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Tuesday
July 8, 1986

Briefings on How To Use the Federal Register—

For information on briefings in Seattle, WA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium,
Fourth Floor, Federal Building,
915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5511 of July 3, 1986

National Air Traffic Control Day, 1986

By the President of the United States of America

A Proclamation

July 6, 1986, marks the fiftieth anniversary of the establishment of an airways traffic control system by the United States Bureau of Air Commerce. In that fifty-year period, the Nation's air traffic control system has evolved from reliance on relatively simple, unsophisticated equipment and procedures to today's highly sophisticated automated system, which safely and efficiently handles millions of flights each year and serves as a model for the world aviation community.

With the commitment and skill of thousands of Federal Aviation Administration employees, including air traffic controllers, electronic technicians, and engineers, the national air traffic control system offers a high level of safety and efficiency that has been its proud hallmark. Thus, as we celebrate National Air Traffic Control Day, let us remember with gratitude those who have dedicated themselves to making the system what it is today, and let us thank those who are working to make it even better for tomorrow.

The Congress, by Senate Joint Resolution 188, has designated July 6, 1986, as "National Air Traffic Control Day" 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 July 6, 1986, as National Air Traffic Control Day. I call upon the people of this Nation and their Federal, State, and local governmental officials to observe this day with appropriate ceremonies and activities to commemorate the fiftieth anniversary of the establishment of the United States air traffic control system.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of July, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-15460
Filed 7-3-86; 3:55 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 370]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 370 establishes the quantity of California-Arizona Valencia oranges that may be shipped to market during the period July 4–10, 1986. The regulation is needed to balance the supply of fresh Valencia oranges with market demand for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 370 (§ 908.670) is effective for the period July 4–10, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V AMS, USDA, Washington, DC 20250, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Departmental Regulation 1512–1 and Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (FRA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1985–86. The Committee met publicly on July 1, 1986, to consider the current and prospective conditions of supply and demand and recommended the quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the market for Valencia oranges is light.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and the effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges, Valencias.

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read:

Authority: (Secs. 1–9, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 908.670 is added to read as follows:

§ 908.670 Valencia Orange Regulation 370.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 4, 1986, through July 10, 1986, are established as follows:

(a) District 1: 299,000 cartons;
(b) District 2: 351,000 cartons;
(c) District 3: Unlimited cartons.

Dated: July 2, 1986.

Thomas R. Clark,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–15316 Filed 7–2–86; 4:16 pm]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Regulation of Advanced Nuclear Power Plants; Statement of Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: The Nuclear Regulatory Commission intends to improve the licensing environment for advanced nuclear power reactors to minimize complexity and uncertainty in the regulatory process. This statement gives the Commission's policy regarding the review of, and desired characteristics associated with, advanced reactors. This policy statement is a revision of the "Proposed Policy for Regulation of Advanced Nuclear Power Plants" that was published for comment on March 26, 1985 (50 FR 11884).

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Ken Herring and Dennis Rathbun, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 202–634–3295.

SUPPLEMENTARY INFORMATION:

Background

The Commission's primary objectives in issuing an advanced reactor policy statement are threefold:

• First, to encourage the earliest possible interaction of applicant, vendors, and government agencies with the NRC;

• Second, to provide all interested parties, including the public, with the Commission's views concerning the desired characteristics of advanced reactor designs; and

• Third, to express the Commission's intent to issue timely comment on the implications of such designs for safety and the regulatory process.

Such interaction and guidance early in the design process should enhance stability and predictability in the licensing and regulation of advanced reactors.

Advanced reactors are considered here to be those reactors that are significantly different from current generation light water reactors under construction or in operation.

The Commission expects that these designs will reflect the benefits of significant research and development work, and include the experience gained in operating the many power and development reactors both in the United States and throughout the world. The Commission expects that advanced reactors would provide more margin prior to exceeding safety limits and/or utilize simplified, inherent, passive, or other innovative means to reliably accomplish their safety functions. The Commission expects, as a minimum, at least the same degree of protection of the public and the environment that is required for current generation LWRs. For the longer term, the Commission expects designs to provide enhanced margins of safety. To provide regulatory guidance during the development phase of advanced reactor design, the Commission wishes to encourage the earliest possible interaction between the NRC and other government agencies, reactor designers, and potential licensees.

This advanced reactor policy statement sets forth the general characteristics of advanced reactor design, which the Commission believes advanced reactors should exhibit, to increase assurance of safety, to improve public understanding, and to promote more effective regulation. As the agency responsible for assuring the protection of the public from the potential hazards of nuclear power plants, the Commission will keep the public informed of its judgment on the safety aspects of advanced reactor designs as such designs come before the Commission.

A report which discusses the revisions to the Policy Statement will be published shortly as NUREG–XXX "TITLE." A copy of NUREG–XXX will be available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Regulatory Policy for Advanced Reactors

The Commission intends to improve the licensing environment for advanced nuclear power reactors and to minimize complexity and uncertainty in the regulatory process. This is a statement of the Commission's policy regarding the review of, and desired characteristics associated with, advanced reactors. This policy statement is a revision of the "Proposed Policy for Regulation of Advanced Nuclear Power Plants" that was published for comment on March 26, 1985 (50 FR 11884).

The Commission's primary objections in issuing an advanced reactor policy statement are threefold:

• First, to encourage the earliest possible interaction of applicant, vendors, and government agencies, with the NRC;

• Second, to provide all interested parties, including the public, with the Commission's views concerning the desired characteristics of advanced reactor designs; and

• Third, to express the Commission's intent to issue timely comment on the implications of such designs for safety and the regulatory process.

Such interaction and guidance early in the design process should enhance stability and predictability in the licensing and regulation of advanced reactors.

The Commission considers the term "Advanced" to apply to reactors that are significantly different from current generation light water reactors (LWRs) now under construction, or in operation and to include reactors that provide enhanced margins of safety or utilize simplified inherent or other innovative means to accomplish their safety functions.

Currently, certain high temperature gas-cooled reactors (HTGRs), liquid metal reactors (LMRs), and light-water reactors (LWRs) of innovative design are considered advanced designs.

Legislative Background

The Commission's policy with respect to regulation of advanced reactors is guided by the legislative background. The Energy Reorganization Act of 1974, which established the Nuclear Regulatory Commission, specifically delegated to NRC "licensing and related regulatory authority" for demonstration nuclear reactors other than those already in existence ". . . when operated as part of the power generation facilities of an electric utility system, or when operating in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor . . ." The Energy Research and Development Administration (now the Department of Energy) was charged with ". . . encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from . . . nuclear . . . sources."

