. Jackson, Tulsa, OK 75222	45.00
Highway Oil, Inc., First National Bank Building, 12th Floor, Topeka, KS 66603	9,013.97
Mica Oil, Post Office Box 2433, Shawnee Mission, KS 66201	580.25
Petroleum Trading and Transport Co., 618 Philtower Building, Tulsa, OK 74103	8,952.39
Quick Trip, Post Office Box 3475, Tulsa, OK 74107	296.05
United Oil, 9405 W. 106th, Overland Park, KS 66212	2,839.66
Walker Oil, 222 W. Gregory, Kansas City, MO 64114	551.83

* Not including interest which has accrued on the escrow account.

[FR Doc. 86–10892 Filed 5–14–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3016–4]

California State Motor Vehicle Pollution Control Standards; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of an opportunity for public hearing.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it

has adopted regulations which set forth exhaust emission standards and enforcement procedures for new modifier certified motor vehicles. These regulations pertain to "grey market" passenger cars, light-duty trucks and medium-duty vehicles. California has requested EPA to determine that these regulations are within the scope of previous waivers granted to California pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b). However, EPA considers these regulations to be new standards and test procedures and, hence, the proper subject of a full waiver determination. This notice announces that EPA has tentatively scheduled a public hearing for June 12, 1986, to consider CARB's request and to hear comments from interested parties regarding CARB's regulations. Any party desiring to present oral testimony for the record at the public hearing, instead of, or in addition to, written comments, must notify EPA by June 5, 1986. If no party informs EPA that it wishes to testify on these modifier certified regulations, no hearing will be held and EPA will consider CARB's request based on written submissions to the record.

DATES: EPA will hold a public hearing on June 12, 1986, beginning at 9:00 a.m., if any party notifies EPA by June 5, 1986, that it wishes to present oral testimony regarding CARB's requests. Any party may submit written comments regarding CARB's requests by July 7, 1986. It is EPA policy to consider late comments if time permits.

ADDRESSES: EPA will hold the public hearing announced in this notice at: U.S. Environmental Protection Agency, Regional Office (Region IX), Nevada room, 215 Fremont Street, San Francisco, California. Parties wishing to present oral testimony at the public hearing should notify in writing: Charles N. Freed, Director, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Any party may also submit written comments regarding the waiver request to the same address to the attention of the Docket EN–86–15. Copies of material relevant to the waiver request (Docket EN–86–15) will be available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the U.S. Environmental Protection Agency, Central Docket Section (A–130), Gallery I, Waterside Mall, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steven M. Spiegel, Attorney/Advisor, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–2526.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

Section 209(a) of the Act, as amended, 42 U.S.C. 7543(a), provides in part: "No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part . . . [or] require certification, inspection, or any other approval relating to the control of emissions as condition precedent . . . to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for California "if the State determines that [its] . . . standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards . . . [unless] the Administrator finds that—(A) the determination of the State is arbitrary and capricious, (B) [California] does not need such . . . standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

Once California has received a waiver of the application of the prohibitions of section 209(a) for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption. If California acts to amend previously waived emission standards or accompanying enforcement procedures, the change may be considered to be within the scope of the previous waiver if it does not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, does not affect the consistency of California's requirements with respect to section 202(a) of the Act, and raises no new issues affecting EPA's previous waiver determinations.

By a letter dated March 28, 1986, CARB submitted to EPA a request for a determination that certain regulations are within the scope of previous waivers of Federal preemption. These regulations include the adoption of a new Section 1964 of Title 13 of the California Administrative Code—Special Test Procedures for Certification and Compliance—New Modifier Certified Motor Vehicles ("Modifier Certification Procedures"). These regulations apply to the California certification of all passenger cars, light-duty trucks, and medium-duty vehicles manufactured outside the United States which are subsequently modified to meet California motor vehicle emission standards by independent commercial importers.

The Modifier Certification Procedures incorporate, with significant revisions, California's existing certification program applicable to original equipment manufacturers. Specifically, the regulations:

(1) Require modifiers to demonstrate that the modified vehicles meet California emission standards and minimum requirements for durability, driveability and configuration control;

(2) require modifiers to warrant emission controls and be responsible for parts availability, repair stations and recall program administration as necessary;

(3) require modifiers to demonstrate financial responsibility by posting a $1,000 bond per vehicle or provide recall insurance with a minimum of $3,000 liability per vehicle;

(4) provide for assembly-line testing, confirmatory testing, engine compartment labelling, fuel fill pipes and openings, new and used dealership inspections, defect reporting and in-use vehicle enforcement testing.

California states in its March 28, 1986 letter that it has determined that these amendments do not undermine its determination that its standards are, in the aggregate, at least as protective of the public health and welfare as the applicable Federal standards since these amendments do not change California exhaust emission standards. Further, California states that these amendments are consistent with section 202(a) of the Act. Finally, California states that the amendments raise no new issues affecting previous waiver decisions. However, EPA believes that by extending California's emission standards and enforcement procedures to grey market vehicles not previously covered, these regulations do raise significant new issues not considered in prior waiver decisions. California's new regulations establish new standards and enforcement procedures for modifier certified new motor vehicles.

Since EPA believes California's request should be considered according to the requirements for a full waiver

determination, an opportunity for a hearing is being provided to consider comments from interested parties. Any party wishing to present testimony at the hearing should address the following issues:

(1) Whether or not California's determination that the amended standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;

(2) Whether or not California needs its standards to meet compelling and extraordinary conditions; and

(3) Whether or not California standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

II. Procedures for Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide pertinent information concerning the amendments at issue. Any party desiring to make an oral statement should file 10 copies of its proposed testimony and other relevant material along with its request for a hearing with the Director of EPA's Manufacturers Operations Division at the address listed above not later than June 5, 1986. In addition, the party should submit 25 copies, if feasible, of the proposed statement to the Presiding Officer at the time of the hearing.

Since a public hearing is designated to give interested persons an opportunity to participate in this proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants without special approval by the Presiding Officer. The Presiding Officer is authorized to strike from the record statements which he or she deems irrelevant or repetitious and to impose reasonable limits on the duration of the statements of any witness.

If EPA does hold the hearing, the Agency will make a verbatim record of the proceedings. Interested persons may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. I will base my determination with regard to CARB's request on the record of the public hearing, if any, and on any other relevant written submissions and consider other pertinent information. This information will be available for public inspection at the EPA Central Docket Section.

Dated: May 2, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-10943 Filed 5-14-86; 8:45 am]

BILLING CODE 6560-50-M

[Docket Nos. A-79-28, A-82-37, A-84-25; ORD-FRL-3016-2]

Draft Addendum to The EPA Criteria Document: Air Quality Criteria For Particulate Matter and Sulfur Oxides

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a workshop to be held by EPA's Environmental Criteria and Assessment Office at the Environmental Research Center, Research Triangle Park, Carolina, to facilitate preparation of an external review draft of an addendum to the health effects chapters of the criteria document, *Air Quality Criteria for Particulate Matter and Sulfur Oxides* (EPA-600/8-82-029aF, bF, cF).

DATES: The workshop will be held on May 22 and 23, 1986, from 8:30 a.m. to 5:30 p.m. Members of the public are invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dennis J. Kotchmar, M.D., Project Manager for the Particulate Matter/Sulfur Oxides Addendum, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (919) 541-4158 [FTS 629-4158]. The project manager should also be contacted by those persons who wish to attend the workshop.

SUPPLEMENTARY INFORMATION: In 1982, EPA's Environmental Criteria and Assessment Office (ECAO) completed preparation of a revised criteria document, *Air Quality Criteria for Particulate Matter and Sulfur Oxides* (EPA-600/8-82-029aF, bF, and cF). In that same year, EPA's Office of Air Quality Planning and Standards completed preparation of staff papers to assess the implications of the revised criteria for the review, and possible revision, of the national ambient air quality standards for particulate matter (EPA-450/5-82-001) and for sulfur oxides (EPA-450/5-82-007). On March 20, 1984 (49 FR 10408), EPA proposed revisions of the particulate matter standard and formally issued the criteria document.

On April 1, 1986 (51 FR 11058), EPA announced plans to prepare addenda to the criteria document and the staff papers. The addendum to the criteria document will summarize pertinent health effects studies that have been published since the completion of the document in 1982. The addenda to the staff papers will assess the implications, if any, of these studies for the national ambient air quality standards.

ECAO is now assembling a panel of authors and contributors, EPA personnel, and other scientifically and technically qualified persons to review a draft of the addendum to the criteria document at the workshop. Copies of the workshop draft of the addendum will be made available to the public at the meeting, and observers will have an opportunity to make brief oral statements. The draft addendum subsequently will be revised and released as an external review draft. Ample opportunity will be provided for public review and submission of written comments upon release of the first external review draft. The public comment period will be announced in a subsequent **Federal Register** notice.

Detailed notes of the meeting will be kept by EPA. These notes and any other materials provided for or produced collectively at the meeting will be included in the rulemaking docket established for particulate matter (A-82-37) and in the review docket (A-79-28) and the rulemaking docket (A-84-25) established for sulfur oxides. The dockets are available for inspection and copying between the hours of 8:00 a.m. and 4:00 p.m. at EPA headquarters in the Central Docket Section (A-130), Gallery 1, West Tower, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Dated: May 7, 1986.

Donald J. Ehreth,

Acting Assistant Administrator for Research and Development.

[FR Doc. 86-10944 Filed 5-14-86; 8:45 am]

BILLING CODE 6560-50-M

[Docket No. PF-456; FRL-3016-5]

Pesticide Tolerance Petitions; Mobay Chemical Corp. and Pennwalt Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-456] and the petition number, attention Product Manager (PM-16), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holiday.

FOR FURTHER INFORMATION CONTACT: By mail:

William Miller (PM–16), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Room 211, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions (PP) relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 6F3402.* Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.320 by reducing the established tolerances for the combined residues of the insecticide/bird repellent 3,5-dimethyl-4-(methylthio) phenyl methylcabamate and its cholinesterase-inhibiting metabolites in or on the commodities blueberries and cherries from 25.0 parts per million (ppm) to 5.0 ppm. The proposed analytical method for determining residues is a gas chromatographic procedure utilizing a flame photometric detector operated in the sulfur mode.

2. *PP 6F3399.* Pennwalt Corp., Three Parkway, Room 619, Philadelphia, PA 19102. Proposes to amend 40 CFR Part 180 by establishing exemptions from the requirement of a tolerance for residues of the insecticides fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the following commodities: apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, citrus fruits, corn, collards, cranberries, cucumbers, dewberries, eggplants, grapes, kale, kohlrabi, lettuce, loganberries, melons, mustard greens, nectarines, okra, peaches, peanuts, pears, peas, peppers, plums (fresh prunes), potatoes, pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, and youngberries.

The proposed analytical method for determining residues is an ammonium hydryide reflex method employing a floride specific ion.

Authority: 21 U.S.C. 346a.

Dated: May 9, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Progams.

[FR Doc. 86–10939 Filed 5–14–86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 86–181]

Common Carrier Bureau; Midyear 1986 Access Tariff Filings

AGENCY: Federal Communications Commission.

ACTION: Order designating issues for investigation.

SUMMARY: This action establishes an investigation of the National Exchange Carrier Association's (NECA) proposed carrier common line rates which were filed as NECA's Tariff F.C.C. No. 1, Transmittal No. 122, on April 1, 1986, to be effective June 1, 1986. This action also establishes a procedural schedule for this investigation.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dan Grosh, Tariff Division, (202)–632–6387.

SUPPLEMENTARY INFORMATION: This is an initiation of an investigation of NECA's midyear 1986 access tariff filings, CC Docket No. 86–181, adopted May 2, 1986, and released May 2, 1986.

The full text of the Bureau's Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Designation Order

Pending before the Commission are the latest set of access tariff revisions, filed pursuant to the Commission's Order in CC Docket No. 85–385 Revision of Part 69 of the Commission's Rules and Regulations, FCC 86–70, released February 6, 1986, as implemented in the Common Carrier Bureau's Order, Midyear 1986 Access Tariff Filings, Mimeo No. 3414, released March 26, 1986.

By this Designation Order, the Bureau has initiated an investigation of NECA's tariff revisions regarding its carrier common line rates to determine if they are reasonable before June 1, 1986 effective date.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86–10959 Filed 5–14–86; 8:45 am]

BILLING CODE 6712-01-M

[FCC 86–224]

Midyear 1986 Access Tariff Filings; Memorandum Opinion and Order

Adopted: May 1, 1986.
Released: May 2, 1986.
By the Commission.

1. Initial review of the access tariff transmittals and rates filed by the local exchange carriers on April 1, 1986 to be effective June 1, 1986 indicates that some rates, terms, and conditions may be unreasonable or in conflict with Commission Rules and Orders. Because of the importance of these filings to the public and to long distance carriers, we anticipate that investigatory and other proceedings to correct the tariffs may be necessary. Because of the limited time available before the June 1 effective date, however, it is important that any

such proceedings be initiated and concluded promptly, so far as possible before June 1.

2. For these reasons, and in light of the fact that the issues involved are largely ones of compliance with Commission Orders and the review of individual rates; we hereby delegate authority to the Chief, Common Carrier Bureau, to designate for hearing and issue reports or Orders with respect to all issues presented by the access tariff transmittals filed by or on behalf of the local exchange carrier to be effective June 1, 1986, including amendments or additions thereto. Any conclusions reached concerning the access tariffs will directly affect the reasonableness of the pending MTS and WATS rate revisions filed by AT&T Communications in its Transmittal No. 604, also effective June 1. Therefore, our delegation of authority also includes this transmittal, any amendments or additions thereto, and the pending investigation of AT&T's WATS rates in CC Docket No. 86-81.[1] This action is taken pursuant to § 1.1 and 0.201 et seq. of the Commission's Rules, 47 CFR 1.1 and 0.201 et seq.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-10956 Filed 5-14-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010926.

Title: Long Beach Container Terminal, Inc./Orient Overseas Container Line, Inc.

Parties:

Long Beach Container Terminal, Inc. (LBCT)

Orient Overseas Container Line, Inc. (Carrier)

Synopsis: The proposed agreement would permit LBCT to provide container terminal stevedoring services at its terminal facility located in the Port of Long Beach for containers to be loaded onto or discharged from cellular container vessels owner, operated, chartered or controlled by the Carrier in the trade between Far East Ports and the Port of Long Beach.

Agreement No.: 224-010927.

Title: Long Beach Container Terminal, Inc./Neptune Orient Lines Terminal Agreement

Parties:

Long Beach Container Terminal, Inc. (LBCT)

Neptune Orient Lines, Ltd. (NOL)

Synopsis: The proposed agreement would permit LBCT to provide container terminal stevedoring services at its terminal facility located in the Port of Long Beach for containers to be loaded onto or discharged from cellular container vessels owner, operated, chartered or controlled by NOL in the trade between Far East Ports and the Port of Long Beach.

Agreement No.: 224-010928.

Title: Long Beach Container Terminal, Inc./Yamashita-Shinnihon Steamship Co., Ltd.

Parties:

Long Beach Container Terminal, Inc. (LBCT)

Yamashita-Shinnihon Steamship Co., Ltd. (Carrier)

Synopsis: The proposed agreement would permit LBCT to provide container terminal stevedoring services at its terminal facility located in the Port of Long Beach for containers to be loaded onto or discharged from cellular container vessels owner, operated, chartered or controlled by the Carrier in the trade between Far East Ports and the Port of Long Beach.

Dated: May 12, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-10946 Filed 5-14-86; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010929

Title: Los Angeles Terminal Agreement.

Parties:

City of Los Angeles (Port)

Yang Ming Marine Transport Ltd. (Yang Ming)

Synopsis: The proposed agreement would accomplish the relocation of Yang Ming from its current premises operated by the Overseas Terminal Company to an operating area within and adjacent to the Indies Terminal. The parties have requested a shortened review period.

Agreement No.: 224-010930

Title: Port of Los Angeles Terminal Agreement.

Parties:

City of Los Angeles Harbor Department (City)

Stevedoring Services of America (SSA)

Synopsis: The proposed agreement would establish a nonexclusive preferential assignment arrangement whereby the City would provide SSA an nonexclusive lease of three Port cranes. The crane assignment would require SSA to pay the City $87,780 per year for each crane for up to 3000 hours of use. For each additional hour of use, SSA would pay the City 75 percent of the Port of Los Angeles tariff rate for cranes. The crane assignment will terminate July 31, 1989. The parties have requested a shortened review period.

Agreement No.: 217-010731-001

Title: Sea-Land Service/United Arab Shipping Co. Space Charter Agreement

Parties:

Sea-Land Service, Inc. (Sea-Land)

United Arab Shipping Company (UASA

Synopsis: The proposed amendment would change the allocation of spaces

[1] Because this delegation of authority is intended only to allow necessary action before the schedule June 1 effective dates of the tariffs, delegation of authority to act in CC Docket No. 86-81 is granted only up to June 1, 1986.

UASC agrees to make available to Sea-Land from a guaranteed number per annum to a fixed number per vessel sailing in each direction. It would also permit the parties to interchange equipment and would clarify the scope of the agreement as it pertains to certain foreign-to-foreign movements.

Dated: May 12, 1986.

By order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-10978 Filed 5-14-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Hans H. Alexander, 17 Battery Place North, 21st Floor, New York, NY 10004

Air-Sea International, Inc., 8432 Sterling, Suite 102, Irving, TX 75063
Officers: Bradley S. Clemens, Gary F. Clanton, Bettie Sue Hines

H & K Transportation, Inc., 4415 Highline Blvd., Suite 208, Oklahoma City, OK 73108
Officers: Clifford Randal Honeycutt, President; Elizabeth Ann Honeycutt, Secretary; Gary Max Kimray, Treasurer/Vice President

Kilo Freight, Inc., 200 Lake View Drive, # 201, Ft. Lauderdale, FL 33326
Officers: Dr. Hilario V. Guanipa, President/Director; Jenny G. Salazar, Secretary/Treasurer/Director

Teresa H. Kuwahara, 601 W. Fifth Street, M100, Los Angeles, CA 90071

Vextrac-Virginia Export Trading Company, 600 World Trade Center, Norfolk, VA 23510
Officers: Robert H. Spilman, Chairman; Frank W. Kellam, Vice Chairman; J. Robert Bray, President; J. Stanley Payne, Secretary/Treasurer

AABE Forwarding, Inc., 3110 Via Mondo, Rancho Dominguez, CA 90221
Officers: John Cardwell, President

George Chia-Chu Cheng, 220A W. Norwood Place, San Gabriel, CA 91776

ERC International Forwarders, 2330 W. Temple Street, Suite C, Los Angeles, CA 90026
Partners: Generoso R. Calderon, Estelita Navarro

Anchor Shipping Crop., 424 Beach Avenue, Bronx, NY 10473
Officers: Victor Cruz, Jr., President/Chairman; Elizabeth F. Cruz, Secretary/Treasurer

Dated: May 12, 1986.

By the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-10948 Filed 5-14-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 1353
Name: Eastern Forwarding, International, Inc.
Address: 29 Livingston Ave., Edison, NJ 08820
Date Revoked: April 17, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2494
Name: All Countries Forwarding, Inc.
Address: 3635 Westheimer St., #301, Houston, TX 77027
Date Revoked: April 18, 1986
Reason: Failed to maintain a valid surety bond

License Number: 155
Name: Block Overseas Shipping Co., Ltd.
Address: 15 Park Row, New York, NY 10038
Date Revoked: April 25, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2106
Name: Eduardo Ubaldo Lopez dba Federal Freight Forwarders
Address: 1606 SW. 101st Avenue, Miami, FL 33165
Date Revoked: April 30, 1986
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86-10947 Filed 5-14-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Harco Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 6, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Harco Bankshares, Inc.*, Harlan, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the Harlan National Bank, Harlan, Kentucky.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bankers' Bancorp of Illinois*, Springfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bankers' Bank of Illinois, Springfield, Illinois, a *de novo* bank.

2. *St. Joseph Bancorporation, Inc.*, South Bend, Indiana; to acquire 100 percent of the voting shares of First Union Bank and Trust, Winamac, Indiana. Comments on this application must be received not later than June 2, 1986.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bancorp of Mississippi, Inc.*, Tupelo, Mississippi; to acquire at least

7.76 percent of the voting shares of First Mississippi National Corporation, Hattiesburg, Mississippi, and thereby indirectly acquire shares of First Mississippi National Bank, Hattiesburg, Mississippi.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Verde Valley Bancorp, Inc.*, Cottonwood, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Verde Valley, Cottonwood, Arizona, a *de novo* bank.

Board of Governors of the Federal Reserve System, May 12, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-10975 Filed 5-14-86; 8:45 am]

BILLING CODE 6210-01-M

MCorp, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting woud be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 6, 1986.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp*, Dallas, Texas; to acquire Ecom Systems, Incorporated, Memphis, Tennessee, and thereby engage in the activity of providing to others financially related data processing and data transmission services, facilities, and data bases; or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

2. *MCorp Financial Inc.*, Wilmington, Delaware; to acquire Ecom Systems, Incorporated, Memphis, Tennessee, and thereby engage in the activity of providing to others financially related data processing and data transmission services, facilities, and data bases; or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 9, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10899 Filed 5-14-86; 8:45 am]

BILLING CODE 6210-01-M

Resource Companies, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 5, 1986.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Resource Companies, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary Resource Capital Advisers, Inc., Minneapolis, Minnesota, in providing continuous and individualized management of investment portfolios including equities, bonds, and short-term investments pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 9, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10900 Filed 5-14-86; 8:45 am]

BILLING CODE 6210-01-M

Suburban Bancorp. Inc., et al.; Formations of, Acquisitions, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 6, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Suburban Bancorp, Inc.*, Palatine, Illinois; to acquire 100 percent of the voting shares of Marengo State Bank, Marengo, Illinois.

2. *Suburban Bancorp, Inc.*, Palatine, Illinois; to acquire 95 percent or more of the voting shares of West Brook Bank, Westchester, Illinois.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Smith Associated Banking Corporation*, Little Rock, Arkansas; to acquire at least 98 percent of the voting shares of Stephens Security Bank, Stephens, Arkansas.

Board of Governors of the Federal Reserve System, May 9, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10901 Filed 5-14-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Procurement Activities; Information Collection

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act, 44 U.S.C. 3507 (1982) and 5 CFR 1320.12 (1982) and 5 CFR 1320.12 (1985) for clearance of the information collection aspects of FTC procurement activities.

SUMMARY: Under the Code of Federal Regulations (Title 41–Public Contracts and Property Management), the FTC is required to solicit information from the private business community regarding certain planned procurement actions. Information is submitted in response to Invitations for Bids, Requests for Proposals, and Requests for Quotations. The responses generally include pricing and technical approach plans and information regarding the offeror's previous experience and related business data addressing its ability to perform the proposed work. The Commission is seeking a three-year extension of the existing OMB clearance (Control No. 3084–0047) for the information collection requests made in the procurement of necessary goods and services. The FTC has issued no procurement regulations or forms of its own. It uses government-wide procurement procedures that are estimated to involve 1,000 burden hours annually.

DATE: Comments on this application must be submitted on or before June 16, 1986.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert S. Walton III, Office of Procurement and Contracts, Federal Trade Commission, Washington, DC 20580, (202) 523–5552.

Dated: May 9, 1986.

Marcy J.K. Tiffany,

Acting General Counsel.

[FR Doc. 86-10980 Filed 5-14-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Initial Review Committees; Meetings

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's initial review committees. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2, sec. 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92–463.

Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee.

Date and Time: June 2–3: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue NW, Washington, DC 2007.

Status of Meeting: Open—June 2: 9:00–11:00 a.m. Closed—Otherwise.

Contact: Walter T. Schaffer, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Biological and Neurosciences Subcommittee of the Mental Health Research Education Review Committee.

Date and Time: June 2–3: 9:00 a.m.

Place: Linden Hill Hotel, Pinehurst Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Status of Meeting: Open—June 2: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Betty Russell, Room 9C15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the area of biological sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neuroscience and Behavior Subcommittee of the Alchohol Biomedical Research Review Committee.

Date and Time: June 2–3: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, DC 20007.

Status of Meeting: Open—June 2: 9:00–11:00 a.m. Closed—Otherwise.

Contact: Mark R. Green, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Research Scientist Development Review Committee.

Date and Time: June 4–5: 9:00 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Status of Meeting: Open—June 4: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Linda Rainey, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee.

Date and Time: June 5–6: 9:00 a.m.

Place: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

Status of Meeting: Open—June 4: 9:00–10:30 a.m. Closed—Otherwise.

Contact: Jean Byrne, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Drug Abuse Clinical and Behavioral Research Review Committee.

Date and Time: June 10–13: 9:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Status of Meeting: Open—June 10: 9:00–9:30 a.m. Closed—Otherwise.

Contact: Daniel L. Mintz, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Services Research Subcommittee of the Epidemiologic and Services Research Review Committee.

Date and Time: June 11–13: 9:00 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Status of Meeting: Open—June 11: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Gloria Yockelson, Room 9C08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychopathology and Clinical Biology Research Review Committee.

Date and Time: June 11–13: 9:00 a.m.

Place: Sheraton Washington Hotel, 2660 Woodley Road at Connecticut, Washington, DC 20008.

Status of Meeting: Open—June 11: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Emilie A. Embrey, Room 9C08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute for support of activities in the fields or research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Criminal and Violent Behavior Research Review Committee.

Date and Time: June 11–13: 9:15 a.m.

Place: Dupont Plaza Hotel, Dupont Circle, 1500 New Hampshire Avenue NW, Washington, DC 20009.

Status of Meeting: Open—June 11: 9:15–10:30 a.m. Closed—Otherwise.

Contact: Peg Lyons, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative, and research and development contracts, as they relate to the mental health aspects of criminal, delinquent, and antisocial behavior; individual violent behavior; sexual assault; and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Basic Behavioral Processes Research Review Committee.

Date and Time: June 12: 9:00 a.m.

Place: The State Plaza Hotel, 2117 E Street NW, Washington, DC 20037.

Status of Meeting: Open—June 12: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Shirley Maltz, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Cognition, Emotion, and Personality Research Review Committee.

Date and Time: June 12–13: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue NW, Washington, DC 20007.

Status of Meeting: Open—June 12: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Doris East, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee.

Date and Time: June 12–14: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, DC 20007.

Status of Meeting: OPEN—June 12: 9:00–10:00 a.m. CLOSED—Otherwise.

Contact: Naomi Lichtenberg, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychological Sciences Subcommittee of the Mental Health Research Education Review Committee.

Date and Time: June 12–13: 9:00 a.m.

Place: Georgetown Marbury House, Stafford Sheffield Room, 3000 Wisconsin Avenue NW,Washington, DC 20036.

Status of Meeting: Open—June 12: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Sandra Buckhalter, Room 9C05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the areas of personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee.

Date and Time: June 12–13: 9:00 a.m.

Place: Dupont Plaza Hotel, 1500 New Hampshire Avenue, N.W., Washington, DC 20036.

Status of Meeting: Open—June 12: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Maureen Eister, Room 9C02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neurobehavioral Research Subcommittee of the Neurosciences Research Review Committee.

Date and Time: June 12–14: 8:30 a.m.

Place: Washington Marriott Hotel, 22nd & M Streets, N.W., Washington, DC 20037.

Status of Meeting: Open—June 12: 8:30. a.m. 9:30 a.m. Closed—Otherwise.

Contact: Lynn Warwick, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Basic Psychopharmacology Research Subcommittee of the Neurosciences Research Review Committee.

Date and Time: June 12–14: 8:30 a.m.

Place: Washington Marriott Hotel, 22nd & M Streets, N.W., Washington, DC 20037.

Status of Meeting: Open—June 12: 8:30–9:30 a.m. Closed—Otherwise.

Contact: Lynn Warwick, Room 9C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee.

Date and Time: June 12–14: 9:00 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Status of Meeting: Open—June 12: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Dorothy Tengood, Room 9C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Prevention and Epidemiology Subcommittee of the Alcohol Psychosocial Research Review Committee.

Date and Time: June 16–18: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, DC 20007.

Status of Meeting: Open—June 16: 9:00–10:30 a.m. Closed—Otherwise.

Contact: Mary L. Ganikos, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Epidemiologic Research Subcommittee of the Epidemiologic and Service Research Review Committee.

Date and Time: June 16–19: 5:00 p.m.

Place: Hyatt Pittsburgh, 112 Washington Place, Pittsburgh, Pennsylvania 15219,

Status of Meeting: Open—June 16: 5:00–6:00 p.m. Closed—Otherwise.

Contact: Gloria Yockelson, Room 9C08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee.

Date and Time: June 19–20: 9:00 a.m.

Place: Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, DC 20007.

Statue of Meeting: Open—June 19: 9:00–9:30 a.m. Closed—Otherwise.

Contact: Laura Weinstein, Room 16C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of applications

for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: National Advisory Mental Health Council

Date and Time: June 20: 9:00 a.m.

Place: Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, Maryland 20857.

Status of Meeting: Open—June 20: 9:00–9:30 a.m. Closed—Otherwise.

Contact: Rachel Driver, Parklawn Building, Room 90105, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aids relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Committee Name: Mental Health Small Grant Review Committee.

Date and Time: June 20–21: 9:30 a.m.

Place: Canterbury Hotel 1733 N Street, N.W., Washington, DC 20036.

Status of Meeting: Open—June 20: 9:30–10:30 a.m. Closed—Otherwise.

Contact: Barbara McCracken, Room, 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843.

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

Committee Name: Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee.

Date and Time: June 30: 9:00 a.m.

Place: Holiday Inn Capitol, 550 C Street, S.W., Washington, DC 20024.

Statue of Meeting: Open—June 30: 9:00–10:00 a.m. Closed—Otherwise.

Contact: Pamela J. Mitchell, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Mary Kielkopf, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 433–1644. NIMH: Ms. Helen Garrett, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: May 9, 1986.

Brenda L. Williamson,

Acting Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86–10922 Filed 5–14–86; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Demonstration of Effectiveness of Injury Control Interventions; Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC), announces that competitive cooperative agreement applications are being accepted for Demonstration of Effectiveness of Injury Control Interventions. The Catalog of Federal Domestic Assistance number is being applied for.

Program Objective

The purpose of each cooperative agreement is to demonstrate, using epidemiologic methods, that an ongoing injury control program or intervention has a measurable beneficial effect on the (a) the incidence of the injury, or (b) the severity of the injury, or (c) recovery from the injury, or (d) the cost of the injury, or (e) exposure to injurious agents.

Applicants are encouraged to coordinate all activities with State and/or local health officials.

The cooperative activities will be performed using existing data sets; new data will not be generated, and new interventions will not be started.

The cooperative agreement is not intended to assist an agency or institution study the effectiveness of a hospital-based surgical or medical treatment for a specific type of injury. However, pre-hospital emergency trauma care, including a community trauma care system or components thereof, may be considered for study.

Authority

The legislative authority for these Cooperative Agreements is Section 301 of the Public Health Service Act.

Eligibility Requirements

Eligible applicants include public and private nonprofit organizations. Thus, State and local governments, U.S. Territories, the Commonwealth of Puerto Rico, the District of Columbia, universities, colleges, and research institutions may apply for these cooperative agreements.

Availability of Funds

It is expected that approximately $88,000 will be available in Fiscal Year 1986 to fund up to four (4) cooperative agreements, ranging in value from $15,000 to $35,000. The project(s) will be for a one-year period.

Type of Assistance

The award(s) resulting from this announcement will be a Cooperative Agreement(s). Cooperative activities of the recipient are:

1. Identify, collect, edit, sort, and link, if necessary, appropriate data sources on:

a. injury outcomes, e.g. severity or incidence of injury of interest;

b. exposure to the injurious agent(s) of interest, e.g. motor vehicle crashes, fires;

c. individuals or populations to which the intervention has and has not been applied.

2. Design and develop a protocol to demonstrate the effect of the intervention(s). The following references provide good examples of approaches for measuring the effectiveness of an intervention:

a. Decker MD, Dewey, MJ, Hutcheson RH, and Shafner W. The use and efficacy of child restraint devices. JAMA 1984; 252:2571–2575.

b. Spiegel CN and Lindaman FC. Children can't fly: a program to prevent

childhood morbidity and mortality from window falls. AJPH 1977; 67:1143–1147.

c. Muller A. An evaluation of the effectiveness of motorcycle daytime headlight laws. AJPH 1982; 72:1136–1141.

d. Guerin D and MacKinnon D. An assessment of the California child passenger restraint requirement. AJPH 1985; 75:142–144.

3. Conduct statistical and epidemiologic analysis of data.

4. Interpret, present, and publish findings in appropriate scientific journals in collaboration with CDC.

Cooperative activities of CDC/CEH are:

1. Assist in the editing of appropriate data sets on injury outcome, exposure to injurious agents, and recipients of the injury intervention(s).

2. Assist in the development of the protocol to demonstrate the effect of the intervention.

3. Collaborate in the statistical and epidemiologic analysis of data.

4. Collaborate in the interpretation, presentation, and publication of the study findings.

Applications

1. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161–1 (revised 3–79) on or before July 7, 1986 to: Grants Management Officer, Centers of Disease Control, 255 East Paces Ferry Road, Atlanta, Georgia 30305, Telephone: (404) 262–6575.

Application forms should be available in your business office or from the above address.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date.

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. Late Applications

Applications which do not meet the criteria in either paragraph 1 or 2 immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

4. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and are not subject to review under regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resources Development Act of 1974.

5. Content and Evaluation Criteria

Review of the application will be conducted in accordance wth PHS Grants Administration Manual Chapter PHS:1–507, Objective Review of Grant Applications. The information provided should be consistent with the following evaluation criteria:

a. The applicant's understanding of the requirements, problems, objectives, complexities, and interactions required of this cooperative agreement.

b. How the project will be administered; how the applicant will develop and implement the project, including a time schedule; what are the qualifications and time allocations of the staff that will be assigned to the project; and what facilities and data processing equipment will be required to carry out this project.

c. The ability of the applicant to carry out the responsibilities of the project.

d. The nature and extent of the injury or trauma problem in the community or population that will be studied.

e. The applicant's detailed description of:

(1) The rationale for the intervention;

(2) The reason(s) for implementing the program, project, or measure in this community;

(3) What is the population targeted for the intervention;

(4) Why the applicant believes the program, project, or measure to have a beneficial impact on public health;

(5) When the intervention began (and ended, if applicable);

(6) How the intervention program is administered and funded.

f. The sources of data that will be used to measure:

(1) The number of occurrences of the injury;

(2) The degrees of severity of the injury;

(3) What individuals have been exposed to the injurious agent(s) regardless of whether or not an injury was sustained;

(4) The cost(s) of the injury and the intervention;

(5) The extent of recovery from the injury.

g. The quality of existing data including:

(1) If available, samples of forms used for data collection;

(2) Evidence, if available, of the validity and reliability of the data;

(3) The training and instruction given to data recorders;

(4) If the data used was a sample, then describe sampling method.

h. Assurance that the data for injury occurrence, exposure to the injurious agent(s), and intervention program(s) are for time periods that are appropriate to show the effectiveness of the intervention and that the data are available and existent.

i. The method(s) in which data sources could be linked to demonstrate the effectiveness of an intervention. If data will need to be put on a computer tape, describe how this will be done, what quality control measures will be taken for this process, and what will be the source of the computer hardware.

j. Plans to publish results and designate responsibilities for scientific publications and authors, summary documents, news releases, etc.

Reporting Requirements

1. A final performance report, final financial status report, final invention certification and inventory of equipment (if applicable) will be due 90 days after the end of the project in accordance with 45 CFR Part 74, Subpart M.

2. All reports shall be submitted to: Centers for Disease Control, Grants Management Branch, PGO, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305.

Information

Information on application procedures, copies of application forms, and other material may be obtained from Betty Feeley, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, Atlanta, GA 30305, Telephone: 404/262–6575 or FTS 236–6575.

Technical assistance may be obtained from Richard Hoffman, M.D., Division of Injury Control and Epidemiology, Center for Environmental Health, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, GA 30333, Telephone: 404/454–4575 or FTS 454–4575.

Dated: May 9, 1986.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

[FR Doc. 86–10929 Filed 5–14–86; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 86M-0136]

Sorin Biomedica, S.p.A.; Premarket Approval of AB-Corek (in Vitro Radioimmunoassay for Antibody to Hepatitis B Core Antigen in Serum or Plasma); Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting the docket number in the heading of the notice that announced its approval of an application for the premarket approval of the AB-COREK (in vitro radioimmunoassay for antibody to hepatitis B core antigen in serum or plasma).

FOR FURTHER INFORMATION CONTACT: Agnes Black, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-7954 appearing on page 12395 in the issue of Thursday, April 10, 1986, the docket number in the heading of the document is changed is read "[Docket No. 86M-0136]".

Dated: May 8, 1986.

James S. Benson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 86-10910 Filed 5-14-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0139]

Biolectron, Inc.; Premarket Approval of Orthopak™ Bone Growth Stimulator System; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting the docket number in the heading of the notice that announced its approval of an application for the premarket approval of the Orthopak™ Bone Growth Stimulator System.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-7826 appearing on page 12210 in the issue of Wednesday, April 9, 1986, the docket number in the heading of the document is changed to read "[Docket No. 86M-0139]".

Dated: May 8, 1986.

James S. Benson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 86-10911 Filed 5-14-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6978-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(b), will be issued to Kootznoowoo, Incorporated for approximately 5,693 acres. The lands involved are in the vicinity of Angoon, Alaska.

Cooper River Meridian

T. 76 S., R. 86 E. (Unsurveyed)
T. 76 S., R. 87 E. (Unsurveyed)
T. 77 S., R. 87 E. (Unsurveyed)
T. 77 S., R. 88 E. (Unsurveyed)
T. 77 S., R. 89 E. (Unsurveyed)
T. 78 S., R. 88 E. (Unsurveyed)
T. 78 S., R. 89 E. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the JUNEAU EMPIRE. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversly affected by the decision shall have until June 16, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file and appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ann Adams,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-10972 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-JA-M

Environmental Impact Statement/New Mexico Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare a Revised Draft Environmental Impact Statement (DEIS).

SUMMARY: The Department of the Interior, Bureau of Land Management, New Mexico is preparing a Revised DEIS for the New Mexico Statewide Wilderness Study. The Revised DEIS will address all 46 Wilderness Study Areas (WSA's) in the Statewide Study. This will include those WSA's or WSA lands that have split estate (Federal surface/non-Federal subsurface), as well as one WSA that is less than 5,000 acres. These lands are now being studied because they were reinstated for wilderness study due to a court decision. This Revised DEIS will supersede the earlier DEIS which was released in May 1985.

Scoping to help define environmental issues and alternatives for these reinstated lands has occurred both in 1982 and during the post year.

The Revised DEIS is scheduled for release in September 1986. The following WSA's will be addressed in this DEIS:

WILDERNESS STUDY AREAS IN THE NEW MEXICO STATEWIDE WILDERNESS STUDY

Name	WSA No.	Acreage
Albuquerque District		
Taos Resource Area:		
Rio Chama	NM-010-059	11,985
Sabinosa	NM-010-055	15,760
San Antonio	NM-010-035	7,050
Rio Puerco Resource Area:		
Cabezon	NM-010-022	8,159
Empedrado	NM-010-063	9,007
Ignacio Chavez	NM-010-020	33,264
Chamisa	NM-010-021	13,692
La Lena	NM-010-063A	10,438
Manzano	NM-010-092	881
Ojito	NM-010-024	11,919
Petaca Pinta	NM-020-014	11,668
Rimrock	NM-020-007	29,818
Sand Canyon	NM-020-008	8,588
Little Rimrock	NM-020-009	9,697
Pinyon	NM-020-010	12,413
Las Cruces District		
Socorro Resource Area:		
Antelope	NM-020-053	20,710
Continental Divide	NM-020-044	68,761
Devils Backbone	NM-020-047A	8,904
Eagle Peak	NM-020-019	43,960
Horse Mountain	NM-020-043	5,032
Jornada Del Muerto	NM-020-081	31,147
Mesita Blanca	NM-020-018	19,414
Presilla	NM-020-037	8,680
Sierra De Las Canas	NM-020-038	12,838
Sierra Ladrones	NM-020-016	43,248
Stallion	NM-020-040	24,236
Veranito	NM-020-035	7,206
Las Cruces/Lordsbury Resource Area:		
Aden Lava Flow	NM-030-053	25,287
Alamo Hueco Mtns	NM-030-038	16,264
Big Hatchet Mtns	NM-030-035	65,872
Blue Creek	NM-030-026	14,896
Cedar Mtns	NM-030-042	14,911
Cooke's Range	NM-030-031	19,608

WILDERNESS STUDY AREAS IN THE NEW MEXICO STATEWIDE WILDERNESS STUDY—Continued

Name	WSA No.	Acreage
Cowboy Spring	NM-030-007	6,699
Florida Mtns.	NM-030-034	22,336
Gila Lower Box	NM-030-023	9,585
Las Uvas Mtns.	NM-030-065	11,067
Organ Mtns.	NM-030-074	7,283
Robledo Mtns.	NM-030-063	12,946
West Potrillo Mtns. and Mt. Riley	NM-030-052A NM-030-052C	157,185
White Sands Resource Area:		
Brokeoff Mtns.	NM-030-112	31,606
Culp Canyon	NM-030-152	10,937
Roswell District		
Carrizozo Lava Flow	NM-060-109	10,240
Little Black Peak	NM-060-110A	15,072
Mudgetts	NM-060-819	2,941
Number of WSA's: 46		
Total acreage: 943,212		

FOR FURTHER INFORMATION CONTACT: Joseph Sovcik, EIS Team Leader, or Jon Joseph, Wilderness Specialist, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87504–1449. They may be reached at (505) 988–6565 or FTS 476–6565.

Monte G. Jordan,

Acting State Director.

[FR Doc. 86–10968 Filed 5–14–86; 8:45 am]

BILLING CODE 4310-FB-M

Bakersfield District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield district advisory council meeting.

SUMMARY: Notice is hereby given in accordance with pub. L. 94–579 and 43 CFR Part 1780 that the Bakersfield District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally on June 13 and 14, 1986. The meeting on Friday, June 13, will begin at 9 a.m. in Room 335, in the Federal Building at 800 Truxtun Avenue, Bakersfield, California. The meeting on Saturday, June 14, will be a field trip to the Walker Pass area, departing at 7 a.m. from the Federal Building in Bakersfield.

SUPPLEMENTARY INFORMATION: The meeting agenda on Friday will consist of updates and orientation on Bureau programs, including resource management projects, and the BLM/Forest Service Interchange.

The Council will tour the Walker Pass Common Allotment area on Saturday and will review initial efforts made toward developing the Walker Pass Coordinated Resource Management Plan. Public participants may meet the tour when it departs at 7 a.m. from the Federal Building in Bakersfield, or at 8:30 a.m. at the Chimney Peak turnoff from Highway 178.

Opportunity for the public to address the Council will be available at 3 p.m. that afternoon at the South Fork Union School on Highway 178 in Weldon, California.

Public participants are invited to join the meeting and field trip, but must provide their own transportation and meals.

Summary minutes of the meeting will be maintained in the Bakersfield District office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marta Witt, Public Affairs Officer, Bakersfield District, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301; (805) 861–4191.

Dated: May 9, 1986.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 86–10928 Filed 5–14–86; 8:45 am]

BILLING CODE 4310-40-M

4–20703-ILM]

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: The citizen advisory council for the Bureau of Land Management's Dickinson District will meet June 11, 1986, in Dickinson, North Dakota. The following topics will be discussed at the Council meeting:

BLM/FS interchange; noxious weed and grasshoper control program; land sales-exchanges (pooling); progress of the North Dakota Resource Management Plan; the status of the coal program and oil drainage review; the Secretarial program "Take Pride In America—This Land Is Your Land"; public land in the Conservation Reserve Program; volunteers in the BLM; and Federal appropriations to counties.

The Council is chartered by the Secretary of Interior to give citizen advice to the Dickinson District Manager regarding planning and management of public lands and resources.

The meeting is open to the public, and members of the public will be given the opportunity to make statements before the Council. Persons wishing to submit a written statement to the Council should send it to the Dickinson District Manager.

Location, Date, and Time: June 11, 1986, from 8:30 A.M. to approximately 4:00 P.M. Mountain Daylight Time, Community Room (basement) of the Gate City Building, 204 Sims Street, Dickinson, North Dakota.

FOR FURTHER INFORMATION CONTACT: William F. Krech, District Manager; P.O. Box 1229, Dickinson, North Dakota 58602; Telephone (701) 225–9148.

Dated: May 7, 1986.

William F. Krech,

District Manager.

[FR Doc. 86–10973 Filed 5–14–86; 8:45 am]

BILLING CODE 4310-DN-M

Meeting of the Rock Springs District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of field tour and meeting of the Rock Springs District Advisory Council.

DATE: June 25–26, 1986.

ADDRESS: Rock Springs District Office, Bureau of Land Management, U.S. Highway 191 North, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307) 382–5350.

SUPPLEMENTARY INFORMATION: The field tour will leave the District Office at 9:00 A.M. on June 25 and return about 4:30 P.M. the same day. Weed control, rehabilitation of disturbed sites, and threatened and endangered plant species will be discussed. The tour is open to the public; however, BLM will not provide transportation.

The meeting on June 26 will begin at 9:00 A.M. in the District Office conference room.