Under section 205 of the Energy Reorganization Act, the NRC must provide a "Long-term plan for projects for the development of new or improved safety systems for nuclear power plants." The NRC is precluded from designing, or doing research on, complete new designs for the purpose of establishing or developing their commercial potential.[1]

Previous Experience

The Commission has had experience in the regulation of HTGRs and LMRs as well as in the regulation of LWRs. The NRC has reviewed several applications for HTGR construction permits, and a conceptual design for a gas-cooled breeder reactor, and has granted an operating license to Peach Bottom–1 and to Fort St. Vrain. The NRC also expended substantial effort from 1975 to 1979 in reviewing General Atomic's Standard high-temperature, gas-cooled nuclear reactor steam supply system (GASSAR). In addition, the NRC has supported a modest program of safety research on gas-cooled reactors every year since the agency's inception.

The Commission has also had experience in the review and licensing of LMRs. In the past the FERMI–1 and SEFOR reactors were reviewed and licensed. DOE's Fast Flux Test Facility (FFTF) was reviewed and approved but not licensed, and a formal construction permit licensing proceeding was conducted for the Clinch River Breeder Reactor (CRBR). The CRBR was subject to the same regulatory process as any current commercial nuclear power project.

Finally, the Commission notes that the precedent for the broad policy approach to advanced reactor regulation, as

[1] The general principal defining the scope of NRC's research can be described as avoiding a conflict of interest—"[NRC] should never be placed in a position to generate, and then have to defend, basic design data of its own" as expressed in the Conference Report to the Energy Reorganization Act of 1974.

proposed here, is firmly established in the 1979 Nonproliferation Alternative Systems Assessment Program (NASAP), wherein the NRC considered the safety and licensability of a variety of advanced reactor concepts within the context of nonproliferation objectives. The concepts considered and reported on by the NRC in the 1979 study ranged from preliminary conceptual designs to variations of existing (LWR) power plants designs.

Commission Policy

Consistent with its legislative mandate, the Commission's policy with respect to regulating nuclear power reactors is to assure adequate protection of the public health and safety and the environment. Regarding advanced reactors, the Commission expects, as a minimum, at least the same degree of protection of the public and the environment that is required for current generation LWRs. Furthermore, the Commission expects that advanced reactors will provide enhanced margins of safety and/or utilize simplified, inherent, passive, or other innovative means to accomplish their safety functions. The Commission also expects that advanced reactor designs will comply with the Commission's forthcoming safety goal policy statement.

Among the attributes which could assist in establishing the acceptability or licensability of a proposed advanced reactor design, and which therefore should be considered in advanced designed are:

- Highly reliable and less complex shutdown and decay heat removal systems. The use of inherent or passive means to accomplish this objective is encouraged (negative temperature coefficient, natural circulation).
- Longer time constants and sufficient instrumentation to allow for more diagnosis and management prior to reaching safety systems challenge and/or exposure of vital equipment to adverse conditions.
- Simplified safety systems which, where possible, reduce required operator actions, equipment subjected to severe environmental conditions, and components needed for maintaining safe shutdown conditions. Such simplified systems should facilitate operator comprehension, reliable system function, and more straight-forward engineering analysis.
- Designs that minimize the potential for severe accidents and their consequences by providing sufficient inherent safety, reliability, redundancy, diversity and independence in safety systems.
- Designs that provide reliable equipment in the balance of plant, (or safety-system independence from balance of plant) to reduce the number of challenges to safety systems.
- Designs that provide easily maintainable equipment and components.
- Designs that reduce potential radiation exposures to plant personnel.
- Designs that incorporate defense-in-depth philosophy by maintaining multiple barriers against radiation release, and by reducing the potential for and consequences of severe accidents.
- Design features that can be proven by citation of existing technology or which can be satisfactorily established by commitment to a suitable technology development program.

If specific advanced reactor designs with some of all of the above of the foregoing attributes are brought to the NRC for comment and/or evaluation, the Commission can develop preliminary design safety evaluation and licensing criteria for their safety related aspects. Combination of some or all of the above attributes may help obtain early licensing approval with minimum regulatory burden. Designs with some or all of these attributes are also likely to be more readily understood by the general public. Indeed, the number and nature of the regulatory requirements may depend on the extent to which an individual advanced reactor design incorporates general attributes such as listed above. However, until such time as conceptual designs are submitted, the Commission believes that regulatory guidance must be sufficiently general to avoid placing unnecessary constraints on the development of new design concepts.

To provide for more timely and effective regulation of advanced reactors, the Commission encourages the earliest possible interaction of applicants, vendors, other government agencies, and the NRC to provide for early identification of regulatory requirements for advanced reactors, and to provide all interested parties, including the public, with a timely, independent assessment of the safety characteristics of advanced reactor designs. Such licensing interaction and guidance early in the design process, will contribute toward minimizing complexity and adding stability and predictability in the licensing and regulation of advanced reactors.

While the NRC itself does not develop new designs, the Commission intends to develop the capability for timely assessment and response to innovative and advanced designs that might be presented for NRC review. Prior experience has shown that new reactor designs—even variations of established designs—may involve technical problems that must be solved in order to assure adequate protection of the public health and safety. The earlier such design problems are identified, the earlier satisfactory resolution can be achieved. Prospective applicants are reminded that, while the NRC will undertake to review and comment on new design concepts, the applicants are responsible for documentation and research necessary to support any specific license application. (NRC research is conducted to provide the technical bases for rulemaking and regulatory decisions; to support licensing and inspection activities; and to increase NRC's understanding of phenomena for which analytical methods are needed in regulatory activities).

During the initial phase of advanced reactor development, the Commission particularly encourages design innovations which enhance safety and reliability (such as those described above) and which generally depend on technology which is either proven or can be demonstrated by a straight-forward technology development program. In the absence of a significant history of operating experience on an advanced concept reactor, plans for innovative use of proven technology and/or new technology development program should be presented to the NRC for review as early as possible, so that the NRC can assess how the proposed program might influence regulatory requirements. To achieve these broad objectives, an Advanced Reactors Group has been established in the Office of Nuclear Reactor Regulation. This group will be the focal point for NRC interaction with the Department of Energy, reactor designers and potential applicants, and will coordinate the development of regulatory criteria and guidance for proposed advanced reactors. In addition, the group will maintain knowledge of advanced reactor designs, developments and operating experience in other countries, and will provide guidance on an NRC-funded advanced reactor safety research program to ensure that it supports, and is consistent with, the Commission's advanced reactor policy. The Advanced Reactors Group will also provide guidance regarding the timing and format of submittals for review. The Advisory Committee on Reactor Safeguards (ACRS) will play a significant role in reviewing proposed advanced reactor design concepts and supporting activities.

Commission Position Regarding Policy Statement Questions

Six questions pertaining to the proposed policy for advanced reactors were included for comment in the original policy statement. The public responses to these questions are summarized in the "Abstract of Comments" section. After careful consideration of the public comments, the Commission response to the issues raised in each question is as follows:

Question 1. Should NRC's regulatory approach be revised to reduce dependence on prescriptive regulations and, instead, establish less prescriptive design objectives, such as performance standards? If so, in what aspects of nuclear power plant design (For Example, reactor core power density, reactor core heat removal, containment, and siting) might the performance standards approach be applied most effectively? How could implementation of these performance standards be verified?

Commission Response. Many of the Commission's existing regulations, criteria, and guidelines are of a non-prescriptive nature, and the extent to which the Commission's proposed safety goals, (which are also of a nonprescriptive nature) will be used in the regulation of nuclear reactors is currently being evaluated. In the review and regulation of advanced reactors the Commission intends to make use of existing and future regulations where they are applicable to advanced reactors. Many such regulations are expected to be of a nonprescriptive nature. The areas where existing regulations and guidelines would be used include: quality assurance, equipment qualification, external events, sabotage, fire protection, radiation protection, and operator training and qualification. In developing additional criteria and guidance to address those characteristics which differ from LWRs less prescriptive criteria will be considered. The use of less prescriptive criteria will depend upon the design in question and the ability to verify compliance with the criteria. Advanced reactor designers are encouraged as part of their design submittals to propose specific review criteria or novel regulatory approaches which NRC might apply to their designs.

Question 2. Should the regulations for advanced reactors require more inherent safety margin for their design? If so, should the emphasis be on providing features that permit more time for operator response of off-normal conditions, or should the emphasis be on providing systems that are capable of functioning under conditions that exceed the design basis?

Commission Response. The Commission encourages the incorporation of enhanced margins of safety in advanced designs and will encourage the use of designs that accomplish their safety functions in as reliable and simplified a fashion as practical. The Commission considers inherent or passive safety systems to have the potential for high reliability and encourages the consideration of such means (in lieu of active systems) in advanced designs.

To encourage such action the Commission, in its review of these advanced designs, will look favorably on designs with greater safety margin and/or highly reliable safety systems. Such desirable features can be design-related or can take the form of reduced administrative requirements.

Question 3. Should licensing regulations for advanced reactors mandate simplified designs which require the fewest operator actions, and the minimum number of components needed for achieving and maintaining safe shutdown conditions, thereby facilitating operator comprehension and reliable system function for off-normal conditions?

Commission Response. The Commission will encourage designs which are simpler and more reliable in accomplishing their safety functions. While current generation nuclear power plants, in operation or under construction represent no undue risk to either the public or the environment, the Commission believes that reactors with improved safety characteristics can and will be developed. Such improved safety characteristics support the Commission's Long-range Goal of minimizing the risk to the public and the environment through the "ALARA" approach.

Question 4. Should the NRC develop general design criteria for advanced reactors by modifying the existing regulations, which were developed for the current generation of light water reactors, or by developing a new set of general design criteria applicable to specific concepts which are brought before the Commission?

Commission Response. In developing licensing criteria for advanced reactors, the Commission intends to build upon existing regulations wherever practical, as discussed in the response to Question No. 1. In following this approach, it is the Commission's intent to establish, for each design reviewed, the licensing criteria that apply to that design. As stated in the response to Question No. 1, these criteria will be a combination of applicable LWR criteria and criteria developed to address the unique characteristics of that design. Reactor designers are encouraged to propose specific criteria and novel regulatory approaches which might apply to their design.

Question 5. Should the NRC favor advanced reactor designs that concentrate the primary safety functions in very few large systems (rather than in multiple subsystems), thereby minimizing the need for complex benefit and cost balancing in the engineering of safe reactors?

Commission Response. While the NRC will not necessarily favor one design approach over another in regard to the number of safety systems, the NRC will encourage the use of simplified systems and systems of high reliability for the accomplishment of safety functions.

Question 6. What degree of proof would be sufficient for the NRC to find that a new design is based on technology which is either proven or can be demonstrated by a satisfactory technology development program? For example, is it necessary or advisable to require a prototypical demonstration of an advanced reactor concept prior to final licensing of a commercial facility?

Commission Response. The Commission requires proof of performance of certain safety-related components, systems or structures prior to issuing a license on a design. For LWR's this proof has traditionally been in the form of analysis, testing, and research development sufficient to demonstrate the performance of the item in question. Similar proof of performance for certain components, systems or structures for advanced reactors will also be required. The requisite proof will be design dependent. Therefore, the Commission's specific assessment of a safety technology development program for an advanced reactor design, or of the possible need for a prototypical demonstration of that design can be determined only by review of a specific design. However, the Commission favors the use of prototypical demonstration facilities as an acceptable way of resolving many safety related issues.

The dissenting views of Commissioner Asselstine and the additional views of Commissioner Bernthal follow.

For the Nuclear Regulatory Commmission.

Dated at Washington, DC this 1st day of July, 1986.

Samuel J. Chilk,

Secretary of The Commission.

Dissenting Views of Commissioner Asselstine

I do not believe that this advance reactor policy statement provides the sound regulatory basis needed to support a new generation of nuclear power plants in this country. This policy statement encourages, but does not require, safety improvements in advanced reactor design, and expresses a willingness on NRC's part to conduct safety reviews of advanced reactor design concepts so that NRC will be in a position to act on any future plant or design license application. The primary decision made in developing this policy is the commitment to maintain a small advanced reactor group within the Agency that would serve as the focal point for interaction with reactor design groups. However it appears that even this commitment may be in jeopardy given current budgetary constraints.

I believe that more is needed to articulate an effective regulatory policy and to ensure a successful program for future nuclear power plants in this country, whether those plants are of a type similar to current light water reactors or whether they are of more fundamentally different design. Such a policy should reconsider the Commission's regulatory practices of the past thirty years. Those past practices can be characterized as primarily a reactive regulatory regime to what the designers propose. It leaves resolution of issues to what one industry executive has called the rough, tough, surly competitive elements. Safety systems are limited because of cost considerations. Containment capabilities are minimized to reduce costs.[1] Core power densities have been driven to the limits of materials capabilities and our understanding of decay heat removal phenomena.[2] And the balance of plant is designed to lower standards than the reactor systems to minimize costs. These competitive forces are what led to the level of safety achieved in the current generation of nuclear power plants and are in part responsible for the poor performance of some of our plants.

The NRC and AEC before it have often avoided developing stringent specifications or design requirements because of a fear that if the Commission were to be too specific in its requirements, the emerging industry might be slowed in its growth and innovation might be discouraged. That argument might have had some validity in the 1960's and 1970's when the current generation of reactors was being designed without the benefit of significant operating experience or data. However, now that we have considerable worldwide experience with a large variety of nuclear reactor designs, I believe it is time for NRC to become more proactive in what it will require of futher generations of reactors.