The agenda will include:

Introduction of New Members
Election of Officers
Discussion of the Field Tour
Pinedale Resource Management Plan Progress Report
Wild Horse Gathering Plan
Update on Riley Ridge
Cooperative Management Agreement with Wyoming Game and Fish
Minerals Decentralization
Public Comment Period

Arrangements for the Next Meeting.

Donald J. Seibert,

Acting District Manager.

[FR Doc. 86-10906 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-22-M

Realty Action—Lease, Montana

AGENCY: Bureua of Land Management, Interior.

ACTION: Notice of realty action, lease of public lands in Lewis and Clark County, Montana.

SUMMARY: The following described lands have been identified as suitable for a ski area lease under the conditions of section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976; 43 U.S.C. 1732.

Principal Meridian Montana

T. 12 N. R. 6 W. Sec. 35, lots 1, 17, 18, 19, 20, 23, NW¼NE¼, NE¼NW¼.
Section 36, lots 28, 29.

The lands will be offered non-competitively to the Great Divide Skiing Company as part of the former Mt. Belmont Ski Area. Only portions of the above described lands will actually be included in the lease.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the proposed lease including an environmental assessment and the actual lands to be included in the lease will be available at the Butte District Office, 106 N. Parkmont, P.O. Box 3388, Butte, Montana 59702.

SUPPLEMENTARY INFORMATION: The Great Divide Ski Company is in the process of purchasing the Belmont Ski Area from the Belmont Ski Club which has operated in the area under a Recreation and Public Purposes Act lease. The reason for converting the lease to a commercial lease is to allow greater capitalization of the area so major improvements can be made to the lifts, runs, and lodge facilities. Less than one-half of the ski area is located on public land. The rest is leased from private parties. The lands will be leased non-competitively with the annual rental based on the appraised fair market value.

Dated: May 7, 1986.

Jack A. McIntosh,

District Manager, Butte District.

[FR Doc. 86-10907 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-DN-M

[W-97410]

Receipt of Exchange Proposal; Wyoming

Correction

In FR Doc. 86-9801 appearing on page 16234 in the issue of Thursday, May 1, 1986, make the following correction: In the first column, in the **SUMMARY** paragraph, in the seventh line, after "approximately" insert "equal value in the Powder River Basin. The coal reserves specifically".

BILLING CODE 1505-01-M

[C-4-86]

California; Filing of Plat of Survey

May 7, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately.

San Bernardino Meridian, Riverside County

T. 4 S., R. 4 W.

2. This supplemental plat of sec. 32, Township 4 South, Range 4 West, San Bernardino Meridian, California, showing amended lottings, is based upon the plat approved June 17, 1898 and the plat accepted March 10, 1977, was accepted April 24, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-10964 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-40-M

[Group 858]

California; Filing of Plat of Survey

May 7, 1986.

1. These plats of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Kern County

T. 27 S., R. 36 E.
T. 27 S., R. 37 E.

2. a. The dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of sections 13, 24, and 25, Township 27 South, Range 36 East, Mount Diablo Meridian, California.

b. The dependent resurvey of a portion of the south boundary of Township 26 South, Range 37 East, a portion of the south boundary, the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 18, 19, and 30 of Township 27 South, Range 37 East, Mount Diablo Meridian, California under Group 858 were accepted April 22, 1986.

3. These plats will immediately become the basic record of describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These plats were executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge, Chief

Records & Information Section.

[FR Doc. 86-10965 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-40-M

[C-25-84]

California; Filing of Plat of Survey

May 7, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian Siskiyou County

T. 47 N., R. 5 E.

2. This supplemental plat, showing amended blocks in Newell Townsite, Section 26, Township 47 North, Range 5 East, Mount Diablo Meridian, California,

is based upon the plats acceped June 22, 1948, October 25, 1950, February 13, 1951, and January 13, 1959, and was accepted April 30, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-10966 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-40-M

[Group 871]

California; Filing of Plat of Survey

May 7, 1986

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mono County

T. 9 N., R. 23 E.

2. This plat, representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, the survey of the subdivision of sections 28 and 33, and the metes-and-bounds survey of a portion of the westerly right-of-way line of Eastside Road in sections 28 and 33, Township 9 North, Range 23 East, Mount Diablo Meridian, California, under Group No. 871, was accepted April 24, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room 2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief Records & Information Section.

[FR Doc. 86-10967 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 8448, Block 279, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on May 6, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m., to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Angie D. Gobert, Mineral Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit, Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 9, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-10963 Filed 5-14-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Fifth Revised I.C.C. Order No. P.-88]

Passenger Train Operation; Central Vermont Railway, Inc.

TO: Central Vermont Railway, Inc.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Washington, DC and Montreal, Canada. The operation of these trains requires the use of the tracks and other facilities of Boston and Maine Corporation (BM). The BM Line is temporarily out of service because of a labor dispute. An alternate route is available via the Central Vermont Railway, Inc., between Palmer, Massachusetts and White River Junction, Vermont.

It is the opinion of the Commission that the use of such alternate route is necessary in the Interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Central

Vermont Railway, Inc. (CV), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Palmer, Massachusetts and White River Junction, Vermont.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

*(d) *Effective date.* This order shall become effective at 11:59 p.m., April 18, 1986.*

*(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Central Vermont Railway, Inc., and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, April 18, 1986.

Interstate Commerce Commission.

William J. Love,

Agent.

[FR Doc. 86-10937 Filed 5-14-86; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-90]

Passenger Train Operation; Union Pacific Railroad Co.

To: Union Pacific Railroad Company.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois and Los Angeles, California. The operation of these trains requires the use of tracks and other facilities of The Atchison, Topeka and Santa Fe Railway Company (ATSF). A potion of the ATSF Line between Daggett and Los Angeles, CA, is temporarily out of service because of a work stoppage. An alternate operation is available via the Union Pacific Railroad Company between Dagget and Los Angeles, California.

It is the opinion of the Commission that the use of such alternate operation is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Daggett, California and the Union Passenger Terminal in Los Angeles, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 3:30 p.m., EDT, May 5, 1986.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., EDT, May 12, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon The National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the **Federal Register.**

Issued at Washington, DC, May 5, 1986.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 86-10936 Filed 5-14-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30815

Chicago West Pullman Corp.; Acquisition and Operation Exemption; Manufacturers' Junction Railway Company; Exemption

Chicago West Pullman Corporation (Chicago West) has filed a notice of exemption to acquire and operate the line of Manufacturers' Junction Railway Company (MJ).

Chicago West is a non-carrier that already controls a carrier, Chicago, West Pullman & Southern Railroad Company (CWP). CWP is a Class III railroad that operates over 30 miles of track in Chicago, IL. MJ is a carrier that operates approximately 5.27 miles in Cicero, IL. CWP and MJ do not connect, the distance between them is approximately 21 miles. Chicago West states that the acquisition is not part of a series of anticipated transactions that would lead to a connection between CWP and MJ. This is an acquisition of nonconnecting carrier, exempt from 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

Employees of MJ affected by MJ closing the facility will be protected by the Facility Closing Program, as agreed to by the United Transportation Union. All other railroad employees affected by the transaction, will be protected by the conditions in *New York Dock Ry.—Control—Brooklyn Eastern District,* 360 I.C.C. 60 (1979), this will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Decided: April 30, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-10938 Filed 5-14-86; 8:45 am]

BILLING CODE 7035-01-M

MERIT SYSTEMS PROTECTION BOARD

Change in Organization Titles

AGENCY: U.S. Merit Systems Protection Board.

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* Change of effective periods.

ACTION: Notice of change in organization titles.

SUMMARY: The U.S. Merit Systems Protection Board has changed the organizational title of its regional attorney-examiners from Presiding Official to Administrative Judge. The change is being made to more accurately reflect the nature and function of the position.

The title of the Board's regional directors will now be Regional Director/Chief Administrative Judge.

The authority and duties of these positions remain the same as set forth in current MSPB regulations.

DATE: Effective May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Doheny, Acting Assistant Managing Director for Regional Operations, (202) 653–7980.

Dated: May 12, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86–10979 Filed 5–14–86; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Fellowships Section) to the National Council on the Arts will be held on June 3, 1986, from 9:00 a.m. to 6:00 p.m., and on June 4, 1986, from 9:00 a.m.–5:30 p.m., in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC, 20506.

A portion of this meeting will be open to the public on June 4, from 4:30 p.m. to 5:30 p.m., for a policy discussion.

The remaining sessions of this meeting on June 3, from 9:00 a.m. to 6:00 p.m., and on June 4, from 9:00 a.m. to 4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne Sabine,

Acting Director Office of Council and Panel Operations National Endowment for the Arts.

May 8, 1986.

[FR Doc. 86–10971 Filed 5–14–86; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio Programming in the Arts Section) to the National Council on the Arts will be held on May 29, 1986 from 9:00 a.m. to 5:30 p.m., in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, elevation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506;, or call (202) 682–5433.

Yvonne Sabine,

Acting Director Council and Panel Operations National Endowment for the Arts.

May 8, 1986.

[FR Doc. 86–10969 Filed 5–14–86; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Programming in the Arts Section) to the National Council on the Arts will be held on June 2–3, 1986 from 9:00 a.m. to 5:30 p.m., in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endownment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated May 8, 1986.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–10970 Filed 5–14–86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Regulatory Policies and Practices; Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on May 27, 1986, Room 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, May 27, 1986—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the regulatory process as it relates to the June 9, 1985 event at Davis-Besse.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the

meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allowed therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Gary Quittschreiber (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 9, 1986.

Morton W. Libarkin,

Assistant, Executive Director for Project Review.

[FR Doc. 86-10994 Filed 5-14-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 5, 1986
Thursday, June 12, 1986
Thursday, June 19, 1986
Thursday, June 26, 1986

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisioins of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, DC 20415 (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate, Advisory Committee.

May 8, 1986.

[FR Doc. 86-10999 Filed 5-14-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23212; File No. SR-CBOE-86-07]

Self-Regulatory Organizations; Chicago Board Options Exchange Inc.; Order Approving Proposed Rule Change

On March 6, 1986, the Chicago Board Options Exchange, Inc. ("CBOE"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change that would establish for a six month period a foreign currency options incentive program that would provide financial credits to market makers based on the number of their off-floor order trades. These credits could be applied by the market maker toward the payment of dues, fees and open-market seat purchases.

The proposed rule change was noticed in Securities Exchange Act Release No. 23051 (March 4, 1986), 51 FR 11123. No comments were received on the proposed rule change.

Under the proposed six-month currency options incentive program, the CBOE would compute for each market-maker, from trade match data in each currency option class, the total number of inperson, market-maker trades made with off-floor orders (also known as "accommodation volume")[3] Based on this information, incentive credits will be allocated among market-makers for each currency option class. The monthly allocation of credits will be the percentage of each market-maker's accommodation volume per currency option class as compared to the toal accommodation volume in that class. Accordingly, if a market-maker handles 10% of the accommodation volume in a particular option, he will receive 10% of the bonus for that month in that option. The CBOE will, however, impose a $50 cap per contract, so that if a market-maker trades only one contract, the maximum incentive credit that can be gained is $50. During the first three months of the program, CBOE will impose the following monthly limits on credits allowed for each currency options class: $30,000 each for Japanese yen and Swiss francs, $20,000 each for

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] Accommodation volume includes both firm proprietary and public customer orders. No order from a market-maker can be an off-floor order and thus, will not be counted as a part of a market-maker's accommodation volume.

British pounds and West German marks, and $10,000 each for Canadian dollars and French francs. In addition, during the entire six month program, the monthly total of incentive credits will not be more than $120,000 for all currency options classes.[4]

The incentive credits can be applied, by the market-maker who earned them, toward the payment of CBOE dues, fees and open-market seat purchases.[5] In addition, the credits can be sold to the market-marker's clearing firm, which also may apply them to its dues, fees and open-market seat purchases. In its filing, the CBOE has stated that it will begin to compute market-maker accommodation volume in connection with the program as of March 3, 1986, although no actual credits will be applied until Commission approval of the proposal.

The CBOE has stated that the purpose of its currency incentive program is to ensure the continued presence of those market-makers who have already demonstrated the ability and willingness to fill outside order flow, and to attract new market-makers to the currency trading crowds. CBOE believes that because it will provide a regularized level of incentive payments in each currency options class, the program should encourage market makers to support these products.

In reviewing the proposed incentive program, the Commission recognizes that CBOE is attempting to attract more market-maker interest in a new product that, to date, has not attracted substantial market-maker or other floor participation. Nevertheless, the Commission is concerned that an incentive program designed to provide dollar credits (that can be applied to dues and fees) based on a market-maker's volume in foreign currency options could encourage so-called "chumming"[6] or other artificial forms of trading by which market-makers might attempt to inflate their volume in order to earn the credits. Indeed, as a more general matter, the Commission is also concerned about the fact that market-makers would be induced to trade based, not on their assessment of market forces or in response to their affirmative market making obligations, but rather in an attempt to earn trading credits.

The Commission, however, has determined that this limited incentive program may be approved. First, we note that the program will only exist for a six month trial period. Second, under the proposal, no order from another market-maker will be deemed an off-floor order in which credit for accommodation volume is provided. Accordingly, the proposal should not create incentives for market-makers to enter into transactions with each other solely for the purpose of obtaining credits. Third, in its filing, the CBOE states that it will monitor the currency options trading of market-makers doing a large accommodation volume to ensure that this volume consists of actual accommodations that should be counted towards the market-maker's credits. We also note that the CBOE's general surveillance of prearranged trading should capture any transaction effected for the purpose of increasing a market-maker's volume. On balance, therefore, the Commission believes that the six month currency options incentive program proposed by CBOE for the limited purpose of attracting more market makers to a relatively new product traded mostly by institutional investors should be approved.[7]

For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6[8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2)of the Act,[9] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Dated: May 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10988 Filed 5-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23218; File No. SR-CBOE-86-11]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change Relating to Extension of the RAES Pilot Program

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted on May 2, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to extend the operation of the CBOE's retail automatic execution system ("RAES") pilot program. RAES permits the automatic execution of certain public customer orders in a limited number of the Standard & Poor's 100 Index ("OEX") series.[1] The Proposal would extend the operation of the pilot from April 30, 1986, through July 4, 1986. The CBOE applied for an extension of time in order to give the Commission additional time to consider a companion rule filing wherein the CBOE requests that the RAES pilot in OEX be made permanent.[2] In the interim, the Exchange seeks to continue operating RAES in OEX on a pilot basis.

In its submission to the Commission, the CBOE states that the RAES pilot has been highly successful, with customers' brokers receiving execution reports on RAES orders sometimes within one minute of the order's entry into the system. CBOE states that there have been virtually no complaints regarding RAES or its operations. The Exchange believes that the proposed rule change is ocnsistent with the provisions of the Act, in particular section 6(b)(5) thereof, in that the proposed rule change offers the potential for improved accuracy, reporting and handling of small public customer orders and timely and cost-

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[4] This will provide CBOE with the flexibility to alter the dollar limits in each class established for the first three months of the program depending on how the trading in each class is effected by the incentive credits. In any event, however, the monthly total credits for all options classes will not exceed $120,000.

[5] CBOE has indicated that by allowing the credits to be applied to open-market seat purchases the rule proposal may also encourage the purchase of such seats on the exchange.

[6] Chumming is a broad term that covers a variety of activity, including prearranged trades, wash sales and trade reversals, that is intended to give the appearance of increased trading volume. *See Report of the Special Study of the Options Markets.* H.R. Rep. No. 1FC3, 96th Cong., 1st Sess. (Comm Print 1978) at 169-172.

[7] In addition, CBOE has represented that during the program it will monitor whether increased market-maker participation in foreign currency options results from market-makers leaving lower volume equity options classes thereby decreasing the liquidity in those options classes. The CBOE has stated that it does not believe such an effect is likely to occur.

[8] 15 U.S.C. 78f (1982).

[9] 15 U.S.C. 78 s(B) (2) (1982).

[10] 17 CFR 200.30-3[a](12)(1985).

[1] A complete description of RAES is provided in the Commission's initial order approving CBOE's implementation of the RAES pilot program. *See* Securities Exchange Act Release No. 21695 (January 28, 1985), 50 FR 4823 (File No. SR-CBOE-84-30).

[2] *See* Securities Exchange Act Release No. 22274 (July 29, 1985) 50 FR 31264 (File No. SR-CBOE-85-32). The CBOE also has filed with the Commission a proposed rule change to use RAES for individual stock options on a six month pilot basis. *See* Securities Exchange Act Release No. 22270 (July 26, 1985), 50 FR 31449 (File No. SR-CBOE-85-16, Amendment No. 2).

efficient executions of small option orders.

The Commission finds that an extension of the pilot program through July 4, 1986 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in particular, sections 6(b)(5) and 11A of the Act. [3] It does not appear that extending the duration of the pilot until this time will impose any undue burdens on public customers of OEX, or on any other public customers.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after date of publication of the proposal in the Federal Register in that the pilot has been operational since February 1, 1985 and the Commission has not received any comments concerning the pilot which would warrant discontinuing it prior to a Commission determination on the merits of the CBOE's request to accord the pilot permanent status.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: May 8, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10990 Filed 5-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23219; File No. SR-DTC-86-3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Depository Trust Company

On April 17, 1986 the Depository Trust Company ("DTC") filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"). The proposed rule change, among other things, modifies DTC's procedures for crediting cash dividend and interest payments ("Payments"), charge-backs of dividend and interest payments, dividend and interest refunds and passing through fund usage charges on bearer municipal bond interest payments. The rule change is a temporary rule which will expire no later than October 17, 1986. The Commission is publishing this Notice to solicit comment on the rule change.[1]

DTC's proposed rule change modifies DTC's procedures for crediting corporate cash dividend and interest payments from payment on the date payment is received to payment on payable date, subject to certain exceptions. (DTC will continue to credit bearer and registered municipal bond interest payments on payable date.) Because some paying agents routinely fail to pay dividends and interests in good funds on payment date, the proposal would authorize DTC to withhold crediting participants' accounts until DTC has received the necessary funds. Moreover, any margin of Payments credited to Participants in excess of actual receipts by DTC on that day will be funded by an equal amount of same-day funds received the next day which then would not be invested overnight (thereby reducing monthly dividend refunds to Participants). When infrequent peak payment dates make cash flow from same-day funds projected for the next day inadequate to fund that margin of Payments, some large Payments to DTC of less than $5 million will be deleted from credits to Participants if those Payments do not arrive before early afternoon.

The proposal also modifies DTC's refund policy with respect to dividend and interest investment income to reduce the monthly refund of overnight investments to participants that pay DTC more than 90%, but less than 100%, of dividend and interest payments received in same-day funds on payable date. Because DTC pays participants dividend and interest on their securities positions in next-day funds, DTC invests dividend and interest payments received in same-day funds on payable date overnight and rebates to participants, *pro rata* on a monthly basis, the income from those investments. Currently, participants that have paid DTC at least 90% of the dollar amount owed to DTC during the previous three month period on payable date and in same day funds share in this investment income. Under the proposal DTC, however, will reduce the monthly refund payments to these paying agents by the percentage of the total month's payments that fall short of 100% of the amount due DTC in same day-funds on payable date.[2]

The proposal also allows DTC to pass through interest collection agent's interest cost from late payments to participants. (This is called a "funds usage charge".) DTC channels all coupons for bearer municipal bonds to a central interest collection agent ("Agent"). On payable date the Agent pays DTC the total interest payments regardless of whether the Agent has collected all the funds from the various paying agents. Under the proposal, the Agent will charge DTC a funds usage charge and DTC will pass the charge on a *pro rata* basis to participants that received those particular payments.

The proposal allows DTC to charge-back certain dividend payments previously credited to participants. DTC will charge-back previously credited payments upon written request from a paying agent within 10 business days of the payable date for an error by the paying agent; a failure by the issuer to provide the paying agent with sufficient funds to cover the payments; or the bankruptcy of the issuer on or prior to the payable date. Also, DTC may charge back any errors made by DTC as a result of erroneous announcements or calculations or payments credited to participants in anticipation of payments which have not been received by DTC 10 business days after payable date. For charge-backs as a result of a paying agent's written request, the rule change requires DTC to notify participants one business day prior to the date DTC enters the charge-back in the participants' daily settlement accounts.[3] If the paying agent notifies DTC more than 10 business days after payment date, DTC is not required to charge-back the participant's accounts but will cooperate with the paying agent and participants to resolve the matter. For DTC initiated charge-backs, DTC will give participants one day notice if the

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[3] 15 U.S.C. 78f and 78k-1 (1982).

[4] 15 U.S.C. 78s(b)(2)(1982).

[5] 17 CFR 200.30-3(a)(12) (1985).

[1] Written comments from DTC participants on charge-backs of Payments were solicited by DTC. Several Commentors raised a concern that DTC would charge-back payments to participants before participants' customers returned the Payments. DTC, however, believes situations of this type arise infrequently and are offset by the benefits of obtaining Payments from paying agents on payable date in same-day funds. Written comments from DTC participants or others were not solicited or received on crediting of Payments on payable date, reducing dividend and interest refunds and passing through to participants any funds usage charge.

[2] For example, if a payor fails to make 5% of its payments on payable date and 4% of the payments made on payable date are not in same-day funds, its refund for that month will be reduced by 9%.

[3] While DTC usually will attempt to verify the facts stated in the notice from the paying agent, the rule change notes that DTC incurs no such obligation.

charge-back will occur within 10 business days after payable date. Otherwise, DTC will notify participants 5 business days prior to entry of the charge-back.

DTC believes that proposed rule change is consistent with section 17A of the Act because it will improve the timeliness of dividend and interest payments to DTC participants. DTC believes the proposal also will improve processing and recordkeeping of DTC and its participants.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. This rule change is a temporary rule which shall expire no later than October 17, 1986. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submission should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number in the caption above and should be submitted by June 5, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 8, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–10989 Filed 5–14–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–23220; File No. SR–NASD–86–12]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Specifications and Study Outline for the Revised General Securities Representative Examination

Pusuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 1, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The NASD has filed revised specifications and a revised study outline for the General Securities Representative (Series 7) examination administered by the securities industry self-regulatory organizations. The examination questions for the revised Series 7 examination are in the custody of the New York Stock Exchange, Inc.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The Series 7 examination is used to qualify persons seeking registration as general securities representatives. The revised specifications and study outline reflect a joint securities industry self-regulatory effort to update the examination in view of securities industry developments since the Series 7 examination was adopted as an industry wide qualification examination in 1974. Among the changes in the industry are: the development of several new securities products (such as, index options, interest rate options, and foreign currency options), the alteration of the product mixes within the general securities firms, and the modification of the registered representative's job due to the expanding range of financial services offered. The examination has been revised to cover these areas, as well as, to place more emphasis on Direct Participation Programs. Moreover, the revised examination will place less emphasis on factual recall and more emphasis on application, evaluation, and analysis.

The revised specifications and study outline are consistent with section 15A(g)(3) of the Securities Exchange Act of 1934, which provides that a registered securities association may prescribe standards of training, experience and competence for persons associated with a member and may examine and verify the qualifications of such persons in accordance with procedures established by the rules of the association.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the specifications or study outline for the revised Sereis 7 examination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceeding to determine whether the proposed rule change should be disapproved.

IV. Solicitation by Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted in June 5, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority, 17 CFR 200.30-3(a)(12).

Dated: May 8, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10993 Filed 5-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23214; File No. SR-PSE-86-4]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Adoption of a Rule Fixing the Effective Date of Suspension of Trading in Dually Listed Securities When the Primary Market Has Suspended Trading Due to Buyouts or Mergers

The Pacific Stock Exchange, Inc. ("PSE") submitted on March 18, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Rule I, section 3(f) of the PSE's Rules to specify the date and time of suspension of trading in dually traded securities that have been suspended by the primary market due to a merger or buyout.[1] The proposal provides for the suspension of trading in the affected security at the close of trading on the primary market on the day designated by the primary market as the day of suspension.[2] The rule also allows for the Joint Equity Floor Trading Committee of the PSE ("JEFTC"), in situations involving suspensions because of a buyout or merger, to commence the suspension at a time other than the close of business of the primary market. The PSE states that this provision will permit the Exchange flexibility to deal with unforeseen situations.[3]

Notice of the proposed rule change, together with the terms of substance of the proposal, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23061, March 25, 1986) and by publication in the **Federal Register** (51 FR 11125, April 1, 1986). No comments were received regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10992 Filed 5-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24092]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); National Fuel Gas Co. et al.

May 8, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 2, 1986 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Company, et al. (70-7210)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and its subsidiaries, National Fuel Gas Supply Corporation ("Supply"), Seneca Resources Corporation, Empire Exploration, Inc. ("Empire"), Penn-York Energy Corporation, and National Fuel Gas Distribution Corporation, all located at 10 Lafayette Square, Buffalo, New York 14203, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10 and 12 (c), (d) and (f) of the Act and Rules 43 and 500(a)(3) promulgated thereunder.

The applicants-declarants seek authority for (i) the transfer by Supply to Empire of Supply's remaining oil and gas wells and related facilities in the Appalachian region; (ii) the transfer by Empire to Supply of 50 shares of Empire common stock, $10 par value; and (iii) the declaration of a dividend of these shares of common stock from Supply to National. The transfers will be valued at net book value as of the end of the latest practical fiscal year. The number of wells to be transferred will not exceed 2,400, and the net book value at September 30, 1985 of the wells and

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[1] The original filing of the proposed rule change by the PSE was mistakenly listed as File No. SR-PSE-86-3. Therefore, the Commission release and publication in the **Federal Register** incorrectly refer to the rule filing by that file number.

[2] Since the primary markets, the New York Stock Exchange, Inc., and the American Stock Exchange, Inc., close at 4:00 p.m. Eastern time, and the PSE does not close until 1:30 p.m. Pacific time (4:30 p.m. Eastern time), under the rule, the PSE will continue to be open for thirty minutes after trading has halted on the Exchange on an affected security.

[3] In a letter to the Division of Market Regulation, the PSE explained the rationale of the "unforeseen circumstances" provision of the rule change, noting that, "some degree of flexibility" was necessary to achieve the purposes of the rule. The letter cited an emergency situation, where the primary market is forced to close prior to its normal time on a day when a merger or buyout-related halt also has been announced, as evidence of the utility of this provision. *See* Letter from Kenneth J. Marcus, Attorney, Compliance Department, PSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, SEC, dated March 25, 1986.

related facilities to be transferred will not exceed $15 million.

Additionally, they seek authorization until December 31, 1996 to grant easements, rights-of-way, other interests in real property, and to transfer other property or assets, which are not goods, at market consideration where business requirements dictate.

Eastern Edison Company (70–7254)

Eastern Edison Company ("Eastern"), 110 Mulberry Street, Brockton, Massachusetts 02403, an electric utility subsidiary of of Eastern Utilities Associates, a registered holding company, has filed a declaration with this Commission pursuant to sections 6, 7 and 12(c) of the Act and Rule 50 promulgated thereunder.

Eastern proposes to increase its capital stock in an amount not in excess of $15,000,000 consisting of up to 150,000 shares of Preferred Stock, per value $100 per share ("New Preferred Stock") and to issue and sell such New Preferred Stock by competitive bidding. Eastern also proposes to issue sell, in one or more series from time to time by competitive bidding, up to $55,000,000 aggregate principal amount of First Mortgage and Collateral Trust Bonds ("New Bonds"). Eastern requests authorization to issue and and sell its New Preferred Stock and New Bonds through December 31, 1986.

The net proceeds of the sales of the New Preferred Stock and/or of one or more series of New Bonds will be applied first to redeem outstanding securities. The remainder of the proceeds will be applied to pay underwriting costs and other issuance expenses for the New Preferred Stock and the New Bonds and to reduce short-term bank indebtedness of Eastern.

Northeast Nuclear Energy Company et al. (70–7256)

Northeast Nuclear Energy Company ("Company"), and The Connecticut Light and Power Company ("CL&P"), Seldon Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, each a subsidiary of Northeast Utilities, a registered holding company, have filed a declaration pursuant to sections 6(a), 7, and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

The Company proposes to issue and sell, pursuant to a negotiated private placement with one or more institutional investors, not to exceed $20 million aggregate principal amount of guaranteed term notes. The notes will have maturities ranging from 7 to 20 years and are proposed to be guaranteed severally but not jointly by CL&P and WMECO in the percentages of 81% and 19%, respectively. The Company proposes to negotiate the terms of the issuance. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–10991 Filed 5–14–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[CM–8/969]

Chairman's Ad Hoc Group on Communications Development of the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Chairman's Ad Hoc Group on International Communications Development of the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 29, 1986 at 10:30 a.m. in Room 1205, Department of State, 2201 C Street NW., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities. The Ad Hoc Group on International Communications Development reviews issues pertaining to the improvement and/or expansion of the communications infrastructure in developing countries.

The purpose of the meeting on May 29 will be to review the results of the April 22–24 meeting of the Advisory Board of the Center for Telecommunications Development in Geneva. In addition, the Ad Hoc Group will review the status of United States support for the Center and make recommendations regarding appropriate United States positions regarding the Center for the ITU Administrative Council, which convenes June 16 in Geneva.

Members of the general public, specifically representatives of the telecommunications industry and those who are concerned with telecommunications development issues in developing countries, are invited to attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. All attendees must use the C Street entrance to the building. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. All persons wishing to attend should call (202) 647–1007.

Requests for further information should be directed to Mr. D. Clark Norton, State Department, Washington, DC, telephone (202) 647–1007.

Dated: May 6, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86–10908 Filed 5–14–86; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Individual Flotation Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO–C72c prescribes the minimum performance standard that individual flotation devices must meet in order to be identified with the marking "TSO–C72c."

DATE: Comments must identify the TSO file number and be received on or before August 22, 1986.

ADDRESS: Send all comments on the proposed Technical Standard Order to: Federal Aviation Administration, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C72c, 800 Independence Avenue, SW., Washington, DC 20591

or deliver comments to:

Room 335, 800 Independence Avenue, SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS–110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 426–8395.

Comments received on the proposed technical standard order may be inspected, before and after the comment closing date at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

TSO holders have asked questions regarding the correct marking of seat cushions which incorporate fire blocking material to meet FAR 25.853(c), effective November 26, 1984, and which will be required for transport category airplanes operating under FAR Part 121 after November 26, 1987.

Since many TSO seat/flotation device manufacturers are including the fire blocking materials as part of their TSO article, TSO–C72b is being changed to include FAR 25.853(c) as an option.

TSO–C72b is being changed to allow the TSO holder, if he so desires, to conduct the testing of FAR 25.853(c), effective November 26, 1984, and after conducting such testing and meeting those requirements, mark on the TSO tag that the cushion has been tested to FAR 25.853(c).

How to Obtain Copies

A copy of the proposed TSO may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."** Federal Aviation Administration Standards for Individual Flotation Devices may be obtained at the FAA Headquarters in the Office of Airworthiness, Aircraft Engineering Division (AWS–110), and at all Aircraft Certification Offices (ACO's).

Issued in Washington, DC, on May 8, 1986.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 86–10895 Filed 5–14–86; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 158—Airborne Loran-C Receiving Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 158 on Airborne Loran-C Receiving Equipment to be held on June 10–11, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Second Meeting Minutes; (3) Update of FAA Loran-C Nonprecision Approach Program; (4) Report on SC–137 Loran-C RNAV MOPS Revised Final Draft; (5) Refinement of Nonprecision Approach Criteria; (6) Oceanic Applications; (7) Use of Skywaves; (8) Define Further Scope of Work; (9) Task Assignments; (10) Other Business; and (11) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretaries, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 8, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86–10896 Filed 5–14–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

Performance Review Boards; Appointment of Members

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces the appointment of the members of the U.S. Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB's is to review senior executive employee's performance and make recommendations regarding performance and performance awards.

DATE: The Performance Review Boards become effective on May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry L. Padalino, Director of Human Resources, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 1134, Washington, D.C. (202) 377–9205.

SUPPLEMENTARY INFORMATION: There are two Performance Review Boards in the U.S. Customs Service as follows:

1. The Performance Review Board to review Senior Executives rated by the Commissioner and Deputy Commissioner is composed of the following members:

Stephen E. Higgins—Director, Bureau of Alcohol, Tobacco and Firearms
Mitchell A. Levine—Assistant Commissioner, Comptroller, Financial Management Service
John W. Mangels—Director, Office of Operations, Department of Treasury
Larry B. Sheafe—Assistant Director (Investigations) U.S. Secret Service
Richard Wassenaar—Assistant Commissioner (Criminal Investigations), Internal Revenue Service

2. The Performance Review Board to review all other Senior Executives is composed of the following members:

William P. Rosenblatt—Assistant Commissioner Office of Enforcement, U.S. Customs Service
William Green—Assistant Commissioner Office of Internal Affairs, U.S. Customs Service
Eugene H. Mach—Assistant Commissioner, Office of Inspection and Control, U.S. Customs Service
Michael H. Lane—Assistant Commissioner, Office of Commercial Operations, U.S. Customs Service
James W. Shaver—Assistant Commissioner, Office of International Affairs, U.S. Customs Service
D. Lynn Gordon—Acting Comptroller, U.S. Customs Service
Jerry L. Padalino—Director, Office of Human Resources, U.S. Customs Service
William J. Griffin—Regional Commissioner, Northeast Region, U.S. Customs Service
James R. Grimes—Regional Commissioner, South Central Region, U.S. Customs Service
Donald F. Kelly—Regional Commissioner, New York Region, U.S. Customs Service
Edward F. Kwas—Regional Commissioner, Southeast Region, U.S. Customs Service
William Logan—Regional Commissioner, Southwest Region, U.S. Customs Service
Richard McMullen—Regional Commissioner, North Central Region, U.S. Customs Service
Quintin L. Villanueva, Jr.—Regional Commissioner, Pacific Region, U.S. Customs Service.

Dated: May 9, 1986.

William von Raab,

Commissioner of Customs.

[FR Doc. 86–10923 Filed 5–14–86; 8:45 am]

BILLING CODE 4820–02–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Silver Treasure from Early Byzantium" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Walters Art Gallery in Baltimore, Maryland, beginning on or about May 16, 1986, to on or about August 18, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: May 13, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-11078 Filed 5-14-86; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document. A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

UNITED STATES SENTENCING COMMISSION

Treatment of Prior Criminal Record Under Sentencing Guidelines; Hearing

AGENCY: United States Sentencing Commission.

ACTION: Notice of Hearing.

SUMMARY: This notice announces that a hearing on the topic of treatment of prior criminal record under sentencing guidelines is scheduled by the U.S. Sentencing Commission for Thursday, May 22, 1986

Date: May 22, 1986.

Time: 10 a.m.

Location: U.S. Sentencing Commission Hearing Room, 14th Floor of the North Office Tower at National Place, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004 Further Information: Contact Paul K. Martin, Communications Director, 1331 Pennsylvania Avenue, N.W., Suite 1400, Washington, D.C. 20004, (202) 662-8800.

SUPPLEMENTARY INFORMATION: The U.S. Sentencing Commission was established under the Comprehensive Crime Control Act of 1984 and is an independent Commission in the Judicial Branch. The Commission is charged with developing a national sentencing policy for the federal courts, and pursuant to that, determinate sentencing guidelines. The May 22 hearing, the Commission's second, will focus on the offender characteristics a judge should consider when sentencing—specifically the treatment of prior record in the sentencing decision.

Written statements on this topic may be submitted to the U.S. Sentencing Commission, 1331 Pennsylvania Avenue, N.W., Suite 1400, Washington, D.C. 2004. The hearing record will remain open for thirty days after the hearing for additional written submissions. All are invited to attend the hearing.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 86-10945 Filed 5-14-86; 8:45 am]

BILLING CODE 2210-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 94
Thursday, May 15, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, May 20, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance and for consent to merge and establish five branches:

United Savings Bank, Manchester, New Hampshire, a state-chartered stock savings bank, in orgnaization, for Federal deposit insurance, for consent to merge, under its charter and title, with United Federal Bank, FSB, Manchester, New Hampshire, a non-FDIC-insured institution, and for consent to establish the five branches of United Federal Bank, FSB as branches of United Savings Bank.

Application for consent to merge and establish two branches:

Bank of Dadeville, Dadeville, Alabama, an insured State nonmember bank, for consent to merge, under its charter and title, with Camp Hill Bank, Camp Hill, Alabama, and for consent to establish the two offices of Camp Hill Bank as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities:

First National Bank and Trust Company/St. Lucie County, Port St. Lucie, Florida, for consent to purchase certain assets of and assume the liability to pay deposits made in the St. Lucie Plaza Branch of Citizens Federal Savings and Loan Association, Miami, Florida, a non-FDIC-insured institution.

Bank One, Athens, National Association, Athens, Ohio for consent to purchase certain assets of and assume the liability to pay deposits made in the Logan, Pomeroy and Athens offices of Diamond Savings and Loan Company, Findlay, Ohio, a non-FDIC-insured institution.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,512-SR
The Bank of Woodson, Woodson, Texas
Case No. 46,513-SR
United of America Bank, Chicago, Illinois
Case No. 46,516-SR (Amendment)
Gamaliel Bank, Gamaliel, Kentucky

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: May 13, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-11104 Filed 5-13-86; 3:18 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, May 20, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a members of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Memorandum regarding the Corporation's assistance agreement with an insured bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Date: May 13, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-11105 Filed 5-13-86; 3:19 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 20, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-376-3155.

Mary W. Dove,

Administrative Assistant.

[FR Doc. 86-11101 Filed 5-13-86; 3:17 pm]

BILLING CODE 6715-01-M

4

LEGAL SERVICES CORPORATION

TIME AND DATE: An executive session will be held at 5:00 p.m., Thursday, May 22, 1986. The public portion of the meeting will commence at 1:00 p.m., Thursday, May 22, 1986, and continue until all official business is completed.

PLACE: May 22, 1986—Twin Bridges Marriott, Chesapeake Room, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS OF MEETING: Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and unvestigatory matters under the Government in the Sunshine Act [5 U.S.C. 552b (c) (2), (6), (7), (9)(B), and (10)] and 45 CFR 1622.5(a), (e), (f), (g), and (h)].

MATTERS TO BE CONSIDERED:

1. Personal and Personnel Matters (Closed)
2. Litigation and Investigation Matters (Closed)
3. Approval of Agenda
4. Approval of Minutes
   —February 21, 1986
   —March 21, 1986
   —March 29, 1986
5. Proposal to Transfer Funds from the Program Development Budget Line to Law School Clinics
6. Proposal to Consolidate Regional Office Functions in Washington, DC
7. Discussion and Action on Recommendations of the Operations and Regulations Committee
   Questioned Costs—Proposed 45 CFR Part 1630
   —Report from Corporation Staff
   —Public Comment
   F.I.F.O.—Proposed 45 CFR Part 1631
   —Report from Corporation Staff
   —Public Comment
8. Public Comment

CONTACT PERSON FOR MORE INFORMATION: Timothy H. Baker, Executive Office, (202) 863-1839.

Date issued: May 13, 1986.

Timothy H. Baker,

Secretary.

[FR Doc. 86-11063 Filed 5-13-86; 2:51 pm]

BILLING CODE 6820-35-M

5

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10:00 A.M., Thursday, May 29, 1986.

PLACE: Room 410, 1825 K Street, NW., Washington, DC 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Possible Revisions to the Commission's Rules of Procedure, Subpart E. Hearings. 29 CFR 2200.60 through 2200.76.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634-4015.

Dated: May 12, 1986.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 86-11027 Filed 5-13-86; 10:34 am]

BILLING CODE 7600-01-M

federal register

Thursday
May 15, 1986

Part II

Environmental Protection Agency

40 CFR Parts 795 and 799
Proposed Test Rules:
Methylcyclopentane; Commercial Hexane
Tetrabromobisphenol A
Triethylene Glycol Monomethyl, Monoethyl, and Monobutyl Ethers

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 795 and 799

[OPTS-42084; FRL-3008-8]

Methylcyclopentane and Commercial Hexane; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In response to the Interagency Testing Committee's (ITC) designation of methylcyclopentane (MCP; CAS No. 96-37-7) for health effects testing, EPA is proposing that manufacturers and processors of MCP as well as manufacturers and processors of commercial hexane other than as impurities be required under section 4(a)(1)(A) of the Toxic Substances Control Act (TSCA) to perform testing of MCP for neurotoxicity (schedule-controlled operant behavior, neuropathology, functional observation battery, motor activity, and developmental neurotoxicity screen), subchronic toxicity, and inhalation and dermal pharmacokinetics (absorption, distribution, metabolism, and excretion). The Agency also believes that it could find under section 4(a)(1)(B) that there is the potential for substantial human exposure to MCP from its manufacture, processing, and use as a substantial component of commercial hexane and other mixed hexane products. EPA is proposing the testing of MCP because it is the second largest constituent of commercial hexane. The largest constituent, *n*-hexane, is a known neurotoxicant undergoing testing by the National Toxicology Program (NTP) for other toxicological endpoints. The Agency has inadequate information to characterize the toxicity of MCP. If industry should consider reformulating commercial hexane to reduce its *n*-hexane content, the content of MCP in the mixture would increase. Therefore, the Agency believes that testing MCP is necessary to determine its potential impact on human health.

Because there is substantial production and widespread exposure to commercial hexane and because current exposure to MCP occurs primarily following exposure to commercial hexane, EPA is also proposing under section 4(a)(1)(B) of TSCA that manufacturers and processors of commercial hexane other than as an impurity be required to perform testing of this substance for acute and subchronic toxicity, oncogenicity, reproductive toxicity, developmental toxicity, mutagenicity, neurotoxicity (schedule-controlled operant behavior, neuropathology, functional observation battery, and motor activity), and inhalation and dermal pharmacokinetics (absorption, distribution, metabolism and excretion).

DATES: Submit written comments on or before July 14, 1986. If persons request an opportunity to submit oral comments by June 30, 1986, EPA will hold a public meeting on this rule in Washington, DC. For Further information on arranging to speak at the meeting see Unit VIII of this preamble.

ADDRESS: Submit written comments identified by the document control number (OPTS-42084) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, DC 20460.

A public version of the administrative record supporting this action is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St. SW., Washington DC 20460, Toll Free: (800-424-9065), In Washington, DC.: (554-1404), Outside the USA: (Operator--202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule for MCP and commercial hexane under section 4(a) of TSCA in response to the ITC's designation of MCP for health effects testing consideration. Testing is being proposed for commercial hexane because there is widespread exposure to commercial hexane and because current exposure to MCP occurs primarily following exposure to commercial hexane. The Agency has concluded that existing data are inadequate to assess the risks to health posed by exposure to MCP and commercial hexane and that testing of both substances is necessary to develop such data.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.)* established the ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC designated methylcyclopentane (MCP; CAS No. 96-37-7) for priority consideration for health effects testing in its 16th Report, published in the Federal Register of May 21, 1985 (50 FR 20930). The ITC recommended that MCP be tested for health effects including neurotoxicity, cardiotoxicity, oncogenicity, genotoxicity, teratogenicity, and reproductive effects. The rationale for conducting these tests was based on: (1) The potentially high exposure of the general population to MCP through its presence in commercial hexane solvents and gasoline; (2) the large number of workers (over one million) thought to have been potentially exposed to MCP; and (3) the irrelevance of existing toxicity studies in which animals were dosed orally rather than by inhalation, the route by which the general population is more likely to be exposed to MCP. No separate justification for cardiotoxicity or oncogencity testing was provided in the Report.

Because of its high volatility and moderate water solubility, the ITC expected MCP to partition into the atmosphere where it would be rapidly degraded. Therefore, the ITC did not recommend testing for environmental effects.

B. Test Rule Development Under TSCA

Under section 4(a) of TSCA, the EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Administrator finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine if there is or may be substantial production and significant or substantial human exposure or substantial release to the environment. For the findings under sections 4(a)(1) (A)(ii) and (B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the finding under section 4(a)(1) (A)(iii) or (B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agnecy might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules, published in the **Federal Register** of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed at 46 FR 48524 and 46 FR 30300, and the section 4(a)(1)(B) findings are discused at 46 FR 30300.

In evaluating the ITC's testing recommendations concerning MCP, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of MCP under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) concerning MCP; and published and unpublished data on MCP and commercial hexane available to the Agency. From its evaluation, as described in this proposed rule, EPA is proposing health effects testing requirements for MCP under section 4(a)(1)(A). Because there is substantial production and widespread exposure to commercial hexane and because current exposure to MCP occurs primarily following exposure to commercial hexane, EPA is also proposing that manufacturers and processors of commercial hexane be required to perform testing of this substance for health effects under section 4(a)(1)(B).

II. Review of Available Data

A. Chemical Profile

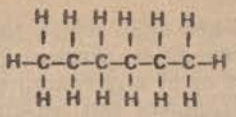
1. *MCP.* MCP is a colorless, flammable liquid with a sweet odor (Ref. 1). At 25 ° C, MCP has a moderate water solubility of 42 mg/l (Ref. 2). Its vapor pressure is 100 mm Hg at 17.9° C (Ref. 3) and 233 mm Hg at 37.8° C (Ref. 4), and its specific gravity is 0.750 g/ml at 20/4 ° C (Ref. 5). The log octanol/water partition coefficient (K_{ow}) is estimated as 3.31 (Ref. 6). A log soil/sediment-absorption coefficient (K_{oc}) is estimated as 3.18 (Ref. 6). MCP has an estimated atmospheric half-life of 1.97 days and an estimated Henry's law constant of 0.322 atm-m³/mole (Ref. 6). Because of its high volatility and moderate water solubility, MCP is expected to partition into the atmosphere, where it would be rapidly degraded by reaction in the vapor phase with hydroxyl radicals (Ref. 6).