Following the TMI–2 accident, the notion of a demarcation between the current generation of plants and a future generation of plants was raised, with the distinction that the latter would be designed based on a reformulation of the Siting Criteria and General Design Criteria to reflect all that had been learned over the years, including the broader lessons of TMI–2. Thus, the TMI Action Plan was developed with the current generation of plants in mind, leaving open the question of possible broader changes for a future generation of plants. One such broad change could be to go beyond the so-called single failure criterion which experience shows may not be serving us well. The June 9, 1985 accident at Davis-Besse is a case in point where 14 separate failures occurred.

Many foreign countries are requiring four independent trains of safety systems whereas NRC requires only two. When NRC reviews advanced designs such as the one being jointly developed by a U.S. vendor and a foreign country, the NRC staff does not require as prudent additional safety features being required by the foreign country. Rather, Commission practices and procedures require a cost-benefit analysis to justify any additional safety feature. This analysis is typically incomplete and often crude. Furthermore, the Commission gives little consideration to the enormous uncertainties in reactor risks in its decisionmaking process. This approach to reactor safety needs improvement.

There has been insufficient thought and effort in developing a map for the future. The Advanced Reactor Policy Statement provides no guidance on what containment capabilities will be required; on whether the single failure criterion is adequate for the future; on acceptable core power densities (an issue which has significant bearing on the core meltdown risks to the public); and on the root causes of the core meltdown risks that might be addressed by design improvements in a future generation of reactors. Nor is there guidance on what standards the balance of plant must meet. Nothing is said about the fuel cycle and the process for licensing the fuel cycle associated with some of the advanced designs currently being examined. For example, one problem area presented by some designs in the proliferation potential of the reactor's fuel cycle. This fuel cycle could present the need for the Commission to reopen the aborted proceeding on plutonium recycle. And, finally the Commission gives essentially no guidance on whether a prototypical plant will be required before allowing widespread use of that design. This policy statement encourages much, just like the Commission encourages excellence in operations. However, the Commission too often accepts far less. I would have expected that NRC would approach a future generation of nuclear power plants with an attitude of correcting past weaknesses. Unfortunately, the Advanced Reactor Policy Statement does not reflect that kind of attitude.

Other countries with extensive nuclear power programs appear to be designing, constructing, operating and maintaining better nuclear power plants than those of this country. Foreign countries are demanding more safety and reliability in their current generation of plants than the NRC is requiring of the U.S. plants. Yet, this Advanced Reactor Policy Statement accepts the next generation of U.S. power plants if such a design provides a level of safety equivalent to that achieved in the U.S. designs that were completed over 10 years ago. I do not think such a policy serves the country well. My concern is not merely that we should keep up with others. Rather, my concern is that the current generation of plants is still surprising us in their performance. As the Commission has recently acknowledged to the Congress, the current generation of nuclear power plants in this country can best be characterized as a complex technology that is not fully mature. There remain great uncertainties in the level of risk they pose to the public. In such circumstances, I believe prudent decisionmaking should come down on the side of improved safety, not only for the current generation of plants but for the next generation as well.

If there is to be a future generation of nuclear power plants and if the nuclear option is to be an important element of the nation's future energy mix, then the NRC, the vendors, the utilities, and the Congress must ensure that the next generation of power plants is substantially better than the current generation. The next generation of plants should be more reliable, more forgiving, simpler, easier to construct, easier to operate, and easier to maintain than the current generation. Any design that does not accomplish this is not acceptable in my view. I say this for a straightforward reason. We cannot affort to will to the future reactor designs that have a fifty percent chance of a core meltdown every ten to twenty years in a population of 100 reactors. We should not will to the future the great uncertainties in safety levels that exist today. Nor should we will to the future consumer reactor designs that have a 50 to 60 percent capacity factor.

We must step back and examine the strengths and weaknesses of past and current designs and the approaches taken in getting where we are today. Only then, in my view, can we intelligently map a course for the future. I am encouraged that there is a

[1] For example, to keep the containment size down, crucial pumps, heat exchangers, and emergency water supplies have been located outside the containment, which results in flow paths for highly contaminated water that effectively bypass the containment. In addition, containment volumes and design pressures have been traded-off for pressure suppression schemes that substantially complicate safety analyses and that add additional vulnerabilities to the public health and safety. Initially containments were intended to be an independent barrier to substantial releases given a core meltdown. Some of that defense-in-depth was given up for the sake of costs, when large power reactors came on the scene in the mid-1960's and it became known that the decay heat and the core meltdown phenomena could fail the containment.

[2] For example, in the event of a loss of coolant accident, external water supplies must be rapidly injected into the core to keep it from melting. While some relatively small-scale integral experiments on loss of coolant phenomena have been completed, there are still multinational supported research programs underway to further examine thermal hydraulic phenomena during accidents. Further, we are just beginning expensive, integral effects tests on thermal hydraulic phenomena associated with a class of pressurized water reactors.

segment within the industry that is undertaking a fresh look at the nuclear technology. The forward-looking members of the industry are attempting to generate a set of requirements that, from the standpoint of the utilities, must be met before utilities will consider placing new orders. I find it disappointing that the NRC is unwilling to generate a set of safety requirements for the next generation of power plants.

Additional Views of Commissioner Bernthal on Advanced Reactor Policy Statement

Less than three years ago, the Commission began to consider seriously its responsibility (and the mandate of Congress) to become more deeply involved with early review and comment on new and advanced reactor design concepts. Such early design review has long been a commonplace within the Federal Aviation Administration, for example, where timely FAA review and comment on new airframe design proposals is longstanding tradition.

The Commission has since undergone considerable progressive evolution in its thinking on this subject, and in this document the Commission, for the first time, has gone on record as supporting such timely, anticipatory safety review of new design concepts. In addition, the Commission has plainly stated its expectation that next-generation reactors will exhibit enhanced and simplified safety characteristics, and has set down broad and diverse guidelines for how it believes such characteristics might be achieved.

There is little doubt that this policy statement as it stands fails to conform in some respect with each Commissioner's ideal of what such a statement should be. But I find the statement to be a major step forward; it commits the Commission to exactly the kind of "proactive" planning that Commissioner Asselstine still seems to find absent.

Many of the specific objections raised by my colleague are puzzling. His sweeping statement that "containment capabilities are minimized to reduce costs" and "core power densities have been driven to the limits of materials capabilities and our understanding of decay heat removal phenomena" are scientifically insupportable and inconsistent with the facts as generally understood. The fact is that containment capabilities were in general designed to cope with well-known accident scenarios, and core power limits were conservatively derived.

Nor *should* the Commission insist on "specific requirements" for advanced reactor designs—indeed, such insistence would go far beyond our mandate (and our capability). Such specificity was never the intent of this policy statement. Detailed specification of systems such as containment, for example, was never contemplated as an objective of the "advanced reactor" policy; indeed, one can imagine advanced reactor designs that might demand *less* containment capability than current generation LWR plants.

In sum, it was never intended that this statement promulgate "a set of safety requirements". As the statement notes, broad safety requirements are to be addressed in the Commission's forthcoming Safety Goal Policy Statement (to the extent they are not already addressed in the Severe Accident Policy Statement and elsewhere). Furthermore, the Commission's response to Question 6 makes clear its encouragement of plant designs firmly grounded in prototypical plants—just as Commissioner Asselstine desires.

Nor does this policy "accept the next generation of U.S. power plants if [they] provide a level of safety equivalent to that achieved in the U.S. designs that were completed 10 years ago." There is necessarily room for interpretation in the Commission's pronouncement, but whether or not the Commission might ever issue (or be asked to issue) new construction permits replicating "current generation plants, plants whose designs were largely frozen more than 10 years ago" is not the question. It is amply clear from this policy statement that "the Commission expects that *advanced* [emphasis added] reactors will provide enhanced margins of safety . . .", and the Commission has broadly defined "advanced" to include reactors that lie beyond current generation designs.

Finally, Commissioner Asselstine's comment that the "next generation of plants should be more reliable, more forgiving, simpler, easier to construct, easier to operate, and easier to maintain than the current generation" is a nice synopsis of the broad guidelines clearly set forth in this policy statement. I am pleased that he concurs in the desirability of those traits.

[FR Doc. 86-15325 Filed 7-7-86; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-18-AD; Amdt. 39-5350]

Airworthiness Directives; Aerostar (Raven) Models S-40A, S-50A, S-55A, S-60A, S-66A, S-77A, RX-6, RX-7, and W100LB Hot Air Balloons

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 86-10-11, applicable to Aerostar (Raven) Models S-40A, S-50A, S-55A, S-60A, S-66A, S-77A, RX-6, RX-7, and W100LB balloons and codifies the corresponding priority letter AD issued May 21, 1986, into the **Federal Register.** This AD requires a one-time check to detect and remove from service certain defective fuel hose assemblies.

DATES: *Effective Date:* July 10, 1986, to all persons except those to whom it has already been made effective by priority letter AD from the FAA issued May 21, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Aerostar Service Bulletin No. 120, undated, applicable to this AD may be obtained from Aerostar International, Inc., 1812 "E" Avenue, Sioux Falls, South Dakota 57104. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, Chicago Aircraft Certification Office, FAA, ACE-140C, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telphone (312) 694-7032.

SUPPLEMENTARY INFORMATION: This AD is necessary because a manufacturing process deficiency has been identified which has resulted in the installation of certain fuel supply hose assemblies in Aerostar (Raven) hot air balloons which are prone to splitting and subsequent fuel leakage. In the latter half of 1984, the manufacturer who supplies the hose to Aerostar experienced formulation or process problems in the manufacture of the multi-layered (rubber, braided cloth, and braided stainless steel) hose. The FAA has received reports which indicate that the inner-layered rubber hose is subject to "rapid aging" resulting in longitudinal splitting. These hoses carry propane liquid under pressure and this longitudinal splitting will result in a fuel leak which could result in uncontained fire in the balloon basket. Therefore, this AD is being issued to require a one-time check to detect and remove from service these defective hose assemblies. These hoses may have been installed as original equipment in new production balloons produced by Aerostar (Raven) between July 1, 1984, and May 12, 1986, or as replacement hoses for balloons with earlier production dates. Aerostar Service Bulletin No. 120 is referenced in a note added to the codified release of the AD for clarification. The service bulletin was not called out in the priority letter AD because it was not available at that time.

Paragraph (b) of the AD was revised to clarify our intention that only hose assemblies which contained the "FC321-06" markings (but were missing the date of manufacture code) needed to be replaced, besides the hose assemblies which met the marking criteria of paragraph (a). Until October of 1979, Aerostar (Raven) had used a hose type with different markings or no markings at all in the manufacture of their ballons. The AD does not require replacement of the older hose. Words were also added to this paragraph specifically requiring

that an appropriate entry be made in the aircraft maintenance records before returning the ballon to service after replacing hose assemblies to parallel the maintenance record action required by paragraph (c) if no hose assembly replacement is required.

In addition, subsequent to the release of the priority letter AD, the FAA determined that the interest of the public would best be served if the AD actions were treated as preventive maintenance suitable for accomplishment by persons holding an appropriate pilot certificate in accordance with § 43.3(g) of Part 43 of the FAR. Since the entire fuel hose/manifold can be removed as a unit, the hose assembly replacement operation (and inherent check) fall under the FAR Part 43 Appendix A preventive maintenance category of "replacing prefabricated fuel lines." Accordingly, the action specified in paragraph (a) was changed from "visually inspect" to "visually check" to denote the simplicity of the operation to be consistent with pilot accomplishment. Specifically, the intention of the FAA is that this check may be accomplishment by a person holding at least a private pilot certificate with a free balloon rating. The hose assembly removal and replacement specified in paragraph (b) of this AD, if required, may also be accomplished by a person holding at least private pilot certificate with a free balloon rating if accomplished in the manner described in Aerostar Service Bulletin No. 120 which qualifies as preventive maintenance.

The FAA determined that this is an unsafe condition that may exist in other balloons of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the affected balloons by priority letter AD issued May 21, 1986. The AD became effective immediately to these individuals upon receipt of that letter and is identified as AD 86-10-11. Since the unsafe condition describved therein may still exist on other Aerostar (Raven) Models S-40A, S-50A, S-55A, S-60A, S-66A, S-77A, RX-6, RX-7 and W100LB hot air balloons, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the priority letter notification. Because a situation still 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 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 section 8 of 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 Pocedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends § 39.13 of Part 39 of the FAR 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); 14 C.F.R. 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Aerostar (Raven): Applies to Models S-40A, S-50A, S55A, S-60A, S-66A, S-77A, RX-6, RX-7 and W100LB (all serial numbers) Hot Air Balloons certificated in any category.

Compliance: Required before further flight, unless already accomplished. To preclude propane fuel leakage which could result in an uncontained fire in the balloon basket, accomplish the following:

(a) Visually check all of the fuel supply hose assemblies in the balloon to determine if any are identified by the part number code "FC321-06" followed by the date of manufacture code "3Q84"or "4Q84."

(b) Prior to further use, remove all hose assemblies with markings as specified in paragraph (a) of this AD, or which contain the "FC321-06" part number code but no date of manufacture code and replace with assemblies of the same part number and a date of manufacture code other than "3Q84" and 4Q84". Make the appropriate entry in the aircraft maintenance records before returning the balloon to service.

(c) If the balloon does not contain any hose assemblies meeting the marking criteria specified in paragraph (a) or (b) of this AD, return the balloon to service after the appropriate entry is made in the aircraft maintenances.

Note.—For further guidance with regard to the hose check and possible replacement required by this AD, refer to Aerostar Service Bulletin No. 120, undated.