2. *Commercial hexane.* MCP is one of several C_6 hydrocarbons found in commercial hexane (Ref. 9). Normal hexane (*n*-hexane; CAS No. 110–54–3), sometimes known as "hexane," is the saturated straight-chain hydrocarbon with the molecular formula C_6H_{14} (Ref. 9). It is a clear, volatile liquid with a molecular weight of 86.17 daltons and a specific gravity of 0.660 g/ml at 20° C (Ref. 13). *n*-Hexane solidifies between −95 and −100° C, boils at 68.95° C, and has a vapor pressure of 150 mm Hg at 24.8° C (Ref. 13). At room temperature, *n*-hexane has a faint, peculiar odor (Ref. 41). Insoluble in water, *n*-hexane is fairly soluble in organic solvents, e.g., alcohol, ether, and chloroform (Ref. 41).

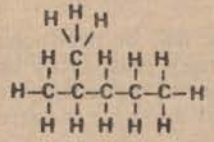
While in the singular sense "hexane" refers to *n*-hexane, in the plural sense "hexanes" refer to the straight chain compound *n*-hexane, as well as the branched hydrocarbons with the same C_6H_{14} molecular formula known as isohexanes, which include 2-methylpentane (2-MP; CAS No. 107–83–5), 3-methylpentane (3-MP; CAS No. 96–14–0), 2,2-dimethylbutane (2,2-DMB; CAS No. 75–83–2), and 2,3-dimethylbutane (2,3-DMB; CAS No. 79–29–8) (Ref. 9). Commercial hexane is a narrow-boiling mixture of *n*-hexane, the isohexanes 2-MP, 3-MP, 2,2-DMB, 2,3-DMB, with MCP, cyclohexane (CAS No. 110–82–7), and benzene (CAS No. 17–43–2) (Ref. (0. Minor amounts of C_5 and C_7 hydrocarbons may be present (Refs. 9) and 13). Refer to Figure 1 below.

FIGURE 1 -- C_6 HYDROCARBONS PRESENT IN COMMERCIAL HEXANE

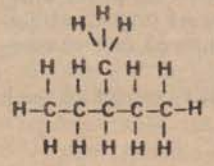
1. n-Hexane
CAS No. 110-54-3



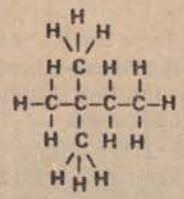
2. 2-Methylpentane (2-MP)
CAS No. 107-83-5



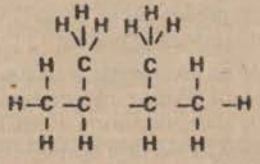
3. 3-Methylpentane (3-MP)
CAS No. 96-14-0



4. 2,2-Dimethylbutane (2,2-DMB)
CAS No. 75-83-2



5. 2,3-Dimethylbutane (2,3-DMB)
CAS No. 79-29-8



6. Cyclohexane
CAS No. 110-82-7

7. Methylcyclopentane (MCP)
CAS No. 96-37-7

8. Benzene
CAS No. 71-43-2

B. Production

1. *MCP.* MCP occurs naturally in crude oil and natural gas liquids and therefore is a constituent of some refinery hydrocarbon processing streams, e.g., straight-run gasoline, and finished petroleum products, e.g., jet fuel and hexane solvent (Ref. 7). MCP also is present as a nonisolated, in-stream component of a feed stream used in the production of hexane isomers, e.g., *n*-hexane, and cyclohexane, from C_6 hydrocarbon petroleum fractions in a closed-loop system (Refs. 8, 21, and 22). Phillips Petroleum Co. (Phillips), the sole manufacturer of isolated MCP, once separated MCP from the naphtha stream that was used to produce 98-percent cyclohexane. This naphtha stream consisted of benzene and C_6 naphthenes, 60 to 80 percent of which is MCP. While Phillips no longer isolates MCP for sale, production of MCP by this process was incidental to the production of cyclohexane (Ref. 20) and continues to occur.

According to the public portion of the TSCA Inventory, production of MCP in 1977 was 50 to 100 million pounds (Ref. 15). Phillips' Philtex Plant in Borger, Texas, is cited in the 1985 SRI Directory of Chemical Producers as the sole manufacturer of MCP (Ref. 16). However, Phillips pointed out that there has been no production of pure MCP in over 3 years, and that during each of the last years it was manufactured, 1980 through 1982, an average of 435 pounds of pure MCP was sold to laboratories for research (Ref. 8). This amount reflects the 0 to 1,000 pounds of MCP listed in the TSCA Inventory.

In addition, Phillips stated that the 50-100 million pounds of MCP reported in the TSCA Inventory as having been produced at its Sweeney, Texas, plant does not reflect production of pure MCP for sale, but reflects the amount of MCP used as an in-stream component which is converted into cyclohexane (Ref. 8).

The second manufacturer listed on the TSCA Inventory, Ashland Chemical Co., produced a maximum of 17,000 pounds of MCP per year as a byproduct of the manufacture of a high-energy fuel, RJ4, in previous years (Ref. 17). Ashland has recently lost the RJ4 contract to Koch Chemical Company and so will not produce any MCP for at least the next 4 years (Ref. 18). Koch chemical claims that its RJ4 fuel does not contain MCP (Ref. 50). Ashland used the byproduct MCP as a boiler fuel (Ref. 17).

Since the 1977 TSCA Inventory was conducted, PGP Gas Products, the third manufacturer listed on the TSCA Inventory, has split into two companies,

Valero Energy Corp. and Perry Gas Processors, both of Houston, Texas. Neither company currently produces MCP (Ref. 19).

2. *Commercial hexane.* There are three major types of commercial hexane, each produced in a different manner (Ref. 9). The composition of a commercial hexane depends upon the choice of feedstock and the process used to separate components (Ref. 9). The three most commonly used feedstocks are staight-run gasolines distilled from crude oil, the higher boiling portion of the liquid product stripped from natural gas, and a refinery stream known as "BTX raffinate," which is the paraffinic portion that remains after the removal of benzene, toluene, and xylene from a naphtha which has been refined to convert naphthalenes to aromatics (Ref. 41). While there is no current production of pure MCP, it is a major component of commercial hexane (8–19 percent), a high-volume solvent (Ref. 9). According to the International Trade Commission, approximately 500 million pounds of hexane were produced in 1984 (Ref. 10). This translates into 40–95 million pounds of MCP. Most of the exposures occur to the commercial hexane mixture rather than to pure MCP.

Commercial hexane A, or solvent grade, derived from the fractionation of straight-run gasoline (Ref. 41), has high benzene and sulfur contents and contains approximately 64 liquid volume percent *n*-hexane and 19 liquid volume percent MCP (Ref. 9). Commercial hexane B, or food grade, recovered in a refinery operation, is purer than A and is low in benzene, sulfur, and olefins (Ref. 9). It contains approximately 81 liquid volume percent *n*-hexane and 12 liquid volume percent MCP. Commercial hexane C, or reaction grade, is the result of extremely close fractionation of a natural gas liquid stock (Ref. 41). This relatively pure commercial hexane is low in impurities and contains approximately 88 liquid volume percent *n*-hexane and 8 liquid volume percent MCP (Ref. 9). EPA notes that as the percent of *n*-hexane increases, the percent of MCP decreases in commercial hexane.

According to EPA's economic analysis for this proposed rule (Ref. 23), commercial hexane is produced by several companies. Individual plant capacities are not available, but producers include Phillips Petroleum Co. (Borger, Texas, and Sweeney, Texas), Pennzoil Co. (Shreveport, Louisiana), Ashland Oil, Charter International Oil, Chemical Exchange Industries, Exxon Chemical Americas, Shell Oil, and Union Oil Co. of California. As industry conditions change from time to time, it is possible some of these producers do not currently manufacture hexane but they have been listed in trade sources as producers in recent years.

C. Uses

1. *MCP.* MCP can be used as a synthesis intermediate, as an extractive solvent, and as an azeotropic distillation agent (Ref. 5). Most of the in-stream MCP in the production of hexane isomers is converted into cyclohexane by Phillips (Ref. 8). Phillips at one time sold 99.9+ percent research grade, 99.5+ percent pure grade, 95+ percent technical grade, and 60 percent commercial grade MCP preparations to laboratories or research facilities (Ref. 20).

2. *Commercial hexane.* Commercial hexane A is used in motor fuels, commercial hexane B as a solvent to extract seed oils, and commercial hexane C as a reaction medium for various polymerization reactions and to formulate various products (Ref. 9). According to Kirk-Othmer (Ref. 9), the greatest volume of commercial hexane B is used during the extraction of oils from soybeans, cottonseed, flaxseed, safflower seed, corn germ, peanuts, and other minor crops. High solvency for the oil that is to be extracted, low boiling point to facilitate separation of the oil from the meal, low benzene content, and low cost are properties of commercial hexane B which have made it the predominant solvent for oil seed extraction (Ref. 9). These same properties apparently make commercial hexane B a desirable reaction medium and solvent in the manufacture of polyolefins, synthetic rubbers, and pharmaceuticals. When it is necessary to use a solvent which has been treated to reduce impurities to low levels, commercial hexane C may be used in polymerization reactions. It is also used as a component of quick-drying rubber cements and certain 2-solvent-system adhesives where it controls viscosity and reduces drying time. In addition, commercial hexane C is used in the preparation of lacquers and printing inks requiring a quick-drying diluent (Ref. 9).

D. Human Exposure

1. *Occupational exposure.* a. *MCP.* Although isolated MCP is currently not manufactured for sale, its presence in various hexane-containing refinery streams and products leads to widespread exposure of workers to MCP along with other C_6 hydrocarbons. The ITC's concern for occupational exposure to MCP was based upon the National Occupational Hazard Survey (NOHS) of 1972–74 in which 1,058,700 workers in 130 occupations were estimated to have been potentially exposed to MCP (Ref. 11). Phillips correctly noted that this estimate was high (Ref. 8). Only 3 percent of the observations had trade name products containing MCP. MCP was not seen in the workplace in its pure form.

Subsequently, the National Institute for Occupational Safety and Health (NIOSH) estimated that there are approximately 38,000 workers with potential exposure to either MCP itself or in a trade name product (Ref. 11). The data from the survey indicate that occupations involving contact with petroleum-based products, i.e., fuels, paints, and solvents, contain the largest number of exposed workers. A study by Brugnone *et al.* has established a correlation between environmental, alveolar, and blood MCP levels after exposure of shoe workers to solvents used in that industry (Ref. 40). EPA believes that this correlation, together with the NOHS survey and NIOSH exposure estimates, supports the concern for widespread worker exposure to MCP.

When Phillips examined 1,580 area samples at 104 locations and 5,589 personal samples at 72 locations for MCP, the average 8-hour time-weighted average (TWA) for all the samples was 0.25 ppm (Ref. 8). Personal sampling measurements for MCP ranged from <1ppm to 48 ppm (Ref. 12). These monitoring data were obtained from service stations, exploration/production facilities, chemical plants, and refineries (Ref. 12).

While EPA is not basing its findings upon MCP's presence in gasoline, gas station employees are expected to be exposed to MCP. Although no exposure data exist for these workers, the American Petroleum Institute (API) has predicted exposures ranging from 0.04 to 0.95 ppm (TWA) using an API theoretical model (Ref. 7). API stated that the high end of the range represented a worst-case exposure estimate (Ref. 7).

There is neither an Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) (29 CFR 1910.1000, Table Z–1) nor an American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV) (Ref. 13) for MCP.

b. *Commercial hexane.* According to the National Occupational Exposure Survey (NOES) of April 3, 1985, 83,000 workers were estimated to have actual exposure to hexane solvents. Of these,

12,576 were women (Ref. 42). Since there is no CAS Number for commercial hexane, EPA presumes that the bulk of the NOES estimate represents exposure to commercial hexanes. There are neither OSHA PELs (29 CFR 1910.1000, Table Z–1) nor ACGIH TLVs (Ref. 13) for the major components of commercial hexane (MCP, 2-MP, and 3-MP) other than *n*-hexane. There is a 500 ppm PEL and a 50 ppm TLV for *n*-hexane. There is a 500 ppm TLV and a 1,000 ppm STEL for hexane isomers other than *n*-hexane. Phillips has a corporate standard of 100 ppm for hexanes (Ref. 14).

2. *General population exposure.* a. *MCP.* Although isolated MCP is currently not manufactured for sale, its presence in various hexane-containing refinery streams and products leads to widespread exposure of the general population to MCP along with other C_6 hydrocarbons. There are numerous human-generated sources of MCP. It is estimated that approximately 179 million pounds of MCP are released by oil spills, evaporation of gasoline from gasoline stations and hydrocarbon emissions from land transportation vehicles (Ref. 24). Other potential sources of MCP release that cannot be quantified are combustion of JP–4 jet fuel, deliberate venting of waste hydrocarbon gases, and dumping of formation waters (water produced with oil and gas) associated with offshore crude oil production operations.

MCP has been detected 9 times at $<10\mu g/1$ and once at 10 to 100 $\mu g/1$ in 63 samples of industrial waste water effluents (Ref. 38). MCP also has been detected and quantified in underwater hydrocarbon vents and formation water from offshore oil production facilities (Ref. 25). Having examined MCP's environmental fate, EPA believes that virtually all MCP released into the environment will partition into the atmosphere (Ref. 6).

Furthermore, a number of studies have been conducted in which MCP has been quantified or simply detected in air (Refer to Ref. 6). MCP has been detected both outdoors in air surrounding automotive painting plants when *n*-hexane is used as a paint diluent (Ref. 32) as well as in four indoor telephone control offices and one telephone business office in five States (ppb range) (Ref. 39). In addition, MCP is widespread in urban air, probably due to its presence in automobile exhaust, as discussed above. Although a measured atmospheric half-life of MCP is unavailable, the estimated half-life of 1.97 days suggests that released MCP will not persist in the atmosphere, although constant replenishment near urban areas and petroleum refining and processing facilities may establish steady-state concentrations (Ref. 6).

MCP has been detected as a constitutent (≤1.0 liquid volume percent) of commercial hexane solvents used in chemical analyses (Ref. 31). *n*-Hexane of unspecified grade is used as a paint diluent (Ref. 5) and several studies indicate the release of MCP from automotive painting plants along with *n*-hexane, 2-MP, and 3-MP (Refs. 32, 33, and 34).

The potential for general population exposure to MCP is high, since the results of monitoring surveys indicate that MCP has been detected in air, water, and human body fluids. Results from an EPA monitoring survey of human breast milk indicated that three of the seven components of commercial hexane were qualitatively identified in breast milk samples: *n*-hexane—8/8 samples; MCP—6/8 samples; and cyclohexane—5/8 samples (Refs. 36 and 37). In this survey, samples of mother's milk were analyzed from five cities for volatile (purgeable) and semivolatile (extractable) organics using gas chromatography/mass spectrometry. Environmental pollutants were measured in the milk to evaluate the utility of using this body fluid in specific pollutant studies for populations living near chemical manufacturing plants. MCP was present in breast milk samples collected from women in 3 States.

The investigators pointed out that the small sample size (no attempt was made to develop a statistically valid sample), the lack of control over participants (subjects were volunteers), and the selection of sites as having a high probability of detecting pollutants (urban areas with hydrocarbon pollutants) preclude extrapolating these data to the general population.

Despite these noted limitations, EPA believes that the results from this survey are valuable because they indicate that: (1) *n*-hexane, cyclohexane, and MCP are present in a body fluid, indicating their absorption and transport to breast milk; and (2) *n*-hexane, cyclohexane, and MCP were detected in samples collected from three States, indicating potentially widespread exposure.

b. *Commercial hexane.* Between 1979 and 1984, annual production of commercial hexane increased from 390 to 470 million pounds (Ref. 10). Approximately 32 percent of this production was used in vegetable oil extraction, 25 percent in polyolefin manufacturing, 22 percent in elastomer manufacturing, and 21 percent in adhesives and other uses (Ref. 9). Fifty percent of that used for vegetable oil extraction alone is lost through evaporation from seals and equipment (Ref. 23). In addition, motor fuels contain commercial hexane A. Such uses and losses likely contribute to general population exposure to commercial hexane and various C_6 isomers. Although the volume of commercial hexane in motor fuels is not known, the Agency expects this to be the major source of exposure to the general population.

The Agency is basing its estimation of general population exposure to commercial hexane not only on the production and use figures cited above but also on the assumption that the general population exposure as discussed above (Unit II.D.2.a.) is indicative of widespread general population exposure to commercial hexane and other hexane containing refininery streams and products.

3. *Consumer exposure.* a. *MCP.* EPA believes that consumer exposure to MCP may occur during the use of commercial hexane-based petroleum solvents, paints, and thinners. In addition, MCP has been detected in an unspecified adhesive (Ref. 35), wherein it probably occurs due to the commercial hexane contained in the adhesive. Liquid adhesives may, therefore, constitute another source of consumer exposure to MCP.

b. *Commercial hexane.* EPA believes that widespread consumer exposure to commercial hexane may occur during the use of petroleum solvents, paints, thinners, and other consumer products containing commercial hexane. Although EPA lacks specific data on the amount of such solvents in consumer products, their widespread use in industrial products as indicated by NOES data (Ref. 42) suggests that such solvents probably are used in a variety of similar products available to consumers.

E. Health Effects

1. *Pharmacokinetics.* The Agency has reviewed several absorption, distribution, and metabolism studies and has found them insufficient to predict the inhalation and dermal pharmacokinetics behavior of either MCP or commercial hexane.

a. *Absorption and distribution.* In order to compare alveolar and blood monitoring to environmental monitoring for solvents, Brugnone *et al.* (Ref. 40) studied the simultaneous exposure of Italian shoe factory workers to five solvents, i.e., acetone, *n*-hexane, MCP, 2–MP, and 3–MP, over a 4.5 hour period of the work shift. The authors reported that alveolar and blood concentrations

as well as lung uptake were significantly correlated with environmental air samples taken at selected times during the workshift for all five solvents.

Perbellini *et al.* (Ref. 44) determined the partition coefficients of several industrial aliphatic hydrocarbon compounds in various human tissues. The partition coefficient between blood and air is a determinant of inhalation absorption efficiency. The tissue/air partition coefficients for MCP were as follows (mean±standard deviation): fat (176±10.0); liver (7.8±1.0); brain (7.3±0.8); muscle (5.0±0.8); kidney (4.7±1.1); heart (1.9±0.8); lung (1.7±0.04); and blood (0.86±0.08). The high fat/air partition coefficient (176) and the estimated log octanol/water partition coefficient of 3.31 (Ref. 6) suggest that MCP is lipophilic.

These data concur with the results of a survey in which MCP was detected in breast milk (Refs. 36 and 37) (See Unit II.D.3. above). EPA believes that these results are valuable in terms of absorption because they indicate that inhaled MCP and other components of commercial hexane are present in a body fluid, and suggest transport of these components to breast milk.

Naruse (Ref. 35) studied the effects on mice of exposure to four unspecified adhesives containing various quantities and types of organic solvents. "Adhesive D" contained the following organic solvents as percents of the total adhesive: cyclohexane (36.3), acetone (15.3), isopropyl acetate (7.1), *n*-hexane (6.8), MCP (1.5), 3–MP (1.0), 2,3–DMB + 2–MP (0.8), and toluene (0.5).

An unspecified number of male "ddY" mice were exposed for 1 hour to 1 of 3 doses of vapors of the adhesive coated on aluminum foil strips. The air inside the chamber was sampled at intervals throughout the exposure period and analyzed for concentration of organic solvents and for oxygen. Blood samples were taken from the mice before exposure, at the middle and at the end of the 1-hour exposure period, and at 0.5, 1, 2, 3, 6, 12, 18, and 24 hours after cessation of exposure. Air sampling measurements indicated that acetone concentration rapidly increased immediately after the onset of exposure, reaching a maximum level in approximately 15 minutes. The other organic solvents reached maximum concentrations in air proportional to the concentration of adhesive vapor after approximately 30 minutes. Blood sampling measurements immediately after cessation of exposure to vapors of "Adhesive D" indicated that acetone, isopropyl alcohol, and cyclohexane were the major compounds found in blood. MCP and toluene were not detectable in the blood of mice exposed to 30 ml of adhesive vapor (detection level of 1 g/ml), but were detectable within 30 minutes in animals exposed to 50 and 70 ml of vapor. 2,3–DMB, 2–MP, and 3–MP were below detectable levels at all 3 exposure levels. Within 30 minutes after cessation of exposure, *n*-hexane, isopropyl acetate, toluene, and MCP concentrations in blood dropped below detectable levels. Cyclohexane was detected at 2 to 8 hours after cessation of exposure; acetone and isopropyl alcohol were detected at 6 to 12 hours after cessation of exposure. All solvents, however, dropped below detectable levels at 24 hours after cessation of exposure. No other tissues were studied. The Agency believes that this study indicates that these components of commercial hexane were absorbed in the blood following inhalation exposures.

b. *Metabolism and elimination.* Perbellini *et al.* (Refs. 47, 48, and 49) performed a series of studies in which urine samples from Italian shoe factory workers exposed to commercial hexane and to other solvents were analyzed by gas chromatography. However, the authors only looked for substances they thought would be present. No actual pharmacokinetic data obtained from labeled compounds were presented. No urinary metabolites of MCP or 2,3-DMB were specifically identified in these studies.

2. *Acute toxicity.* The Agency has reviewed the acute inhalation toxicity studies available and has found them inadequate to predict the acute toxicity of either MCP or commercial hexane. Based on the chemical profiles, production, and uses of commercial hexane, the most likely route of exposure is by inhalation.

3. *Subchronic toxicity.* The Agency has reviewed available subchronic studies and has found them either inadequate to predict or suggestive of the subchronic toxicity of MCP and commercial hexane.

Phillips (Ref. 8, Att. IV) provided a copy of a pathology report of an API-sponsored 4-week oral nephrotoxicity screening study of numerous test materials, including MCP, 2,3-DMB, and 2-MP. Twenty male F-344 rats were randomly distributed into 2 treatment groups of 10 animals. The two groups received either 0.5 g/kg or 2g/kg of test material by gavage 5 days per week for 4 weeks. Physiological saline (2.0 g/kg) was administered at the same time to 10 control rats. Histopathologic evaluations were performed on kidneys removed the day immediately following final administration of the test material. Lesions associated with experimental hydrocarbon nephropathy, such as hyaline droplet change, regenerative epithelium, and tubular dilation with granular material, were used to grade the extent of nephropathic changes. Rats treated with 2,3-DMB exhibited moderate hydrocarbon nephropathy scores (7.6 at a dose of 0.5 g/kg and 6.1 at a dose of 2.0 g/kg). Rats treated with 2-MP exhibited nephropathy scores slightly above those of controls (4.6 at 0.5 g/kg and 5.9 at 2.0 g/kg). The MCP nephropathy scores (2.9 at 0.5 g/kg and 3.4 at 2.0 g/kg), however, were comparable to those of the saline control group (3.0). EPA believes that this study is inadequate to predict the nephrotoxicity of either MCP or commercial hexane because of the small number of animals, short duration (28 vs. 90 days), and oral rather than inhalation administration.

In addition, the API study (Ref. 8, Att. III), discussed below under neurotoxicity, provides suggestive evidence of the subchronic toxicity potential of MCP and commercial hexane.

4. *Chronic toxicity.* No data on the chronic toxicity of either MCP or commercial hexane have been found in the literature.

5. *Oncogenicity.* No data on the oncogenic effects of either MCP or commercial hexane have been found in the literature.

6. *Developmental and reproductive toxicity.* No data on the developmental and reproductive effects of either MCP or commercial hexane have been found in the literature.

7. *Mutagenicity.* No data on the mutagenic effects of either MCP or commercial hexane have been found in the literature.

8. *Neurotoxicity.* In Italy and in Japan, commercial hexane is used as a solvent for leather adhesives and constitutes a ubiquitous pollutant in shoe-manufacturing industries (Ref. 49). Although *n*-hexane was once believed to have been of low toxicity, outbreaks of peripheral neuropathies in industrial workers exposed to commercial hexane focused attention on occupational exposure to *n*-hexane and its metabolites (Refs. 47 and 49).

It has been well documented that workers exposed to repeatedly high levels of commercial hexane solvents have developed peripheral neuropathies. The first documented cases were Japanese workers who developed polyneuropathy after 3 to 10 months of exposure to industrial atmospheres with high amounts (1,000 to 2,500 ppm) of hexane isomers (Ref. 46). Subsequently, similar cases appeared in U.S. and

European workers. These cases were supplemented by case reports of polyneuropathies following the intentional inhalation of glue vapors containing commercial hexanes and other solvents (Ref. 46). Clinically observed effects included fatigue, poor appetite, and weight loss, followed by impaired sense of touch and loss of strength in the extremities. Physiological effects included reduced nerve conduction velocities and denervation. Histopathological examinations revealed evidence of axonal degeneration, thereby confirming clinical observations.

Chronic exposure of rats to *n*-hexane has resulted in polyneuropathy (Ref. 43 and 46). When hexacarbon metabolites of *n*-hexane, methyl *n*-butyl ketone and 2,5-hexane-dione, were shown to induce the same type of neuropathy seen in rats exposed to *n*-hexane, other hexacarbon compounds found in commercial hexane were suspected of being neurotoxic (Ref. 43). Consequently, the following studies were performed to determine the neuropathic potential of the other hydrocarbon components of commercial hexane.

Ono *et al.* (Ref. 43) conducted a study to determine the comparative neurotoxicities of *n*-hexane (a known neurotoxicant) and certain of its isomers (2-MP, 3-MP, and MCP) commonly present in commercial hexane mixtures. The chemicals (>99 percent pure) were diluted in olive oil and orally administered to male Wistar rats (5 to 7 per group) daily for 8 weeks. Doses were increased at 4 weeks and at 6 weeks to accommodate the normal weight gain (measured at biweekly intervals) of the animals. For the first 4 weeks of the experiment, animals received 0.4 ml (approximately 700 mg/kg/day) of the appropriate chemical and 0.6 ml of olive oil per day. For weeks 5 and 6, they received 0.6 ml (approximately 1,000 mg/kg/day) of a chemical and 0.4 ml of olive oil per day and for weeks 7 and 8 they received 1.2 ml (approximately 2,000 mg/kg/day) of a chemical and 0.8 ml of olive oil per day. Controls received olive oil alone.

The conduction velocity of the peripheral nerve was measured in the animals' tails at biweekly intervals. Rats were immobilized without anesthesia and three electrodes were inserted in the nerve: the first was placed 3 cm down from the anus (A); the second was 7 to 10 cm down from the first (B); and the third was 5 cm down from the second and 3 to 4 cm up from the tail end (C). After insertion of the electrodes, the tail was immersed in a paraffin bath maintained at 37-38 °C. Motor nerve conduction velocity (MCV) and distal latency (DL) were measured by stimulating point A and point B in turn and observing the electromyogram (EMG) at point C. Mixed nerve conduction velocities (MNCV) were measured by stimulating the nerve at C and observing and summing the nerve impulses at A and B.

No significant differences were observed in body weight between groups over the course of the experiment. MCV in the *n*-hexane group was significantly less than control at 4 weeks ($p<0.05$) and at 8 weeks ($p<0.01$) after the beginning of the study but not at 6 weeks. MCV in the MCP group was significantly less than controls at 8 weeks ($p<0.05$). No significant differences were noted for the other test compounds. No significant differences in DL were noted for any test group when compared with controls. In the *n*-hexane group, MHCV (distal) was significantly less than controls at 4, 6, and 8 weeks ($p<0.05$). No significant differences were noted for the other test compounds. In the *n*-hexane group, MNCV (proximal) was significantly less than controls at 6 ($p<0.01$) and at 8 ($p<0.05$) weeks. In the MCP and 2-MP groups MNCV (proximal) was significantly less than controls at 8 weeks ($p<0.05$). No significant difference was noted for the 3-MP group. No behavioral changes were noted in any group throughout the course of the study.

EPA believes that this study provides suggestive evidence of MCP's and possibly 2-MP's neurotoxic potential. While *n*-hexane distinctly impaired the motor nerve conduction velocities of the peripheral tail nerve of male Wistar rats, MCP slightly, but significantly ($p<0.05$), impaired them.

Egan *et al.* (Ref. 46) conducted a 6-month subchronic continuous inhalation toxicity study to determine whether a mixture of C_6 isomers virtually free of n-hexane could induce in rats a neuropathy similar to that seen in experimental studies in animals chronically exposed to pure *n*-hexane. The mixture of C_6 isomers consisted of: 24.6 percent MCP (431.0 mg/m^3 nominal concentration); 35.3 percent 2-MP (618.0 mg/m^3); 30.0 percent 3-MP (525.0 mg/m^3); 6.2 percent cyclohexane (109.0 mg/m); 3.4 percent 2,3-DMB (60.0 mg/m^3); and 0.3 percent *n*-hexane (5.3 mg/m^3).

Male Sprague-Dawley rats were divided into four groups (6 per group): a sham-exposed group which received hydrocarbon-free air; a positive control which received methyl *n*-butyl ketone (96.66 percent pure) at 400 mg/m^3 (100 ppm); a negative control which received methyl ethyl ketone (99.98 percent pure) at 1,475 mg/m^3 (500 ppm); and an experimental group which received the mixture of C_6 isomers at 1,750 mg/m^3 (500 ppm). Animals were exposed 22 hours/day, 7 days/week for 6 months. Two rats per group were used as the subjects of detailed neuropathological examinations following 2, 4, or 6 months of exposure.

No clinically observable disorders, including neurological impairment, were observed in either exposed or control animals throughout the 6-month course of exposure. After 4 months of exposure, animals exposed to methyl *n*-butyl ketone, the positive control, showed histopathological signs of hexacarbon-induced neuropathy in both the central and peripheral nervous systems. After 6 months of exposure, more advanced neuropathy was observed. Exposure to methyl ethyl ketone, the negative control, for up to 6 months did not produce any histopathological changes in the central or peripheral nervous systems.

Animals exposed to the mixure of C_6 isomers for up to 6 months showed no significant histopathological differences from controls. As above, nervous tissue sections examined after 2 months of exposure appeared normal. At 4 months, age-associated changes in the medulla oblongata and chronic traumatic damage to plantar nerves were observed, but these changes were not attributed to compound administration. Single teased nerve fiber preparations appeared normal (in contrast to the giant axonal swellings seen in preparations from positive controls).

EPA believes that this study is well-conducted. Egan *et al.* used appropriate control animals and carefully monitored actual exposure concentrations and other variables, such as diet. However, EPA believes that the doses used were too low to adequately demonstrate lack of neurotoxic potential of the C_6 isomer mixture. For any repeated exposure study to provide adequate evidence of a substance or mixture's lack of potential to cause a specific effect, EPA feels that exposure to a maximum tolerated dose is necessary. Therefore, the study was inadequate to reasonably predict the neurotoxic potential of either MCP or commercial hexane.

In 1982, API sponsored a two-part study of the neuropathic potential of *n*-hexane in the presence of other hexane isomers (Ref. 8, Att. II). The mixture of C_6 isomers consisted of 30 percent MCP, 30 percent 2-MP, 30 percent 3-MP, 5 percent cyclohexane, 5 percent 2,3-DMB, and less than 1 percent *n*-hexane. Phase I of the study was designed to determine

whether rats treated with non-neurotoxic doses of *n*-hexane would develop neuropathy when treated concurrently with a mixture of *n*-hexane-free C_6 isomers. Phase II of the study was designed to determine whether a mixture of *n*-hexane-free C_6 isomers would potentiate the neurotoxic effects of *n*-hexane given to rats in neurotoxic doses.

In Phase I, young adult male Charles River CD rats were exposed by inhalation to combinations of *n*-hexane and C_6 isomers for 22 hours/day, 7 days/week for up to 6 months at International Research and Development Corp. Animals were killed by perfusion with paraformaldehyde followed by glutaraldehyde, and dissected to remove the brain, spinal cord, and sciatic/tibial nerve complex. Tissues were examined by light microscopy.

A total of 54 animals in six groups were examined. The first group (controls) consisted of 14 animals; the second group (four animals) was exposed to 125 ppm *n*-hexane for 6 months; the third group (four animals) was exposed to 125 ppm *n*-hexane and 125 ppm C_6 isomers for 6 months; the fourth group (four animals) was exposed to 125 ppm *n*-hexane and 375 on ppm C_6 isomers (approximately 112.5 ppm MCP, 2-MP, and 3-MP, respectively) for 6 months; the fifth group (four animals) was exposed to 125 ppm *n*-hexane and 1,375 ppm C_6 isomers (approximately 412.5 ppm MCP, 2-MP, and 3-MP, respectively) for 6 months; and the sixth group (24 animals) was exposed to 500 ppm *n*-hexane. Selected animals from the first and sixth groups were killed at monthly intervals throughout the study.

Weight loss and/or functional signs of abnormality expressed as hindlimb weakness were observed in all animals treated with 500 ppm *n*-hexane beginning with the fourth month of exposure. All other animals were reported to appear normal. Microscopic examination of animals treated with 500 ppm *n*-hexane revealed early pathological changes in the tissues studied beginning with the 2-month exposure group. Characteristic *n*-hexane-induced pathological changes were observed at the third month, and advanced pathological changes were seen by the fourth month.

Of the animals in the other groups (subjected to different exposure levels and examined at 6 months), age-related dystrophic axons were observed in all groups, including the controls. In the groups exposed to 125 ppm *n*-hexane in combination with either 375 or 1,375 ppm C_6 isomers, scattered axonal swellings were also observed, but these were not considered by the investigators to have been pathological changes consistent with *n*-hexane-induced neuropathy.

In Phase II, young adult male Charles River CD rats were exposed to combinations of *n*-hexane and C_6 isomers by a protocol detailed in the companion study (Ref. 8, Att. III). This report details the findings of the light microscopy examination of the brain, spinal cord, and sciatic/tibial nerve complex of animals after 2 months and 6 months of exposure. Five animals were examined from each exposure group at each time point, making a total of 40 animals. The exposure groups included controls, animals exposed to 500 ppm C_6 isomers, animals exposed to 500 ppm *n*-hexane concurrently with 500 ppm C_6 isomers, and animals exposed to 500 ppm *n*-hexane alone. Animals were exposed for 22 hours/day, 7 days/week for 2- or 6-month periods. Sacrifice was by perfusion with 4-percent paraformaldehyde followed by 5-percent glutaraldehyde.

All of the animals receiving *n*-hexane either alone or in combination with C_6 isomers exhibited signs of abnormality. After 2 months of exposure, weight loss, flat-footedness, and poor fur texture were noted. After 6 months, weight loss and hindlimb weakness were observed. All other animals were reported to appear normal.

Upon microscopic examination, animals not exposed to *n*-hexane exhibited only age-related changes. Animals exposed to *n*-hexane alone displayed pathological changes consistent with *n*-hexane-induced neuropathy at 2 and 6 months of exposure. Animals exposed to *n*-hexane concurrently with other C_6 isomers did not display compound-related pathological changes at 2 months exposure. Compound-related changes typical of *n*-hexane-induced neuropathy were seen at 6 months and were reported to be similar in degree to changes induced by *n*-hexane alone.

In 1983, API sponsored a study designed to evaluate the inhalation toxicity, particularly neurotoxicity, of *n*-hexane alone and mixed with other C_6 isomers commonly found in commercial hexanes (Ref. 8, Att. III). The chemicals and mixtures under study were administered to male Charles River CD rats (20 per group) for approximately 22 hours/day, 7 days/week for 6 consecutive months. No rationale was given for the selection of exposure levels.

Four groups of rats were employed. Group VII was exposed to filtered air only (methods control); Group VIII was exposed to 500 ppm mixed hexanes; Group IX was exposed concurrently to 500 ppm *n*-hexane and 500 ppm mixed hexanes, making a total of 1,000 ppm; and Group X was exposed to 500 ppm *n*-hexane (positive control). Two lots of *n*-hexane were employed during the course of the study. The purity of *n*-hexane was 99.3 to 99.4 weight percent. The major contaminant was MCP at 0.4 to 0.5 weight percent. Two lots of mixed hexanes were also used, consisting of approximately 30 percent MCP, 30 percent 2-MP, 30 percent 3-MP, 5 percent cyclohexane, 5 percent 2,3-DMB, and less than 1 percent *n*-hexane. Minor amounts of 2,2-DMB and an unknown component were reported in one lot.

After 2 months and 6 months of exposure, five animals/group were removed from this study for independent examination of the brain, spinal cord and sciatic/tibial nerve complex. These results are reported separately in the 1982 API study (Ref. 8, Att. II).

After 6 months of exposure, all surviving animals were killed by intraperitoneal administration of sodium pentobarbital followed by exsanguination. All animals (including those that died during the course of the study or were killed *in extremis*) were subjected to complete necropsy.

The only treatment-related pharmacotoxic sign observed was abnormal gait, which first appeared at week 16 in one animal from Group X and at week 17 in one animal from Group IX. The incidence and severity increased over time in both animals. Group IX (15 percent MCP and 50 percent *n*-hexane) and X (*n*-hexane only) had significantly ($p<0.01$) lower body weights than either Group VII (controls) or VIII (30 percent MCP). The difference first became significant at week 5 in Group IX and by week 26 was about 25 percent less than controls. In Group X, significance was first noted at week 7, and at week 26 was about 30 percent less than controls.

In all three experimental groups, kidney weights were significantly increased when compared with controls. Upon microscopic examination, a slightly increased incidence of chronic nephritis was observed which was considered to be consistent with the increase in weight. The severity of the condition was also increased in treated animals when compared with controls, but it was unclear whether this was due to amplification of the process seen in control animals or to additional tubular injury caused by the administered hexanes and typically seen in hydrocarbon-induced renal disease.

Groups IX and X, but not Group VIII, exhibited other organ weight variations,

but no significant alterations were noted upon histological examination. These variations were considered to be reflections of decreased body weight gain.

Abnormal gait was observed in 8/15 rats in Group IX and 9/15 rats in Group X by week 25 of the study. Microscopic examination revealed peripheral nerve lesions including atrophy, axonal degeneration, and mono-nuclear cell infiltration, in some cases accompanied by secondary skeletal muscle atrophy. These microscopic lesions and the clinical sign of abnormal gait were found only in the groups receiving *n*-hexane, either alone or in combination with mixed hexanes. Administration of mixed hexanes without *n*-hexane (Group VIII) did not result in detectable signs of neurotoxicity.

EPA believes that while the experimental protocol and exposure information in the 1982 API Study (Ref. 8, Att. II) were minimally presented, the 1983 API Study (Ref. 8, Att. III) appears to be well-conducted, with careful monitoring of actual exposure concentrations. Both these studies allow a comparison of effects in male rats after inhalation exposure for up to 6 months to C_6 isomers less *n*-hexane versus *n*-hexane alone. EPA further believes that these studies indicate that *n*-hexane produces clear clinical signs, e.g. abnormal gait, and neuropathy at 500 ppm, the OSHA, PEL, but not at 125 ppm. Exposure to up to 1,375 ppm C_6 isomers produced neither clinical signs nor neuropathy. For any repeated exposure study to provide adequate evidence of a substance or mixture's lack of potential to cause a specific effect, however, EPA believes that a maximum tolerated dose is necessary, and was not used in these studies. Therefore, these studies were inadquate to predict the neurotoxic potential of either MCP or commercial hexane.

F. Ongoing Testing

n-Hexane and its metabolites, methyl *n*-butyl ketone and 2, 5-hexanedione, have been shown to induce polyneuropathy in rats (Refs. 43 and 46). The National Toxicology Program (NTP) is conducting a subchronic inhalation toxicity test of *n*-hexane in $B6C3F_1$ mice (Ref. 26). There is continuous exposure at the low dose of 1,000 ppm. Exposure to 4,000 and 10,000 ppm occurs for 6 hours/day, 5 days/week for 13 weeks (90 days). Because Cavender *et al.* (Ref. 27), sponsored by the Chemical Industry Institute of Toxicology (CIIT), have published the results of a subchronic (13-week) inhalation toxicity study in Fischer rats exposed to 0, 3,000, 6,500, and 10,000 ppm of *n*-hexane for 6 hours/day, 5 days/week, NTP will evaluate the need for chronic toxicity testing (oncogenicity) after reviewing CIIT's data in rats and their own data in mice (Ref. 26). In addition, NTP has arranged for reproductive and developmental toxicity testing of *n*-hexane by inhalation (Ref. 26). Finally, NIOSH is testing potential motor and sensorimotor effects of acute inhalation exposures of rats to *n*-hexane, methyl ethyl ketone, and methyl amyl ketone (Ref. 29).

III. Findings

EPA is basing proposed testing requirements upon TSCA section 4(a)(1)(A) for MCP and upon section 4(a)(1)(B) for commerical hexane.

1. Under section 4(a)(1)(A)(i), EPA finds that the manufacture, processing, and use of MCP, whether as an isolated product or as a substantial component of mixed hexane products, may present an unreasonable risk of neurotoxicity and subchronic toxicity. Ono *et al.* (Ref. 43) reported impaired motor nerve conduction velocities in rats exposed to MCP, providing suggestive evidence of the neurotoxic potential of MCP. API (Ref. 8, Att. III) reported that a mixture of C_6 isomers virtually free of *n*-hexane caused significantly increased kidney weights and increased incidence in severity of chronic nephritis, providing suggestive evidence of the subchronic toxicity potential of MCP which was a major constituent of this mixture. Although isolated MCP has not been sold in the U.S. since 1982 (Ref. 8), MCP is a substantial component of various hexane-containing refinery streams and products whose manufacture, processing, and use result in extensive exposure of workers, consumers, and the general population to MCP as described in Unit II. D.

Under section 4(a)(1)(A)(ii), EPA finds that existing data and experience are inadequate to reasonably determine or predict the potential for exposure to MCP resulting from its manufacture, processing, and use, either as an isolated product or as a substantial component of mixed hexane products, to produce neurotoxicity, subchronic toxicity, and pharmacokinetic effects. EPA believes that the studies conducted by Egan *et al.* (Ref. 6) and API (Ref. 8, Att. II and Att. III) are inadequate because animals were not exposed to maximum tolerated doses of the test substance. EPA believes that exposure to maximum tolerated doses is necessary in order for such studies to provide adequate evidence of a substance or mixture's lack of potential to cause a specific effect. Thus, these studies cannot refute the positive findings of neurotoxicity provided by Ono *et al.* (Ref. 43) or the kidney effects provided by API (Ref. 8, Att. III). Furthermore, EPA believes that the nephrotoxicity oral screening study (Ref. 8, Att. IV) is inadequate to predict the nephrotoxicity of MCP because of the small number of animals, short duration (28 vs. 90 days), and oral rather than inhalation administration. In addition, while the absorption, distribution, and metabolism studies of MCP and other C_6 isomers indicate the absorption of MCP in blood, they are inadequate to predict to pharmacokinetic behavior of MCP.

Under section 4(a)(1)(A)(iii), EPA finds that testing of MCP for neurotoxicity, subchronic toxicity, and pharmacokinetic behavior is necessary to develop adequate data to assess the effects of human exposure to MCP resulting from its manufacture, processing, and use.

2. EPA also believes that there is substantial production of MCP as a component of mixed hexane products and that it could find that there is substantial human exposure to MCP from the manufacture, processing, and use of such products. Although isolated MCP is currently not manufactured for sale, its presence in various hexane-containing refinery streams and products leads to widespread exposure of workers, consumers, and the general population to MCP along with other C_6 hydrocarbons. Under a section 4(a)(1)(B) finding, EPA could require testing of MCP for additional health effects (e.g., reproductive effects) for which data currently do not exist and for which a section 4(a)(1)(A) finding of potential unreasonable risk cannot be made. However, because EPA simultaneously is proposing testing of commercial hexane for all such effects, and because such testing of commercial hexane will screen for the potential of MCP and other components of commercial hexane to produce any of these effects, the Agency is proposing to limit the testing of MCP at this time to neurotoxicity, subchronic toxicity, and pharmacokinetics under section 4(a)(1)(A). EPA believes that this limited testing will provide enough information to determine MCP's effective dose on various target organs and provide a basis for determining the need for any additional testing if the results of this testing and that on commercial hexane indicate other effects.

3. Under section 4(a)(1)(B), EPA finds that commercial hexane is produced in substantial quantities and that there is substantial human exposure from its manufacture, processing, and use. Approximately 500 million pounds of hexanes were produced in 1984 (Ref. 10).

In addition, according to the National Occupational Exposure Survey of 1985 (NOES), 83,000 workers are estimated to have actual exposure to hexane solvents. Of these, 12,576 are women (Ref. 42). Commercial hexanes are used as a component of motor fuels, lacquers, printing inks, and adhesives, and as a seed oil extractant (Ref. 9). Such uses may result in potentially widespread exposure to workers and consumers, and the general public may be exposed through fugitive emissions from anthropogenic sources.

While EPA believes that there may be substantial human exposure to C_6 hydrocarbons in gasoline, EPA is not considering exposure to the finished gasoline as part of its basis for finding substantial human exposure to commercial hexane. The Agency believes that exposures associated with the manufacture and processing of commercial hexanes and use of solvents containing significant concentrations of C_6 isomers provide sufficient basis for a finding of substantial human exposure under TSCA section 4(a)(1)(B)(i) for commercial hexane.