(d) An alternate method of compliance which provides an equivalent level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Aerostar International, Inc., 1812 "E" Avenue, Sioux Falls, South Dakota 57104, or Office of the Regional Counsel, Room 1558, FAA, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 10, 1986, to all persons except those to whom it was made immediately effective by priority letter AD issued May 21, 1986, and is identified as AD 86-10-11.

Issued in Kansas City, Missouri, on June 25, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-15233 Filed 7-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 86-AAL-2]

Subdivision of Restricted Area Complex R-2202 Big Delta, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action subdivides Restricted Area Complex R-2202 Big Delta, AK, into three subdivisions instead of the current seven subdivisions. This action is taken to provide for more efficient management of the airspace. The subdivision will allow for greater flexibility by both military and civilian users of the airspace. This action is made at the request of the Department of the Army and will not require any additional airspace as it is strictly a subdivision of existing restricted areas.

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3128.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations divide Restricted Area R-2202 into three subdivisions instead of the current seven subdivisions. At the request of the Department of the Army, Restricted Areas R-2202A, B and C are altered and amendments are made in order to allow for greater flexibility by both military and civilian users of the airspace and airways. The Continental Control Area is amended to include R-2202C and revoke R-2202G. Restricted Areas R-2202A, B and C are revised and R-2202D, E, F and G are revoked. These amendments involve the subdivision of existing restricted areas and do not require additional restricted airspace. Therefore I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested. Sections 71.151 and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-2202G Big Delta, AK [Removed]

R-2202C Big Delta, AK [New]

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.22 [Amended]

4. Section 73.22 is amended as follows:

R-2202A Big Delta, AK [Revised]

Boundaries. Beginning at lat. 64°03'35"N., long. 146°10'50" W.; to lat. 63°56'17" N., long. 145°49'30" W.; to lat. 63°54'20" N., long. 145°50'20" W.; to lat. 63°50'30" N., long. 145°50'00" W.; to lat. 63°43'00" N., long. 145°54'01" W.; to lat. 63°42'15" N., long. 146°13'26" W.; to lat. 63°44'00" N., long. 146°30'00" W.; to lat. 63°45'24" N., long. 146°11'30" W.; thence to the point of beginning.

Designated altitudes. Surface to but not including 10,000 feet MSL.

Time of designation. 0700 to 1800 Monday-Friday; other times by NOTAM.

Controlling agency. FAA, Anchorage ARTCC.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, AK.

R-2202B Big Delta, AK [Revised]

Boundaries. Beginning at lat. 64°14'45" N., long. 146°43'15" W.; to lat. 64°03'35" N., long. 146°10'50" W.; to lat. 63°45'24" N., long. 146°11'30" W.; to lat. 63°44'00" N., long. 146°30'00" W.; to lat. 63°50'50" N., long. 146°47'30" W.; thence along the east bank of the East Fork and Little Delta Rivers to the point of beginning.

Designated altitudes. Surface to but not including 10,000 feet MSL.

Time of designation. 0700-1800 Monday-Friday; other times by NOTAM.

Controlling agency. FAA, Anchorage ARTCC.

Using Agency. U.S. Army Cold Regions Test Center, Fort Greely, AK.

R-2202C Big Delta, AK [Revised]

Boundaries. Beginning at lat. 64°14'45" N., long. 146°43'15" W.; to lat. 64°03'35" N., long. 146°10'50" W.; to lat. 63°56'17" N., long. 145°49'30" W.; to lat. 63°54'20" N., long. 145°50'20" W.; to lat. 63°50'30" N., long. 145°50'00" W.; to lat. 63°43'00" N., long. 145°54'01" W.; to lat. 63°42'15" N., long. 146°13'26" W.; to lat. 63°44'00" N., long. 146°30'00" W.; to lat. 63°50'50" N., long. 146°47'30" W.; thence along the east bank of the East Fork and Little Delta Rivers to the point of beginning.

Designated altitudes. 10,000 feet MSL to unlimited.

Time of designation. Intermittent by NOTAM.

Controlling agency. FAA, Anchorage ARTCC.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, AK.

R-2202D Big Delta, AK [Removed]

R-2202E Big Delta, AK [Removed]

R-2202F Big Delta, AK [Removed]

R-2202G Big Delta, AK [Removed]

Issued in Washington, D.C., on June 27, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-15234 Filed 7-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25027; Amdt. No. 1324]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register of December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standards Instrument, Incorporation by reference.

Issued in Washington, D.C. on June 27, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR, or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective August 28, 1986

Fresno, CA—Fresno Air Terminal, VOR or TACAN RWY 11L, Amdt. 8
Fresno, CA—Fresno Air Terminal, LOC BC RWY 11L, Amdt. 6
Fresno, CA—Fresno Air Terminal, NDB RWY 29R, Amdt. 21
Fresno, CA—Fresno Air Terminal, ILS RWY 29R, Amdt. 28
Fresno, CA—Fresno Chandler Downtown, VOR/DME-C, Amdt. 1
Madera, CA—Madera Muni, VOR RWY 30, Amdt. 4
Oxnard, CA—Oxnard, VOR RWY 7, Amdt. 11
San Luis Obispo, CA—San Luis Obispo County, VOR-A, Amdt. 5
Santa Barbara, CA—Santa Barbara Muni, VOR RWY 25, Amdt. 4
Santa Maria, CA—Santa Maria Public, VOR RWY 12, Amdt. 12
Santa Maria, CA—Santa Maria Public, LOC/DME BC-A, Amdt. 9
Santa Ynez, CA—Santa Ynez, VOR-B, Amdt. 6
Quincy, IL—Quincy Muni Baldwin Field, VOR RWY 4, Amdt. 10
Quincy, IL—Quincy Muni Baldwin Field, VOR/DME RWY 22, Amdt. 6
Quincy, IL—Quincy Muni Baldwin Field, LOC/DME BC RWY 22, Amdt. 5
Quincy, IL—Quincy Muni Baldwin Field, NDB RWY 4, Amdt. 15
Quincy, IL—Quincy Muni Baldwin Field, ILS RWY 4, Amdt. 15
Lafayette, IN—Purdue University, VOR-A, Amdt. 22