EPA finds that there are insufficient data to reasonably determine or predict the acute, subchronic, oncogenic, reproductive, developmental, mutagenic, neurotoxic, and pharmacokinetic effects of human exposure to commercial hexane resulting from its manufacture, processing, and use. EPA further finds that testing is necessary to develop such data.

IV. Proposed Rule

A. Proposed Testing and Test Standards

The Agency is proposing that testing be conducted in accordance with specific test guidelines set forth in sections in Title 40 of the Code of Federal Regulations (CFR) as enumerated below. Test methods under new Parts 796, 797, and 798 were published in the **Federal Register** of September 27, 1985 (50 FR 39252). Proposed revisions to these guidelines were published in the **Federal Register** of January 14, 1986 (51 FR 1522). Elsewhere in this issue of the **Federal Register**, new Part 795—Provisional Test Guidelines is being proposed.

On the basis of the findings presented above for health effects testing, the Agency is proposing that MCP be tested under TSCA section 4(a)(1)(A) for: (1) neurotoxicity by inhalation using the tests specified in §§ 795.250, 798.6050, 798.6200, 798.6400, and 798.6500; (2) subchronic inhalation toxicity using the test specified in § 798.2450; and (3) inhalation and dermal pharmacokinetics using the test specified in § 795.232 of this chapter.

Acute neurological effects are of concern because such effects may increase accident proneness, impair self-rescue, or reduce work efficiency (Ref. 45). This is of particular concern to the 38,000 workers potentially exposed to either actual MCP or MCP in a trade name product (Ref. 11). In order to assess the acute neurologic effects of inhaled MCP at low levels on behavior, the Agency is proposing that the neurotoxicity testing include a schedule-controlled operant behavior study (§ 798.6500). In order to assess the effects of repeated inhalation exposures to MCP, the Agency is proposing a subchronic neurobehavioral toxicity evaluation, consisting of neuropathologic evaluation of tissues perfused *in situ* (§ 798.6400), a functional observation battery (§ 798.6050), and measurement of motor activity (§ 798.6200). Furthermore, EPA believes that MCP's presence in breast milk samples raises concerns for neonates and children, whose developing neurological systems may be more susceptible to damage from exposure to MCP than adults. Therefore, in order to assess potential functional and morphological hazards to the nervous system which may arise in neonates from exposure of the mother to MCP during pregnancy and lactation, the Agency is proposing that MCP be tested for developmental neurotoxicity (§ 795.250), which is being proposed elsewhere in this issue of the **Federal Register**.

In order to assess the degree of toxicological activity of MCP upon various target organs, the Agency is proposing that MCP be tested for subchronic toxicity by inhalation (§ 798.2450).

In order to compare actual uptake levels by inhalation of MCP vapors and by dermal absorption following contact with liquid MCP in solvents, testing to compare inhalation and dermal pharmacokinetics (§ 795.232) is also proposed. Because MCP is moderately water soluble (Ref. 2) while *n*-hexane is insoluble (Ref. 4), EPA is concerned that dermal exposure to commercial hexane in solvents by workers and the general population could cause greater exposure to MCP than to *n*-hexane. The Agency believes that this testing will allow it to determine the pharmacokinetic behavior of MCP through solvent use.

On the basis of the findings presented above for health effects testing, the Agency also is proposing that commercial hexane be tested under TSCA section 4(a)(1)(B) for: (1) acute inhalation toxicity using the test specified in § 798.1150; (2) subchronic inhalation toxicity using the test specified in § 798.2450; (3) oncogenicity by inhalation using the test specified in § 798.3300; (4) reproductive toxicity by inhalation using the test specified in § 798.4700; (5) developmental toxicity by inhalation using the test specified in § 798.4350; (6) neurotoxicity by inhalation using the tests specified in §§ 798.6050, 798.6200, 798.6400, and 798.6500; and (7) inhalation and dermal pharmacokinetics using the test specified in § 795.232 of this chapter.

To assess the potential for commercial hexane to cause gene mutations, the Agency is proposing that a reverse mutation assay in *Salmonella typhimurium* be conducted with and without metabolic activation using the procedures specified in § 798.5265. If the results from the *Salmonella typhimurium* test are negative, a gene mutation test in mammalian cells in culture will be required with and without metabolic activation using the procedures specified in § 798.5300. Unless the results of both the *Salmonella typhimurium* test and the mammalian cells in culture test are negative, a sex-linked recessive lethal test in *Drosophila melanogaster* will be required using the procedures specified in § 798.5275. A positive result in the sex-linked recessive lethal test will trigger a mouse specific locus test using the procedures specified in § 798.5200. If the sex-linked recessive lethal test is negative, then the mouse specific locus test will not be required.

To asess the potential for commercial hexane to cause chromosomal aberrations, the Agency is proposing that *in vitro* cytogenetic assays be conducted on commercial hexane as specified in § 798.5375. Unless the results of the *in vitro* test are negative, a dominant-lethal assay will be required using the procedures specified in § 798.5450. A positive result in the dominant-lethal assay will trigger a heritable translocation assay using the procedures specified in § 798.5460. If the *in vitro* cytogenetics assay is negative, an *in vivo* bone marrow assay using procedures specified in § 798.5385 will be required. Should the *in vivo* bone marrow test results prove negative, no further chromosomal aberration testing would be required. A non-negative result in the *in vivo* bone marrow test would trigger the dominant-lethal assay. Again, if the dominant-lethal test is positive, a heritable translocation assay will be required. If the dominant-lethal test is negative, no further chromosomal

aberration testing will be required for commercial hexane.

Before testing is initiated in one or both of the endpoint mutagenicity tests, EPA will hold a public program review, if the results of the previous tier tests are positive. Public participation in this program review will be in the form of written public comments or a public meeting. Request for public comments or notification of a public meeting will be published in the **Federal Register.** Should EPA determine, based on the available weight of evidence, that proceeding to the mouse specific locus or to the heritable translocation test is no longer warranted, the Agency would propose to repeal these testing requirements and, after public comment, issue a final amendment to rescind these requirements.

For a more detailed discussion concerning mutagenicity-tiered testing and public program review procedures see EPA's final test rule for the C_9 aromatic hydrocarbon fraction published in the **Federal Register** of May 17, 1985 (50 FR 20662).

Because of the large exposures to commercial hexane, the requirement for oncogenicity testing will be independent of the outcome of the mutagenicity testing, and the deadline for its completion will be based on its intiation immediately after completion of the subchoronic study.

The Agency is proposing that the above-referenced TSCA health effects test guidelines be employed as the test standards for the purposes of the proposed tests for MCP and commercial hexane. The TSCA test guidelines for health effects testing specify generally accepted minimal conditions for determining the health effects for substances like MCP and commercial hexane to which humans are expected to be exposed. The Agency's review of the TSCA Test Guidelines, which occurs on a yearly basis according to the process described at 47 FR 41857 (September 22, 1982), has found no reason to conclude that these protocols need to be modified significantly. However, because of the high volatility of commercial hexane and because human exposure occurs primarily by inhalation, EPA is proposing chemical-specific modifications to the proposed mutagenicity tests that take into account these factors. In addition, because of the numerous components of commercial hexane, EPA is proposing chemical-specific modifications to the proposed inhalation and dermal pharmacokinetics testing to facilitate identification of the radiolabeled components of the mixture.

EPA published in the **Federal Register** certain proposed revisions to these TSCA Test Guidelines to provide more explicit guidance on the necessary minimum elements for each study (51 FR 1522; January 14, 1986). In addition, these revisions will avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for MCP and commercial hexane.

B. Test Substance

EPA is proposing under TSCA sections 4(a)(1)(A) that methylcyclopentane (MCP; CAS No. 96–37–7) of at least 99.9 percent purity be used as the test substance. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributable to MCP itself. Because Phillips stated that it sold 99.9+ percent research grade MCP preparations to laboratories or research facilities (Ref. 20), EPA believes that this research grade MCP is readily available for testing purposes. Radiolabeled MCP will be needed for the inhalation and dermal pharmacokinetics testing.

EPA is proposing under TSCA section 4(a)(1)(B) that commercial hexane A, or solvent grade, derived from the fractionation of straight-run gasoline and consisting of no more than 64 liquid volume percent *n*-hexane and no less than 19 liquid volume percent MCP, be used as the test substance. According to Kirk-Othmer (Ref. 9), commercial hexane A, or solvent grade, consists of the following components: 63.91 liquid volume percent *n*-hexane (CAS No. 110–54–3); 19.43 liquid volume percent methylcyclopentane (MCP; CAS No. 96–37–7); 9.38 liquid volume percent 3-methylpentane (3-MP; CAS No. 96–14–0); 3.48 liquid volume percent 2-methylpentane (2-MP; CAS No. 107–83–5); 2.81 liquid volume percent benzene (CAS No. 71–43–2); 0.78 liquid volume percent cyclohexane (CAS No. 110–82–7); 0.16 liquid volume percent 2,2- and 2,4-dimethylpentane (2,2-DMP; CAS No. 590–35–2; 2,4-DMP; CAS No. 108–08–7), 0.05 liquid volume percent 2,3-dimethylbutane (2,3-DMB; CAS No. 79–29–8); and 25 ppm sulfur (CAS No. 7704–34–9). EPA believes that commercial hexane A is readily available for testing purposes. Radiolabled components of commercial hexane A will be needed for the inhalation and dermal pharmacokinetics testing.

Because of the numerous kinds of exposure to the C_6 hydrocarbon fraction and because of the variability in composition of commercial hexanes, EPA believes that specifying commercial hexane A as the test substance will alleviate the problem of selecting an appropriate C_6 mixture as the test substance under section 4(a)(1)(B). There are several reasons which led to the proposal of commercial hexane A as the test substance. First, the Agency feels that testing is needed to characterize the toxicity of a type of commercial hexane to which people are actually exposed, rather than a synthetic blend of C_6 hydrocarbons. Second, because the neurotoxic and other effects of *n*-hexane are under study by the National Toxicology Program (NTP), the Agency believes that industry may reduce the *n*-hexane content in C_6 hydrocarbon solvents, thereby increasing exposure to the other constituents, but primarily to MCP. Third, the Agency believes that testing commercial hexane A is more appropriate than testing commercial hexanes B or C because commercial hexane A has the greatest MCP content and the highest solvent use.

C. Persons Required To Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "imports"). Processors are required to test if the findings are based on processing ("process" is defined in section 3(10) of TSCA as the preparation of a chemical substances or mixture, after its manufacture, for distribution in commerce). Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because EPA has found that there are insufficient data and experience to reasonably determine or predict the effects on human health of the manufacture, processing, and use of MCP and commercial hexane, EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process, MCP or commercial hexane other than as impurities at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements in this proposed rule. In addition, manufacturers and processors of MCP or commercial hexane who do so in the course of producing gasoline or other motor or heating fuels are subject to this rule because the Agency's section 4(a)(1)

(A)(ii) and (B)(ii) findings are based on the manufacture, processing, and use of MCP and commercial hexane. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time equal to that which was required to develop data if more than 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. The Agency anticipates that the current manufacturers of MCP or commercial hexane will form the reimbursement pool and sponsor the required testing. EPA promulgated procedures for appyling for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing, unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described in 40 CFR Part 790.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for MCP and commercial hexane. As noted in Unit IV.B. above EPA is interested in evaluating the neurotoxic and subchronic effects of MCP itself and has specified a relatively pure substance for testing. In addition, the Agency has proposed a specific type of commercial hexane for testing and believes that testing of commercial hexane A will allow reasonable prediction of the potential of various commercial hexane products to cause the effects to be studied.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 45 days prior to the initiation of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed test standards in Table 1 as follows:

TABLE 1.—REPORTING REQUIREMENTS

Test	Reporting deadline for final report (No. of months after the effective date of the final rule)	No. of interim (6-mo) reports required
1. Testing for MCP:		
A. Neurotoxicity tests: §§ 795.250, 798.6050, 798.6200, 798.6400, and 798.6500	12	1
B. Inhalation and dermal pharmacokinetics: § 795.232	12	1
C. Subchronic inhalation toxicity: § 798.2450	15	2
2. Testing for commercial hexane:		
A. Acute inhalation toxicity: § 798.1150	6	0
B. Subchronic inhalation toxicity: § 798.2450	15	2
C. Oncogenicity: § 798.3300	53	8
D. Reproduction and fertility effects: § 798.4700	29	4
E. Inhalation developmental toxicity: § 798.4350	12	1
F. *Salmonella typhimurium*: § 798.5265	4	0
G. Mammalian cells in culture: § 798.5300	12	1
H. *Drosophila* sex-linked recessive lethal: § 798.5275	24	1
I. Mouse specific locus: § 798.5200	48	3
J. *In vitro* cytogenetics: § 798.5375	4	0
K. *In vivo* cytogenetics: § 798.5385	12	1
L. Dominant lethal assay: § 793.5450	24	1
M. Heritable translocation assay: § 798.5460	48	3
N. Neurotoxicity tests: §§ 798.6050, 798.6200, 798.6400, and 798.6500	12	1
O. Inhalation and dermal pharmacokinetics: § 795.232	12	1

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707 (45 FR 82844). In brief, as of the effective date of this test rule, an exporter of MCP or commercial hexane must report to EPA the first export or intended export of MCP or commercial hexane to a particular country in a calendar year. EPA will notify the foreign country concerning the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. * * *" The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection.

Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated EPA representatives to determine compliance with any final rule for MCP and commercial hexane. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards under 40 CFR Part 792 and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. This provision would also apply to processors who fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (See 40 CFR 790.28(b)). Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Issues for Comment

1. Are there health effects studies on commercial hexane A which would adequately characterize its potential to cause any of the effects for which EPA has proposed testing?

2. Which substance should be tested to characterize the toxicity of commercial hexane under section 4(a)(1)(B): commercial hexane A or *n*-hexane-free C_6 isomers?

Normally, EPA would require testing of the most representative substance to which people are exposed. In this proposed rule, EPA has specified commercial hexane A, or solvent grade, as the test substance because there is actual exposure to it and because it contains the highest amount of MCP, 1 of its 2 largest constituents. The largest constituent, *n*-hexane, is a known neurotoxicant undergoing testing by NTP and NIOSH for other toxicological endpoints. EPA is concerned that the presence of *n*-hexane (64 liquid volume percent) in commercial hexane A may mask the adverse health effects of the other components. In addition, benzene, a known carcinogen, is present in commercial hexane A at 2.81 liquid volume percent.

EPA seeks comment on whether testing *n*-hexane-free C_6 isomers may be a more appropriate test substance. If industry should consider reformulating commercial hexane to reduce its *n*-hexane content, the content of the other C_6 isomers (MCP, 2-MP, and 3-MP) would increase in the mixture. Testing of *n*-hexane-free C_6 isomers would complement the ongoing testing of *n*-hexane because it would characterize the toxicity of the other components collectively. In fact, this synthetic blend has been tested by API and has no benzene and less than 1 liquid volume percent *n*-hexane. On the other hand, because this is a synthetic mixture, testing would provide toxicological information on a mixture to which there currently is no actual exposure.

3. The authors of the EPA monitoring study raised concerns that infants might be uniquely susceptible to some pollutants because of their small body weights and their metabolic systems which differ from those of adults. Is additional testing of MCP and/or commercial hexane needed to assess potential adverse health effects upon neonates, who may be exposed to hexanes and MCP through mother's milk, and whose developing neurological systems may be more susceptible to damage from exposure to these compounds? What test methods should be used for such testing?

4. Since the API study (Ref. 8, Att. III) showed significantly increased kidney weights in rats dosed for 22 hours per day, 7 days per week for 6 consecutive months, should the subchronic test standard for MCP be modified to follow this dosing regimen?

VI. Economic Analysis of Proposed Rule

To assess the economic impact of this rule, EPA has prepared an economic analysis (Ref. 23) that evaluates the potential for significant economic impacts on the industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of commercial hexane: (1) price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. If these indications are negative for commercial hexane, no further economic analysis is performed. However, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Testing costs for the proposed testing of MCP are estimated to range from $297,000 to $559,000 and for commercial hexane are estimated from $2,016,000 to $3,310,000, for a total estimated testing cost for the proposed rule of $2,313,000 to $3,869,000. The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $0.6 to $1.0 million. Based on 1984 production of 470 million pounds, the unit test costs range from $0.0013 to $0.0021 per pound. Relative to a current list price of $0.20 per pound of commercial hexane, these costs are equivalent to 0.7 to 1.1 percent of price.

Based on these costs and the market characteristics of commercial hexane, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test

rule is low. This conclusion is based on the following observations:

1. The annual unit cost of the testing required in this rule is low;

2. Demand for commercial hexane is relatively inelastic with respect to price in all of its major uses; and

3. Market expectations for commercial hexane are positive.

Refer to the economic analysis for a complete discussion of the potential for economic impact resulting from these costs.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "* * * the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82-140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

VIII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800-424-9065); In Washington, DC: (554-1404); Outside the U.S.A. (Operator—202-554-1404), by June 30, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency would transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

IX. Public Record

EPA has established a record for this rulemaking, (docket number OPTS-42084). This record contains the basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this proposed rule consisting of:

(a) Notice containing the ITC designation of MCP to the Priority List (50 FR 20930; May 21, 1985).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on MCP (50 FR 20909; May 21, 1985).

(c) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(d) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(e) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(f) Notice of proposed rule revising TSCA test guidelines (51 FR 1522; January 14, 1986).

(2) Support documents consisting of:

(a) MCP technical support document for proposed rule.

(b) Economic impact analysis of NPRM for MCP and commercial hexane.

(3) TSCA test guidelines cited as test standards for this rule.

(4) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(5) Reports—published and unpublished factual materials.

B. References

(1) Sandmeyer, E.E., "Aliphatic hydrocarbons." In: *Patty's industrial hygiene and toxicology*. Clayton, G.D., and Clayton, F.E., eds. New York: John Wiley & Sons, pp. 3175-3251. (1981).

(2) McAuliffe, C. "Solubility in water of paraffin, cycloparaffin, olefin, acetylene, cycloolefin and aromatic hydrocarbons." *Journal of Physical Chemistry* 70: 1267-1275. (1966).

(3) Sax, N.I., ed. *Dangerous properties of industrial materials*, 6th ed. New York: Van Nostrand Reinhold Company, p. 1834. (1984).

(4) Phillips Chemical Company. "Material safety data sheet: methylcyclopentane." Phillips Petroleum Company, Bartlesville, Oklahoma. (1982).

(5) Hawley, G.G. *The Condensed Chemical Dictionary*, 10th ed. New York: Van Nostrand Reinhold Company. (1981).

(6) Syracuse Research Corporation. Technical support document [for] methylcyclopentane. Contract No. 68-02-4209. (November 21, 1985).

(7) American Petroleum Institute (API). Letter from William F. O'Keefe, Vice President, to Martin Greif, Executive Secretary, TSCA Interagency Testing Committee (ITC), USEPA, transmitting an "API Profile of Methylcylopentane." (July 20, 1984).

(8) Phillips Petroleum Company. Letter from John J. Moon, Manager, Environment and Consumer Protection, to the Office of Toxic Substances, USEPA, transmitting comments on the ITC's 16th Report and three toxicity studies. (June 26, 1985).

(9) Grayson, M., ed. *Kirk-Othmer Encyclopedia of Chemical Technology*. 3rd ed., Volume 12, New York: John Wiley & Sons, pp. 926-937. (1980).

(10) U.S. International Trade Commission. "Synthetic Organic Chemicals: United States Production and Sales, 1984." Publication No. 1745. U.S. International Trade Commission. (1984).

(11) National Institute for Occupational Safety and Health (NIOSH). Letter from Dr. Leela Murthy to Barrett N. Fountos, Test Rules Development Branch, U.S. EPA, transmitting results of the National Occupational Hazard Survey (NOHS) and the National Occupational Exposure Survey (NOES) for MCP. (June 6, 1985).

(12) Phillips Petroleum Company. TSCA 8(d) submission 878216064. Letter from John J. Moon, Environment and Consumer Protection, transmitting field monitoring data summary of MCP samples collected since 1977. (July 23, 1985).

(13) American Conference of Governmental Industrial Hygienists (ACGIH). *Documentation of the Threshold Limit Values: Supplemental Documentation*, 4th ed., Cincinnati: ACGIH. (1985).

(14) Cook, Russell. Consumer Protection Branch, Phillips Petroleum Company, Bartlesville, Oklahoma. Transcribed telephone conversation with S. Beals, Syracuse Research Corporation, Syracuse, New York. (November 14, 1985).

(15) U.S. Environmental Protection Agency (EPA). List of manufacturers of MCP from the 1977 TSCA Inventory. (May 1985).

(16) Stanford Research Institute (SRI) International. *1985 Directory of Chemical Producers, United States*. Menlo Park, CA: SRI International. (1985).

(17) Ashland Chemical Company. Letter from R.H. Toeniskoetter, Environmental and Occupational Safety Department, to Martin Greif, TSCA ITC, U.S. EPA. (December 13, 1983).

(18) Linard, R., Ashland Chemical Co., Fords, N.J. Transcribed telephone conversation with S. Beals, Syracuse Research Corporation, Syracuse, New York. (July 16, 1985).

(19) Wager, Betty, Executive Office, Perry Gas Producers, Houston, Texas. Transcribed telephone conversation with Barrett N. Fountos, Test Rules Development Branch, US EPA. (June 5, 1985).

(20) Phillips Petroleum Company. Letter from Russell Cook, Consumer Protection, to Lou Borghi, Dynamac Corporation, Rockville, Maryland. (June 1, 1984).

(21) SRI International. *Chemical economics handbook, 1984*. Menlo Park, CA: SRI International. (1984).

(22) Lowenheim, F.A., and Moran, M.K. *Industrial Chemicals*, 4th ed. New York: John Wiley and Sons, p. 301. (1975).

(23) U.S. EPA. Analysis of economic impacts for a toxicity test of methylcyclopentane in commercial hexane. Washington, DC: USEPA, Office of Toxic Substances, Regulatory Impacts Branch. (April 1986).

(24) U.S. Bureau of the Census. *Statistical abstract of the United States: 1984*, 104th ed., Washington, D.C.: U.S. Department of Commerce, p. 210. (1983).

(25) Sauer, T.C., Jr. "Volatile liquid hydrocarbon characterization of underwater hydrocarbon vents and formation waters from offshore production operations." *Environmental and Science Technology* 15: 917–923. (1981).

(26) Dunnick, June. National Toxicology Program (NTP), Research Triangle Park, North Carolina. Transcribed telephone conversation with Barrett N. Fountos, Test Rules Development Branch, USEPA. (March 26, 1986).

(27) Cavender, F.L., Casey, H.W., Salem, H., Graham, D.G., Swenberg, J.A., and Gralla, E.J. "A 13-week vapor inhalation study of *n*-hexane in rats with emphasis on neurotoxic effects." *Fundamental and Applied Toxicology* 4: 191–201. (1984).

(28) No reference.

(29) USEPA. Internal memorandum from Jeffrey Davidson, Existing Chemical Assessment Division, to Barrett N. Fountos, Test Rules Development Branch. (November 6, 1985).

(30) Maryansky, James. Direct Additives Branch, Food and Drug Administration, Washington, DC. Transcribed telephone conversation with Barrett N. Fountos, Test Rules Development Branch, USEPA. (August 15, 1985).

(31) Williams, I.H. "Photochemical oxidation of hexane isomers to compounds sensitive to electron capture detection." *Journal of Chromatographic Science* II: 593–596. (1973).

(32) Sexton, K., and Westberg, H. "Ambient hydrocarbon and ozone measurements downwind of a large automotive painting plant." *Environmental Science Technology* 14: 329–332. (1980).

(33) Sexton, K., and Westberg, H. "Elevated ozone concentrations measured down-wind of the Chicago-Gary urban complex." *Journal Air Pollution Control Association* 30: 911–914. (1980).

(34) Petersson, G. "Ambient hydrocarbons from motor-car assembly plants in Scandinavia." *Environmental Pollution (Series B)* 4: 208–217. (1982).

(35) Naruse, M. "Effects on mice of long-term exposure to organic solvents in adhesives." *Nagoya Medical Journal* 28: 183–210. (1984).

(36) USEPA. Acquisition and chemical analysis of mother's milk for selected toxic substances. Publication No. EPA–560/13–80–029. Washington, DC: USEPA, Office of Pesticides and Toxic Substances. (December 1980).

(37) Pellizari, E.D., Hartwell, T.D., Harris, B.S.H., Waddell, R.D., Whitaker, D.A., and Erickson, M.D. "Purgeable organic compounds in mother's milk." *Bulletin of Environmental Contamination and Toxicology* 28: 322–328. (1982).

(38) USEPA. Identification of organic compounds in industrial effluent discharges. Battelle Columbus Labs Contract No. 68–01–4350. Athens, GA: USEPA, Office of Research and Development. (1979).

(39) Oblas, D.W., Dugger, D.L., and Lieberman, S.I. "The determination of organic species in the telephone central office ambient." *IEEE Transactions on Components, Hybrids, Manufacturing Technology* CHMT–3: 17–20. (1980).

(40) Brugnone, F., Perbellini, L., Grigolini, L., Apostoli, P. "Solvent exposure in a shoe upper factory. II. Methylcyclopentane, 2-methylpentane, and 3-methylpentane concentration in alveolar and in environmental air and in blood." *International Archives of Occupational Environmental Health* 42: 355–363. (1979).

(41) USEPA. Chemical hazard information profile (CHIP): *n*-hexane. Washington, DC: USEPA, Chemical Screening Branch. (May 13, 1977).

(42) Murthy, Leela. National Institute for Occupational Safety and Health (NIOSH), Atlanta, Georgia. Transcribed telephone conversation with Barrett N. Fountos, Test Rules Development Branch, USEPA. (September 10, 1985).

(43) Ono, Y., Takeuchi, Y., and Hisanaga, N. "A comparative study on the toxicity of *n*-hexane and its isomers." *Archives of Occupational and Environmental Health* 48: 289–294. (1981).

(44) Perbellini, L., Brugnone, F., Caretta, D., and Maranelli, G. "Partition coefficients of some industrial aliphatic hydrocarbons (C_5–C_7) in blood and human tissues." *British Journal of Industrial Medicine* 42: 162–167. (1985).

(45) American Psychological Association. Letter from Dr. Ronald W. Wood, Chairman, Neurobehavioral Toxicity Test Standards Committee, Psychopharmacology Division, to the Office of Pesticides and Toxic Substances, USEPA, transmitting comments on the ITC's sixteenth report. (June 25, 1985).

(46) Egan, G., Spencer, P., Schaumburg, H., Murray, K.J., Bischoff, M., and Scala, R. "*n*-Hexane-'free' hexane mixture fails to produce nervous system damage." *Neurotoxicology* 2: 515–524. (1980).

(47) Perbellini, L., Brugnone, F., and Pavan, I. "Identification of the metabolites of *n*-hexane, cyclohexane, and their isomers in men's urine."

Toxicology and Applied Pharmacology 53: 220–229 (1980).

(48) Perbellini L., Brugnone, F., and Gaffuri, E. "Neurotioxic metabolities of "Commercial hexane" in the urine of shoe factory workers." *Clinical Toxicology* 18: 1377–1385. (1981).

(49) Perbellini, L., Brugnone, F., Silvestri, R., and Gaffuri, E. "Measurement of the urinary metabolites of *n*-hexane, cyclohexane, and their isomers by gas chromatography." *International Archives of Occupational and Environmental Health* 48: 99–106. (1981).

(50) Henrichson, Roy. Environmental Safety Dept., Koch Chemical Company, Corpus Christi, Texas. Transcribed telephone conversation with S. Beals, Syracuse Research Corp., Syracuse, New York. (July 16, 1985).

X. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order; i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. Enterprises to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place, NW., Washington DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Reporting and recordkeeping requirements.

Dated: May 2, 1986.

Victor J. Kimm,

Deputy Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

PART 795—[AMENDED]

1. In proposed Part 795:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding new § 795.232 to read as follows:

§ 795.232 Inhalation and dermal pharmockinetics.

(a) *Purpose.* The purpose of these studies is to:

(1) Determine bioavailability of the test substance after dermal or inhalation administration.

(2) Ascertain whether the metabolism of the test substance is similar after dermal or inhalation administration.

(3) Examine the effects of repeated dosing on the metabolism of the test substance.

(b) *Definitions.* (1) Pharmacokinetics is the study of the kinetics of absorption, distribution, metabolism, and exertion of a test substance in animals.

(2) Bioavailability refers to the rate and relative amount of administered test substance which reaches the systemic circulation.

(c) *Test procedures*—(1) *Animal selection*—(i) *Species.* The rat shall be used for pharmacokinetics testing because it has been used extensively for absorption, metabolism, and toxcicological studies. For dermal penetration studies, the female guinea pig shall also be used to provide additional information on dermal absorption.

(ii) *Animal strains.* Adult male and female Fischer 344 rats and female Hartley guinea pigs shall be used. At 7 to 9 weeks of age, the male rats shall weigh 125 to 175 grams and the female rats 110 to 150 grams. The female guinea pigs, 5 to 7 weeks old, shall weigh between 400 and 500 grams. The animals should be purchased from a reputable dealer and shall be identified with ear tags upon arrival. The animals shall be selected at random for the testing groups, and any animal showing signs of ill health shall not be used.

(iii) *Animal care.* (A) Animal care and housing shall be in accordance with DHEW Publication No. NIH)–78–23, 1978, "Guidelines for the Care and Use of Laboratory Animals."

(B) The animals shall be housed in environmentally controlled rooms with 10 to 15 air changes per hour. The rooms shall be maintained at a temperature of 25± 2°C and humidity of 5±10 percent with a 12-hour light/dark cycle per day. The rats shall be kept in a quarantine facility for at least 7 days prior to use.

(C) During the acclimatization period, the rats and guinea pigs shall be housed in suitable cages on hardwood chip bedding. All animals shall be provided with certified feed and tap water *ad libitum.* The guinea pig diet shall be supplemented with adequate amounts of ascorbic acid in the drinking water.

(2) *Administration*—(i) *Test substance.* The proposed study will require the use of both nonradioactive and radiolabled (preferably ^{14}) test substance.

(ii) *Dosage and treatment.* (A) In the inhalation studies, three concentrations shall be used. The higher two concentrations should ideally induce some overt symptoms of toxicity after the exposure period is over, although the intermediate level of exposure may be excluded from this condition. The low concentration should not induce any observable signs of toxicity and, ideally, should approximate the human exposure level.

(B) Inhalation treatment shall be conducted using a "nose-cone" apparatus or other method that minimizes dermal exposure of the rats to the test substance. This procedure is preferable to a "bell jar" type, since rats "groom" themselves and could increase the dosage by licking their coat and swallowing the test substance.

(C) For dermal treatment, the doses shall be administered in a suitable vehicle and applied at a volume adequate to deliver the prescribed doses. The backs of the animals shall be lightly shaved with an electric clipper 24 hours before treatment. The dose shall be applied with a micropipette on a specific area (2 cm_2 for rats, 5 cm_2 for guinea pigs, or at least 10 percent of body surface) of the intact shaven skin. The dosed areas shall be concluded with a suitable patch which is secured in place.

(iii) *Washing efficiency study.* Before initiation of the dermal absorption studies described in paragraphs (c)(2)(iv) (A)(*2*) and (B) of this section, an initial washing efficiency experiment shall be conducted to assess the removal of the applied test compound by washing the exposed skin area with soap and water or organic solvents. Four rats and four guinea pigs shall be lightly anesthetized and then the test compound applied at the low dose level to a specific area. After application (5 to 10 minutes), the areas shall be washed with soap and water (2 rats, 2 guinea pigs) or appropriate solvent (2 rats, 2 guinea pigs), and the animals then housed in individual cages for excreta collection. Urine and feces shall be collected at least once following dosing. The amount of test substance recovered shall be determined to assess efficacy of the test substance removal by washing of the skin.

(iv) *Determination of pharmacokinetics*—(A) *Rat studies.* Each experimental group shall contain at least 4 animals of each sex for a total of at least 8 rats.

(*1*) *Inhalation studies* (6-hour exposure periods).

(*i*) Group A shall be exposed to a mixture of radioactive test substance in air at the low concentration.

(*ii*) Group B shall be exposed to a mixture of radioactive test substance in air at the intermediate concentration.

(*iii*) Group C shall be exposed to a mixture of radioactive test substance in air at the high concentration.

(*iv*) Group D—identical to paragraph (c)(2)(iv)(A)(*1*)(*i*) of this section.

(*v*) Group E—identical to paragraph (c)(2)(iv)(A)(*1*)(*ii*) of this section.

(*vi*) Group F—identical to paragraph (c)(2)(iv)(A)(*1*)(*iii*) of this section.

(*vii*) *Kinetic studies.* Groups A, B, and C shall be used to determine the kinetics of absorption of the test substance through the lungs. The concentration of the test substance in inspired and expired air and blood shall be measured at selected time intervals during and after inhalation exposure. The values for the test substance's retention, body burden, and saturability shall be calculated from these experiments.

(*viii*) *Metabolism studies.* At the end of the exposure periods, rats from Groups D, E, and F shall be placed in individual metabolic cages. Excreta (urine, feces, and expired air) shall be collected at 8, 24, 48, 72, and 96 hours post-treatment.

(*2*) *Dermal studies.* Two doses shall be used in this study. The high dose should, if possible, induce some overt toxicity, while the low dose should not. If feasible, the high and low doses for the dermal studies should be equivalent to the applied high and low doses administered during the inhalation studies.

(*i*) Group G shall be dosed once dermally with the low dose of the test substance (combination of radiolabeled and nonradiolabeled test substance components).

(*ii*) Group H shall be dosed once dermally with the high dose of the test substance (combination of radiolabeled and nonradiolabeled test substance components).

(*iii*) For the dermal studies, the test substance shall be kept on the skin for a

minimum of 6 hours, or as determined by the absorption properties of the compound. After application, each animal shall be placed in a separate metabolic cage for excreta collection. Urine and feces shall be collected at 8, 24, 48, 72, and 96 hours. At the time of removal of the patch, the occluded area shall be washed with an appropriate solvent to remove any test substance which may remain on the skin surface. At the termination of the experiments, each animal shall be sacrificed and the exposed skin area removed. The skin (or an appropriate section) shall be solubilized and assayed for radioactivity to ascertain if the skin acts as a reservoir for the test substance.

(B) *Guinea pig studies.* The dermal studies conducted on groups G and H as specified in paragraph (c)(2)(iv)(A)(*2*) of this section shall be repeated using female guinea pigs. Groups I and J shall each contain at least 4 female guinea pigs.

(v) *Repeated dosing study.* Group K (4 rats, 2 of each sex) shall receive a series of single daily inhalation doses of nonradioactive test compound over a period of at least 14 days, followed at 24 hours after the last dose by a single inhalation dose of radiolabeled test compound. Each dose shall be at the low dose level.

(3) *Observation of animals*—(i) *Bioavailability.* The levels of radioisotope shall be determined in whole blood and blood plasma or blood serum at 8, 24, 48, 72, and 96 hours or at other time intervals necessary for completion of the study after dosing rats as specified in paragraph (c)(2) (iv)(A) and (v) of this section and guinea pigs as specified in paragraph (c)(2)(iv)(B) of this section. Four animals from each group shall be used for this purpose.

(ii) *Urinary and fecal excretion.* The quantities of radioisotope excreted in the urine and feces by rats dosed as specified in paragraph (c)(2) (iv)(A) and (v) of this section and guinea pigs dosed as specified in paragraph (c)(2)(iv)(B) of this section after dosing, and if necessary, daily thereafter until at least 90 percent of the applied dose has been excreted or until 7 days after dosing (whichever occurs first). Four animals from each group shall be used for these analyses.

(iii) *Biotransformation after inhalation and dermal dosing.* Appropriate qualititaive and quantatitive methods shall be used to assay urine and fecal specimens collected from rats dosed as specified in paragraph (c)(2)(iv)(A) of this section. Efforts shall be made to identify any metabolite which comprises 10 percent or more of the dose excreted.

(iv) *Changes in biotransformation.* Appropriate qualitative and quantitative assay methodology shall be used to compare the composition of radiolabeled compounds in excreta (collected 24 and 48 hours after dosing) from rats dosed as specified in paragraph (c)(2)(iv)(A)(*1*)(*iv*) of this section with those in the excreta (collected at 24 and 48 hours after the radiolabeled dose) from rats in the repeated-dose study as specified in paragraph (c)(2)(v) of this section.

(d) *Data and reporting*—(1) *Treatment of results.* Data shall be summarized in tabular form.

(2) *Evaluation of results.* All observed results, quantitative or incidental, shall be evaluated by an appropriate statistical method.

(3) *Test report.* In addition to the reporting requirements as specified in the TSCA Good Laboratory Practice Standards under Part 792 of this chapter, the following specific information shall be reported:

(i) Species and strains of laboratory animals.

(ii) Information on the degree (i.e., specific activity for a radiolabel) and site(s) of labeling of the test substance.

(iii) A full description of the sensitivity and precision of all procedures used to produce the data.

(iv) Percentage absorption of radiolabeled test substance after inhalation and dermal exposures to rats and dermal exposure to guinea pigs.

(v) Quantity of isotope, together with percent recovery of administered dose of feces, urine, blood and skin and skin washings (dermal study only for last two portions of rats and guinea pigs).

(vi) Quantity and distribution of radiolabeled test substance in various tissues of rats, including bone, brain, fat, gonads, heart, kidney, liver, lung, muscle, spleen, and in residual carcass.

(vii) Biotransformation pathways and quantities of test substance and metabolites in excreta collected after administering single high, intermediate, and low inhalation and high and low dermal doses to rats.

(viii) Biotransformation pathways and quantities of test substance and metabolites in excreta collected after administering repeated low inhalation doses of test substance to rats.

PART 799—[AMENDED]

2. In Part 799:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding new § 799.2535 to read as follows:

§ 1799.2535 Methylcyclopentane.

(a) *Identification of test substance.* (1) Methylcyclopentane (MCP; CAS No. 96-37-7) shall be tested in accordance with this section.

(2) MCP of at least 99.9-percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture or process, or intend to manufacture or process, MCP, other than as an impurity, and all persons who manufacture or process commercial hexane, other than as an impurity, from the effective date of this rule (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to conduct testing, submit study plans, conduct tests in accordance with Part 792 of this chapter, and submit data or submit exemption applications as specified in this section, Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking.

(c) *Health effects testing*—(1) *Neurotoxicity*—(i) *Required testing.* Neurotoxicity tests shall be conducted with MCP in accordance with §§ 795.250, 798.6050, 798.6200, 798.6400, and 798.6500 of this chapter.

(ii) *Reporting requirements.* (A) The study plans for the neurotoxicity tests must be submitted at least 45 days before the initiation of testing.

(B) The neurotoxicity tests shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(C) Progess reports shall be submitted 6 months from the effective date of the final rule.

(2) *Inhalation and dermal pharmacokinetics*—(i) *Required testing.* An inhalation and dermal pharmacokinetics test shall be conducted with MCP in accordance with § 795.232 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the inhalation and dermal pharmacokinetics test must be submitted at least 45 days before initiation of testing.

(B) The inhalation and dermal pharmacokinetics testing shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(C) Progress reports shall be submitted 6 months from the effective date of the final rule.

(3) *Subchronic inhalation toxicity*—(i) *Required testing.* A subchronic inhalation toxicity test shall be

conducted with MCP in accordance with § 798.2450 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the subchronic inhalation toxicity test must be submitted at least 45 days before initiation of testing.

(B) The subchronic inhalation toxicity test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule.

(C) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

PART 799—[AMENDED]

2. In Part 799: By adding § 799.2155 to read as follows:

§ 799.2155 Commercial hexane.

(a) *Identification of test substance.* (1) "Commercial hexane," for purposes of this rule, is a product obtained from crude oil, natural gas liquids, or petroleum refinery processing which consists primarily of six-carbon alkanes or cycloalkanes and contains at least 50 liquid volume percent *n*-hexane (CAS No. 110–54–3) and at least 5 liquid volume percent methylcyclopentane (MCP; CAS No. 96–37–7).

(2) The test substance shall be commercial hexane A, or solvent grade, derived from the fractionation of straight-run gasoline, and shall consist of no more than 64 liquid volume percent *n*-hexane and no less than 19 liquid volume percent MCP.

(b) *Persons required to submit study plant, conduct tests, and submit data.* All persons who manufacture or process, or intend to manufacture or process, commercial hexane, other than as an impurity, from the effective date of this rule (44 days after the publication date of the final rule in the Federal Register) to the end of the reimbursement period shall submit letters of intent to conduct testing, submit study plans, conduct tests in accordance with Part 792 of this chapter, and submit data, or submit exemption applications, as specified in this section, Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking.

(c) *Health effects testing*—(1) *Acute inhalation toxicity*—(i) *Required testing.* An acute inhalation toxicity test shall be conducted with commercial hexane in accordance with § 798.1150 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the acute inhalation toxicity test must be submitted at least 45 days before the initiation of testing.

(B) The acute inhalation toxicity test shall be completed and the final results submitted to the Agency within 6 months of the effective date of the final rule.

(2) *Subchronic inhalation toxicity*—(i) *Required testing.* A subchronic inhalation toxicity test shall be conducted with commercial hexane in accordance with § 798.2450 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the subchronic inhalation toxicity test must be submitted at least 45 days before initiation of testing.

(B) The subchronic inhalation toxicity test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule.

(C) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(3) *Oncogenicity*—(i) *Required testing.* An oncogenicity test shall be conducted by inhalation with commercial hexane in accordance with § 798.3300 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the oncogenicity test must be submitted at least 45 days before the initiation of testing.

(B) The oncogenicity test shall be completed and the final results submitted to the Agency within 53 months of the effective date of the final rule.

(C) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(4) *Reproduction and fertility effects*—(i) *Required testing.* A reproduction and fertility effects test shall be conducted by inhalation with commercial hexane in accordance with § 798.4700 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the reproduction and fertility effects test must be submitted at least 45 days before the initiation of testing.

(B) The reproduction and fertility effects test shall be completed and the final results submitted to the Agency within 29 months of the effective date of the final rule.

(C) Progress reports shall be submitted at 6-month intevals beginning 6 months after the effective date of the final rule.

(5) *Inhalation developmental toxicity*—(i) *Required testing.* An inhalation developmental toxicity test shall be conducted with commercial hexane in accordance with § 798.4350 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the inhalation developmental toxicity test must be submitted at least 45 days before the initiation of testing.

(B) The inhalation developmental toxicity test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(C) Progress reports shall be submitted 6 months from the effective date of the final rule.

(6) *Mutagenic effects—gene mutations*—(i) *Required testing.* (A)(*1*) A *Salmonella typhimurium* reverse mutation assay shall be conducted with commercial hexane both with and without metabolic activation in accordance with § 798.5265 of this chapter and as modified in paragraph (c)(6)(i)(A)(*2*) of this section.

(*2*) Test standard modifications. The requirement under § 798.5265 of this chapter is modified so that the assay shall be performed using the desiccator method described as follows: The agar overlay plates shall be placed uncovered in a 9-liter desiccator. A volume of the liquid test substance shall be added to the glass Petri dish suspended beneath the porcelain shelf of the desiccator. A magnetic stirring bar to serve as a fan to assure rapid distribution and even distribution of the vapor shall be placed on the bottom of the inside of the desiccator. The desiccator shall be placed on a magnetic stirrer within a 37° C room or chamber for 7 to 10 hours. The plates shall then be removed, their lids replaced, followed by incubation for an additional 40 hours at 37° C before counting.

(B)(*1*) A gene mutation test in mammalian cells shall be conducted with commercial hexane both with and without metabolic activation as specified in § 798.5300 of this chapter and as modified in paragraph (c)(6)(i)(B)(*2*) of this section if the results from the *Salmonella typhimurium* test conducted pursuant to paragraph (c)(6)(i)(A) of this section are negative.

(*2*) Test standard modifications. The requirement under § 798.5300 of this chapter is modified to read as follows: Cells should be exposed to the test substance both with and without metabolic activation. Treatment flasks shall be incubated on a rocker panel to insure maximum contact between the cells and the test agent. Incubation shall be at 37° C for 18 hours for experiments without metabolic activation and for 5 hours for experiments with activation. Each flask shall be closed with a cap with a rubber septum. Headspace samples shall be taken at the beginning and the end of exposure period and analyzed to determine the amount of test substance in each flask.

(C)(*1*) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted with commercial hexane in accordance with § 798.5275 of this chapter and as modified in paragraph (c)(6)(i)(C)(*2*) of this section unless the results of both the *Salmonella typhimurium* test conducted pursuant to paragraph (c)(6)(i)(A) of this section and the mammalian cells in the culture gene mutation test conducted pursuant to paragraph (c)(6)(i)(B) of this section, if required, are negative.

(*2*) Test standard modifications. The requirement under § 798.5275 of this chapter is modified so that the route of administration shall be inhalation.

(D)(*1*) A mouse specific locus test shall be conducted with commercial hexane by inhalation in accordance with § 798.5200 of this chapter and as modified in paragraph (c)(6)(i)(D)(*2*) of this section if the results of the sex-linked recessive lethal test conducted pursuant to paragraph (c)(6)(i)(C) of this section are positive.

(*2*) Test standard modifications. The requirement under § 798.5200 of this chapter is modified so that the duration of exposure shall be for 6 hours per day.

(ii) *Reporting requirements.* (A) The study plans for each gene mutation test must be submitted at least 45 days before the initiation of testing.

(B) Gene mutation tests shall be completed and final results submitted as follows: *Salmonella typhimurium*, 4 months; mammalian cells in culture, 12 months; *Drosophila* sex-linked recessive lethal, 24 months; and mouse specific locus, 48 months.

(C) Except for the *Salmonella typhimurium* test, progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(*7*) *Mutagenic effects—chromosomal aberrations*—(i) *Required testing.* (A)(*1*) An *in vitro* cytogenetics test shall be conducted with commercial hexane in accordance with § 798.5375 of this chapter and as modified in paragraph (c)(7)(i)(A)(*2*) of this section.

(*2*) Test standard modifications. The requirement under § 798.5375 of this chapter is modified so that the assay shall be performed using flasks flushed with commercial hexane vapors, then closed with a cap with a rubber septum.

(B)(*1*) An *in vivo* cytogenetics test shall be conducted with commercial hexane by inhalation in accordance with § 798.5385 of this chapter and as modified in paragraph (c)(7)(i)(B)(*2*) of this section if the *in vitro* test conducted pursuant to paragraph (c)(7)(i)(A) of this section is negative.

(*2*) Test standard modifications. The requirement under § 798.5385 of this chapter is modified so that the duration of exposure shall be for 6 hours per day for 5 consecutive days.

(C)(*1*) A dominant lethal assay shall be conducted with commercial hexane by inhalation in accordance with § 798.5450 of this chapter and as modified in paragraph (c)(7)(i)(C)(*2*) of this section unless both the *in vitro*, and *in vivo* cytogenetics tests conducted pursuant to paragraphs (C)(7)(i) (A) and (B) of this section are negative.

(*2*) Test standard modifications. The requirement under § 798.5450 of this chapter is modified so that the duration of exposure shall be for 6 hours per day for 5 consecutive days.

(D) A heritable translocation test shall be conducted with commercial hexane by inhalation in accordance with § 798.5460 of this chapter if the results of the dominant lethal assay conducted pursuant to paragraph (c)(7)(i)(C) of this section are positive.

(ii) *Reporting requirements.* (A) The study plans for each chromosomal aberration test must be submitted at least 45 days before the initiation of testing.

(B) Chromosomal aberration tests shall be completed and final results submitted as follows: *in vitro* cytogenetics, 4 months; *in vivo* cytogenetics, 12 months; dominant lethal assay, 24 months; and heritable translocation assay, 48 months.

(C) Except for the *in vitro* cytogenetics test, progress reports shall be submitted beginning 6 months after the effective date of the final rule.

(*8*) *Neurotoxicity*—(i) *Required testing.* Neurotoxicity tests shall be conducted with commercial hexane in accordance with §§ 798.6050, 798.6200, 798.6400, and 798.6500 of this chapter.

(ii) *Reporting requirements.* (A) The study plan for the neurotoxicity tests must be submitted at least 45 days before the initiation of testing.

(B) The neurotoxicity tests shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(C) Progress reports shall be submitted 6 months from the effective date of the final rule.

(*9*) *Inhalation and dermal pharmacokinetics*—(i) *Required testing.* (A) An inhalation and dermal pharmacokinetics test shall be conducted with commercial hexane in accordance with § 795.232 of this chapter.

(B) Test standard modifications. The requirement under § 795.232 (c)(2)(i) of this chapter is modified to read as follows:

(2) *Administration of test substance*—(i) *(test substance.* Since the test substance is a mixture of *n*-hexane; MCP; 3-MP; 2-MP; benzene; cycolohexane; 2,2- and 2,4-DMp; 2,3-DMB; and sulfur, the experiments shall be conducted in groups using ^{14}C and ^{3}H labeled components. This type of labeling can be conducted in groups of 2 components. For example, in the first groups, *n*-hexane may be labeled with ^{14}Cv and MCP with tritium with the remaining components unlabeled. The kinetic and metabolic studies would then be run on the test substance and analyzed for *n*-hexane and MCP as described below. In the second group, 3-MP may be labeled with tritium and 2-MP labeled with ^{14}C. The third group would have benzene labeled with ^{14}C and cyclohexane labeled with tritium, etc. If it is feasible from an analytical standpoint, one of the higher liquid volume percent components (*n*-hexane, MCP, or 3-MP) could be labeled with deuterium and a gas chromatograph/mass spectrometer (GC/MS) used to follow the disposition of the deuterium-labeled component of the test substance. This procedure would permit the investigators to use fewer experimental groups to obtain the same amount of information.

(ii) *Reporting requirements.* (A) The study plan for the inhalation and dermal pharmacokinetics test must be submitted at least 45 days before the initiation of testing.

(B) The inhalation and dermal pharmacokinetics test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(C) Progress reports shall be submitted 6 months from the effective date of the final rule.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc. 86–10711 Filed 5–14–86; 8:45 am]

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40 CFR Parts 795 and 799

[OPTS–42083; FRL–2998–5]

Tetrabromobisphenol A; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that manufacturers and processors of tetrabromobisphenol A (TBBPA, CAS No. 79–94–7) be required, under section

4 of the Toxic Substances Control Act (TSCA), to perform testing for chemical fate and environmental effects. The proposed testing includes biodegradation studies and a number of environmental effects studies including a study to determine the effects of TBBPA on microorganisms in activated sludge, acute toxicity studies in freshwater algae, fish, and invertebrates, chronic toxicity studies in fish and invertebrates, and bioconcentration potential studies in fish and invertebrates. This proposed rule is in response to the Interagency Testing Committee's (ITC's) designation of TBBPA for priority consideration for chemical fate and environmental effects testing.

DATES: Submit written comments on or before July 14, 1986. If persons request an opportunity to submit oral comment by June 30, 1986, EPA will hold a public meeting on this rule in Washington, DC. For further information on arranging to speak at the meeting see Unit VII of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42083), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065); In Washington, DC: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule under section 4(a) of TSCA in response to the ITC's designation of TBBPA for chemical fate and environmental effects testing consideration.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established the ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated TBBPA (CAS No. 79-94-7) for priority consideration in its 16th Report submitted to EPA on May 2, 1985. The report was published in the **Federal Register** of May 21, 1985 (50 FR 20930). The ITC recommended that TBBPA be considered for chemical fate testing, including water solubility, soil adsorption coefficient, and persistence; and environmental effects testing, including acute and chronic toxicity to fish, aquatic invertebrates and algae, and bioconcentration potential in fish.

ITC's rationale for chemical fate testing was the lack of definitive data to characterize the effects of concern for TBBPA in the environment.

The ITC's rationale for ecological effects testing was: (1) TBBPA is highly toxic to fish under acute conditions; (2) there is a lack of acute data for invertebrates and algae; (3) TBBPA is expected to be chronically toxic to fish and aquatic invertebrates at very low concentrations (i.e., <0.10 mg/L), and (4) there is the potential for TBBPA to bioconcentrate based on its high log P value of 4.5.

No health effects tests were recommended by the ITC. According to the ITC, TBBPA has been found to have a low level of toxicity to animals by the oral and inhalation routes, microbial genotoxicity tests with TBBPA have been negative, and the potential for human exposure is low.

B. Test Rule Development Under TSCA

Under section 4(a) of TSCA, EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Agency finds that:

> (A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure and release information to determine whether there is or may be substantial production and significant or substantial human exposure or substantial release to the environment. For the findings under section 4(a)(1) (A)(ii) and (B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the finding under section 4(a)(1) (A)(iii) or (B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed at 45 FR 48524 and 46 FR

30300 and the section 4(a)(1)(B) findings are discussed at 46 FR 30300.

In evaluating the ITC's testing recommendations for TBBPA, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration and any public comments on the ITC's recommendations; production volume, use, exposure, and release information reported by manufacturers of TBBPA under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) concerning TBBPA; and published and unpublished data available to the Agency. From its evaluation, as described in this proposed rule, EPA is proposing chemical fate and environmental effects testing requirements for TBBPA under section 4(a)(1)(A). By this action, EPA is responding to the ITC's designation of TBBPA for priority testing consideration.

II. Review of Available Data

A. Profile

TBBPA is a white, free-flowing or crystalline powder that is soluble in many organic solvents but has a low solubility in water (Refs. 1 and 2). The experimentally determined water solubility values for TBBPA at 15 °C, 25 °C, and 35 °C are 0.72 ppm, 4.16 ppm, and 1.77 ppm respectively (Ref. 3). At 25 °C, TBBPA has an estimated vapor pressure of 4.15×10^{-5} mm Hg and an estimated Henry's Law constant of 4.46×10^{-5} atm-m^3/mole (Ref. 4). Its experimentally determined log octanol-water partition coefficient (K_{ow}) value is 4.5 (Ref. 5). The estimated log soil adsorption coefficient (K_{oc}) value is 4.29 (Ref. 4).

B. Production

TBBPA is manufactured by reacting gaseous bromine with bisphenol A in a low molecular weight solvent; it is then crystallized by adding water. The solvent can be an alcohol, aqueous acetic acid, a non-polar solvent, or a two-phase water-organic system (Ref. 6). Ethyl Corporation uses a continuous batch operation which involves a closed vessel procedure during the reaction and drying cycles (Ref. 2).

TBBPA is produced domestically by two corporations, Ethyl Corporation and Great Lakes Chemical Corporation, with a combined production capacity of 85 million pounds per year (Ref. 7). The actual production volumes for 1984 have been submitted by the two companies under section 8(a) of TSCA as confidential business information (CBI). Importation of the compound from 1979 to 1983 ranged from approximately 1.3 to 2.6 million pounds per year (Ref. 8). At the present time, Ameribrom appears to be the only importer of TBBPA (Ref. 9).

C. Uses

TBBPA is used primarily as a reactive flame retardant and to a lesser extent as an additive flame retardant. In general, when used as a reactive flame retardant, TBBPA reacts chemically with other compounds to form a polymer, leaving little opportunity for the TBBPA to be released once it has been incorporated into the polymer. TBBPA is used as a reactive flame retardant in the manufacture of epoxy resins, polycarbonates, and unsaturated polyesters (Refs. 1 and 2). A principal use of TBBPA epoxy resins, where the TBBPA content may be 34 percent, is in printed circuit boards (Ref. 10). Polycarbonates are used in communication and electronics equipment, lighting fixtures and signs (Ref. 11). Unsaturated polyesters are used for making simulated marble, floor tiles, bowling balls, furniture parts, sewer pipe coupling compound, automotive patching compounds, buttons, and for encapsulating electrical devices (Ref. 12).

TBBPA is coated on or mixed with other compounds when used as an additive flame retardant. Approximately six to eight million pounds of TBBPA is believed to be used annually as an additive flame retardant (Ref. 7). Because TBBPA does not chemically react with the other compounds when used in this manner, it may leach out of the finished products when they are in use and/or following disposal of these products. No information is available on whether TBBPA leaches out of products or the extent of leaching. Ethyl Corporation, in response to Agency questions concerned with leaching of TBBPA, submitted the statements that no leaching of TBBPA is expected for products containing TBBPA and that there is no consumer exposure from using products containing TBBPA (Ref. 13). TBBPA is used as an additive in ABS (acrylonitrile-butadiene-styrene) thermoplastics, in polystyrene, and in phenolic resins (Ref. 2). Recommended starting levels of TBBPA in ABS (medium to high impact) are 17.6 to 22 percent and 14 percent in high impact polystyrene (Ref. 14). ABS resins are used in automotive parts, pipe and fittings, refrigerators, other appliances, business machines, and telephones (Ref. 15). Polystyrene is used in packaging, consumer products, disposables, electrical and electronics equipment, furniture, and building and construction materials (Ref. 16). TBBPA is also reportedly used as a flame retardant in paper and textile applications, and as a plasticizer (Refs. 17 and 18).

D. Release and Exposure

TBBPA is expected to enter the environment mainly as a result of wastewater released from processes where TBBPA is made and used. A limited amount of TBBPA is likely to enter the environment as a result of its release into the atmosphere from activity in the packaging area of plants and from the use of TBBPA as an additive flame retardant. Release levels have been submitted by the manufacturers of TBBPA under section 8(a) of TSCA as confidential business information (CBI).

According to one process described for manufacturing TBBPA, bisphenol A is brominated in an anhydrous methanol solvent and then crystallized by adding water. The crystals are filtered, washed, and dried. Wastewater generated from the crystallization and washing steps may be treated to recover the excess bromide and solvent. The methanol solvent may be recovered by neutralizing the waste stream and then distilling. The still bottoms contain polyhalongenated phenolics such as TBBPA. An oxidizing agent can be used to initiate a polymerization reaction among polyhalogenated phenolic compounds present in the waste liquid. The polymerized product settles rapidly in the waste liquid and may be disposed of in a sanitary landfill. However, the efficiency of this process to polymerize the polyhalogenated phenolics and the precent of the total wastewater being treated in this manner has not been reported (Ref. 6).

Evidence of TBBPA exposure to the environment has been found in sediment, soil, and air samples collected in the vicinity of a company manufacturing the compound. The concentrations reported at these sites were from 0.03 to 330 ppm in the sediments, 2 to 150 ppm in the soil, and 28 to 1800 ng/m^3 in the air (Ref. 19). Although levels of TBBPA as high as 150 ppm in the soil have been reported, on the basis of sampling locations information provided in the monitoring study, it is very likely that the presence of TBBPA in the soil is limited to the area surrounding the production facility and may result from releases during packaging and loading operations. Therefore, it does not appear to the Agency at this time that terrestrial exposure to TBBPA presents a concern.

E. Chemical Fate

Based on its high log K_{oc} and log K_{ow} values and low water solubility, TBBPA is expected to partition to compartments with high concentrations of organic matter or lipids. In water, TBBPA will partition to sediments or biological tissues; on land, it will partition to soils. Volatilization of TBBPA is expected to be fairly slow and partitioning from soil and water to air is not expected to be important because of the low estimated values for the vapor pressure and the Henry's law constant (Refs. 4, 9 and 20).

The Environmental Partitioning Model (ENPART) and the Exposure Analysis Model (EXAMS 2) were used to estimate the relative partitioning of TBBPA between air, water, soil and sediment. The ENPART results show that the highest concentration of TBBPA will be in soil but the largest mass will be in water (this is due to the much greater volume of water in comparison to the volume of soil). Ambient monitoring data for TBBPA in the sediment are available. For a sediment concentration of 24 ppm, TBBPA concentrations in the water column are estimated to be 125 ppb by the EXAMS 2 model. Partitioning of TBBPA to the atmosphere will be insignificant. The estimated atmospheric half-life for TBBPA, using the Fate of Atmospheric Pollutants (FAP) model, is 1.79 days (Refs. 4 and 9).

The persistence of TBBPA trapped in soils, sediments and sludges is not well defined. One study from Japan classified TBBPA as not very biodegradable; however, no experimental details were available (Ref. 21). The ENPART estimate for 50 percent mass reduction of TBBPA present in the environment at steady state, after loading ceases, is 3 months (Ref. 4).

F. Environmental Effects

1. *Acute toxicity*—a. *Fish and aquatic invertebrates.* Static studies (96-hr) are available for bluegill sunfish (*Lepomis macrochirus*) and rainbow trout (*Salmo gairdneri*) using nominal concentrations of TBBPA (Ref. 22). The 96-hour LC_{50} values for bluegill sunfish and rainbow trout are reported to be 0.51 mg/L and 0.40 mg/L respectively. These values indicate a high order of acute toxicity towards freshwater fish. The no-effect levels (based on the lack of abnormal behavioral observations) were reported as 0.18 mg/L for bluegill and 0.10 mg/L for trout.

Static acute toxicity of TBBPA to *Daphnia magna* has been investigated using a range of nominal test concentrations (Ref. 23). The 48-hour LC_{50} value for *Daphnia* is reported to be 0.96 mg/L. The no effect level (based on zero deaths) was observed to be <0.32 mg/L.

The static test conditions used for the above studies are satisfactory because TBBPA has an extremely low volatility and the biological loading in the test vessels is well below a maximum loading of 1.0 g/L recommended in EPA's TSCA test guidelines. Although the use of nominal concentrations may have actually underestimated the acute toxicity of TBBPA, the Agency believes that these data are adequate to reasonably predict the high acute toxicity of TBBPA towards the two freshwater fish (bluegill sunfish and rainbow trout) and *Daphnia*. However, when a high order of acute toxicity is demonstrated from initial static acute tests, as is the case of existing data on TBBPA, the Agency believes that further acute testing also appears to be indicated in alternate species for making a final assessment of the acute safety hazard.

b. *Marine algae.* Preliminary data for effects of TBBPA on growth of three species of marine unicellular algae in several different media were received from an EPA lab (Ref. 24). The 72-hour EC_{50} values of two species, *Skeletonema costatum* and *Thalassiosira pseudonana*, were, in most instances, well below 1 mg/L. The EC_{50} values of less than 1 mg/L indicate that TBBPA is highly toxic to these species. No EC_{50} values could be calculated for TBBPA when tested with *Chlorella*. The highest concentration, 1.5 mg/L, did not inhibit growth of *Chorella* by 50 percent in any medium.

2. *Chronic toxicity.* No information was found on the chronic toxicity of TBBPA to aquatic organisms. However, the available data on the compound's acute toxicity to aquatic organisms indicate that TBBPA is highly toxic under acute conditions. In the acute study with rainbow trout, fish mortality increased throughout the duration of the study suggesting that, if the study had continued, mortalities may have occurred at even lower concentrations. On the basis of this information and the reported high log k_{ow} value, TBBPA is expected to be chronically toxic to fish at very low concentrations.

3. *Bioconcentration.* No useful experimental data were located on the bioconcentration of TBBPA in aquatic organisms. Using the equation (log BCF = 0.85 log P–0.70) developed by Veith (Ref. 25), the bioconcentration factor (BCF) for TBBPA in fish was estimated to be approximately 1,300. This estimate indicates that TBBPA may bioconcentrate to a significant degree.

III. Findings

EPA is basing its proposed chemical fate and environmental effects testing for TBBPA on the authority of section 4(a)(1)(A) of TSCA.

EPA finds that the release of TBBPA which likely results from its manufacture, processing, use and disposal may present an unreasonable risk of exposure and injury to the organisms in the environment, on the basis of information presented in Unit II above showing that TBBPA has the potential to be persistent, it may bioconcentrate, and it is highly toxic under acute conditions to aquatic organisms. Studies performed to determine acute toxicity of TBBPA to fish, *Daphnia*, and marine unicellular algae show that it is highly toxic (i.e., LC_{50} less than 1 mg/L or ppm). The reported high log k_{ow} of 4.5 and the high acute toxicity data reported for fish and *Daphnia* suggest that TBBPA can be expected to be chronically toxic to fish and aquatic invertebrates at very low concentrations. TBBPA concentrations up to 330 ppm in sediment samples have been detected in the vicinity of a company manufacturing the compound.

In addition, modeling indicates that TBBPA may be present in the water column in ppb levels, which could be of concern. The primary release of TBBPA to the environment is expected to be via wastewater generated from processes where TBBPA is made and used. In the aquatic environment, TBBPA partitions mainly to sediments. The Agency is particularly concerned with the effects of TBBPA on benthic organisms, i.e., organisms which remain in intimate contact with the sediments.

There is also the potential for TBBPA to bioconcentrate in aquatic organisms based on its estimated bioconcentration factor of 1,300.

The structure of TBBPA suggests by analogy to other polyhalogenated compounds that TBBPA might be persistent. As noted in Unit II.E., one study from Japan, with no experimental details provided, classified TBBPA as not very biodegradable.

Based on EPA's evaluation, the experimental data available for water solubility, log K_{ow}, and acute toxicity to marine unicellular algae appear to be adequate to reasonably determine or predict these characteristics for TBBPA. The log K_{oc} can be estimated reasonably well if the experimental value for the log K_{ow} is available. The Agency has further determined that data are inadequate to fully characterize the degradability of TBBPA present in soils, sediments, sludges, and water; toxicity

of TBBPA to microorganisms in activated sludge; toxicity of TBBPA to freshwater algae under acute conditions; chronic toxicity of TBBPA to fish and invertebrates and bioconcentration potential of TBBPA in fish and invertebrates. In addition, because acute toxicity values below 1 mg/L (ppm) have been found for the two fish (bluegill Sunfish and rainbow trout) and *Daphnia*, additional acute tests with alternate species of fish and invertebrates are required for making a final assessment of the acute hazard. Testing is necessary to develop these data.

IV. Proposed Rule

A. Proposed Testing and Test Standards

On the basis of the findings given in Unit III, EPA is proposing chemical fate and environmental effects testing for TBBPA. The tests are to be conducted in accordance with EPA's TSCA Good Laboratory Practice standards in 40 CFR Part 792 and specific TSCA test guidelines as enumerated in 40 CFR Parts 796 and 797, published in the **Federal Register** of September 27, 1985 (50 FR 39252), or other published test methods as specified in this test rule for TBBPA. Proposed revisions to the TSCA test guidelines were published in the **Federal Register** of January 14, 1986 (51 FR 1522); the Agency is proposing that these revisions be adopted in the test standards for TBBPA.

The chemical fate tests to be conducted for TBBPA are: (1) Biodegradability in water, using the eco-core method described by Bourquin *et al.* (Ref. 26); (2) the aerobic and anaerobic biodegradability in soil, using the guideline at 40 CFR 796.3400; and (3) the biodegradability in sludge systems, using the guideline at 40 CFR 796.3341.

Environmental effects tests to be conducted for TBBPA are: (1) The effect of test substance on activated sludge, using the guideline entitled "Activated Sludge, Respiration Inhibition Test" proposed at 40 CFR 795.170, and published with this rule. (2) The acute toxicity to freshwater alga, *Selenastrum capricornutum*, using the test guideline at 40 CFR 797.1050, and as modified under § 799.4000(d)(2)(i)(B). (3) The acute toxicity to the amphipod *Gammarus*, using the guideline at 40 CFR 797.1310. (4) The acute toxicity to *Pimephales promelas* (fathead minnow) in a flow-through system, using the guideline at 40 CFR 797.1400.

EPA is also proposing that: (5) The invertebrate *Daphnia* shall be tested in a flow-through system to determine the chronic toxicity of TBBPA using the guideline at 40 CFR 797.1330. (6) The testing for early life stage toxicity to fish be conducted in a flow-through system using the guideline at 40 CFR Part 795. The test species shall be fathead minnow (*Pimephales promelas*) if the 96-hour LC_{50} for fathead minnow is equal to or less than 0.40 mg/L; the test species shall be rainbow trout if the 96-hour LC_{50} for fathead minnow is greater than 0.40 mg/L.

EPA further proposes that: (7) A bioconcentration test in the fathead minnow (*Pimephales promelas*) be conducted using the guideline at 40 CFR 797.1520, and (8) a bioconcentration test in the oyster (*Crassostrea virginica*) be conducted using the guideline at 40 CFR 797.1830.

The Agency is proposing that the above referenced chemical fate and environmental effects test guidelines and modifications and other cited methods be considered the test standards for the purposes of the proposed testing for TBBPA. The TSCA test guidelines for chemical fate and aquatic toxicity testing specify generally accepted minimal conditions for determining chemical fate and aquatic animal toxicities for substances like TBBPA to which aquatic life is expected to be exposed.

The proposed eco-core method of Bourquin *et al.* (1977) for testing the biodegradability of TBBPA in water specifies generally accepted minimal conditions. The Agency believes that this test reflects the current state-of-the-art methodology for testing the fate of chemicals such as TBBPA in aquatic systems.

B. Test Substance

EPA is proposing that TBBPA of at least 99 percent purity be used as the test substance; EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributable to TBBPA itself. In a separate rulemaking, EPA is proposing to require testing and submission of data on the presence of dioxins and furans in TBBPA (50 FR 51794; December 19, 1985). If contamination of TBBPA with these substances is confirmed, the purity of the test substance for this test rule may need to be further defined to limit levels of contamination.

C. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the EPA makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the findings are based on distribution, use, or disposal.

Because EPA has found that there are insufficient data and experience to reasonably determine or predict the effects of the manufacture, processing, use and disposal of TBBPA on the environment, EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process, TBBPA at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements contained in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time after the submission of the last final report required under the test rule equal to that which was required to develop data, if more than 5 years.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of

intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described in 40 CFR Part 790.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for TBBPA. As noted in Unit IV.B, EPA is interested in evaluating the effects attributable to TBBPA itself and has specified a highly pure substance for testing.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TCSA Good Laboratory Practice (GLP) standards which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 45 days prior to the initiation of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed test standards as follows:

1. The biodegradation tests, the test for toxicity to microorganisms in activated sludge, the acute toxicity tests in fresh water algae, fish, and invertebrates, and the bioconcentration tests in fish and invertebrates shall be completed, and the final reports submitted to EPA within 1 year of the effective date of the final test rule. Quarterly progress reports shall be required.

2. The early life stage toxicity test in aquatic vertebrates and a chronic toxicity test in invertebrates shall be completed, and the final reports submitted to EPA within 2 years of the effective date of the final test rule. Quarterly progress reports shall be required.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707. In brief, as of the effective date of the final test rule, an exporter of TBBPA must report to EPA the first annual export or intended export of TBBPA to any one country. EPA will notify the foreign country concerning the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce . . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for purpose of determining compliance with any final rule for TBBPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations, and to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and to include such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers that fail to submit a letter of intent or an exemption request and that continue manufacturing after the deadlines for such submissions.

This provision would also apply to processors that fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (see 40 CFR 790.28(b)). Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Section 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Issues for Comment

This proposed rule specifies TSCA test guidelines and independent, published test methods as the test standards for chemical fate and environmental effects. The Agency is soliciting comments as to whether the chemical fate and environmental effects test guidelines and the independent methods are appropriate and applicable for the testing of TBBPA. Also regarding the testing of TBBPA, the Agency requests comments on:

1. The availability of appropriate test methods and facilities for testing the toxicity of this chemical to benthic organisms (i.e. organisms which remain

in intimate contact with the sediment). Because TBBPA is expected to partition strongly to sediment, the Agency believes that determining the toxicity of TBBPA to benthic organisms is important in characterizing the environmental effects of aquatic releases of TBBPA. The Agency believes that sediment bioassay methods using freshwater invertebrates, such as those published by Nebeker *et al.* (Ref. 27) and Adams *et al.* (Ref. 28) or, as an alternative, relevant microcosm test protocols (Refs. 29 and 30) may be useful for characterizing the effects of TBBPA on benthic organisms. The Agency is requesting comments on the effectiveness and availability of these or other methods and which, if any, would be most appropriate for testing of TBBPA. If the comments indicate the appropriate test methods and facilities are available, the Agency is proposing that it will include tests to determine the toxicity of TBBPA to benthic organisms in the final rule for TBBPA.

2. The adequacy of the proposed testing to characterize the environmental fate and environmental effects of TBBPA.

3. The reporting times for the identified chemical fate and environmental effects tests.

4. The purity of the test substance to be used in light of the possible presence of the dioxin/furan contamination.

5. Whether there are any other testing approaches which should be considered.

VI. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for the test rules go through a Level I analysis. This consists of evaluating each chemical or chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for the chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Total testing costs for the proposed rule for TBBPA are estimated to range from $59,520 to $144,580. This estimate includes the costs for both the required minimum series of tests as well as any conditional ones. The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $15,400 to $37,500. Based on an estimated production volume range of 59.8 million pounds to 83.7 million pounds the unit test costs range from 0.026 to 0.063 cents per pound. In relation to the current list price of $1.15 per pound (99 percent purity) of TBBPA, these costs are equivalent to 0.02 to 0.05 percent of price.

Based on these costs and market characteristics of TBBPA, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is low. This conclusion is based on the following observations: (1) The annual unit cost of the testing required in this rule is very low; and (2) the market expectations for TBBPA are optimistic.

Refer to the economic analysis which is contained in the public record for this rulemaking for a complete discussion of test cost estimation and potential for economic impact resulting from these costs.

VII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, DC: (554–1404); Outside the U.S.A. (Operator—202–554–1404), by June 30, 1986. A meeting will not be held if members of the public do not indicate they they wish to make oral presentation. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VIII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonbly foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82–140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

IX. Public Record

EPA has established a record for this rulemaking, (docket number OPTS–42083). This record contains the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice containing the ITC designation of TBBPA to the Priority List (50 FR 20930; May 21, 1985).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on TBBPA (50 FR 20910; May 21, 1985).

(c) TSCA test guidelines cited as test standards for this rule.

(d) Notice containing revision of TSCA test guidelines cited as test standards for this rule.

(2) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(3) Reports—published and unpublished factual materials.

B. References

(1) Great Lakes Chemical Corp. West Lafayette, IN 47906. Product information and material safety data sheet for TBBPA submitted by D.L. McFadden to Dynamac Corp. (August 10, 1983).

(2) Ethyl Corp. Baton Rouge, LA 70820. Letter and enclosures from R.L. Smith to M. Grief, TSCA Interagency Testing Committee, Washington, DC 20460. (February 29, 1984).

(3) Great Lakes Chemical Corp. West Lafayette, IN 47906. "Water solubility of several flame retardants and industrial chemicals." Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Environmental Protection Agency. (August 1, 1985).

(4) U.S. Environmental Protection Agency, Computer Printout: "Chemical property and

environmental behavior estimates." Washington, DC, Office of Toxic Substances, USEPA. (1985).

(5) Great Lakes Chemical Corp. West Lafayette, IN 47906. "Partition coefficient of several flame retardants and industrial chemicals." Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Environmental Protection Agency. (August 1, 1985).

(6) Bossier, J.A., and J.J. Vega "Method for removing brominated phenolic waste." United States Patent 4431847 A. (February 14, 1984).

(7) Stanford Research Institute International. Menlo Park, CA. "Tetrabromobisphenol A". In: *Chemical Economics Handbook*. (1985).

(8) USITC. U.S. International Trade Commission. "Imports of benzenoid chemical and products, 1979–1983". USITC Publications 1083, 1163, 1277, 1401, and 1548. (1980–1984).

(9) Syracuse Research Corp. Merrill Lane, Syracuse, NY 13210. Draft Final Technical Support Document: "Tetrabromobisphenol A". Prepared for Test Rules Development Branch, Office of Toxic Substances, Environmental Protection Agency, Washington, DC 20460. Contract No. 68–02–4209. (1985).

(10) Kirk-Othmer. *Kirk-Othmer Encyclopedia of Chemical Techology*. 3rd ed. Vol. 9. John Wiley and Sons, Inc. New York, p. 276. (1980).

(11) "Chemical profile: Polycarbonate resins". *Chemical Marketing Reporter*. (May 14, 1984).

(12) Kirk-Othmer. *Kirk-Othmer Encyclopedia of Chemical Technology*, 3rd ed. Vol. 18. John Wiley and Sons, Inc. New York. pp. 588–589. (1982).

(13) Ethyl Corp. Baton Rouge, LA 70820. Letter with attached responses to Agency questions from R.L. Smith to Narendra Chaudhari, Environmental Protection Agency. (September 18, 1985).

(14) Great Lakes Chemical Corp., West Lafayette, IN 47906. Letter with attached information on BA–59 from Rebecca Ball to Susan Beals, Syracuse Research Corp. (June 25, 1985).

(15) "Chemical profile: ABS resins." *Chemical Marketing Reporter* (July 1, 1985).

(16) "Chemical profile: Polystyrene." *Chemical Marketing Reporter* (June 17, 1985).

(17) Hawley, G.G. *The Condensed Chemical Dictionary*, 10th ed. Van Nostrand Reinhold Co., New York (1981).

(18) Tsuchida, A., and M. Fujii. Hokuetsu Paper Mfg. Co., Ltd. Japan. (1975).

(19) U.S. Environmental Protection Agency. Environmental Monitoring Near Industrial sites: Brominated Chemicals (Part I). Washington, DC, Office of Toxic Substances, USEPA. Contract 68–01–1978. EPA–560/6–78–002. (1978).

(20) CRCS, Inc. in collaboration with Dynamac Corp. Reston, VA 22090. Information Review: Tetrabromobisphenol A. Prepared for TSCA Interagency Testing Committee. Contract No. 68–01–5789. (February 15, 1984).

(21) Sasaki, S. "The scientific aspects of the chemical substance control law in Japan" *In: Aquatic Pollutants: Transformation and Biological Effects*. Hutzinger, O., L.H. Von Letyoeld, and B.C.J. Zoeteman, eds. Pergamon Press. Oxford. pp. 283–298. (1978).

(22) Great Lakes Chemical Corp., West Lafayette, IN 47906. Acute toxicity of TBBPA to bluegill sunfish (Project #11506–03–50) and rainbow trout (Project #11506–03–51). Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Environmental Protection Agency. (August 1, 1985).

(23) Great lakes Chemical Corp., West Lafayette, IN 47906. Acute toxicity of TBBPA to *Daphnia magna* (Project #11506–03–52). Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Environmental Protection Agency. (August 1, 1985).

(24) U.S. Environmental Protection Agency. Environmental Research Laboratory, Gulf Breeze, Florida 32561, Preliminary report on effects of TBBPA on marine unicellular algae. Memorandum from G.E. Walsh to Steve Ells, Washington, DC, Office of Toxic Substances, USEPA. (August 9, 1985).

(25) Veith, G.D., Defore, D.L., and Bergstedt, B.J. "Measuring and estimating the bioconcentration factor of chemicals in fish." *Journal of Fish Research Board Canada* 36: 1040–1048. (1979).

(26) Bourquin, A.W., Hood, M.A. Garnas, R.I., "An artifical microbial exosystem for determining effects and fate of toxicants in a salt-marsh environment." *Developments in Industrial Microbiology* 18: 185–191. (1977).

(27) Nebeker, A.V. *et al.* "Biologoical methods for determining toxicity of contaminated freshwater sediments to invertebrates." *Environmental Toxicology and Chemistry*. 3:617–630. (1984).

(28) Adams, W.J. Kimerle, R.A., and Mosher, R.G., "Aquatic safety assessment of chemicals sorbed to sediments," *Aquatic Toxicology and Hazard Assessment: Seventh Symposium*. ASTM STP 854, R.D. Cardwell, R. Purdy, and R.C. Bahner, Eds., American Society for Testing and Materials, Philadelphia. pp. 329–453. (1985).

(29) Hendrix, P.R. *et al.* "Microcosm as test systems for the ecological effects of toxic substances: an appraisal with cadmium." Prepared for Environmental Research Laboratory, USEPA, Athens, Georgia 30613. NTIS, Springfield, Virginia 22161, PB81–209595. (1981).

(30) U.S. Environmental Protection Agency. Environmental Research Laboratory, Narragansett, Rhode Island 02882. "Experimental marine microcosm test protocol and support document." Prepared for Office of Toxic Substances, USEPA, Washington, DC 20460. EPA–600/3–83–055. (1983).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Rm. E–107, 401 M St., SW., Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Agency will supplement this record periodically with additional relevant information received.

X. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have any annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprise to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) There are no known small manufacturers, (2) any small processors are not expected to perform testing themselves or to participate in the organization of the testing effort, (3) they will experience only very minor cost in securing exemption from testing requirements, and (4) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW., Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals,

Environmental effects, Recordkeeping and reporting requirements.

Dated: May 2, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 795—[AMENDED]

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

1. In proposed Part 795:

a. The authority citation of Part 795 continues to read as follows:

Authority: 15 U.S.C. 2603.

b. By adding § 795.170 to read as follows:

§ 795.170 Activated sludge, respiration inhibition test modified test for chemical substances that have low water solubility.

(a) *Introductory information.*—(1) *Prerequisites.*

(i) Water solubility.

(ii) Vapor pressure.

(2) *Guidance information.* (i) Information on the structural formula of the test substance will be useful.

(ii) Purity of the test substance shall be specified in the test rule in 40 CFR Part 799.

(3) *Recommendation.* Activated sludge may contain potentially pathogenic organisms and should be handled with care.

(4) *Standard documents.* This test guideline has been based on the references in (d) (1) thru (6) of this section.

(b) *Method*—(1) *Introduction, purpose, scope, relevance, application and limits of test.* (i) *Introduction.* (A) The method described in this test guideline assesses the effect of a test substance on microorganisms by measuring the respiration rate under defined conditions in the presence of different concentrations of the test substance. The method is based on that described by the Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry, in which activated sludge obtained from a sewage treatment plant is used as the microbial source.

(B) The purpose of this test guideline is to provide a rapid screening method whereby substances which may adversely affect aerobic microbial treatment plants can be identified and to indicate suitable non-inhibitory concentrations of test substances to be used in biodegradability tests.

(C) A range-finding test may precede a definitive test. It provides information about the range of concentrations to be used in the main test.

(D) Two controls without test substance are included in the test design, one at the start and the other at the end of the test series. Each batch of activated sludge should also be checked using a reference substance.

(ii) *Definitions*—(A) *Respiration rate.* The oxygen consumption of aerobic sludge or wastewater microorganisms, generally expressed as mg O_2 per liter per hour.

(B) *Effective concentration* (EC_{50}). In this test guideline, the concentration of the test substance at which the respiration rate is 50 percent of that shown by the control under conditions in this guideline.

(iii) *Reference substances.* 3,5-dichlorophenol (a known inhibitor of respiration) shall be used as a reference substance and tested for EC_{50} on each batch of activated sludge as a means of checking that the sensitivity of the sludge is not abnormal.

(iv) *Principal of the test method.* The respiration rate of an activated sludge fed with a standard amount of synthetic sewage feed is measured after a contact time of 30 minutes or 3 hours, or both. The respiration rate of the same activated sludge in the presence of various concentrations of the test substance under otherwise identical conditions is also measured. The inhibitory effect of the test substance at a particular concentration is expressed as a percentage of the mean respiration rates of two controls. An EC_{50} value is calculated from determinations at different concentrations.

(v) *Conditions for the validity of the test.* (A) The test results are valid if the two control respiration rates are within 15 percent of each other.

(B) The EC_{50} (3 hours) of 3,5-dichlorophenol must be in the accepted range 5 to 30 mg/L.

(2) *Description of the test procedure*—(i) *Preparations*—(A) *Equipment.* Normal laboratory equipment and especially the following is necessary:

(*1*) Measuring apparatus (flat bottom flask, stirrer bar, magnetic stirrer, oxygen electrode, and recorder).

(*2*) Aeration device.

(*3*) pH-Electrode and measuring equipment.

(*4*) O_2-Electrode.

(B) *Solutions of the test substance.* (*1*) Solutions of the test substance are freshly prepared at the start of the study using a stock solution. A stock solution concentration of 0.5 g/L is appropriate if the procedure recommended below is followed. [Note: A solution of 3,5-dichlorophenol can be conveniently prepared by dissolving 0.5 g 3,5-dichlorophenol in 10 ml of 1N NaOH, diluting to approximately 30 ml with distilled water, adding under stirring 1N H_2SO_4 to the point of incipient precipitation—and finally diluting the mixture to one liter with distilled water. The pH should then be in the range 7 to 8].

(*2*) If the test substance is not sufficiently soluble to allow preparation of a concentrated stock solution in water, it should be added directly to test vessels or, alternatively, as a concentrated stock solution in an organic solvent. Direct addition is recommended. If an organic solvent is used, the solvent must neither significantly inhibit nor contribute to respiration. Further, a control containing activated sludge and solvent but no test substance is required.

(C) *Test concentrations.* At least five concentrations, spaced by a constant factor preferably not exceeding 3.2, should be used.

(D) *Synthetic sewage feed.* (*1*) A synthetic sewage feed is made by dissolving the following amounts of substances in 1 liter of water:

(*i*) 16 g peptone.

(*ii*) 11 g meat extract.

(*iii*) 3 g urea.

(*iv*) 0.7 g NaCl.

(*v*) 0.4 g $CaCl_2.2\ H_2O$.

(*vi*) 0.2 g $MgSO_4.7\ H_2O$.

(*vii*) 2.8 g K_2HP0_4.

(*2*) This synthetic sewage is a 100-fold concentrate of that described in the OECD Technical Report "Proposed method for the determination of the biodegradability of surfactants used in synthetic detergents" June 11, 1976, with dipotassium hydrogen phosphate added.

(ii) *Test system.* Activated sludge from a sewage treatment plant is normally used as the microbial innoculum for the test. Where possible, activated sludge should be obtained from a sewage work treating predominantly domestic sewage. If this is not possible, the activated sludge may be obtained from sewage works treating predominantly industrial waste water but used only following deadaptation. Even so, results obtained with activated sludge from works treating industrial waste waters may be atypical. On return to the laboratory the sludge is washed, if necessary, with tap water or an isotonic solution. After centrifuging the supernatant is decanted. This procedure is repeated three times. A small amount of the washed sludge is weighed and dried. From this result the amount of wet sludge can be calculated which must be suspended in water in order to obtain an activated sludge with a mixed liquor suspended solids level of 4 g/L(±10 percent). This level gives a concentration of 1.6 g/L in the test medium if the procedure recommended below is followed. If the sludge cannot

be used on the day of collection, 50 ml synthetic sewage is added to each liter of the activated sludge prepared as described above; this is then aerated overnight at 20±2°C. It is then kept aerated for use during the day. Before use the pH is checked and buffered, if necessary to pH 6.0 to 8.0 using sodium bicarbonate solution. The mixed liquor suspended solids should be determined as described in the preceeding paragraph. If the same batch of sludge is required to be used on subsequent days (maximum 4 days), a further 50 ml of synthetic sewage feed is added at the end of each working day.

(iii) *Test conditions.* The following conditions apply to the test system.

(A) Duration/contact time: 30 minutes and/or 3 hours, during which aeration takes place.

(B) Vessels: Beakers are suitable.

(C) Water: Drinking water (dechlorinated if necessary).

(D) Air supply: Clean oil-free air. Air flow 0.5 to 1 liter/minute.

(E) Measuring apparatus: Flat bottom flask such as a BOD-flask.

(F) Oxygen meter: Polarographic oxygen electrode, connectable to a potentiometric recorder. (200 mv range).

(G) Nutrient solution: Synthetic sewage feed (see above).

(H) Test substance: The test solution is freshly prepared at the start of the test.

(I) Reference substance: e.g. 3,5-dichlorophenol (at least 3 concentrations).

(J) Controls: Innoculated sample without test substance.

(K) Temperature: 20± 2°C.

(iv) *Performance of the test.* A suggested experimental procedure which may be followed for both the test and reference substance for the 3-hour contact period is given below:

(A) Several vessels (e.g. 1-liter beakers) are used.

(B) At time "0", 16 ml of the synthetic sewage feed are made up to 300 ml with water. Two hundred ml of microbial innoculum are added and the total mixture (500 ml) poured into a first vessel (first control C_1). Aeration at 0.5 to 1 liter per minute is commenced using a Pasteurpipete as aeration device.

(C) (*1*) At time "15 min" (15 minutes is an arbitrary, but convenient, interval) the above is repeated, except that 100 ml of the test substance stock solution are added to the 16 ml of synthetic sewage before adding water to 300 ml and microbial innoculum to make a volume of 500 ml. This mixture is then poured into a second vessel and aerated as described in (B) above. This process is repeated at 15-minute intervals with different volumes of the test substance stock solution to give a series of vessels containing different concentrations of the test substance. Finally, a second control (C_2) is prepared.

(*2*) If the test substance is not sufficiently soluble to allow addition from a stock solution in water, the appropriate proportion of the 100 ml-volume of test substance stock solution referred to above is replaced with water. For example, if 10 ml of an insoluble liquid test substance or solvent containing test substance is added directly to the test vessels, 90 ml of water is added. If insoluble solid test substance is added to the test vessel, 100 ml of water is added. If test substance is added as a stock solution in an organic solvent, a third control, containing the appropriate amount of solvent plus water to a total of 100 ml, is required, in addition to the series of test vessels containing different concentrations of the test substances.

(D) After 3 hours the contents of the first vessel are poured into the measuring apparatus and the respiration rate is measured over a period of up to 10 minutes; the measuring can also be carried out directly in the vessel.

(E) This determination is repeated on the contents of each vessel at 15-minute intervals, in such a way that the contact time in each vessel is three hours.

(*1*) The reference substance is tested on each batch of microbial innoculum in the same way. A different regime (e.g. more than one oxygen meter) will be necessary when measurements are to be made after 30 minutes of contact.

(*2*) If measurement of the chemical oxygen consumption is required, further vessels are prepared containing test substance, synthetic sewage feed and water, but no activated sludge.

(v) *Observations.* Oxygen consumption is measured and recorded after an aeration time of 30 minutes and/or 3 hours contact time.