Lafayette, IN—Purdue University, NDB RWY 10, Amdt. 10
Lafayette, IN—Purdue University, ILS RWY 10, Amdt. 8
Lafayette, IN—Purdue University, RNAV RWY 28, Amdt. 2
Hutchinson, KS—Hutchinson Muni, LOC BC RWY 31, Amdt. 12
Hutchinson, KS—Hutchinson Muni, ILS RWY 13, Amdt. 14
Saginaw, MI—Tri City, ILS RWY 23, Amdt. 3
Jefferson City, MO—Jefferson City Meml, LOC RWY 30, Amdt. 4
Hastings, NE—Hastings Muni, VOR RWY 14, Amdt. 14
Batavia, OH—Clermont County, NDB-A, Amdt. 5
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, LOC BC RWY 2R, Amdt. 6
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, NDB RWY 20L, Amdt. 10
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, NDB RWY 24, Amdt. 5
Cincinnati, OH—Cincinnati Muni Airport Lunken Field, ILS RWY 20L, Amdt. 13
Coshocton, OH—Richard Downing, VOR-A, Amdt. 7
Coshocton, OH—Richard Downing, RNAV RWY 22, Amdt. 1
Lancaster, OH—Fairfield County—SDF RWY 28, Amdt. 3
Lancaster, OH—Fairfield County—NDB RWY 28, Amdt. 4
Marion, OH—Marion Muni, VOR RWY 24, Amdt. 4
Marion, OH—Marion Muni, NDB RWY 12, Amdt. 2
Pasco, WA—Tri-Cities, VOR RWY 30, Amdt. 6, CANCELLED
Sturgeon Bay, WI—Door County Cherryland, SDF RWY 1, Amdt. 3
Sturgeon Bay, WI—Door County Cherryland, NDB RWY 1, Amdt. 7
Wisconsin Rapids, WI—Alexander Field South Wood County, VOR/DME-A, Amdt. 7
Wisconsin Rapids, WI—Alexander Field South Wood County, SDF RWY 2, Amdt. 2
Wisconsin Rapids, WI—Alexander Field South Wood County, NDB RWY 2, Amdt. 3
Wisconsin Rapids, WI—Alexander Field South Wood County, NDB RWY 29, Amdt. 6.

Effective July 31, 1986

Selma, AL—Craig Field, NDB RWY 32, Amdt. 2
Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, VOR RWY 9L, Amdt. 17, CANCELLED
Fort Lauderdale, FL—Ft Lauderdale-Hollywood Intl, VOR RWY 13, Amdt. 14, CANCELLED
Marco Island, FL—Marco Island, NDB RWY 35, Amdt. 3
Park Rapids, MN—Park Rapids Muni, VOR RWY 31, Amdt. 10
Oxford, MS—University-Oxford, NDB RWY 9, Amdt. 1
Albion, NY—Pine Hill, VOR/DME-A, Amdt. 2
Brockport, NY—Ledgedale Airpark, VOR RWY 28, Amdt. 2, CANCELLED
New York, NY—John F Kennedy Intl, VOR/DME 31L, Amdt. 11
Rochester, NY—Rochester-Monroe County, VOR RWY 4, Amdt. 9
Rochester, NY—Rochester-Monroe County, VOR RWY 10, Amdt. 10, CANCELLED
Rochester, NY—Rochester-Monroe County, VOR/DME RWY 4, Amdt. 1
Rochester, NY—Rochester-Monroe County, VOR/DME RWY 10, Orig., CANCELLED
Rochester, NY—Rochester-Monroe County, NDB RWY 28, Amdt. 19
Rochester, NY—Rochester-Monroe County, ILS RWY 22, Amdt. 4
Rochester, NY—Rochester-Monroe County, ILS RWY 28, Amdt. 26
Rochester, NY—Rochester-Monroe County, RNAV RWY 10, Amdt. 1, CANCELLED
Coatesville, PA—Chester County G.O. Carlson, ILS RWY 29, Amdt. 4
Erie, PA—Erie Intl, VOR RWY 6, Amdt. 15
Erie, PA—Erie Intl, VOR/DME RWY 24, Amdt. 11
Erie, PA—Erie Intl, NDB RWY 24, Amdt. 17
Erie, PA—Erie Intl, ILS RWY 6, Amdt. 15
Erie, PA—Erie Intl, ILS RWY 24, Amdt. 7
Erie, PA—Erie Intl, RADAR-1, Amdt. 7
Hemingway, SC—Hemingway-Stuckey, NDB RWY 11, Amdt. 3
Walterboro, SC—Walterboro Muni, NDB RWY 23, Amdt. 6
Dallas-Fort Worth, TX—Dallas-Fort Worth International, ILS RWY 17L, Amdt. 1
Dallas-Fort Worth, TX—Dallas-Fort Worth International, ILS RWY 17R, Amdt. 13
Charlotte Amalie, St Thomas, VI—Cyril E King, ILS RWY 10, Amdt. 7

[FR Doc. 86-15235 Filed 7-7-86; 8:45 am]
BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1204 is amended by removing § 1204.502, "Delegation of Authority to the Corps of Engineers, U.S. Army, Concerning NASA Land Acquisition Activities." This section is being removed because the land acquisition activities for which this delegation of authority was issued have been completed.

EFFECTIVE DATE: July 8, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, 202-453-1950.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1204

Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government employees, Government procurement, Grant programs science and technology, Intergovernmental relations, Labor unions, Security measures, Small businesses.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

For reasons set out in the Preamble, 14 CFR Part 1204 is amended as follows:

1. The authority citation for Part 1204, Subpart 5 continues to read as follows:

Authority: 42 U.S.C. 2473(b) (1), (3), (5), (6), and (14).

§ 1204.502 [Removed and Reserved]

2. Section 1204.502 is removed and reserved.

C. Howard Robins, Jr.,

Deputy Associate Administrator for Management.

[FR Doc. 86-15242 Filed 7-7-86; 8:45 am]
BILLING CODE 7510-01-M

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: 14 CFR Part 1204 is amended by removing § 1204.507, "Delegation of Authority to the Corps of Engineers Board of Contract Appeals." This section is being removed because appeals arising under certain Corps of Engineers leases of NASA real property will be adjudicated by the National Aeronautics and Space Administration Board of Contract Appeals.

EFFECTIVE DATE: July 8, 1986.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, 202-453-1950.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1204

Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government employees,

Government procurement, Grant programs science and technology, Intergovernmental relations, Labor unions, Security measures, Small businesses.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

For reasons set out in the Preamble, 14 CFR Part 1204 is amended as follows:

1. The authority citation for Part 1204, Subpart 5, continues to read as follows:

Authority: 42 U.S.C. 2473(b) (1), (3), (5), (6), and (14).

§ 1204.507 [Removed and Reserved]

2. Section 1204.507 is removed and reserved.

C. Howard Robins, Jr.,

Deputy Associate Administrator for Management.

[FR Doc. 86-15243 Filed 7-7-86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 70

[Docket No. 60595-6095]

Cutoff Dates for Recognition of Boundary Changes for the 1990 Census; Amendment To Change 1980 Census Cutoff Dates to Reflect the 1990 Census of Population and Housing

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The cutoff dates for recognition of boundary changes for the 1980 Census of Population and Housing are amended to reflect the timing of the 1990 Census of Population and Housing.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Robert W. Marx, Chief, Geography Division, Bureau of the Census, (301) 763-5636.

SUPPLEMENTARY INFORMATION: On August 1, 1977, a Final Rule was published in the **Federal Register** (42 FR 38901) that established cutoff dates for recognition of boundary changes for the 1980 census, established a cutoff date for receipt of boundary changes, defined the term "municipality," and made minor nonsubstantive changes in wording to the 1970 final rule.