(c) *Data and reporting*—(1) *Treatment of results.* (i) The respiration rate is calculated from the recorder trace as mg O_2/L.h between approximately 6.5 mg O_2/L and 2.5 mg O_2/L, or over a 10-minute period when the respiration rate is low. The portion of the respiration curve over which the respiration rate is measured should be linear. In order to calculate the inhibitory effect of a test substance at a particular concentration, the respiration rate is expressed as a percentage of the mean of the two control respiration rates:

Formula:

$$\left(1-\frac{2R_s}{Rc_1+Rc_2}\right)\cdot 100=\text{percent inhibition}$$

where

R_s = oxygen-consumption rate at tested concentration of test substance

R_{c1} = oxygen-consumption rate, control 1

R_{c2} = oxygen-consumption rate, control 2

(ii) If the respiration rates of the two controls are not within 15 percent of each other or the EC_{50} (3h) of the reference substance is not in the accepted range (5 to 30 mg/L for 3,5-dichlorophenol), the test is invalid and must be repeated. The percent inhibition is calculated at each test concentration using the formula shown above. The percent inhibition is plotted against concentration on log-normal (or log-probability) paper and an EC_{50} value derived. Ninety five percent confidence limits for the EC_{50} values can be determined using standard procedures. In view of the variability often observed in the results, it is recommended that the results be expressed in orders, of magnitude, e.g. less than 1, 1 to 10, 10 to 100, etc. (in mg/L).

(2) *Interpretation of results.* The EC_{50} value should be regarded merely as a guide to the likely toxicity of the test substance either to activated sludge sewage treatment or to wastewater microorganisms, since the complex interactions occurring in the environment cannot be accurately simulated in a laboratory test.

(3) *Test report.* The test report should include the following information.

(i) Test substance: Chemical identification data.

(ii) Test system: Source, concentration and any pretreatment of the activated sludge.

(iii) Test conditions: Test temperature, test duration, reference substance and its measured EC_{50}, and abiotic oxygen uptake, if any.

(iv) Results: All measured data; inhibition curve and method for calculation of EC_{50}; EC_{50}, and if possible, 95 percent confidence limits; EC_{20} and EC_{80}; all observations and any deviations from this test guideline which could have influenced the result.

(d) *Literature references.* (1) International Standard ISO/TC 147/SC 5/WC 1, N53 No. D (June 1981).

(2) Broecker, B. and Zahn, R., *Water Research, 11*, 165 (1977).

(3) Brown, D., Hitz, H.R. and Schaefer, L., *Chemosphere, 10*, 245 (1981).

(4) ETAD (Ecological and Toxicological Association of Dyestuffs Manufacturing Industries). Recommended Method No. 103, also described by:

(5) Robra, B., *Wasser/Abwasser, 117*, 80 (1976) and

(6) Schefer, W., *Textilveredlung, 6*, 247 (1977).

PART 799—[AMENDED]

2. Part 799 is amended as follows:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 799.4000 to read as follows:

§ 799.4000 Tetrabromobisphenol A.

(a) *Identification of test substance.* (1) Tetrabromobisphenol A (TBBPA CAS No. 79–94–7) shall be tested in accordance with this section.

(2) Tetrabromobisphenol A of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture (import) or process tetrabromobisphenol A, other than as an impurity, after the effective date of this rule (44 days after publication of the final rule in the **Federal Register**) to the end of the reimbursement period submit exemption applications, submit study plans, conduct tests, and submit data as specified in this section, Subpart A of this Part, Parts 790 and 792 of this chapter for single-phase rulemaking.

(c) *Chemical fate*—(1) *Biodegradability in water*—(i) *Required testing.* Biodegradation testing in water shall be conducted with TBBPA in accordance with the method described in Bourquin *et al.* "Developments in Industrial Microbiology" 18, 185–191, 1977. The method is available from the Office of the Federal Register Information Center, 11th and L St., NW., Washington, DC 20408, and in the EPA OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register on [date]. The method is incorporated as it exists on the effective date of this rule and a notice of any change to the method will be published in the **Federal Register.**

(ii) *Reporting requirements.* (A) The biodegradation test in water shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final rule.

(2) *Inherent biodegradability in soil*—(i) *Required testing.* Inherent biodegradability in soil tests to assess aerobic and anaerobic biodegradability shall be conducted with TBBPA in accordance with § 796.3400 of this chapter.

(ii) *Reporting requirements.* (A) The inherent biodegradability in soil tests shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(3) *Biodegradability in sludge systems*—(i) *Required testing.* Biodegradability tests in sludge systems shall be conducted with TBBPA in accordance with § 796.3341 of this chapter.

(ii) *Reporting requirements.* (A) The biodegradability tests in sludge systems shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(d) *Environmental effects*—(1) *Respiration inhibition in activated sludge*—(i) *Required testing.* A respiration inhibition test in activated sludge system shall be conducted with TBBPA in accordance with the guideline specified in § 795.170 of this chapter.

(ii) *Reporting requirements.* (A) The respiration inhibition test in activated sludge system shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(2) *Algal acute toxicity*—(i) *Required testing.* (A) Algal acute toxicity testing shall be conducted with TBBPA using *Selenastrum capricornutum* in accordance with § 797.1050 of this chapter and the modification specified in paragraph (d)(2)(i)(B) of this section.

(B) Modification. The requirements under § 797.1050 (c)(1)(ii) and (c)(6)(i)(B) of this chapter are modified to require that the agal cells at the end of 24, 48, and 72 hours also be enumerated and that the algal cells at the end of 24, 48, cells from the test solution be done using an ultrafiltration (e.g. 0.45 micrometer pore size) technique.

(ii) *Reporting requirements.* (A) The algal acute toxicity test shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(3) *Gammarus acute toxicity*—(i) *Required testing. Gammarus* acute toxicity testing shall be conducted with TBBPA using *G. lacustris, G. fasciatus,* or *G. pseudolimnaeous* in accordance with § 797.1310 of this chapter.

(ii) *Reporting requirements.* (A) The *Gammarus* acute toxicity test shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(4) *Fish acute toxicity*—(i) *Required testing.* Fish acute toxicity testing shall be conducted with TBBPA using *Pimephales promelas* (fathead minnow) in accordance with § 797.1400 of this chapter.

(ii) *Reporting requirements.* (A) The fish acute toxicity test shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(5) *Daphnid chronic toxicity*—(i) *Required testing.* Daphnid chronic toxicity testing shall be conducted with TBBPA using *Daphnia magna* or *D. pulex* in accordance with § 797.1330 of this chapter.

(ii) *Reporting requirements.* (A) The daphnid chronic toxicity test shall be completed and the final report submitted to the Agency within 2 years of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(6) *Fish early life stage toxicity*—(i) *Required testing.* A fish early life stage toxicity test shall be conducted with TBBPA using fathead minnow (*Pimephales promelas*) if the 96-hour LC_{50} for fathead minnow conducted in accordance with paragraph (d)(4) of this section is equal to or less than 0.40 mg/L; the test species shall be rainbow trout if the 96-hour LC_{50} for fathead minnow is greater than 0.40 mg/L. The fish early life stage toxicity test shall be conducted in accordance with § 797.1600 of this chapter.

(ii) *Reporting requirements.* (A) The fish early life stage toxicity test shall be completed and the final report submitted to the Agency within 2 years of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(7) *Bioconcentration in fish*—(i) *Required testing.* A bioconcentration test shall be conducted with TBBPA using *Pimephales promelas* (fathead minnow) in accordance with § 797.1520 of this chapter.

(ii) *Reporting requirements.* (A) The bioconcentration test in fish shall be completed and the final report submitted to the Agency within 1 year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(8) *Bioconcentration in oyster*—(i) *Required testing.* A bioconcentration test shall be conducted with TBBPA using *Crassostrea virginica* (oyster) in accordance with § 797.1830 of this chapter.

(ii) *Reporting requirements.* (A) The bioconcentration test in oyster shall be completed and the final report submitted to the Agnecy within one year of the effective date of the final rule.

(B) Quarterly progress reports shall be submitted to the Agency beginning 90 days after the effective date of the final test rule.

(Information collection requirements have been approved by the Office of Management and Budget under Control Number 2070-0033)

[FR Doc. 86-10705 Filed 5-14-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42080; FRL-3001-9]

Triethylene Glycol Monomethyl, Monethyl, and Monobutyl Ethers; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that manufacturers and processors of triethylene glycol monomethyl ether (CAS No. 112-35-6), triethylene glycol monomethyl ether (CAS No. 112-50-5), and triethylene glyclo monobutyl ether (CAS No. 143-22-6) be required, under section 4 of the Toxic Substances Control Act (TSCA), to perform testing for these three chemicals for subchronic toxicity, developmental toxicity, neurotoxicity and developmental neurotoxicity, mutagenicity, reproductive toxicity, and oncogenicity. This is a two-stage rule. The subchronic toxicity, developmental toxicity and developmental neurotoxicity, the neurotoxicity and the lower-tier mutagenicity are in the first stage. Following the receipt of the first-stage data, EPA will review it and decide what further testing needs to be done in stage two. This proposed rule responds to the Interagency Testing Committee's (ITC's) designation of these three compounds for priority consideration for health effects testing.

DATES: Submit written comments on or before July 14, 1986. If persons request an opportunity to submit oral comment by June 30, 1986. EPA will hold a public meeting on this rule in Washington, DC. For further information on arranging to speak at the meeting see Unit VIII of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42080), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Wasington, DC 20460, Toll free: (800-424-9065); In Washington, DC: (554-1404); Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule under section 4(a) of TSCA in response to the ITC's designation of triethylene glycol monomethyl, monoethyl, and monobutyl ether for health effects testing consideration.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

ITC designated the three triethylene glycol ethers for priority testing consideration in its Sixteenth Report, published in the **Federal Register** of May 21, 1985 (50 FR 20930). ITC recommended pharmacokinetic and metabolic studies. Dependent upon the results of the pharmacokinetic and metabolic work, subchronic studies with emphasis on hematologic effects, as well as reproductive and developmental toxicity studies, should be performed. This document responds to ITC's designation.

B. Test Rule Development Under TSCA

Under section 4 (a) of TSCA, EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if it finds that:

> (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

In making section 4(a)(1)(A) findings, EPA considers both exposure and toxicity information to make the finding that the chemical may present an unreasonable risk. For the second finding under section 4(a)(1)(A), EPA examines toxicity studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's approach to determining when these findings are appropriately made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300).

For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine if there is or may be substantial production and significant or substantial human exposure. For the findings under section 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to the chemical. In making the finding under section 4(a)(1)(B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in its second proposed test rule [See the **Federal Register** of June 5, 1981 (46 FR 30300)].

In evaluating ITC's testing recommendations for the three triethylene glycol ethers, EPA considered all available relevant information including the following: information presented in ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of these compounds under TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and published and unpublished data available to the Agency. From its evaluation, as described in this proposed rule, EPA is proposing health effects testing requirements for triethylene glycol monomethyl, monoethyl, and monobutyl ethers under sections 4(a)(1)(A) and 4(a)(1)(B). By these actions, EPA is resposnding to ITC's designation of triethylene glycol monomethyl, monoethyl, and monobutyl; ethers for priority testing consideration.

II. Review of Available Data

A. Physicochemical Information

These three compounds are liquids, with very low estimated vapor pressures (Ref. 1).

Triethylene glycol monomethyl ether—2.90×10^{-3} mm Hg

Triethylene glycol monoethyl ether—2.90×10^{-3} mm Hg

Triethylene glycol monobutyl ether—2.50×10^{-3} mm Hg

B. Production and Use

These three chemicals are primarily co-produced during the manufacture of lower molecular weight glycol ethers. About 5 percent of the production is purified further for use as chemical intermediates, but the majority of production is sold in a technical grade for use as a diluent in brake fluids. The glycol ethers comprise 95–97 percent of the market for brake fluid diluents (Ecomomic Analysis Support Document). The International Trade Commission (1985) has estimated the 1984 production levels of these compounds to be as follows (Economic Analysis Support Document):

Triethylene glycol monomethyl ether—27 million lbs.

Triethylene glycol monoethyl ether—24 million lbs.

Triethylene glycol monobutyl ether—11 million lbs.

C. Exposure and Release

Preliminary data from the National Occupational Exposure Survey (NOES) conducted by the National Institute for Occupational Safety and Health (NIOSH) from 1980–1983 indicate that 248,333 workers, including 8,107 females, were potentially exposed to brake fluids in the workplace in 1980 (Ref. 2).

There are no data on levels of dermal exposure in the workplace or on release to the environment. However, the nature of brake system maintenance and repair suggests that complete exposure of both hands occurs regularly, even daily, for many professional mechanics. Furthermore, there is a potential for consumer exposure, since some individuals can be expected to add brake fluid or perform brake maintenance on their automobiles.

D. Health Effects

Acute toxicity tests have been done on all these chemicals by the oral, dermal and inhalation routes, although in different species. Oral and dermal median lethal doses (LD_{50}'s) for each compound are of the same order of magnitude, which indicates that the compound is dermally absorbed. While these studies differ in some respects from the corresponding TSCA test guidelines, EPA believes that the data are sufficient to predict the acute effects of these compounds, and that further acute studies need not be performed.

However, a complete health effects profile of these three triethylene glycol ethers is not established. Only triethylene glycol monoethyl ether has been tested in other than acute tests. Kondratyuk *et al.* (Ref. 3) gave a brief summary of the results of a 6-month gavage study in rats. Hypochromatic anemia, leucocytosis, eosinophilia, lymphocytopenia and monocytopenia, and liver and kidney dysfunction were seen at 0.775 and 7.75 mg/kg. A no-observed-effect level (NOEL) was seen at 0.0775 mg/kg. These data indicate a potential for chronic blood and organ effects for triethylene glycol monoethyl ether, as well as for the chemically related triethylene glycol monomethyl ether and triethylene glycol monobutyl ether, but the information available is insufficient for EPA to evaluate the possible risks to humans, as no specific histopathologic or biochemical data are provided.

Fetotoxicity and testicular atrophy have been noted with ethylene glycol monomethyl ether, a congener of triethylene glycol monomethyl ether (Ref. 4). Behavioral and neurochemical alterations have been seen in rats exposed *in utero* to the same chemical (Ref. 5), as well as encephalopathy in humans exposed in a work situation (Ref. 6). Another congener, diethylene glycol monobutyl ether, has given a positive response in the mammalian cells in culture gene mutation assay using mouse lymphoma cells (Ref. 7).

III. Findings

EPA is basing its proposed health effects testing of these glycol ethers on the authority of sections 4(a)(1)(A) and 4(a)(1)(B) of TSCA.

Under section 4(a)(1)(A) EPA finds that the use of the triethylene glycol ethers listed above may present an unreasonable risk of chronic toxicity based upon the chronic toxicity in the hematopoietic system and kidney and liver dysfunction seen with triethylene glycol monoethyl ether. The 4(a)(1)(A) findings for mutagenicity, developmental toxicity, neurotoxicity, developmental neurotoxicity and reproductive toxicity are based on positive results seen for related chemicals (Unit II.D).

Under section 4(a)(1)(B) of TSCA the Agency finds that triethylene glycol monomethyl, monoethyl, and monobutyl ethers are produced in substantial quantities and that there is substantial human exposure in the workplace as a result of the use of these substances in brake fluid.

The Agency also finds that the available data are insufficient to reasonably predict or determine the effects of the use of these compounds, and that testing is necessary to develop such data.

IV. Proposed Rule

A. Proposed Testing and Test Standards

The Agency is proposing that health effects testing be conducted on triethylene glycol monomethyl, monoethyl, and monobutyl ethers in accordance with specific guidelines set forth in Title 40 Part 798 published in the **Federal Register** of September 27, 1985 (50 FR 39252) as modified in the **Federal Register** of January 14, 1986 (51 FR 1522), as enumerated below. As all of these chemicals will be proposed for the same tests, the term "glycol ether" will refer to each of them as discussed below.

All the tests that can be performed by the dermal route are being proposed by that route because the expected human exposure is dermal. The rabbit has been proposed for the subchronic test because in studies done with related compounds, the rabbit was more sensitive to dermal exposure than the rat.

This proposed rule is a two-stage rule. The following tests will be incorporated in the first stage: subchronic toxicity, neurotoxicity, developmental toxicity and developmental neurotoxicity, and the lower-tier mutagenicity. The Agency will review all these data as received, decide which of the second-stage tests should be finalized, and publish a notice of that decision requesting public comment. EPA will hold a public meeting to discuss this decision if it is requested.

The second-stage tests may include the two-generation reproductive toxicity test, the heritable translocation test, the mouse specific locus test and the oncogenicity test.

All of the tests will be proposed at this time, but the final rule will include only the first-stage tests. The second-stage tests which EPA believes are needed following review of the first-stage tests will be made final following the public meeting and time for public comment.

Each glycol ether will be tested for subchronic toxicity, with special testing for liver dysfunction, kidney dysfunction, hematologic effects and reproductive effects. Exposure will be by the dermal route in the rabbit. Special organs of the reproductive tract to be weighed and evaluated are listed in § 799.4440. Urinalyses in all animals will be done before dosing begins, at day 30 and day 90 in order to examine kidney function. The details for the liver dysfunction tests and the special hematologic studies are given in § 799.4440. Subchronic dermal neurotoxicity studies will be performed in the rat: A functional observational battery (section 798.6050), motor activity (section 798.6200), and neuropathology (section 798.6400). These neurotoxicity tests may be combined, using 10 animals for each dose and sex.

To assess the potential for gene mutations, the Agency is proposing mutagenicity testing in the *Salmonella* reverse mutation assay as specified in § 798.5265 for all three glycol ethers. In each case, if the *Salmonella* result is negative, a mammalian cells in culture test shall be done (section 798.5300). If the mammalian cells in culture test is negative, no further gene mutation studies need be done.

If either the *Salmonella* or mammalian cells in culture test is non-negative, a *Drosophila* sex-linked recessive lethal test (section 798.5275) shall be performed for the chemical. If the sex-linked recessive lethal test is negative, no further gene mutation studies need be done. If the *Drosophila* test is positive, EPA will consider requiring a mouse visible specific locus test (section 798.5200) in the second-stage rule.

For testing for chromosomal aberrations, each of the glycol ethers shall undergo a tiered testing scheme. The first test is the *in vitro* cytogenetic chromosomal aberration test (section 798.5375). If this test is negative, the chemical shall be tested in the *in vivo* cytrogenetic assay (section 798.5385). If this test is also negative, no further testing for chromosomal effects need be done. If either the *in vitro* or *in vivo* test is non-negative for any chemical, then a dominant lethal study in the rat shall be performed (section 798.5450). If the dominant lethal study is negative, no further chromosomal aberration studies need be done, and if the dominant lethal test is positive, then EPA will consider requiring a mouse heritable translocation test (§ 798.5460) in the second stage final rule.

EPA is requiring developmental toxicity testing in the rabbit and the rat, according to § 798.4900. This study shall be by the dermal route of exposure. Another dermal rat developmental neurotoxicity study, according to § 795.250 shall be performed in which the offspring shall be allowed to go to parturition, and those offspring shall be evaluated for behavioral alterations at various stages following birth. The developmental neurotoxicity test shall be performed after the developmental toxicity study has been done in order to determine appropriate doses, i.e., the developmental neurotoxicity study shall be performed at doses lower than those

which induce severe teratogenic or fetal effects.

The Agency is proposing that an oral two-generation reproductive test (section 798.4700) be required in the rat if the results of gross or histopathologic evaluation of the reproductive tissue in male or female exposed rabbits from the subchronic exposure test show adverse effects. Following the completion of the subchronic study, a public review of the data will be held to determine if the Agency should promulgate a final rule requiring a two-generation study.

If either the Drosophila sex-linked recessive lethal or the dominant lethal test for any of these compounds is positive, a public program review will be held before the final tier testing for mutagenicity of that compound is required.

Oncogenicity studies (section 798.3300) for each of these three chemicals may be required in the mouse and rat by dermal absorption. EPA will review the mutagenicity data and all other available data related to oncogenicity and hold a public program review before publishing a final rule on oncogenicity.

B. Test Substance

EPA is proposing testing of the triethylene glycol ethers of at least 90-percent purity. The EPA believes that test materials of this purity are available at reasonable cost. The Agency has specified relatively pure substances for testing because it is interested in evaluating the effects attributable to the subject compounds themselves. This requirement would lessen the likelihood that any effects seen are due to impurities.

C. Persons Required to Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing, which includes production of these chemicals as a co-product ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures causing the potential risk occur during use, distribution, or disposal.

Because EPA has found that existing data are inadequate to assess the health risks from the use of these compounds, the EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process, these glycol ethers at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time equal to that which was required to develop data, if more than 5 years, after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing, unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described on 40 CFR Part 790.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for these glycol ethers. As noted in Unit IV.B. of this preamble, the EPA is interested in evaluating the effects attributable to the specified compounds and has proposed relatively pure substances for testing.

Manufacturers and processors subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards, which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 45 days before the start of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed tests as follows:

1. The subchronic toxicity and subchronic neurotoxicity tests shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final test rule.

2. The lower-tier mutagenicity studies shall be completed and final results submitted to the Agency within the deadlines specified in the rule. These range from 4 months after the effective date of the final test rule for the *in vitro* cytogenetics assay to 24 months for the *Drosophila* sex-linked recessive lethal assay and the dominant lethal assay.

3. The upper-tier mutagenicity tests shall be completed and final results submitted to the Agency within 12 months of the effective date of a final test rule requiring these studies.

4. The developmental toxicity studies shall be completed and final results submitted to the Agency within 12 months of the effective date of the final test rule.The developmental neurotoxicity test shall be completed and final results submitted to the Agency within 24 months of the effective date of the final test rule.

5. The oncogenicity tests shall be completed and the final results submitted to the Agency within 53 months of the effective date of a final test rule requiring this study.

6. The two-generation reproductive study shall be completed and the final results submitted to the Agency within 29 months of the effective date of a final test rule requiring that study.

Progress reports on these tests will be required at 6-month intervals beginning 6 months from the effective date of the final rule requiring that study.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707. In brief, as of the effective date of this test rule, an exporter of any of the three triethylene glycol ethers referred to in this rule must report to EPA the first annual export or intended export of the compound to any one country. EPA will notify the foreign country about the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) establish or maintain records (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated EPA representatives to determine compliance with any final rule for these glycol ethers. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, and that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. This provision would also apply to processors that fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (see 40 CFR 790.28(b)). Intentional violations could lead to theimposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. At its discretion, EPA may proceed against individuals as well as companies. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C.1001.

V. Issues for Comment

1. EPA is proposing the rat as the species in which to perform an oral two-generation reproductive toxicity study, although the normal human exposure is dermal. Should the reproductive study be done dermally? The rabbit has proved to be more sensitive to the effects of related glycol ethers than the rat when treated dermally. However, some persons feel that the rabbit is inappropriate for doing two-generation reproductive toxicity studies, either dermally or orally, because rabbits do not breed well in captivity. The Agency invites comment on these issues.

2. EPA is proposing that the *in vivo* cytogenetics and the dominant lethal mutagenicity tests be done by the dermal route because humans are expected to be exposed dermally. However, mutagenicity testing by the dermal route has little precedent. Furthermore, the mouse specific locus test and the heritable translocation test are being proposed by the oral route because no historical controls are available for the dermal route. The Agency invites comment on the desirability of dermal administration of the glycol ethers in the mutagenicity tests.

3. This test rule may result in three oncogenicity tests, one for each glycol ether being tested. Is it appropriate to consider in that case requiring oncogenicity testing for only the most potent chemical as determined from the first-stage mutagenicity testing to share the costs and reduce the economic impact, and regulating all three on that basis? Should this approach be considered for the other stage-two tests proposed in this rule?

4. Although the Level I economic analysis indicates a potential for significant economic impact (see Unit VI), EPA will not be performing a Level II economic analysis until after proposal of this rule. In order to refine the economic analysis, EPA requests comments on the economic impact on the manufacturers, processors and users.

5. EPA is proposing in this notice a two-stage test rule. The first stage will include the subchronic toxicity test, the developmental toxicity tests, neurotoxicity tests and the lower-tier mutagenicity tests. EPA will review the data after it is received, approximately two years from the final rule, and will then hold a public review meeting to discuss EPA's decisions as to which of the second-stage tests are necessary. The second-stage testing includes oncogenicity, mouse specific locus, heritable translocation and two-generation reproductive toxicity tests. The Agency believes that this approach provides needed flexibility in dealing with this group of chemicals and requests comment from interested parties.

6. EPA is proposing extensive testicular histopathology in the 90-day subchronic, because members of this class of compounds are known to cause testicular atrophy. The effects seen have been described in detail and the modifications proposed in this notice specifically address these concerns. However, the chemicals tested for reproductive toxicity have affected the female as much as the male in some cases. Because it is more difficult to predict reproductive effects from standardized subchronic histopathology on the female reproductive organs, EPA has not routinely used such testing to trigger a two-generation reproductive test. However, for these glycol ethers, EPA is considering requiring data on the estrous cycle in exposed animals by performing vaginal cytology over the last two weeks of exposure in the 90-day subchronic (Ref. 8), and more detailed histopathologic analysis of the ovary to evaluate oocyte toxicity (Ref. 9). The Agency requests comments on whether EPA should require the cyclicity study and the detailed female histopathology, and on the availability of test facilities with experience in such studies.

7. It has been suggested that the rats in the subchronic neurotoxicity tests also be examined for reproductive effects. Most of the available research has been performed in the rat, which would make the results easier to evaluate. In addition, EPA could require a satellite group for reproduction and fertility study. The Agency requests comments on the usefulness of these proposed protocol changes to predict reproductive toxicity.

8. EPA is proposing that the developmental neurotoxicity screen be performed using the dermal route of exposure. Because exposure of the dams will continue through lactation, dermal administration to the dams may result in the pups being exposed directly to the compound, either dermally or orally, instead of just indirectly through the milk. Should this study be performed using the oral route?

9. It has further been suggested that the oral route be used for all the tests. The reason for proposing the dermal route has been discussed earlier (see Unit IV.A. and Issues 1. and 2.). Dermal and oral disposition and metabolism tests may give the Agency the option to require oral testing and use the comparative oral and dermal chemical disposition and metabolism testing to estimate the appropriate dermal dose an individual might receive. Should the Agency evaluate this option?

10. If this option is considered, what are the pros and cons of using an *in vitro* percutaneous absorption study rather than an *in vivo*? Using an *in vitro* study would allow the tester to use human skin to measure absorption which may more effectively simulate human exposure. However, there is some indication that using skin from different individuals may result in widely varying figures, whereas using skin samples from an in-bred rat strain gives very reproducible results.

11. Recently the Chemical Manufacturers Association (CMA) informed EPA about three studies it is sponsoring on these triethylene glycol ethers, a 14-day dermal limit test, an *in vitro* percutaneous absorption study, and a Chernoff-Kavlock teratogenicity bioassay. The Agency is requesting comments on the use of the Chernoff-Kavlock assay specifically for the glycol ether chemical class as a screen for further testing needs, or as a replacement for one of the species in the standard developmental toxicity assay.

12. The Agency prefers to require testing of commercially available substances of the highest purity, rather than proposing that the manufacturers purify the compounds to a pre-designated level. However, if the impurities in the triethylene glycol ethers are the monoethylene congeners, which are known toxicants, it is possible that the perceived toxicity of the test substances might be increased. Should the EPA require in this case that a greater than commercial purity be achieved, or that no other glycol ethers be found as impurities in the test substance?

VI. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical or chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for the chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Total testing costs for the proposed rule for each triethylene glycol ether are estimated to range from $1,292,008 to $1,838,190. This estimate includes the costs for the required minimum series of tests as well as the conditional ones. The annualized test costs (using a cost of capital of 25 percent over a 15-year product life) range from $334,781 to $476,306 for each chemical. When broken down into the two stages proposed in this rule, the total testing costs for the first stage are estimated to range from $318,948 to $495,960, and the annualized test costs from $82,645 to $128,512. The total testing costs for the second stage are estimated to range from $973,060 to $1,342,230 and the annualized test costs from $252,136 to $347,794. Based on the estimated 1984 production volumes listed in Unit II.A., the unit test costs, the average selling price and the relative costs are listed below for each glycol ether.

For the first stage testing for each chemical:

Triethylene glycol monomethyl ether: unit test cost 0.48 cent per pound, average selling price $0.44 per pound, relative cost 1.08 percent of price.

Triethylene glycol monoethyl ether: unit test cost 0.54 cent per pound, average selling price $0.50 per pound, relative cost 1.07 percent of price.

Triethylene glycol monobutyl ether: unit test cost 1.2 cents per pound, average selling price $0.43 per pound, relative cost 2.72 percent of price.

For the total testing for each chemical:

Triethylene glycol monomethyl ether: unit test cost 1.8 cents per pound, average selling price $0.44 per pound, relative cost 4.01 percent of price.

Triethylene glycol monoethyl ether: unit test cost 2.0 cents per pound, average selling price $0.50 per pound, relative cost 3.97 percent of price.

Triethylene glycol monobutyl ether: unit test cost 4.3 cents per pound, average selling price $0.43 per pound, relative cost 10.07 percent of price.

The two-stage testing proposal has mitigated the economic impact for all three chemicals to some extent, so that a potential for significant economic impact is not expected for triethylene glycol monomethyl ether and triethylene glycol monoethyl ether for the first-stage testing. However, a Level II economic analysis will be done on triethylene glycol monobutyl ether after receiving comments on this proposal. Following completion of the first-stage testing, EPA will evaluate the results and decide whether the importance of the potential adverse health effects outweighs the possible adverse economic effects.

before requiring the second stage of testing.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule". Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82-140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing specified in this proposed rule.

VIII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting after the close of the public comment period in Washington, DC. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800—424-9065); In Washington, DC: (554-1404); Outside the U.S.A. (Operator—202-554-1404), by June 30, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe it and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

IX. Public Record

EPA has established a record for this rulemaking, (docket number OPTS-42080). This record contains the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice containing the ITC designation of triethylene glycol monomethyl, monoethyl, and monobutyl ethers.

(b) Rules requiring TSCA section 8 (a) and (d) reporting on triethylene glycol monomethyl, monoethyl, and monobutyl ethers.

(c) Notice of final rule on EPA's TSCA good laboratory practice standards (48 FR 53922; November 29, 1983).

(d) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(e) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(2) Support document consisting of triethylene glycol monomethyl, monethyl, and monobutyl ethers' economic analysis.

(3) TSCA test guidelines and other test methodologies cited as test standards for this rule (50 FR 39252; September 27, 1985; 51 FR 1522; January 14, 1986.)

(4) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(5) Reports—published and unpublished factual materials.

B. References

(1) USEPA. U.S. Environmental Protection Agency. Memorandum from Patricia Harrigan to Gary Timm on Chemical Property and Environmental Behavior Estimates for Chemicals on the 16th ITC Priority List. Office of Toxic Substances (June 7, 1985).

(2) NIOSH. National Occupational Exposure Survey (1980-1983). Cincinnati, OH: Department of Health and Human Services, National Institute for Occupational Safety and Health. (1985).

(3) Kondratyuk, V.A., Pis'ko, G.T., Sergema, V.N., Gun'ko, L.M., Fira, L.S., Pastushenko, T.V. *et al.* "Establishment of the maximum permissible concentration of triethylene glycol ethyl ether in reservoir water." *Gigiena Sanitariya* 5:84-85 (1982).

(4) Doe, J.E. "Further studies on the toxicology of the glycol ethers with emphasis on rapid screening and hazard assessment." *Environmental Health Perspectives* 57:199-206 (1984).

(5) Nelson, B.K., Brightwell, W.S., Burg, J.R., and Massari, V.J. "Behavioral and neurochemical alterations in the offspring of rats after maternal or paternal inhalation exposure to the industrial solvent 2-methoxyethanol." *Pharmacology, Biochemistry and Behavior* 20:269-279 (1984).

(6) Ohi, G. and Wegman, D.H. "Transcutaneous ethylene glycol monomethyl ether poisoning in the work setting." *Journal of Occupational Medicine* 20(10):675-676 (1978).

(7) Thompson, E.D., Coppinger, W.J., Valencia, R. and Iavicoli, J. "Mutagenicity testing of diethylene glycol monobutyl ether." *Environmental Health Perspectives* 57:105-112 (1984).

(8) Sadleir, R.M.F.S. "Cycles and seasons." *Reproduction in Mammals: I. Germ Cells and Fertilization.* Ed. Austin, C.R., Short, R.V., New York: Cambridge Press, pp. 85-102 (1978).

(9) Mattison, D.R. "Morphology of oocyte and follicle destruction by polycyclic aromatic hydrocarbons in mice." *Toxicology and Applied Pharmacology* 53:249-259 (1980).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Rm. E-107, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

X. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not expected to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB number 2070-

0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB; 726 Jackson Place, NW., Washington, DC 20503 marked "Attention: Desk Officer for the EPA". The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: May 2, 1986.

Victor J. Kimm,

Deputy Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

PART 795—[AMENDED]

1. In proposed Part 795:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. New § 795.250 is added to read as follows:

§ 795.250 Developmental neurotoxicity screen.

(a) *Purpose.* In the assessment and evaluation of the toxic characteristics of a chemical, it is important to determine when acceptable exposures in the adult may not be acceptable to a developing organism. This study is designed to provide information on the potential functional and morphologic hazards to the nervous system which may arise in the offspring from exposure of the mother during pregnancy and lactation. If effects are detected, further studies may be required to characterize and assess the risk(s).

(b) *Principle of the test method.* The test substance is administered to several groups of pregnant animals during gestation and lactation, one dose level being used per group. Offspring are randomly selected from within litters for neurotoxicity evaluation. The evaluation includes observation to detect gross neurologic and behavioral abnormalities, determination of motor activity, neurophathological evaluation, and brain weight. Measurements are carried out periodically during both postnatal development and adulthood.

(c) *Test procedures*—(1) *Animal selection*—(i) *Species and strain.* Testing shall be performed in the rat.

(ii) *Age.* Young adult animals (nulliparous females) shall be used.

(iii) *Sex.* Pregnant animals shall be used at each dose level.

(iv) *Number of animals.* A sufficient number of pregnant rats shall be exposed to ensure that an adequate number of offspring are produced for neurotoxicity evaluation. Sample size should be based on the test requiring the greatest number of offspring to achieve sensitivity. The test should be able to detect a 20 percent difference in the test group relative to the control group with 90 percent power at the 5 percent level. For most designs, calculations can be made according to Dixon and Massey (1957) under paragraph (e)(3) of this section, Neter and Wasserman (1974) under paragraph (e)(7) of this section, Sokal and Rohlf (1969) under paragraph (e)(8) of this section, or Jensen (1972) under paragraph (e)(5) of this section. The size of each litter shall be adjusted as outlined in the Toxic Substances Control Act (TSCA) reproduction and fertility effects guideline, 40 CFR 798.4700, as published in the **Federal Register** of September 27, 1985 (50 FR 39432). One male and one female shall be randomly selected from each litter for interim sacrifice at weaning. One male and one female shall be randomly selected from each litter for behavioral assessment and terminal sacrifice. It is also recommended that additional males and females randomly selected from each litter be assigned to different tasks to eliminate any confounding from multiple testing. If the behavioral tasks are conducted in the same animal, then the sequence should be locomotor activity, auditory startle, maze performance. A minimum of 1–2 days should separate each test.

(2) *Control group.* A concurrent control group shall be used. This group shall be a sham treated control group, or, if a vehicle is used in administering the test substance, a vehicle control group. Animals in the control group(s) shall be handled in an identical manner to test group animals. The vehicle shall neither be developmentally toxic nor have effects on reproduction.

(3) *Dose levels and dose selection.* (i) At least 3 dose levels with a control (vehicle control, if vehicle is used) shall be used.

(ii) If the substance has been shown to be developmentally toxic, either in a standard developmental toxicity study or a pilot study, the highest dose level shall be the maximum dose which will not induce *in utero* or neonatal death or malformations sufficient to preclude a meaningful evaluation of neurotoxicity.

(iii) In the absence of standard developmental toxicity, unless limited by the physicochemical nature or biological properties of the substance, the highest dose level shall induce some overt maternal toxicity such as a 20 percent reduction in weight gain throughout gestation and lactation.

(iv) The lowest dose level should not produce any grossly observable evidence of either maternal or developmental neurotoxicity.

(v) The intermediate dose(s) shall be equally spaced between the highest and lowest dose, on a log scale.

(4) *Dosing period.* Day 0 in the test is the day on which a vaginal plug and/or sperm are observed. The dose period shall cover the period from Day 6 of gestation through weaning (21 days).

(5) *Administration of test substance.* The test substance or vehicle is usually administered orally, by intubation, unless the chemical or physical characteristics of the test substance or pattern of human exposure suggest a more appropriate route of administration. The test substance shall be administered at the same time each day. The animals shall be weighed periodically and the dosage based on the most recent weight determination.

(6) *Observation of dams.* (i) A gross examination of the dams shall be made at least once each day, before daily treatment. The animals shall be observed each day by the same trained technician, who shall be blind with respect to the animals' treatment.

(ii) During the treatment and observation periods, cage-side observations shall include:

(A) Any unusual responses with respect to body position, activity level, coordination of movement, and gait.

(B) Any unusual or bizarre behavior including, but not limited to, headflicking, headsearching, compulsive biting or licking, self-mutilation, circling, and walking backwards.

(C) The presence of:

(*1*) Convulsions;

(*2*) Tremors;

(*3*) Increased levels of lacrimation and/or red-colored tears;

(*4*) Increased levels of salivation;

(*5*) Piloerection;

(*6*) Pupillary dilation or constriction;

(*7*) Unusual respiration (shallow, labored, dyspneic, gasping, and retching) and/or mouth breathing;

(*8*) Diarrhea;

(*9*) Excessive or diminished urination;

(*10*) Vocalization.

(iii) Signs of toxicity shall be recorded as they are observed, including the time of onset, the degree and duration.

(iv) Animals shall be weighed at least weekly.

(7) *Study conduct.* (i) Physical landmarks of development. Offspring shall be weighed at birth, days 12, 17, 21, and biweekly thereafter. The age of the

following physical landmarks shall be determined:

(A) Eye opening;

(B) Incisor eruption;

(C) Vaginal opening;

(D) Testes descent.

General procedures for these determinations may be found in Adams *et al.* (1985) under paragraph (e)(1) of this section.

(ii) Motor activity shall be monitored on days 13, 17, 21, 30, 45, and 60. Motor activity must be monitored by an automated activity recording apparatus. The device used must be capable of detecting both increases and decreases in activity, i.e., baseline activity as measured by the device must not be so low as to preclude decreases nor so high as to preclude increases. Each device shall be tested by standard procedure to ensure, to the extent possible, reliability of operation across devices and across days for any one device. In addition, treatment groups must be balanced across devices.

(A) Each animal shall be tested individually. The test session shall be long enough for motor activity to approach asymptotic levels by the last 20 percent of the session for most treatments and animals' activity counts shall be collected in equal time periods of no greater than 10 minutes duration. All sessions shall have the same duration. Treatment groups shall be counter-balanced across test times.

(B) Efforts shall be made to ensure that variations in the test conditions are minimal and are not systematically related to treatment. Among the variables which can affect motor activity are sound level, size and shape of the test cage, temperature, relative humidity, lighting conditions, odors, use of home cage or novel test cage, and environmental distractions. Tests shall be executed by an appropriately trained individual.

(C) Additional information on the conduct of a motor activity study may be obtained in the TSCA motor activity guideline, 40 CFR 798.6200, as published in the **Federal Register** of September 27, 1985 (50 FR 39460).

(iii) Observation of offspring. (A) The offspring shall be examined cage-side daily for gross signs of mortality and morbidity.

(B) The offspring shall be examined outside the cage for gross signs of toxicity whenever they are weighed or removed from their cages for behavioral testing. As a minimum, the endpoints outlined in paragraph (6)(ii) shall be used.

(C) Any gross signs of toxicity in the offspring shall be recorded as they are observed, including the time of onset, the degree and duration.

(iv) An auditory startle habituation test shall be performed on the offspring on days 22 and 60. Details on the conduct of this testing may be obtained in Kellog *et al.* (1980) under paragraph (e)(6) of this section and Adams *et al.* (1985) under paragraph (e)(1) of this section.

(v) The Biel water maze paradigm shall be conducted beginning at approximately day 55 of age. Details on the conduct of this testing may be obtained in Vorhees *et al.* (1978) under paragraph (e)(11) of this section.

(8) *Post-mortem evaluation*—(i) *Age of animals.* One male and one female per litter shall be sacrificed at weaning and the remainder following the last behavioral measures. Both neuropathology and brain weight determinations shall be made at both time points.

(ii) *Neuropathology.* Details for the conduct of neuropathology may be obtained in 40 CFR 798.6400, as published in the **Federal Register** of September 27, 1985 (50 FR 39461). At least 6 offspring per dose group shall be randomly selected from each sacrificed group (weaning and adulthood) for neuropathologic evaluation. These animals shall be balanced across litters and equal numbers of males and females shall be used. The remaining sacrificed animals shall be used to determine brain weight. Animals shall be perfused *in situ* by a generally recognized technique. After perfusion, the brain and spinal cord shall be removed and gross abnormalities noted. Cross-sections of the following areas shall be examined: The forebrain, the center of the cerebrum and midbrain, the cerebellum and pons, and the medulla oblongata; the spinal cord at cervical and lumbar swelling; Gasserian ganglia, dorsal root ganglia, dorsal and vertral root fibers, proximal sciatic nerve (mid-thigh and sciatic notch), sural nerve (at knee), and tibial nerve (at knee). Tissue samples from both the central and peripheral nervous system shall be further immersion-fixed and stored in appropriate fixative for further examination. After dehydration, tissue specimens shall be cleared with xylene and embedded in paraffin or paraplast. Tissue sections shall be prepared from the tissue blocks. The following general testing sequence is proposed for gathering histopathological data:

(A) *General staining.* A general staining procedure shall be performed on all tissue specimens in the highest treatment group. Hematoxylin and eosin (H&E) shall be used for this purpose. The staining shall be differentiated properly to achieve bluish nuclei with pinkish background.

(B) *Special stains.* Based on the results of the general staining, selected sites and cellular components shall be further evaluated by the use of specific techniques. If H&E screening does not provide such information, a battery of stains shall be used to assess the following components in all appropriate required samples: neuronal body (e.g., Einarson's gallocyanin), axon (e.g., Kluver's Luxol Fast Blue) and neurofibrils (e.g., Bielchosky). In addition, nerve fiber teasing shall be used. A section of normal tissue shall be included in each staining to assure that adequate staining has occurred. Any changes shall be noted and representative photographs shall be taken. If a lesion(s) is observed, the special techniques shall be repeated in the next lower treatment group until no further lesion is detectable.

(C) *Alternative technique.* If the anatomical locus of expected neuropathology is well-defined, epoxy-embedded sections stained with toluidine blue may be used for small sized tissue samples. This technique obviates the need for special stains.

(iii) *Brain weight.* Animals that are not sacrificed for histopathology shall be used to determine brain weight. The animals shall be decapitated and the brains carefully removed, blotted, chilled and weighed. The following dissection shall be performed on an ice-cooled glass plate: First the rhombencephalon is separated by a transverse section from the rest of the brain and into the cerebellum and the medulla oblongata/pons. A transverse section is made at the level of the 'optic chiasma' which delimits the anterior part of the hypothalamus and passes through the anterior commissure. The cortex is peeled from the posterior section and added to the anterior section. This divides the brain into four sections, the telencephalon, the diencephalon/mid-brain, the medulla oblongata + pons, and the cerebellum. Sections shall be weighed as soon as possible after dissection to avoid drying. Detailed methodology is available in Glowinski and Iversen (1966) under paragraph (e)(4) of this section.

(d) *Data reporting and evaluation.* In addition to the reporting requirements specified under 40 CFR Part 792, Subpart J, the final test report must include the following information.

(1) *Description of system and test methods.* (i) A detailed description of the procedures used to standardize observation and operational definitions for scoring observation.

(ii) Positive control data from the laboratory performing the test that demonstrate the sensitivity of the procedures being used. These data do not have to be from studies using prenatal exposures. However, the laboratory must demonstrate competence in testing neonatal animals perinatally exposed to chemicals and establish test norms for the appropriate age group.

(iii) Procedures for calibrating and assuring the equivalence of devices and balancing treatment groups.

(iv) A short justification explaining any decisions where professional judgement is involved such as fixation technique and choice of stains.

(2) *Results.* The following information must be arranged by test group dose level.

(i) In tabular form, data for each animal must be provided showing:

(A) Its identification number and litter from which it came.

(B) Its body weight and score on each sign at each observation time; total session activity counts; intrasession subtotals for each date measured; time and cause of death (if appropriate); location(s), nature of, frequency, and severity of the lesion(s); total brain weight; absolute weight of each of four sections; and weight of each section as a percentage of total brain weight. A commonly used scale such as 1+, 2+, 3+, and 4+ for degree of severity of lesions ranging from very slight to extensive may be used for morphologic evaluation. Any diagnoses derived from neurologic signs and lesions, including naturally occurring diseases or conditions, shall also be recorded.

(ii) Summary data for each group must include:

(A) The number of animals at the start of the test.

(B) Body weights of the dams during gestation and lactation.

(C) Litter size and mean weight at birth.

(D) The number of animals showing each observation score at each observation time.

(E) The percentage of animals showing each abnormal sign at each observation time.

(F) The mean and standard deviation for each continuous endpoint at each observation time. These will include body, weight, motor activity counts, acoustic startle responses, maze performance, and brain weights (both absolute and relative).

(G) The number of animals in which any lesion was found.

(H) The number of animals affected by each different type of lesion, the average grade of each type of lesion and the frequency of each different type and/or location of lesion.

(3) *Evaluation of data.* An evaluation of the test results must be made. The evaluation shall include the relationship between the doses of the test substance and the presence or absence, incidence, and severity of any neurotoxic effects. The evaluation shall include appropriate statistical analyses. The choice of analyses shall consider tests appropriate to the experimental design and needed adjustments for mulitple comparisons.

(e) *References.* For additional background information on this test guideline the following references shall be consulted:

(1) Adams, J., Buelke-Sam, J., Kimmel, C.A., Nelson, C.J., Reiter, L.W., Sobotka, T.J., Tilson, H.A., and Nelson, B.K. "Collaborative Behavioral Teratology Study: Protocol design and testing procedure." *Neurobehavioral Toxicology and Teratology* 7:579–586 (1985).

(2) Buelke-Sam, J., Kimmel, C.A., Adams, J., Nelson, C.J., Vorhees, C.V., Wright, D.C., St. Omer, V., Korol, B., Butcher, R.E., Geyer, M.A., Holson, J.F., Kutscher, C., and Wayne, M.J. "Collaborative Behavioral Teratology Study: Results." *Neurobehavioral Toxicology and Teratology* 7:591–624 (1985).

(3) Dixon, W.J. and Massey, E.J. *Introduction to Statistical Analysis.* 2nd Ed. New York: McGraw-Hill, (1957).

(4) Glowinski, J. and Iversen, L.L. "Regional studies of catecholamines in the rat brain—I." *Journal of Neurochemistry* 13:655–699 (1966).

(5) Jensen, D.R. "Some simultaneous multivariate procedures using Hotelling's T^2 Statistics." *Biometrics* 28:39–53 (1972).

(6) Kellogg, C., Tervo, D., Ison, J., Parisi, T., and Miller, R.K. "Prenatal exposure to diazepam alters behavioral development in rats." *Science* 207:205–207 (1980).

(7) Neter, J. and Wasserman; W. *Applied Linear Statistical Models.* Homewood, IL: Richard D. Irwin, Inc. (1974).

(8) Sokal, R.P. and Rohlf, E.J. *Biometry.* San Francisco: W.H. Freeman and Co. (1969).

(9) Tanimura, T. "Guidelines for developmental toxicity testing of chemicals in Japan." *Neurobehavioral Toxicology and Teratology* 7:647–652 (1985).

(10) Vorhees, C.V. "Comparison of the Collaborative Behavioral Teratology Study and the Cincinnati behavioral teratology test batteries." *Neurobehavioral Toxicology and Teratology* 7:625–633 (1985).

(11) Vorhees, C.V., Brunner, R.L., McDaniel, C.R., and Butcher, R.E. "The Relationship of gestational age to vitamin A induced postnatal dysfunction." *Teratolgoy* 17:271–276 (1978).

PART 799—[AMENDED]

2. In Part 799:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. New § 799.4440 is added to read as follows:

§ 799.4440 Triethylene glycol ethers.

(a) *Identification of test substances.* (1)Triethylene glycol monomethyl ether (CAS No. 112–35–6), triethylene glycol monomethyl ether (CAS No. 112–50–5), and triethylene glycol monobutyl ether (CAS No. 143–22–6) shall be tested in accordance with this section.

(2) Compounds of at least 90 percent purity shall be used as the test substances.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process one or more of the listed chemicals, other than as an impurity, from the effective date of this section (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to conduct testing on the chemical or chemicals they manufacture or exemption applications, submit study plans, conduct tests in accordance with Part 792 of this chapter, and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter.

(2) [Reserved].

(c) *Health effects testing*—(1) *Neurotoxicity*—(i) *Required testing.* Neurotoxicity tests shall be conducted in accordance with §§ 798.6050, 798.6200 and 798.6400 of this chapter with each of the chemicals listed in paragraph (a)(1) of this section. The tests shall be performed in the rat by dermal administration as specified under § 798.3300(b)(6)(ii) of this chapter for a period of 90 days.

(ii) *Modifications.* The following modification to these three sections shall apply: These three tests may be combined, using 10 animals per sex per dose level.

(iii) *Reporting requirements.* (A) The neurotoxicity tests shall be completed and final results submitted to the Agency within 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted to the Agency at 6-month intervals, beginning 6 months after the effective date of the final rule.

(2) *Developmental toxicity*—(i) *Required testing.* Developmental toxicity tests shall be performed on rats and rabbits by dermal application as specified under § 798.3300(b)(6)(ii) of this chapter with each of the chemicals listed in paragraph (a)(1) of this section in accordance with § 798.4900 of this chapter.

(ii) *Reporting requirements.* (A) The developmental toxicity tests shall be completed and the results submitted to the Agency within 12 months of the final test rule.

(B) Progress reports shall be submitted to the Agency at 6-month intervals, beginning 6 months after the effective date of the final rule.

(3) *Developmental neurotoxicity*—(i) *Required testing.* Developmental neurotoxicity tests shall be performed in rats by dermal application as specified under § 798.3300(b)(6)(ii) of this chapter, with each of the chemicals listed in paragraph (a)(1) of this section, in accordance with § 795.250 of this chapter, following completion of the developmental toxicity study.

(ii) *Reporting requirements.* (A) The developmental neurotoxicity study shall be completed and the final results submitted to the Agency within 24 months of the effective date of the final test rule.

(B) Progress reports shall be submitted to the Agency at 6-month intervals, beginning 6 months after the receipt by the Agency of the final report of the developmental toxicity test.

(4) *Mutagenicity*—(i) *Required testing.* (A) An Ames test in *Salmonella* shall be done in accordance with § 798.5265 of this chapter for each of the chemicals listed in paragraph (a)(1) of this section.

(B) A gene mutation test in mammalian cells shall be done for each chemical listed in paragraph (a)(1) of this section as specified in § 798.5300 of this chapter if the results from the Ames test specified in paragraph (c)(4)(i)(A) of this section for that chemical are negative.

(C) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be performed for each chemical listed in paragraph (a)(1) of this section using the guidelines in § 798.5275 of this chapter if the results of either the Ames test specified in paragraph (c)(4)(i)(A) of this section or the mammalian cells in culture gene mutation assay as specified in paragraph (c)(4)(i)(B) of this section are non-negative for that chemical.

(D) An *in vitro* cytogenetics test shall be conducted in accordance with § 798.5375 of this chapter for each chemical listed in paragraph (a)(1) of this section.

(E) An *in vivo* cytogenetics test shall be done for each chemical listed in paragraph (a)(1) of this section by dermal absorption as specified under § 798.3300(b)(6)(ii) of this chapter, in accordance with § 798.5385 of this chapter if the *in vitro* test as specified in paragraph (c)(4)(i)(D) of this section for that chemical is negative.

(F) A dominant-lethal assay for each chemical listed in paragraph (a)(1) of this section shall be conducted by dermal application as specified under § 798.3300(b)(6)(ii) of this chapter, in accordance with § 798.5450 of this chapter if a non-negative result occurs in either the *in vitro* or *in vivo* cytogenetics test as specified in paragraphs (c)(4)(i)(D) and (E) of this section for that chemical.

(ii) *Reporting requirements.* (A) Mutagenicity tests shall be completed and final results submitted as follows: *Salmonella*, 5 months; mammalian cells in culture, 12 months; *Drosophila* sex-linked recessive lethal, 24 months; *in vitro* cytogenetics, 4 months; *in vivo* cytogenetics, 12 months; and dominant-lethal assay, 24 months.

(B) Progress reports are required at 6-month intervals, beginning 6 months after the effective date of the final rule.

(5) *Subchronic toxicity*—(i) *Required testing.* (A) A subchronic toxicity test shall be performed on the rabbit for each chemical listed in paragraph (a)(1) of this section by dermal application in accordance with § 798.2250 of this chapter.

(B) *Modifications.* The following modifications shall be incorporated in § 798.2250 of this chapter for testing each of the triethylene glycol ethers listed in paragraph (a)(1) of this section.

(*1*) *Observations.* The requirement under § 798.2250(e)(9)(iv) of this chapter is modified so that cage-side observations shall include daily examination for hematuria.

(*2*) *Hematology.* The requirement under § 798.2250(e)(10)(i)(A) of this chapter is modified so that hematology determinations shall be carried out 24 to 48 hours following initiation of dosing in addition to the other times specified. At all hematologic determinations additional measurements shall include a platelet count and mean corpuscular volume.

(*3*) *Clinical biochemistry.* The requirement under § 798.2250(e)(10)(i)(B) of this chapter is modified so that clinical biochemistry determinations shall be carried out 24 to 48 hours following initiation of dosing in addition to the other times specified.

(*4*) *Urinalysis.* The requirement under § 798.2250(e)(10)(ii)(B) of this chapter is modified so that urinalyses shall be done at least three times during the test period: just prior to initiation of dosing (baseline data), after approximately 30 days on test and just prior to terminal sacrifice at the end of the test period. The animals shall be kept in metabolism cages, and the urine shall be examined microscopically for the presence of erythrocytes and renal tubular cells, in addition to measurement of urine volume, specific gravity, glucose, protein/albumin and blood.

(*5*) *Liver-function tests.* The requirement under § 798.2250(e)(10)(ii) of this chapter is modified to add required testing for liver function using five rabbits per sex per dose with sulfobromophthalein (BSP) and a like number using indocyanine green (ICG). The same animals shall be tested at three times during the test period: just prior to initiation of dosing (baseline data), after approximately 30 days on test and just prior to terminal sacrifice at the end of the test period.

(*6*) *Organ weights.* The requirement under § 798.2250(e)(11)(ii) of this chapter is modified so that the prostate gland, the epididymes, the seminal vesicles, and pituitary gland weights shall be determined wet, as soon as possible after dissection.

(*7*) *Gross pathology.* The requirement under § 798.2250(e)(11)(iii) of this chapter is modified so that the following additional organs shall be preserved in a suitable medium for future histopathologic examination: the vas deferenes, the oviducts and the vagina.

(*8*) *Histopathology.* The requirement under § 798.2250(e)(12)(i) of this chapter is modified so that the accessory genital organs (epididymes, prostate, seminal vesicles) and the vagina shall be examined histopathologically. In addition, preparations of testicular and associated reproductive organ samples for histology shall follow the recommendations of Lamb and Chapin (1985) under paragraph (d)(1) of this section, or an equivalent procedure, with particular attention directed toward achieving optimal quality in the fixation and embedding, and including an evaluation of the spermatogenic pattern. Spermatid counts shall be performed as described by Johnson *et al.* (1980) and Blazak *et al.* (1985) under paragraph (d) (2) and (3) of this section or an equivalent procedure. Epididymal sperm count and sperm morphology shall also be done.

(ii) *Reporting requirements.* (A) The subchronic test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final test rule.

(B) Progress reports shall be submitted at 6-month intervals, beginning 6 months after the rule is made final.

(d) *References.* For additional background information the following references should be consulted:

(1) Lamb, J.C. and Chapin, R.E. "Experimental models of male reproductive toxicology," *Endocrine Toxicology.* Eds. J.A. Thomas, K.S. Korach, J.A. McLachlan. New York, NY: Raven Press, pp. 85–115 (1985).

(2) Johnson, L., Petty, C.S., and Neaves, W.B. "A comparative study of daily sperm production and testicular composition in humans and rats," *Biology of Reproduction, 22:1233–1243. (1980).*

(3) Blazak, W.F., Ernest, T.L., and Stewart, B.E. "Potential indicators of reproductive toxicity: Testicular sperm production and epididymal sperm number, transit time and motility in Fischer 344 rats," *Fundamental and Applied Toxicology,* 5:1097–1103. (1985).

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033)

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Thursday
May 15, 1986

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 215
Subsistence Taking of North Pacific Fur Seals; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 60473-6073]

Subsistence Taking of North Pacific Fur Seals; Proposed Restriction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The NMFS is proposing a rule regarding the subsistence taking of North Pacific fur seals (*Callorhinus ursinus)* by Indians, Aleuts, and Eskimos who live on the Pribilof Islands. This action is necessary to protect the breeding stock of this declining species. This rule places restrictions upon the subsistence taking of fur seals allowed under the Marine Mammal Protection Act and the Fur Seal Act, and provides that the harvest may be suspended once the substance needs of the Pribilovians have been satisfied.

EFFECTIVE DATES: Comments on this proposed rule must be received by June 16, 1986.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael Gosliner (Principal Attorney), 202–634–4224 or Georgia Cranmore (Program Official), 202–634–7278.

SUPPLEMENTARY INFORMATION:

Background

From 1957 through 1984, a harvest of fur seals on the Pribilof Islands was conducted under the authority of the Interim Convention on Conservation of North Pacific Fur Seals (Convention). The parties to the Convention, the United States, Canada, Japan, and the Soviet Union, agreed to prohibit pelagic (at-sea) harvesting of seals, conduct limited land harvests and share the commercially valuable seal skins. The Convention came into force on October 14, 1957, and was extended in 1963, 1969, 1976, and 1980. Prior to the entry into force of the Convention, harvests were conducted under the 1911 Convention for the Preservation and Protection of Fur Seals. The 1911 treaty was interrupted prior to World War II by the withdrawal of Japan, but the Pribilof Islands seal herd was protected between 1941 and 1957 by a provisional agreement between the United States and Canada.

The subsistence needs of the Pribilovians for seal meat have traditionally been met from seals taken in the commercial skin harvest conducted under the Convention. The level of the commercial harvest historically has exceeded the estimated subsistence needs of the islanders. In 1984, for example, the commercial harvest on the Pribilof Islands totalled over 22,000 seals. Since 1973, no commercial take has been allowed on St. George Island and only a limited subsistence harvest has been authorized to protect ongoing fur seal population research. The resultant shortfall in meeting the St. George residents' subsistence requirements has been offset by providing them with meat from the St. Paul harvest.

Under the terms of the 1980 extension of the Convention, the Convention expired on October 14, 1984. On October 12, 1984, the parties to the Convention signed a protocol that, upon acceptance by all four parties, would extend the Convention until October 13, 1988. Japan, Canada, and the Soviet Union have ratified the 1984 protocol. On March 20, 1985, the President transmitted the protocol to the Senate, requesting its advice and consent. On June 13, 1985, a hearing was held on the protocol before the Senate Committee on Foreign Relations, but no final action has been taken on the protocol.

In consultation with the Departments of State and Justice, and the Marine Mammal Commission, NOAA determined that no commercial harvest could be conducted under existing domestic law, absent Senate ratification of a protocol extending the Convention or provisional application of the protocol. Accordingly, on July 8, 1985 (50 FR 27914), NOAA promulgated an emergency interim rule to govern subsistence taking of North Pacific fur seals under the authority of section 105(a) of the Fur Seal Act (FSA). The purpose of the interim rule was to limit the take of seals to a level providing for the legitimate subsistence needs of the Pribilovians and to restrict taking by sex, age, and season for herd management purposes. One important element of the interim rule was the maintenance of the humane harvest methods developed during the years of the commercial harvests. These proposed regulations are similar to the emergency interim rule published on July 8, 1985 (50 FR 27914).

Just prior to the expiration of the 19-day harvest season, the NMFS received an urgent request to extend the season for one additional day (August 6, 1985). Due to delays which occurred at the outset of the harvest period, several potential harvest days were lost. Consequently, the number of seals harvested by August 5 failed to reach even the lower bound of the subsistence need estimate provided in the preamble of the July 8 emergency rule. The Pribilovians were granted an emergency one day extension on August 6, 1985 (50 FR 32205). During the 1985 season, 3,384 seals were taken for subsistence on St. Paul Island and 329 on St. George. A theoretical mean consumption of 0.4 lbs. of seal meat per person per day for one year was possible for residents of St. Paul Island based on the amount of edible meat removed from seal carcasses and retained on that island.

Applicable Laws

Two statutes are potentially applicable to the taking of fur seals on the Pribilof Islands absent the Convention, the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, and the FSA, 16 U.S.C. 1151. Both statutes provide for the subsistence taking of fur seals by Alaskan Indians, Aleuts, and Eskimos, but their provisions are not identical.

Section 101(b) of the MMPA, 16 U.S.C. 1371(b), provides that marine mammals may be taken

> By any Indian, Aleut or Eskimo who resides in Alaska and who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—
>
> (1) Is for subsistence purposes; or
>
> (2) Is done for the purposes of creating and selling authentic native articles of handicrafts and clothing . . .; and
>
> (3) In each case, is not accomplished in a wasteful manner.

Notwithstanding this provision, the Secretary of Commerce may prescribe regulations to limit the taking of marine mammals by Alaskan Natives if he determines the species to be depleted. Any regulations issued under the MMPA to restrict the native taking rights must be promulgated by formal, on-the-record rulemaking after an opportunity for an agency hearing.

The FSA provides for the subsistence take of fur seals under section 103, 16 U.S.C. 1153. Under the terms of section 103(a)

> Indians, Aleuts, and Eskimos who dwell on the coasts of the North Pacific Ocean are permitted to take fur seals [if] . . . the seals are taken for subsistence uses as defined in section 109(f)(2) of the [MMPA] (16 U.S.C. 1379), and only in canoes . . . propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms.

It is arguable that this section does not apply to the Pribilovians since they have

harvested fur seals on land for nearly 200 years and have not "hitherto practiced" canoe-based hunting. Moreover, section 103(b) more specifically addresses the subsistence harvest of fur seals on the Pribilof Islands and would appear to take precedence over the more general provisions of section 103(a).

Section 103(b) of the FSA states that

> Indians, Aleuts, and Eskimos who live on the Pribilof Islands are authorized to take fur seals for subsistence purposes as defined in section 109(f)(2) of the [MMPA] (16 U.S.C. 1379), under such conditions as recommended by the Commission and accepted by the Secretary of State. . . .

No such recommendations on the taking of fur seals for subsistence purposes by Pribilovians have been made by the Commission and accepted by the Secretary of State.

Subsistence takings allowed under section 109(f)(2) of the MMPA differ from those authorized by MMPA section 101(b). Section 109(f)(2) defines "subsistence uses" as

> The customary and traditional uses by rural Alaska residents of marine mammals for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of marine mammals taken for personal or family consumption; and for barter, or sharing for personal or family consumption.
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> The term "family" means all persons related by blood, marriage, or adoption, or any person living within a household on a permanent basis.
>
> The term "barter" means the exchange of marine mammals or other parts, taken for subsistence uses—(i) for other wildlife or fish or their parts, or (ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

Section 101(b) allows the taking of marine mammals for the creation of handicrafts and clothing for sale, whereas section 109(f)(2) only permits handicraft articles to be made if the marine mammals were initially taken for consumption.

The definition of subsistence contained in the regulations which implement section 101(b) of the MMPA (50 CFR 216.3) allows marine mammal parts to be used by anyone who depends upon the taker to provide them with subsistence. In contrast, section 109(f)(2) allows personal or family consumption, or barter, or sharing for personal or family consumption.

Section 105(a) of the FSA empowers the Secretary of Commerce to "prescribe such regulations with respect to the taking of fur seals on the Pribilof Islands . . . as he deems necessary and appropriate for the conservation, management, and protection of the fur seal population. . . ." It is under this broad authority that these regulations are issued. The MMPA management scheme of section 109(f)(2), as referenced in section 103 of the FSA, was followed in the 1985 emergency rule and has been adopted in this rule.

Need for Subsistence Regulations

The Pribilof Island fur seal population is currently declining at the rate of about 6 percent annually and is below levels which would result in maximum productivity. Extensive research conducted under the terms of the Convention indicates that a harvest of females, pups, or harem bulls could have a disastrous effect on the already declining fur seal population. One of the causes of the population decline observed prior to the 1970s is the female harvest which occurred between 1956 and 1968. In contrast, based on available information, a harvest of subadult males at levels which allow for the future reproductive needs of the population will have no negative impact on long-term population trends. Additional research is needed to determine the effect, if any, of the harvest on overall population trends.

Without this proposed rule, the age and sex classes of fur seals that may be taken would not be limited. Females, pups, and harem bulls would be subject to harvesting as well as the subadult male fur seals that were the sole target of the commercial harvest since 1969. Absent this regulation, the harvest would not be limited in time and place, but could continue as long as seals were available at any location where they congregate.

This rule provides harvest restrictions to ensure that none of the haulout areas of the bachelor males is overharvested. Hauling grounds on St. Paul Island may be harvested only once each week. Since, at any one time, many of the subadult male seals are away from the islands and are feeding at sea, the rotation of harvest sites is intended to allow a sufficient number of young seals to escape the harvest to return to breed in later years.

Under this rule, only taking by traditional harvesting methods is allowed. These methods have been determined to be painless and humane by a number of prominent veterinarians, including the Panel of Euthanasia of the American Veterinary Medical Association. By restricting the harvest to traditional techniques, taking will be humane and it is believed that the disruption of the fur seal rookeries will be minimized and that the risk of mistakenly taking female seals will be reduced.

Comments on the Interim Rule

Of the 16 letters of comment the NMFS received on the emergency interim rule, 15 contained statements of qualified or complete support for the adopted subsistence regime. One commenter supported a continuation of the commercial harvest and opposed limiting the harvest to subsistence purposes only. Five letters included a recommendation to extend the 1985 harvest season due to extenuating circumstances. Three commenters opposed any extension of the harvest past August 5 because of the possibility of increased taking of females.

One animal welfare group stated that, "NMFS has a duty to ensure, to the extent possible, waste-free and complete utilization of these animals for the subsistence purposes for which their taking is being permitted." This commenter suggested that 100 percent utilization of all edible parts is mandatory and that the sample size used in our monitoring program may not be adequate to ensure complete utilization of each animal. The Pribilovians on the other hand, strongly objected to what they called "oppressive supervision" of subsistence-use practices. They requested that harvest management be accomplished by their own leadership.

While several commenters recommended the establishment of a permanent reporting system for subsistence use, one commenter criticized the practice of weighing all meat taken for subsistence. This commenter suggested that we weigh enough carcasses to arrive at an average weight of all edible parts and then concentrate on visual inspection of each carcass. Two commenters recommended that we devise a system to monitor and record actual consumption of subsistence meat. One commenter recommended that an upper limit be established for the subsistence harvest and that all bacula (sealsticks) be destroyed to avoid providing an incentive to harvest more seals than needed for food.

While one commenter urged us to avoid waste of pelts due to any restrictions on their commercial use, others objected to the section of the interim rule concerning disposition of fur seal parts. Specifically, two commenters objected to the provision that would allow payment to Pribilovians for skin processing done on behalf of the United States Government. One commenter claimed that this provison could lead to

a "government subsidy of the 'subsistence' hunt." One commenter recommended that a limit of 6,600 skins be set for those skins that may be transferred to the government for final disposition. Any commercial use or potential commercial use that may be allowed was viewed by a number of commenters as a possible incentive for increased harvesting of seals beyond numbers needed for food.

One commenter, who had observed the 1985 harvest, noted that there were no seal handicrafts for sale on St. Paul Island. Since seal parts were generally not available to individual Pribilovians in the past, except at considerable cost, no tradition of seal handicrafts had developed. However, some handicrafts made from seal pelts, bones, and teeth are apparently in private use on St. Paul. Accordingly, this commenter recommended that the handicraft definition be amended by deleting the word "commonly" so as to encourage the production and sale of rare items, but not, presumably, the development of totally new products.

Two reviewers recommended that we rely on section 109(f)(2) of the MMPA for guidance on the regulation of subsistence take, rather than section 101(b). Section 101(b) allows the taking of marine mammals for the creation of handicrafts and clothing for sale, whereas section 109(f)(2) only permits handicraft articles to be made if the marine mammals were initially taken for consumption. The Marine Mammal Commission believes the application of section 101(b) procedures requiring formal rulemaking is appropriate in this instance. They further state, however, that, "Although it is the position of the Commission that the formal rulemaking requirements of the MMPA should be used if permanent regulations are determined to be necessary, we recommend that consideration be given to the alternative approach of developing a cooperative agreement with the Pribilovians to govern the taking of fur seals for subsistence purposes."

The Marine Mammal Commission provided a formal recommendation to designate the Pribilof Island population of North Pacific fur seals as depleted under the MMPA. Four other commenters also requested a finding of depletion. The MMPA defines "depletion", among other things, to mean "any case in which the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under . . . this Act, determines that a species or population stock is below its optimum sustainable population . . .".

A status review of the North Pacific fur seal conducted under the Endangered Species Act of 1973, and published in the **Federal Register** on March 6, 1985 (50 FR 9232), contained findings on the current population status in relation to its optimum sustainable population (OSP). Since the current population is below 50 percent of the levels observed in the 1940s and early 1950s, the population is believed to be below a level which can maintain maximum net productivity, the lower bound of the OSP range as defined at 50 CFR 216.3.

A finding of depletion is a condition precedent to regulation of a subsistence harvest under section 101(b) of the MMPA, but not the FSA. Accordingly, such a finding will not be part of the present rulemaking under section 105 of the FSA. As noted by the Marine Mammal Commission in comments on the emergency rule, the designation of depleted status carries with it certain restrictions which affect the interests of private parties and other Federal and state agencies. Interested parties should therefore be provided with an opportunity to review and comment on any proposed designation. When the NMFS determines that the designation of this population as depleted is appropriate, we intend to make use of notice-and-comment rulemaking procedures. The use of informal rulemaking to make a depletion designation is supported by the recommendation of the Marine Mammal Commission.

Discussion of Regulatory Provisions

Definitions. Several definitions are added to § 215.2 to accompany the substantive regulatory changes of other sections. Also, the definition of "director" and "convention" are deleted since the former term is obsolete and the latter is defined in the FSA. The most important definitional additions are those for "subsistence uses", and "wasteful manner". The definition of "wasteful manner" is functionally identical to that for the same term used in the MMPA regulations at 50 CFR 216.3. The only modifications are the restriction of the definition to the Pribilof Islands and to the taking of fur seals and a change to conform to the definition of subsistence used in this rule. The definition of subsistence is taken from section 109(f)(2) of the MMPA. The definition of "handicraft articles" is functionally identical to that contained in 50 CFR 216.3 for "authentic native articles of handicrafts and clothing".

Conforming provisions. The penalty provisions of § 215.3 are amended to bring them into conformity with changes made to the enforcement section of the FSA in 1983. This is merely a technical amendment and no discretion is exercised in its adoption.

Subsistence Harvest of Fur Seals

Section 215.31 states the general conditions under which fur seals may be harvested by Pribilovians. As noted above, the MMPA management scheme contained in section 109(f)(2), and referenced in section 103 of the FSA, is adopted in this rule. Its definition of subsistence provides the most harmonious resolution of the conflicting provisions of the two acts. Under this proposed rule permissible takings must be for subsistence uses as defined in section 109(f)(2) of the MMPA and repeated in § 215.3 of this rule. Subsistence uses include the customary and traditional use of fur seals for food, shelter, fuel, clothing, tools, or transportation. The definition also specifies that seal parts may be used for barter or sharing for personal or family consumption. Additionally, handicraft articles may be made and sold if they are fashioned from nonedible byproducts of marine mammals taken for personal or family consumption.

Section 215.31(c) requires that any takings may not be accomplished in a wasteful manner. There are three facets to the definition of the term "wasteful manner". First, it means any taking which is likely to result in the killing of fur seals beyond those needed for subsistence purposes. Second, wasteful manner includes takings which result in the waste of a substantial portion of the fur seal. Lastly, it means the employment of a taking method which is not likely to assure the killing and retrieval of the fur seal.

The harvesting method employed by the Pribilovians has been shown to be a very effective means of taking fur seals that virtually guarantees that the targeted seals will be killed and retrieved. Provided that the traditional harvesting techniques are followed, the provisions of the last facet of the wasteful manner definition is clearly satisfied.

In order to determine if taking is wasteful under the first criterion, the level of taking which is necessary to meet the subsistence needs of the Pribilovians must be established. Also, it should be noted that the second standard of wastefulness closely relates to this determination. As part of accurately estimating subsistence needs, one must have some idea of what

portion of a fur seal is reasonably usable for subsistence purposes. These determinations are crucial to the operation of this rule since the Assistant Administrator is authorized by § 215.32(a) to suspend the harvest when he determines that the subsistence needs of the Pribilovians have been satisfied or that the harvest is otherwise being conducted in a wasteful manner.

Since the commercial harvest of fur seals on the Pribilof Islands historically exceeded the subsistence needs of the Pribilovians, no accurate record of the extent of that need was developed. Whereas the levels of the commercial harvest were documented each year, no such figures were kept concerning the eventual fate of non-commercial seal parts. The excess availability of seal carcasses for subsistence resulted in the selective use of prime seal meat portions and the discard or other use of less desirable parts.

Prior to the 1985 subsistence harvest, the NMFS had limited data on the amount of seal meat actually consumed by Pribilovians. Estimates presented in the preamble to the interim rule were derived from a variety of historical records, from extrapolations based on certain subsistence-use data recently recorded for St. George Island, and from contemporary testimony and written reports provided by the Pribilovians. Two assumptions were used to derive the subsistence use estimates cited in the 1985 rule: (1) That the current *native* population is 483 on St. Paul Island and 153 on St. George Island (U.S. Bureau of Census, 1980); and (2) that a subadult male fur seal dresses to 25 pounds of meat. *See* Hearings before the Committee on Expenditures in the Department of Commerce, "Investigations of the Fur Seal Industry", 63rd Cong. 2d Sess., (1914) at 514.

Estimates of the annual subsistence need for fur seals by Pribilovians published in the 1985 interim rule ranged from 3,358 to over 15,000 seals. During the 15 day subsistence harvest on St. Paul Island in 1985, 3,384 subadult seals were taken. About 80 percent were 3-year-olds and all but five were males. A detailed report on the 1985 harvest has been provided by Drs. Steven T. Zimmerman and James D. Letcher. Dr. Zimmerman is the Chief of the Marine Mammals and Endangered Species Division, Alsaka Region, NMFS. Dr. Letcher is a private veterinarian (currently affiliated with the Baltimore Zoo) who agreed to observe the 1985 subsistence harvest on St. Paul. [*See* Zimmerman and Letcher, A Report on the 1985 Subsistence Harvest of Northern Fur Seals on St. Paul Island, Alaska, *Marine Fisheries Review*, In Press).

The total weight of meat taken on St. Paul Island for subsistence purposes was 93,435 lbs. An unmeasured percentage of this total was taken each day for immediate personal consumption. The remainder was sent to St. George Island (about 18,000 lbs.), sent to other Aleut Villages (about 4,000 lbs.), or preserved for use on St. Paul Island by salting (about 8,500 lbs.) or freezing (about 50,000 lbs.). Approximately 10,500 lbs. of the meat sent to St. George Island spoiled. An estimated 7,500 lbs. of the meat on St. Paul Island spoiled before it could be preserved. In both cases spoilage resulted from packing meat into large boxes while it was still too warm.

An average of 27.5 lbs. of meat (with bone) was butchered from each seal. This is 43.8 percent of the total mean weight of a harvested seal (62.8 lbs.) and 55.7 percent of the seal's weight minus pelt and attached blubber (49.4 lbs.). During the 1984 commercial harvest, Dr. Zimmerman had observed that front flippers, hearts, livers, and shoulders comprised most of what was taken from the seal carcasses for consumption. During the 1985 season, Dr. Zimmerman was able to determine that the combined weights of these most prized parts constituted 30 percent of the animals by weight. The difference between the 43.8 percent use of carcasses in 1985 and the estimated 30 percent use of some carcasses in 1984 is due to the fact that backs, ribs, and chests were taken in 1985 in addition to flippers, hearts, livers, and shoulders. The relatively high yield of meat (27.5 lbs.) from each animal killed during 1985 appeared to result from diligent attempts by Pribilovians to avoid wasting meat during the butchering process.

After losses due to spoilage and transfer to other villages, about 64,000 lbs. of seal meat remained available for subsistence on St. Paul Island at the conclusion of the 1985 harvest. This would allow for a theoretical annual daily consumption of approximately 0.4 lbs. of seal meat (with bone) per person per year. The amount of meat harvested per person was less than that recorded in other northern and western Alaska villages which depend on subsistence lifestyles.

During the week of March 2, 1986, the NMFS conducted an informal survey of subsistence use of seal meat taken on St. Paul Island. About two-thirds of the approximately 50,000 lbs. of meat stored in the community freezer from the 1985 harvest is believed to remain on the island. About 80 percent consists of ribs and back portions. Some native leaders have concluded that only the front flippers, liver, hearts, and shoulders are desired for subsistence purposes, and that these are the seal parts that have been traditionally used for island subsistence.

Under the terms of this rule not only must the subsistence harvest not exceed the subsistence needs of the Pribilovians, but there must be substantial use made of each seal taken. Since no one target number has been set for the subsistence needs, the NMFS believes that the best way to ensure that the harvest is accomplished in a non-wasteful manner is to continue to monitor the use of those seals which are taken.

The NMFS representatives that will be on thePribilof Islands during the annual harvest will collect three types of information to aid in making the findings required by § 215.32(a). Each day it will be noted how many seals are killed. Then, with the cooperation of the Pribilovians, the NMFS officials will weigh a representative sample of carcasses before and after meat has been removed for human consumption. This will be done to estimate the percent use which is being made of seals. At the end of each day's harvest, a visual survey will be made of the remaining carcasses to see that substantial utilization has been made of each animal taken. Substantial use of a carcass will mean that it has been dressed out and that the front flippers, shoulders, and most other readily obtainable and utilizable tissues and organs have been removed for subsistence uses. If this monitoring program indicates that the carcasses are not being utilized or that the subsistence needs of the islanders have been satisfied, the Assistant Administrator intends to exercise his authority under § 215.32(a) to suspend the harvest.

During the period of the harvest, an unbiased estimate of the average percentage of utilization of seal carcasses will be made. Based upon a daily random sample of approximately 10–20 percent of all seals killed, the following data will be collected:

1. The weight of the animals immediately following exsanguination,
2. The weight of the pelt with blubber still attached, and
3. The weight of organs and tissues not removed for food purposes.

Section 215.32(b)(1) provides that only traditional methods of harvesting may be used to take fur seals. These methods consist, in part, of organized drives of subadult male fur seals from the haulout

sites to killing fields located some distance inland. Drives are conducted only in the early morning hours when the temperature is low and the stress placed upon the seals is minimal. Once at the killing fields, the driven animals are separated into smaller groups and selected individuals are stunned by a sharp blow to the head with a long club. The stunning is followed immediately by exsanguination.

Limiting the harvest to the use of traditional methods will ensure that humane methods are used, will minimize the disruption to rookeries which may result from other methods of taking, and will lessen the risk that female seals will be taken. Since the discontinuation of the female harvest in 1968, this method of harvesting has resulted in an accidental taking of females well below one percent of the total take. In 1985, only five females were accidentally taken during the total harvest of 3,384 seals.

Section 215.32 (b)(2) clarifies that only subadult male fur seals may be taken. The Scientific Committee of the Commission, since 1969, had recommended that only this component of the fur seal population be harvested. The rule specifies that no adult fur seals or pups may be taken. Because of difficulties in distinguishing between immature male and female fur seals, the rule provides for the occasional accidental taking of a subadult female fur seal which may arise during the harvest so long as the historic low level of females taken is maintained. Intentional taking of subadult females, however, is not allowed.

NOAA's fur seal research program has yielded much valuable data necessary for the management and conservation of the fur seal, and a major goal of the program is to determine the cause of the continuing decline in the fur seal population. Data from the harvest have been used to monitor the rate of entanglement in debris and to determine body weight, body length, tooth size, levels of toxic substances, and changes in the age structure of the male portion of the population. These data are also used to assess the status of the population, to monitor population trends, to evaluate rates of population interchange between the islands, and to seek explanations for the observed dynamics of the population. The harvest has also been used to retrieve tags applied for various research purposes.

To insure that new data are comparable to existing data and not confounded by procedural changes, it was deemed advisable, in the interim rule, to maintain as much continuity in the harvest methods as possible. Where possible, every effort was made to ensure that the specific procedures of the subsistence harvest follow historic practices.

This rule seeks to continue the accommodation of the research program to the extent possible. However, greater latitude in choosing harvest days and locations is being provided in the proposed rule. For example, only a recommended harvest schedule is provided. No one haulout area may be harvested more than once each week, however, regardless of the rotation schedule chosen.

Aside from research motives, seasonal restrictions have been adopted to avoid an unacceptable taking of female fur seals. Under this rule, no fur seals may be taken on St. Paul Island after the first week in August. At this time, immature fur seals of both sexes begin to arrive on St. Paul Island in significant numbers. Also, the harem structure breaks down in early August and many females begin using the haulout areas. Extending the harvest period could result in a marked increase in the accidental take of female seals without additional controls on harvest methods. As illustrated by the population decline which coincided with the female harvests of the 1950s and 1960s, any increase in the taking of females is likely to have a detrimental effect on the fur seal population. The first 3-year-olds arrive on the islands early in July, and are available for harvest. Beginning the subsistence harvest much earlier than July would tend to select for older males which arrive on the Pribilofs earlier in the season.

The provisions applicable to the St. George Island harvest are drawn from past practice and are incorporated into this rule primarily to safeguard the research program which has been conducted on the Pribilof Islands since 1973. So as not to jeopardize this research, which compares the dynamics of harvested and unharvested populations, it has been recommended that the harvest level on St. George be reduced in proportion to the overall decline in the population. In 1984, the St. George quota was 350 and was reduced to 329 in 1985 to match the approximate six percent decline in the population that year. Since the three year running average decline rate remains at six percent, the St. George quota is lowered to 309 for 1986. As with St. Paul Island, only subadult males may be taken. Restrictions are also placed on the location of drives and the number of seals that may be taken per day.

The harvest restrictions placed upon St. George Island in this rule may not allow its residents to take enough fur seals to satisfy their subsistence requirements. To mitigate any burden placed on St. George residents, the NMFS is proposing to provide free air transportation between St. George and St. Paul Islands at least once a week throughout the duration of the St. Paul harvest to allow St. George residents to obtain additional quantities of fresh meat for subsistence purposes. However, the NMFS recognizes that St. George residents are being asked to accept greater restrictions on subsistence taking than those placed on residents of St. Paul Island. Consequently, while the quota system for St. George, established in 1973 and carried over into the 1985 interim rule, has been adopted in this proposed rule, the NMFS is prepared to consider alternatives. We solicit comments on this issue during the public review period.

Section 215.33 governs the disposition of fur seal parts to any person other than an Alaskan Native. Fur seal parts, under this rule may be transferred from the taker to other Alaskan Natives in accordance with section 109(f)(2) of the MMPA. No part of a fur seal may be sold to a non-native unless it is a nonedible byproduct of a seal taken for personal or family consumption that has first been converted into an article of handicraft as defined in § 215.2(e). For example, the bacula of male seals (sealsticks) cannot be sold as aphrodisiacs and excess seal meat cannot be converted into dog food. Skins that have been retained from the subsistence take for conversion into handicrafts may be transferred to a registered tannery for processing, as long as they are returned directly to the Privilovians from whom they were obtained.

The NMFS is considering the promulgation of an interpretive rule that will further delineate the uses that may be made of nonedible byproducts. Comments on the necessity of such a rulemaking are invited.

In accordance with section 103(b) of the FSA, only Pribilovians are authorized to engage in the land based harvesting of fur seals. All other Native Alaskans who harvest fur seals must conform to the provisions of section 103(a) of the FSA which allows fur seals to be taken only from canoes not

propelled by motors and manned by not more than five persons each. No numerical limit is placed upon the level of fur seals that may be harvested by the Pribilovians. Seals may be taken so long as the taking is for a "subsistence use" and is not accomplished in a "wasteful manner".

No reporting requirements are placed upon the Pribilovians under this rule. However, § 215.34 requires those who take fur seals to cooperate with NMFS representatives in compiling scientific information and other data regarding the extent of taking and uses to which seal parts are being put. The compilation and analysis of this information is essential to the Assistant Administrator's monitoring of the harvest and will be used to determine the point at which subsistence needs have been satisfied. These data may also be used as evidence that the harvest is or is not otherwise being conducted in a wasteful manner.

Classification

The NMFS prepared an environmental assessment (EA) of this proposed rule and concluded that it will result in no significant impacts on the environment other than those already discussed in the final environmental impact statement (EIS) on the Interim Convention on Conservation of North Pacific Fur Seals, published in April 1985. A copy of the EA/EIS may be obtained by writing to the address listed above.

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This rule will *not* result in a) an annual effect on the economy of $100 million or more; b) a major increase in costs or prices; or c) a significant adverse effect on the U.S. economy. A regulatory impact review concludes that this rule will have no economic effects save those nondiscretionarily mandated by statute. Consequently, the General Counsel of the DOC certified to the Small Business Administration that this proposed rule if adopted, will *not* have a significant economic impact on a substantial number of small entities. Additionally, this rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: May 12, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 215—[AMENDED]

Accordingly, 50 CFR Part 215 is amended as follows:

1. The authority citation is revised to read as follows:

Authority: 16 U.S.C. 1151–1175, 16 U.S.C. 1361–1384.

2. Section 215.2 is revised to read as follows:

§ 215.2 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this Part:

(1) *Act* means the Fur Seal Act, as amended, 16 U.S.C. 1151–1175.

(b) *Alaskan Native* has the identical meaning under this section as in 50 CFR 216.3.

(c) *Assistant Administrator* means the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) *Fur seal* means North Pacific fur seal, scientifically known as *Callorhinus ursinus*.

(e) *Handicraft articles* means items made by an Indian, Aleut, or Eskimo from the nonedible byproducts of fur seals taken for personal or family consumption which: (1) Were commonly produced by Alaskan Natives on or before October 14, 1983, and (2) Are composed wholly or in some significant respect of natural materials, and (3) Are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern tanning techniques at a tanner registered under 50 CFR 216.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as a cooperative, is permitted so long as no large scale mass production results.

(f) *Public display* means, with respect to fur seals, display, whether or not for profit, for the purposes of education or exhibition.

(g) *Pribilovians* means Indians, Aleuts, and Eskimos who live on the Pribilof Islands.

(h) *Subsistence uses* means the customary and traditional uses of fur seals taken by Pribilovians for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fur seals taken for personal or family consumption; and for barter, or sharing for personal or family consumption. As used in this definition—

(1) *Family* means all persons related by blood, marriage, or adoption, or any person living within a household on a permanent basis.

(2) *Barter* means the exchange of fur seals or their parts, taken for subsistence uses—(i) for other wildlife or fish or their parts, or (ii) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(i) *Wasteful manner* means any taking or method of taking which is likely to result in the killing of fur seals beyond those needed for subsistence uses or which results in the waste of a substantial portion of the fur seal and includes, without limitation, the employment of a method of taking which is not likely to assure the capture or killing of a fur seal or which is not immediately followed by a reasonable effort to retrieve the fur seal.

3. Section 215.3 is revised to read as follows:

§ 215.3 Penalties.

(a) *Criminal penalties.* Any person who knowingly violates any provision of the Act or of any permit issued thereunder or regulation contained in this Part will, upon conviction, be fined not more than $20,000 for such violation, or be imprisoned for not more than one year, or both.

(b) *Civil penalties.* Any person who violates any provision of the Act or of any permit issued thereunder or regulation contained in this Part may be assessed a civil penalty of not more than $10,000 for each such violation.

4. A new Subpart D is added to read as follows:

Subpart D—Taking for Subsistence Purposes

Sec.

Subpart D—Taking for Subsistence Purposes

§ 215.31 Allowable take of fur seals.

Pribilovians may take fur seals on the Pribilof Islands if such taking is

(a) For subsistence uses, and

(b) Not accomplished in a wasteful manner.

§ 215.32 Restrictions on taking.

(a) The Assistant Administrator is authorized to suspend the take provided for in § 215.31 when he determines that the subsistence needs of the Pribilovians have been satisfied or that the harvest is otherwise being conducted in a wasteful manner.

(b)(1) No fur seal may be taken except by experienced sealers using the traditional harvesting methods, including organized drives of subadult male fur seals to killing fields and separation into smaller groups for selective stunning followed immediately by exsanguination.

(2) Only subadult male fur seals may be taken. Any taking of adult fur seals or pups, or the intentional taking of subadult female fur seals is prohibited.

(3) The following schedule and take limits shall apply:

(i) *St. Paul Island*—Any harvest of fur seals on St. Paul Island must be conducted in accordance with the following provisions:

(A) The harvest season opens June 30 of each year and closes on August 8 or upon suspension of the harvest by the Assistant Administrator under the provisions of § 215.32(a), whichever occurs first.

(B) No haulout area may be harvested more than once each week. The following is a suggested harvest schedule:

Monday—Zapadni
Tuesday—English Bay
Wednesday—Northwest Point
Thursday—Polovina, Little Polovina, Lukanin, Kitovi
Friday—Reef

(C) Only subadult male seals 124.5 centimeters or less in length may be taken.

(D) Seals with tags and/or entangling debris may only be taken if so directed by scientists studying fur seal entanglement.

(ii) *St. George Island*—Any harvest of fur seals on St. George Island must be conducted in accordance with the following provisions:

(A) Fur seals may only be taken at the east haulout area of the North Rookery. No more than two drives may be conducted per week and no more than 50 seals may be taken per day.

(B) Only subadult male seals 124.5 centimeters or less in length may be taken.

(C) The total take on St. George Island must not exceed 309 seals in 1986, and will vary in subsequent years in accordance with the rate of seal population growth or decline, as determined by the NMFS. To meet their subsistence needs, air transportation between St. George and St. Paul Islands will be made available to St. George native residents free of charge at least once per week during the St. Paul harvest to allow them to obtain additional quantities of fresh meat, if needed for subsistence uses.

§ 215.33 Disposition of fur seal parts.

No part of a fur seal taken for subsistence uses may be sold or otherwise transferred to any person other than an Alaskan Native unless it is a nonedible byproduct which

(a) Has been transformed into an article of handicraft, or

(b) Is being sent by an Alaskan Native directly, or through a registered agent, to a tannery registered under 50 CFR 216.23(c) for the purpose of processing, and will be returned directly to the Native Alaskan, or

(c) Is being sold or transferred to an agent registered under 50 CFR 216.23(c) for resale or transfer to a Native Alaskan who will convert the seal part into a handicraft.

§ 215.34 Cooperation with federal officials.

Pribilovians who engage in the harvest of seals are required to cooperate with scientists engaged in fur seal research on the Pribilof Islands who may need assistance in recording tag data and collecting tissue or other fur seal samples for research purposes. In addition, Pribilovians who take fur seals for subsistence uses must, consistent with 5 CFR 1320.7(k)(3), cooperate with the NMFS representatives on the Pribilof Islands who are responsible for compiling the following information on a daily basis:

(a) The number of sales taken each day in the subsistence harvest,

(b) The extent of the utilization of fur seals taken, and

(c) Other information determined by the Assistant Administrator to be necessary for determining the subsistence needs of the Pribilovians or for making determinations under § 215.32(a).

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Federal Register

Thursday
May 15, 1986

Part IV

Department of Education

34 CFR Part 300

Assistance to States for Education of Handicapped Children; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 300

Assistance to States for Education of Handicapped Children

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Assistance to States for Education of Handicapped Children program authorized by Part B of the Education of the Handicapped Act (EHA-B). These final regulations establish procedures for disapproval of a State plan under section 613(c) of the EHA-B.

EFFECTIVE DATE: These regulations will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. William Tyrrell, Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3611), Washington, DC 20202; Telephone: (202) 732–1014.

SUPPLEMENTARY INFORMATION: Pub. L. 94–142, enacted on November 29, 1975, substantially revised Part B of the Education of the Handicapped Act (20 U.S.C. 1401, 1411, *et seq.*). Part B authorizes formula grants to States and, through States, to local educational agencies and intermediate educational agencies to assist them in the education of handicapped children. The purposes of the Act, as amended by Pub. L. 94–142, are: to ensure that a free appropriate public education is made available to all handicapped children, to ensure that the rights of handicapped children and their parents are protected, to assist States and localities to provide for the education of handicapped children, and to assess and ensure the effectiveness of efforts to educate those children.

In order to receive assistance under the EHA–B, section 613(a) of the Act requires a State to submit, and have approved, a State plan. Under section 613(c) of the EHA–B, the Secretary is required to approve a State plan which meets the requirements of the Act and to disapprove a State plan which does not. The Secretary may not finally disapprove a State plan until the State has been given reasonable notices and an opportunity for a hearing. Section 616(b) provides a right to judicial review of the final decision of the Secretary.

If the Secretary determines that a State plan should be disapproved, it will be necessary to advise the affected State of its opportunity for a hearing and the exact procedures, including timelines, to be followed. Currently, these procedures and timelines are not established, either in the EHA-B statute or regulations, or in the Education Department General Administrative Regulations (EDGR) provision (34 CFR 76.202) generally applicable to the disapproval of plans submitted under the Department's State-administered programs. A notice of proposed rulemaking for this program was published on November 23, 1984 (49 FR 46252). A summary of the comments received on the proposed regulations and the Department's responses to those comments are included in the appendix to these regulations.

These final regulations expand upon the procedures that were in effect for the disapproval of the EHA-B State plans prior to the promulgation of EDGAR in 1980. *See* 45 CFR 121a.580–121a.583 (1980); 42 FR 42499–42500 (August 23, 1977). These regulations clarify the procedures to be followed, the rights of the parties, and the duties of the Hearing Official or Panel. The Secretary believes that these final regulations will ensure that hearings under these provisions are conducted in a manner consistent with the procedures followed by the Department in similar proceedings.

A summary of these final regulations follows:

- Section 300.580 *(Opportunity for a hearing)* is removed because the cross-referenced sections under paragraphs (a) and (b) of this section were revoked in 1980. Section 300.589(g) is also amended to reflect the removal of § 300.580.
- Sections 300.581–300.587 describe the notice, opportunity for hearing, and judicial review provisions and contain the following information:

1. Section 300.581 (*Disapproval of a State plan*) states that the Secretary must provide the State with written notice and an opportunity for a hearing before disapproving a State plan.

2. Section 300.582 (*Content of notice*) describes the content of the written notice, the procedures for sending the notice to the State educational agency, and the Secretary's acknowledgement of a State's request for a hearing.

3. Section 300.583 (*Hearing Official or Panel*) describes how the Secretary appoints the Hearing Panel or Hearing Official and includes an impartiality requirement for those officials. It also describes the circumstances under which a hearing may proceed before the Education Appeal Board.

4. Section 300.584 (*Hearing procedures*) describes the scope of authority of the Hearing Official or Panel; procedures to be followed during the hearing; and the rights of the parties.

5. Section 300.585 (*Initial decision; final decision*) provides procedures for reaching and issuing a decision after the hearing.

6. Section 300.586 (*Judicial review*) provides procedures for a State dissatisfied with the Secretary's decision to seek judicial review. These procedures are specified in Section 616(b)(1) of the EHA–B.

- Section 300.589 (*Waiver of requirement regarding supplementing and supplanting with Part B funds*) is amended by removing the cross-reference to §§300.580–300.583 as the authority for a hearing under this section. Hearing procedures relating to waivers of the nonsupplanting requirement would be determined on a case-by-case basis, as needed.

In issuing these final regulations, the Secretary recognizes that it is desirable to consolidate and simplify the various different procedures for affording administrative review to recipients of Federal assistance under different programs. The Department has therefore recently added to the United Agenda of Federal Regulations an entry calling for an overall assessment of the Department's administrative review procedures, with an aim toward a future consolidation of the Department's divergent review procedures into a smaller number of procedures of more general applicability. This examination of Departmental administrative review regulations is scheduled to begin later this year, and at that time, the Department expects to reassess whether a more general set of procedures may be preferable to these regulations as the future vehicle for providing States with administrative review of State plan disapprovals under the EHA–B. Until such procedures are established through additional rulemaking, however, these regulations will govern such review.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

These regulations do not contain any information collection requirements under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 4, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal finanical assistance.

In accordance with the Order, this document is intended to provide early notificiation of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 300

Administrative practice and procedure, Education, Education of handicapped, Equal education opportunity, Grant program-education, Privacy, Private schools, Reporting and recordkeeping requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.027; Assistance to States for Education of Handicapped Children)

Dated: May 12, 1986.

William J. Bennett,

Secretary of Education.

PART 300—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

The Secretary amends Part 300 of Title 34 of the Code of Federal Regulations as follows:

1. The table of contents of Part 300 is amended by adding headings for new sections 300.580–300.586, to read as follows:

* * * * *

Subpart E—Procedural Safeguards

* * * * *

Department Procedures

Sec.

300.580 [Reserved]
300.581 Disapproval of a State plan.
300.582 Content of notice.
300.583 Hearing official or panel.
300.584 Hearing procedures.
300.585 Initial decision; final decision.
300.586 Judicial review.
300.587—300.588 [Reserved]

Authority: Part B of the Education of the Handicapped Act, Pub. L. 91-230, Title VI, as amended, 89 Stat. 776-794 (20 U.S.C. 1411-1420) unless otherwise noted.

§ 300.580 [Removed and reserved]

2. Section 300.580 is removed and that section is reserved.

3. New §§ 300.581–300.586 are added to read as follows:

§ 300.581 Disapproval of a State plan.

Before disapproving a State plan, the Secretary gives the State educational agency written notice and an opportunity for a hearing.

(20 U.S.C. 1413(c))

§ 300.582 Content of notice.

(a) In the written notice, the Secretary—

(1) States the basis on which the Secretary proposes to disapprove the State plan;

(2) May describe possible options for resolving the issues;

(3) Advises the State educational agency that it may request a hearing and that the request for a hearing must be made not later than 30 calendar days after it receives the notice of proposed disapproval; and

(4) Provides information about the procedures followed for a hearing.

(b) The Secretary sends the written notice to the State educational agency by certified mail with return receipt requested.

(20 U.S.C. 1413(c))

§ 300.583 Hearing Official or Panel.

(a) If the State educational agency requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of the program under this part, to conduct a hearing.

(b) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If one individual is designated, that individual is the Hearing Official.

(c) If the State has an appeal pending with the Education Appeal Board on a matter arising out of the same State plan, or on the same issue arising from a prior plan, the State may contest the disapproval of its plan before the Education Appeal Board in accordance with 34 CFR Part 78.

(20 U.S.C. 1413(c))

§ 300.584 Hearing procedures.

(a) As used in §§ 300.581–300.586 the term "party" or "parties" means the following:

(1) A State educational agency that requests a hearing regarding the proposed disapproval of its State plan under this part.

(2) The Department of Education official who administers the program of financial assistance under this part.

(3) A person, group or agency with an interest in and having relevant information about the case who has applied for and been granted leave to intervene by the Hearing Official or Panel.

(b) Within 15 calendar days after receiving a request for a hearing, the Secretary designates a Hearing Official or Panel and notifies the parties.

(c) The Hearing Official or Panel may regulate the course of proceedings and the conduct of the parties during the proceedings. The Hearing Official or Panel takes all steps necessary to conduct a fair and impartial proceeding, to avoid delay, and to maintain order, including the following:

(1) The Hearing Official or Panel may hold conferences or other types of appropriate proceedings to clarify, simplify, or define the issues or to consider other matters that may aid in the disposition of the case.

(2) The Hearing Official or Panel may schedule a prehearing conference of the Hearing Official or Panel and parties.

(3) Any party may request the Hearing Official or Panel to schedule a prehearing or other conference. The Hearing Official or Panel decides whether a conference is necessary and notifies all parties.

(4) At a prehearing or other conference, the Hearing Official or Panel and the parties may consider subjects such as—

(i) Narrowing and clarifying issues;

(ii) Assisting the parties in reaching agreements and stipulations;

(iii) Clarifying the positions of the parties;

(iv) Determining whether an evidentiary hearing or oral argument should be held;

(v) Setting dates for—

(A) The exchange of written documents;

(B) The receipt of comments from the parties on the need for oral argument or evidentiary hearing;

(C) Further proceedings before the Hearing Official or Panel (including an evidentiary hearing or oral argument, if either is scheduled);

(D) Requesting the names of witnesses each party wishes to present at an evidentiary hearing and estimation of time for each presentation; or

(E) Completion of the review and the initial decision of the Hearing Official or Panel.

(5) A prehearing or other conference held under paragraph (b)(4) of this section may be conducted by telephone conference call.

(6) At a prehearing or other conference, the parties shall be prepared

to discuss the subjects listed in paragraph (b)(4) of this section.

(7) Following a prehearing or other conference the Hearing Official or Panel may issue a written statement describing the issues raised, the action taken, and the stipulations and agreements reached by the parties.

(d) The Hearing Official or Panel may require parties to state their positions and to provide all or part of the evidence in writing.

(e) The Hearing Official or Panel may require parties to present testimony through affidavits and to conduct cross-examination through interrogatories.

(f) The Hearing Official or Panel may direct the parties to exchange relevant documents or information and lists of witnesses, and to send copies to the Hearing Official or Panel.

(g) The Hearing Official or Panel may receive, rule on, exclude, or limit evidence at any stage of the proceedings.

(h) The Hearing Official or Panel may rule on motions and other issues at any stage of the proceedings.

(i) The Hearing Official or Panel may examine witnesses.

(j) The Hearing Official or Panel may set reasonable time limits for submission of written documents.

(k) The Hearing Official or Panel may refuse to consider documents or other submissions if they are not submitted in a timely manner unless good cause is shown.

(l) The Hearing Official or Panel may interpret applicable statutes and regulations but may not waive them or rule on their validity.

(m)(1) The parties shall present their positions through briefs and the submission of other documents and may request an oral argument or evidentiary hearing. The Hearing Official or Panel shall determine whether an oral argument or an evidentiary hearing is needed to clarify the positions of the parties.

(2) The Hearing Official or Panel gives each party an opportunity to be represented by counsel.

(n) If the Hearing Official or Panel determines that an evidentiary hearing would materially assist the resolution of the matter, the Hearing Official or Panel gives each party, in addition to the opportunity to be represented by counsel—

(1) An opportunity to present witnesses on the party's behalf; and

(2) An opportunity to cross-examine witnesses either orally or with written questions.

(o) The Hearing Official or Panel accepts any evidence that it finds is relevant and material to the proceedings and is not unduly repetitious.

(p)(1) The Hearing Official or Panel—

(i) Arranges for the preparation of a transcript of each hearing;

(ii) Retains the original transcript as part of the record of the hearing; and

(iii) Provides one copy of the transcript to each party.

(2) Additional copies of the transcript are available on request and with payment of the reproduction fee.

(q) Each party shall file with the Hearing Official or Panel all written motions, briefs, and other documents and shall at the same time provide a copy to the other parties to the proceedings.

(20 U.S.C. 1413(c))

§ 300.585 Initial decision; final decision.

(a) The Hearing Official or Panel prepares an initial written decision which addresses each of the points in the notice sent by the Secretary to the State educational agency under § 300.582.

(b) The initial decision of a Panel is made by a majority of Panel members.

(c) The Hearing Official or Panel mails by certified mail with return receipt requested a copy of the initial decision to each party (or to the party's counsel) and to the Secretary, with a notice stating that each party has an opportunity to submit written comments regarding the decision to the Secretary.

(d) Each party may file comments and recommendations on the initial decision with the Hearing Official or Panel within 15 calendar days of the date the party receives the Panel's decision.

(e) The Hearing Official or Panel sends a copy of a party's initial comments and recommendations to the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Hearing Official or Panel within seven calendar days of the date the party receives the initial comments and recommendations.

(f) The Hearing Official or Panel forwards the parties' initial and responsive comments on the initial decision to the Secretary who reviews the initial decision and issues a final decision.

(g) The initial decision of the Hearing Official or Panel becomes the final decision of the Secretary unless, within 25 calendar days after the end of the time for receipt of written comments, the Secretary informs the Hearing Official or Panel and the parties to a hearing in writing that the decision is being further reviewed for possible modification.

(h) The Secretary may reject or modify the initial decision of the Hearing Official or Panel if the Secretary finds that it is clearly erroneous.

(i) The Secretary conducts the review based on the initial decision, the written record, the Hearing Official's or Panel's proceedings, and written comments. The Secretary may remand the matter for further proceedings.

(j) The Secretary issues the final decision within 30 calendar days after notifying the Hearing Official or Panel that the initial decision is being further reviewed.

§ 300.586 Judicial review.

If a State is dissatisfied with the Secretary's final action with respect to its State plan, the State may, within 60 calendar days after notice of that action, file a petition for review with the United States court of appeals for the circuit in which the State is located.

(20 U.S.C. 1416(b)(1))

§§ 300.587-300.588 [Removed]

4. Sections 300.587 and 300.588 are removed.

5. In § 300.589, paragraph (g) is revised to read as follows:

§ 300.589 Waiver of requirement regarding supplementing and supplanting with Part B funds.

* * * * *

(g) The State may request a hearing with regard to any final action by the Secretary under this section.

(20 U.S.C. 1411(c)(3); 1413(a)(9)(B))

Appendix—Summary of Comments and Responses

Note.—This Appendix will not be codified in the Code of Federal Regulations.

The following is a summary of the comments received on the notice of proposed rulemaking for the Assistance to States for Education of Handicapped Children program published on November 23, 1984. Each comment is followed by a response that indicates a change has been made or why no change is considered necessary. Specific comments are arranged in order of the sections of the final regulations to which they pertain.

Section 300.581—Disapproval of a State plan.

Comment. A number of commenters felt that § 300.581 should include a timeline stating how long the Secretary may take to make a decision on the approval or disapproval of a State plan starting from the time it is received in the Department.

Response. No change has been made. The timeline would depend on the date

by which a State educational agency submitted its State plan to the Secretary, the number of revisions made to the State plan since the State's last plan was approved, and other factors not under the control of the Secretary. However, the Department makes every effort to give a State educational agency early notification if the Secretary proposes to disapprove its State plan.

Comment. A number of commenters felt that State educational agencies should be given an opportunity to take corrective action before the Secretary disapproves a State plan. Traditionally, the Department has used informal procedures to negotiate with a State educational agency when differences have arisen during the review of a State plan. One commenter felt that this informal negotiating process should be exhausted before a State plan is disapproved. Several other commenters felt that the regulations should include mediation procedures which could be used prior to the disapproval of a State plan. One commenter recommended adding an opportunity for an informal hearing prior to the written notice of a proposed disapproval.

Response. No change has been made. The Department will continue to use informal procedures to negotiate differences that arise during the State plan review process. State plan disapproval is a drastic step that will only be used as a last resort when all other attempts to resolve an issue have failed.

Informal negotiation will generally be conducted before a written notice is sent to a State. Requiring informal negotiation following the written notice would lengthen and delay the State plan disapproval procedure.

Section 300.582—Content of notice.

Comment. One commenter recommended changes to the language and content of § 300.582: (1) to inform State educational agencies of the criteria the Secretary will use to disapprove a State plan; and (2) to provide the State educational agency with the criteria used by the Education Appeal Board, and the Department's administrative procedures.

Response. No change has been made. The criteria for State plan disapproval are provided in Section 613(c) of the EHA–B and the implementing regulations for Part B. The procedures used by the Education Appeal Board appear at 34 CFR Part 78. These procedures are only applicable in the circumstances described in § 300.583(c) where an appeal is already pending before the Education Appeal Board. The Department's administrative procedures for State-administered programs are provided in the Education Department General Administrative Regulations (EDGAR) at 34 CFR Parts 74, 76, 77, 78, and 79.

Comment. Several commenters asked that the written notice to a State educational agency include: (1) A full explanation of the reasons for the disapproval, with specific references to statutory or regulatory provisions and copies of these provisions; (2) options for resolving the issue; (3) factors related to the disapproval; (4) an explanation of the hearing procedures, including timelines; and (5) an explanation of rights and responsibilities to the State educational agency.

Response. A change has been made. Section 300.582(a)(1) as proposed states that the written notice of a proposed State plan disapproval includes the basis on which the Secretary proposes to disapprove a State plan. A new § 300.582(a)(2) is added and states that the notice may identify options for resolving the issues which are preventing the approval of a State plan. Section 300.582(a)(4) also has been added to the regulations and states that information about the procedures followed for a hearing will be included with the written notice.

Comment: One commenter asked for the timeframe for the number of days between the State educational agency's request for a hearing and the hearing date.

Response: A change has been made. A new § 300.584(b) is added stating that within 15 calendar days after receiving a request for a hearing, the Secretary designates a Hearing Official or Panel and notifies the parties. To afford the opportunity for a preliminary conference before a hearing, no hearing date is required at this stage.

Section 300.583—Hearing Official or Panel.

Comment. One commenter felt that neither the persons serving on a Hearing Panel nor the individual serving as a Hearing Official should be connected with or employed by the Department in order to insure impartiality. Another commenter wanted to eliminate the possibility that Hearing Panel members or the Hearing Official could come from outside of the Department.

Response. No change has been made. The Secretary believes that, as presently worded, § 300.583(a) will meet the intent of the provisions at Section 613(c) of the EHA–B since it allows for fair proceedings and impartiality by barring individuals responsible for or connected with the EHA–B program from serving as Hearing Panel members or as the Hearing Official.

Limiting the appointment of a Hearing Official or Panel to only the Department's employees or nonemployees would constrict the pool of otherwise qualified candidates, and could raise questions concerning the impartiality of the proceeding. The Secretary intends to use non-employees of the Department except in emergency situations where those persons were unavailable.

Comment. One commenter felt that, to ensure impartiality, there should be a three-member panel, with no more than one representative from the Department. The commenter also recommended that the Panel include a representative from the State educational agency. Another commenter asked the Secretary to specify how many people should serve on a Hearing Panel (i. e., an uneven number of members should be appointed to avoid a deadlock).

Response. No change has been made. Neither the statute nor these regulations specifically preclude designating State educational agency or Federal employees as Panel members. Section 300.583 provides for the impartiality of the Hearing Official or Panel.

Comment. A number of commenters felt that § 300.583(a) should include criteria stating: (1) When a Hearing Official should be appointed; (2) the qualifications of individuals who may serve on a Hearing Panel or as a Hearing Official to ensure a fair and impartial hearing; and (3) how the State educational agency is involved in the selection of a Hearing Official or Panel. One commenter felt that the Hearing Official or Panel should be knowledgeable about compliance, planning, implementation, and the administration of special education programs. Another commenter felt that the State educational agency should have the opportunity to review and challenge the appointments of the Hearing Official or Panel to assure that there is no bias. The commenter suggested that objections should be presented to the Secretary.

Response. No change has been made. The selection of a Hearing Official or Panel is made on a case-by-case basis. A Hearing Panel or Hearing Official is selected from a pool of candidates knowledgeable in relevant areas, such as the fields of education of the handicapped, general education, or law. This process is consistent with EDGAR procedures which have been effective in ensuring that the individuals selected are fair and impartial. As in any administrative proceeding, a designated

individual will be disqualified if there is an actual or potential conflict of interest.

Comment. One commenter asked for clarification of the relationship between the Hearing Official or Panel and the Education Appeal Board (*see* 34 CFR Part 78). Another commenter recommended that an appeal before the Education Appeal Board supersede that of an appeal to the Panel convened to hear a case regarding the disapproval of a State plan.

Response. No change has been made. The Hearing Official or Panel described in these regulations hears only cases regarding the disapproval of a State Plan submitted for EHA–B funding. These separate hearing procedures are established for such cases so that the Secretary can provide the State educational agency with an expeditious hearing and final decision regarding the proposed disapproval of its State plan. The procedures used for an EHA–B State plan disapproval hearing are, in part, modeled upon the procedures used by the Education Appeal Board. The type of cases which the Education Appeal Board hears are described at 34 CFR 78.2. The provision under § 300.583(c) is included to avoid the time, expense, energy, and inconvenience of having parties involved in more than one proceeding where there are similar claims involved. A State educational agency has the option of contesting the disapproval of a State plan before the Education Appeal Board if the State has an appeal pending with that Board on a matter arising out of the same State plan or on the same issue arising from a prior State plan.

Section 300.584—Hearing procedures.

Comment. One commenter felt that timelines are needed from the time of the appointment of the Hearing Official or Panel through the rendering of an initial decision.

Response. A change has been made. A new § 300.584(c)(4) is added and states that a Hearing Official or Panel or a party to the hearing may request a conference with the Hearing Official or Panel and the parties to consider subjects such as: (1) Narrowing and clarifying issues; (2) assisting the parties in reaching agreements and stipulations; (3) clarifying the positions of the parties; (4) setting dates for the exchange of written documents; and (5) setting dates for the receipt of comments from the parties on the need for oral argument, an evidentiary hearing, or further proceedings before the Hearing Official or Panel. Timelines and completion dates for the review and initial decision by the Hearing Official or Panel may be set on a case-by-case basis that assist in the expeditious resolution of disputes.

The following timelines, including those previously proposed and newly inserted, are specifically designated in these regulations: (1) The State educational agency may request a hearing not later than 30 calendar days after it receives the notice of proposed State plan disapproval; (2) within 15 calendar days after receiving a request for a hearing, the Secretary designates a Hearing Official or Panel and notifies the parties; (3) the parties to a hearing have 15 calendar days to comment on an initial decision and seven calendar days to respond to each other's comments; (4) the initial decision of the Hearing Official or Panel becomes the final decision of the Secretary unless, within 25 calendar days after the end of the time for receipt of written comments, the Secretary informs the Hearing Official or Panel and the parties to a hearing in writing that the decision is being further reviewed for possible modification; (5) the Secretary issues the final decision within 30 calendar days after notifying the Hearing Official or Panel that the initial decision is being further reviewed; and (6) the State educational agency has 60 days after the Secretary's final decision in a case to file a petition for review with the United States court of appeals. The Secretary believes that these timelines are sufficient to protect the rights of the parties involved in a State plan disapproval hearing. However, the provision which is added to these final regulations at § 300.584(b)(4) allows the parties to a case to confer with the Hearing Official or Panel and to establish timelines for various other steps in the proceedings. A single set of timelines would not provide the flexibility necessary to review cases.

Comment. Several commenters felt that a timeline should be set for scheduling a hearing after a State educational agency is notified of a proposed disapproval. One commenter felt that the Secretary and State educational agency should be permitted to suspend, delay, or terminate the hearing with prior approval from the Hearing Official or Panel.

Response. No change has been made. The Secretary believes that the commenters' recommendations are accommodated by the change made to § 300.584(c)(4). A State educational agency can propose timelines that will fit its unique circumstances under this new provision.

Comment. Several commenters felt that the rights and responsibilities of a State educational agency should be included in the regulations, and they recommended adding a new section that includes: (1) The right to be accompanied and advised by counsel or other knowledgeable individuals; (2) the right to present evidence and confront and cross-examine witnesses at a hearing; (3) the right to subpoena and compel the attendance of witnesses; and (4) the right to prohibit evidence that was not part of the Secretary's denial letter or was not disclosed to the State educational agency before the hearing; (5) the right to provide evidence related to the case; and (6) the right to a written record of the proceedings at the Secretary's expense within a specified timeline (i.e., five days).

Response. A change has been made. Section 300.584(m)(2) already provides that the parties to a hearing have the opportunity to be represented by counsel. A new § 300.584(n) is added to these final regulations requiring the Hearing Official or Panel to accept any evidence that is relevant and material to the proceedings and is not unduly repetitious. If a formal hearing is held, the parties to the hearing also have the opportunity to present and cross-examine witnesses. The decision to hold a formal hearing can be made at the conference provided for under § 300.584(c)(4).

The Hearing Official or Panel does not have the statutory or regulatory authority to issue subpoenas or compel the attendance of witnesses. The Hearing Official or Panel cannot prohibit the introduction of evidence that was not a part of the Secretary's notice under § 300.582 or that was not disclosed to the State educational agency before a hearing.

A new § 300.584(p) is added to these regulations which states, among other things, that the Hearing Official or Panel will arrange for the preparation of a transcript of a hearing and will provide a copy of the transcript to the parties. This is consistent with the procedures of the Education Appeal Board. (*See* 34 CFR 78.48). A timeline has not been specified, because the length of time necessary for transcribing the hearing record will vary depending upon factors such as the length of the hearing. However, every effort will be made to ensure that copies of the written record are provided in a timely manner.

Comment. One commenter felt that the term "each party" should be clarified to specify who is involved in the hearing process. The commenter felt that the parties to the hearing should include only the Department and the State educational agency.

Response. A change has been made. A definition is added at § 300.584(a) to

clarify that, as used in this part, the term "party" or "parties" means the State educational agency, the Department officials who administer the EHA-B program, or an intervening party. The Secretary believes that the Hearing Official or Panel should have the discretion to allow intervention in appropriate cases.

Comment. One commenter felt that the Hearing Official or Panel should arrange a time, date, and site for a hearing that is convenient to both parties.

Response. No change has been made. Hearings are generally held in Washington, DC. In exceptional circumstances, the Hearing Officer or Panel may determine that a hearing should be held at one of the Department's regional offices or another facility convenient to the State educational agency.

Comment. One commenter asked if only written testimony is determined necessary by the Hearing Official or Panel, allowing part of the testimony to be provided in writing, how else can the other part of the testimony be provided if not by oral testimony?

Response. A change has been made. Each party to a hearing has an opportunity, as § 300.584(m)(1) currently provides, to present arguments to the Hearing Official or Panel through briefs and other documents.

The Hearing Official or Panel determines if oral argument or evidentiary hearing is also needed. The Secretary believes that the commenter's concern is accommodated by the change made to § 300.584(c)(4). Under that provision, the Hearing Official or Panel and the parties to a hearing may consider whether oral testimony by witnesses having relevant information about the case will materially assist in the resolution of the dispute and whether an informal conference should be scheduled for a specific case. A decision may then be made for a schedule for conducting an oral argument or an evidentiary hearing.

Comment. Several commenters asked for a definition of "informal conference" (prehearing conference) and asked for a description of the procedures or criteria to follow in determining whether a formal or informal conference would be held and how. These commenters suggested that both parties should be equally involved in determining the hearing procedures to be followed. Several commenters felt that a Hearing Official or Panel should not have the authority to deny a State educational agency a formal means of resolving disagreements involving the disapproval of a State plan. One commenter asked if a State Educational agency can contest the Department's refusal to hold a formal hearing if one is requested and the request is denied.

Response. A change has been made. The term "informal conference" has been changed to "preliminary conference." Section 300.584(c) is intended to allow a Hearing Official or Panel to conduct proceedings that: (1) Are less technical in nature than proceedings conducted by administrative law judges or courts of law; and (2) admit all information needed to aid a Hearing Official or panel in reaching a decision on a case.

Comment. One commenter recommended rewording § 300.584(n) to state that either party may request that the Hearing Official or Panel make a decision based upon: (1) A review of the State plan; (2) the Secretary's basis for denial of approval; and (3) the written response from the State educational agency. The State educational agency should be given 30 days to provide its arguments, in whole or in an informal conference, before the Hearing Official or Panel. The commenter also felt that if the Hearing Official or Panel decides that testimony would assist the resolution of a case, the parties to the hearing should have the opportunity to present witnesses, cross-examine witnesses, and provide evidence in the case.

Response. No change has been made. The Secretary believes that the commenter's recommendations are substantially accomodated by the change made in § 300.584(c)(4). The State educational agency, the Departmental official, and the Hearing Official or Panel can establish the issues in the case and propose timelines that will fit the unique circumstances of a case under this new provision.

Section 300.585—Initial decision; final decision.

Comment. A number of commenters asked for a timeline specifying how long the Hearing Official or Panel has to issue an initial written decision.

Response. No change has been made. The Secretary believes that the commenters' recommendations are accommodated by the change made in § 300.584(c)(4). The Hearing Official or Panel can establish timelines which will fit the circumstances of each case.

Comment. One commenter felt that a hearing should be suspended at any point upon written agreement by the State educational agency and the Secretary, without prior approval from the Hearing Official or Panel.

Response. No change has been made. Once appointed, the Hearing Official or Panel has jurisdiction to regulate the course of the proceedings and rule on motions and other issues at any stage of the proceedings. However, if the Department made a redetermination that the State's plan was approvable, the Department and the State would merely notify the Hearing Official or Panel that the proceeding was withdrawn.

Comment. One commenter felt that the initial decision of a Panel should be rendered by majority agreement.

Response. A change has been made. Language has been added to § 300.585(b) to clarify that the decision of a Hearing Panel is made by a majority of the Panel members.

Comment. Several commenters felt that § 300.585 should be amended to add a specific timeline from the receipt of the initial decision to the submission of written comments to the Secretary. Commenters felt that the language "within a specified reasonable time" is too vague.

Response. A change has been made. Section 300.585(d) has been added stating that each party has 15 calendar days from the date that the party receives the Hearing Official's or Panel's initial decision to file comments and recommendations on that decision. The Hearing Official or Panel then sends a copy of these comments and recommendations to the other parties by certified mail with return receipt requested. A new § 300.585(e) states that each party then has seven days from the date the party receives copies of these comments and recommendations to file responsive comments and recommendations with the Hearing Official or Panel. These changes have been made in the final regulations in order to establish standard timelines to ensure the expeditious resolution of cases.

Comment. A number of commenters felt that § 300.585 should specify the criteria the Secretary uses to review a Hearing Official's or Panel's initial decision.

Response. A change has been made. Section 300.585(i) is modified to state that the "Secretary may reject or modify the initial decision of the Hearing Official or Panel if the Secretary finds that it is clearly erroneous." This establishes the standard for the Secretary's review of an initial decision.

Comment. A number of commenters felt that the State educational agency should have the opportunity to request a review of the initial decision. Several commenters recommended adding a timeline for a State educational agency to request a review of the Hearing

Official's or Panel's initial decision in a hearing. The commenter also suggested that the Hearing Official or Panel be given the authority to extend the timelines if petitioned by either party involved in a hearing. One commenter felt that a party to a hearing should be permitted to appeal the review within 15 days of the receipt of the decision.

Response. No change has been made. Under § 300.585(d), the State educational agency has the opportunity to submit written comments to the Secretary which could include a request for Secretarial review. The regulations provide timelines for the receipt of written comments and for the Secretary's review. In order to ensure speedy resolution of cases, the Secretary has adopted recommendations of commenters to establish specific timelines for the receipt of comments on the initial decision.

Comment. A number of commenters felt that the 25 day timeline in § 300.585(g) should be clarified to specify 25 calendar days.

Response. A change has been made. Section 300.585(g) is modified to make it clear that the timeline is 25 calendar days.

Comment. One commenter felt that the Secretary should have the authority to request additional evidence as well as to accept, reject, or modify an initial decision of the Hearing Panel or Hearing Official.

Response. A change has been made. Each party has the responsibility of offering evidence supporting its position to the Hearing Official or Panel during the hearing proceedings. However, the Secretary may remand the case for additional proceedings if necessary.

Comment. One commenter felt that language should be added stating that the Secretary should be required to inform the State educational agency, as well as the Hearing Official or Panel, of the fact that a hearing decision is being reviewed.

Response. A change has been made. The Secretary notifies the parties in writing of the fact that a hearing decision regarding the disapproval of a State plan is being reviewed for the purpose of accepting, rejecting or modifying the decision.

Comment. One commenter stated that no remedy other than judicial review is specified in the regulations. The commenter felt that the Secretary's decision should specify the corrective action required of the State. Such corrective action should be implemented unless a judicial review is invoked.

Response. No change has been made. The decision of the Hearing Official or Panel will indicate where deficiencies exist or do not exist in the State plan and whether changes must be made before a State plan is finally approved. A State educational agency may reapply for funding under the program by submitting an approvable State plan if the final decision upholds the Secretary's decision to disapprove the plan that was in controversy.

Comment. One commenter asked how much time after a formal hearing will be allowed before a decision is required.

Response. No change has been made. The Secretary believes that the commenter's concern is accommodated by the change made in § 300.585(c)(4) which permits the parties and the Hearing Official or Panel to establish reasonable timelines.

Comment. Several commenters felt that the regulations should clarify which review process is being referenced in § 300.585(f) as it appeared in the notice of proposed rulemaking. One commenter felt that § 300.585(f) should be combined with that portion of § 300.585 which deals with the Secretary's decision to review the initial decision of the Hearing Official or Panel.

Response. A change has been made. The order of the provisions in § 300.585 has been changed to clarify that the review refers to the Secretary's review of the Hearing Official or Panel's initial decision on a case. Clarifying language has also been added to make clear that the Secretary reviews the initial decision and either adopts the decision or decides to reject, modify or remand the decision.

Comment. Several commenters felt that the rights and options of a State educational agency during the review process should be included in § 300.585.

Response. No change has been made. The Secretary believes that the procedures set forth in § 300.585 provide a detailed description of the rights and options of a State eductional agency.

Section 300.586—Judicial review.

Comment. One commenter felt that § 300.586 should state who is responsible for court costs for a judicial review. The commenter asked whether the Department pays for the judicial review if the decision is in favor of the appealing State educational agency.

Response. No change has been made. Each party is responsible for the cost of litigation unless the court determines otherwise.

General

Comment. One commenter asked what the Department wishes to accomplish as a consequence of these regulations.

Response. No change has been made. When the EHA–B regulations were published in the **Federal Register** on August 23, 1977, specific procedures for a State plan disapproval hearing were included in the regulations. When the Education Department General Administrative Regulations (EDGAR) were promulgated in April, 1980, these EHA–B State plan hearing procedures were revoked but were not replaced with specific procedures. *See* 34 CFR 76.202. The propose of these regulations is to establish specific procedures so that if a State plan for EHA–B funding is disapproved, the Department will not have to rely on *ad hoc* procedures on an emergency basis and so that State educational agencies will know what to expect if a State plan is disapproved. These procedures have been developed at this time because when the 1984–1986 State plans for EHA–B funding were reviewed, a few States received approval for only one year of funding. Second and third year fundings were made contingent upon certain modifications being made to these State plans. It is possible that, in some cases, all attempts at mediation could be exhausted, and it may be necessary to disapprove a State plan.

Comment. One commenter felt that because small States cannot afford lengthy hearings, they will be less likely to contest findings that would result in disapproval of a State plan.

Response. No change has been made. The Secretary will make every attempt to expedite the hearing process and to avoid delays in the resolution of issues which resulted in the proposed disapproval of a State plan. The hearing procedures have been kept flexible to the extent feasible by allowing for informal conferences, which could be conducted by conference calls to conserve time and resources.

Comment. A commenter asked what the consequences are if a State plan is disapproved.

Response. No change has been made. If the Secretary disapproves a State plan and this decision is upheld, the State educational agency is not authorized to receive its allotment of funds under the EHA–B programs until an approvable State plan has been submitted to the Secretary. If a State chooses not to resubmit its State plan, then the Secretary may reallocate the funds reserved for that State among the other participating States.

Comment. One commenter felt that a section should be added to the regulations stating whether the Department has the authority to revoke a State plan at any time during the

three-year period for an approved State plan.

Response. No change has been made. Under the EHA–B program, States submit three-year State plans to the Secretary and, under normal circumstances, the fully approved State plan is effective for three fiscal years. There may, however, be circumstances where a State plan is approved for a period of less than three years, and the full approval of the plan for three fiscal years is contingent on meeting specified conditions. If those conditions are not met, the Secretary may disapprove the State plan for the remaining fiscal years. If a State plan was fully approved for a period of three fiscal years, the Secretary may act, under the authority of section 616(a) of the EHA–B, to withhold further payments to that State, if the Secretary finds: (1) That there has been a failure to comply substantially with any provision of sections 612 or 613; or (2) that in the administration of the State plan there is a failure to comply with any provision of the EHA–B or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan.

Comment. One commenter felt that the regulations focus on process rather than the outcome of the hearing.

Response. No change has been made. The outcome of a hearing will be a decision on the substantive issues involved in the Secretary's decision to disapprove a State plan. These regulations are designed to provide the process by which the Secretary's determination can be appealed and reviewed.

Comment. One commenter felt that a section should be added to the regulations regarding: (1) The pendency of the State plan in entering a new grant year during the appeal process; and (2) the continued distribution of EHA–B funds to the State educational agency during the appeal process.

Response. No change has been made. Under section 613(c) of the EHA–B, the Secretary disapproves a State plan that does not meet the requirements of sections 613 (a) and (b) of the Act. If the Secretary's decision to disapprove a State plan is upheld by the Hearing Official or Panel, then the Secretary may not award funds for the disapproved State plan, and the State must return unobligated funds issued under an expired prior State plan.

[FR Doc. 86–10977 Filed 5–14–86; 8:45 am]
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Federal Register

Thursday
May 15, 1986

Part V

Department of Education

Office of Special Education and Rehabilitative Services

Postsecondary Education Programs for Handicapped Persons—Regional Centers for Deaf Individuals; Notice of Establishment of Geographic Regions

Budget

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Postsecondary Education Programs for Handicapped Persons—Regional Centers for Deaf Individuals

AGENCY: Department of Education.

ACTION: Notice of Establishment of geographic regions for operation of regional centers for deaf individuals.

SUMMARY: The Secretary announces the establishment of geographic regions for Fiscal Year 1986 awards under the Postsecondary Education Programs for Handicapped Persons—Regional Centers for Deaf Individuals. The Secretary will support the operation of four regional centers for deaf individuals including models of comprehensive supportive services to those indiviudals.

EFFECTIVE DATE: This notice takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this notice, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Rosenstein, Postsecondary Education Programs for Handicapped Persons, Division of Innovation and Development, Special Education Programs, Department of Education, 330 C Street, SW. (Switzer Building, Room 3511–M/2313), Washington, DC 20202. Telephone: (202) 732–1176.

SUPPLEMENTARY INFORMATION: Under section 625(a)(2) of Part C of the Education of the Handicapped Act, the Secretary gives priority consideration to four regional centers for deaf individuals, in addition to other activities supported under section 625 of the Act. Three years ago, the Department began making the four awards on a competitive, open basis.

In fiscal year 1983, the Department published a notice which established two regions for the purpose of making the four awards under this program in the fiscal year. This notice establishes the same regional structure as the basis for making the four awards in fiscal year 1986.

Projects that operate regional centers for deaf individuals provide regional models of comprehensive supportive services to deaf students who desire postsecondary education and vocational technical training. Comprehensive supportive services for deaf students in postsecondary regional educational settings may include: interpreters, tutors, notetakers, counseling, placement; speech, and hearing services, special classes, vocational development, supervised housing, and opportunities for faculty and students to learn special techniques for communicating with the deaf students with whom they come into contact.

A notice of proposed establishment of geographic regions was published in the **Federal Register** on January 30, 1986 at 51 FR 3900. The public was given thirty days in which to comment. No comments were received.

Postsecondary Education Programs for Handicapped Persons—Regional Centers for Deaf Individuals. The program regulations at 34 CFR 338.10(a)(1) and 338.30(a) establish that the Secretary gives priority consideration to four regional centers for deaf individuals, including models of comprehensive supportive services to those individuals.

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2)(i), the Secretary issues these awards on the basis of geographical regions, as listed below. The making of awards on a regional basis is contemplated by the authorizing legislation and is consistent with program history. *See also,* S. (conference) Rep. No. 1026, 93rd Cong., 2nd Sess. 194 (1974). Each application will be considered in competition with those of applicants from the same region. The Secretary makes two awards per region, but will not make any award for a region for which he determines that no application is of sufficient quality to merit approval.

The regions are:

Western Region: Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Northern Marianas, Oklahoma, Oregon, South Dakota, Texas, Trust Territories of the Pacific Islands, Utah, Washington, and Wyoming.

Eastern Region: Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, South Carolina, Rhode Island, Tennessee, Vermont, Virginia, Virgin Islands, West Virginia, and Wisconsin.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and action for this program.

(20 U.S.C. 1424a)

(Catalog of Federal Domestic Assistance Number 84.078; Postsecondary Education Programs for Handicapped Persons)

Dated: May 12, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–10976 Filed 5–14–86; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030)

H.R. 1116/Pub. L. 99–294

Garrison Diversion Unit Reformulation Act of 1986. (May 12, 1986; 100 Stat. 418; 9 pages) Price: $1.00

S. 1952/Pub. L. 99–295

Young Astronaut Program Medal Act. (May 12, 1986; 100 Stat. 427; 2 pages) Price: $1.00

S.J. Res. 187/Pub. L. 99–296

Designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry. (May 12, 1986; 100 Stat. 429; 2 pages) Price: $1.00

S.J. Res. 285/Pub. L. 99–297

To designate the week of May 11, 1986, through May 17, 1986, as "National Osteoporosis Awareness Week of 1986". (May 12, 1986; 100 Stat. 431; 1 page) Price: $1.00

S. 2308/Pub. L. 99–298

To authorize the President of the United States to award congressional gold medals to Natan (Anatoly) and Avital Shcharansky in recognition of their dedication to human rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals. (May 13, 1986; 100 Stat. 432; 2 pages) Price: $1.00

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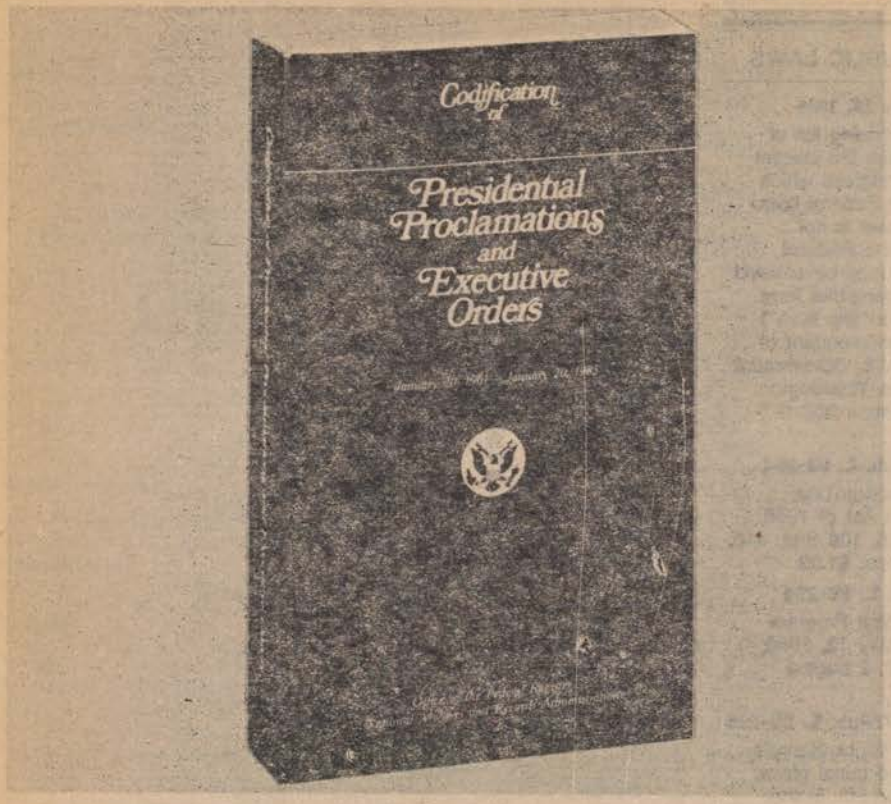

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