This rule retains all provisions of the 1980 census final rule, with the exception of changing the reference year from 1980 to 1990. This regulation does not constitute a major rule as defined in Executive Order 12291, nor does it contain a collection of information for purposes of the Paperwork Reduction Act. A Notice of Proposed Rulemaking is unnecessary because this minor change only affects cutoff dates for recognition of boundary changes for the 1990 census.

The Department's General Counsel has determined and so certified to the Office of Management and Budget that dispensing with notice and opportunity for comment is consistent with the Administrative Procedure Act (APA) and all other relevant laws. Since notice and opportunity to comment are not required to be given for this rule, no initial or final Regulatory Flexibility Analysis has to be or will be prepared pursuant to the provisions of the Regulatory Flexibility Act of 1980.

List of Subjects in 15 CFR Part 70

Census data.

15 CFR Part 70 is revised to read as follows:

PART 70—CUTOFF FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1990 CENSUS

Sec.

Authority: 13 U.S.C. 4; 32 FR 15154; and Department of Commerce Organization Order 35-2A (40 FR 42765).

§ 70.1 Cutoff dates and effect on enumeration and data tabulation.

For the tabulation and publication of data from the 1990 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries legally in effect on January 1, 1990 that have been reported officially to the Bureau of the Census no later than March 1, 1990. The Bureau of the Census enumerates respondents on the date of the decennial census as residing within the legal limits of municipalities, county subdivisions, counties, states, and equivalent areas as those limits exist on January 1, 1990.

§ 70.2 "Municipality" and "county subdivision" defined for census purposes.

For the purposes of this Part, the Bureau of the Census defines "municipalities" and "county subdivisions" to include the areas indentified as incorporated places (such as cities and villages) and minor civil divisions (such as townships and magisterial districts). A more complete description appears on pages A1 and A2 of 1980 Census of Population, Volume I, Chapter A.

§ 70.3 Effect of boundary changes occurring or reported after the cutoff dates.

The Bureau of the Census will not recognize changes in boundaries that become effective after January 1, 1990 in taking the 1990 Decennial Census; the Bureau of the Census will enumerate the residents of any area that are transferred to another jurisdiction after that date and report them for the 1990 census as residents of the area in which they resided on January 1, 1990. The Bureau of the Census will not recognize in the data tabulations prepared for the 1990 census changes occurring on or before January 1, 1990, but not submitted officially to the Bureau of the Census until after March 1, 1990 except as necessary to conduct decennial census operations.

Dated: June 27, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86-15288 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9171]

Superior Court Trial Lawyers Association et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This Final Order prohibits, among other things, a Washington, DC lawyers association from: (1) Refusing to provide legal services in connection with any effort to fix or raise fees; (2) interfering with the operation of the DC Superior Court, any other court, or any government agency in connection with any effort to fix prices; (3) coercing any person not to provide legal services in an effort to fix prices; and (4) encouraging the association, any member, or any other person from engaging in any action prohibited by the order.

DATES: Complaint issued Dec. 16, 1983. Final Order issued June 23, 1986.[1]

[1] Copies of the Complaint, Initial Decision and Opinion of the Commission are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-851, Karen G. Bokat, Washington, DC 20580, (202) 724-1310.

SUPPLEMENTARY INFORMATION: In the Matter of Superior Court Trial Lawyers Association, an association, Ralph J. Perrotta, Karen E. Koskoff, and Reginald G. Addison, as private law practitioners and as officers or directors of Superior Court Trial Lawyers Association, and Joanne D. Slaight, a private law practitioner. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Aiding, Assisting and Abetting Unfair or Unlawful Act or Practice: § 13.290 Aiding, assisting and abetting unfair act or practice. Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.385 To boycott seller-suppliers; § 13.433 To fix prices.

List of Subjects in 16 CFR Part 13

Trade practices, Trial lawyers.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

Before Federal Trade Commission

[Docket No. 9171]

Final Order

Commissioners: Daniel Oliver, Chairman, Patricia P. Bailey, Terry Calvani, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

In the matter of Superior Court Trial Lawyers Association, an association, Ralph J. Perrotta, Karen E. Koskoff, and Reginald G. Addison, as private law practitioners and as officers or directors of Superior Court Trial Lawyers Association, and Joanne D. Slaight, a private law practitioner.

This matter has been heard by the Commission upon the appeal of complaint counsel from the initial decision, and upon briefs and oral argument in support of and in opposition to the appeal. For the reasons stated in the accompanying opinion, the Commission has determined to grant the appeal and reverse the initial decision. Accordingly,

It is ordered, That the findings of fact and initial decision of the Administrative Law Judge be rejected except as specifically adopted in the findings of fact and conclusions of law contained in the accompanying opinion. The findings of fact and conclusions of law of the Commission are contained in the accompanying opinion.

It is further ordered, That the following order to cease and desist be, and the same hereby is, entered:

I

It is ordered that respondent Superior Court Trial Lawyers Association, an association, its successors and assigns, and its officers, directors and members; Ralph J. Perrotta, individually and as a director of Superior Court Trial Lawyers Association; Karen E. Koskoff and Reginald G. Addison, individually and as officers of Superior Court Trial Lawyers Association; Joanne D. Slaight, individually; and respondents' agents or representatives, directly or through any device, in connection with their activities in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, shall cease and desist from entering into, continuing, cooperating in, or carrying out any agreement, understanding, or planned common course of action, either express or implied, to:

A. Refuse to provide legal services to any government program that provides legal services for persons eligible for appointed counsel in connection with any effort to fix, increase, stabilize, or otherwise affect the level of fees for such legal services;

B. Interfere with the operation of the Superior Court of the District of Columbia or of any court or of any government agency in connection with any effort to fix, increase, stabilize, or otherwise affect the level of fees for legal services for persons eligible for appointed counsel;

C. Coerce any person not to provide or discourage any person from providing legal services in connection with any effort to fix, increase, stabilize, or otherwise affect the level of fees for legal services for persons eligible for appointed counsel;

D. Encourage, suggest, advise, or induce respondent Superior Court Trial Lawyers Association, any member of Superior Court Trial Lawyers Association, or any other person to engage in any action prohibited by this Order;

Provided that nothing in this Order shall prevent respondents from:

(1) Exercising rights under the First Amendment to the United States Constitution to petition any government body concerning legislation, rules or procedures; or

(2) Providing information or views in a noncoercive manner to persons engaged in or responsible for the administration of any program to obtain legal services for persons eligible for appointed counsel.

II

It is further ordered that respondent Superior Court Trial Lawyers Association shall:

A. Distribute by first-class mail a copy of this Order to each of its members, officers and directors within thirty (30) days after this Order becomes final;

B. Distribute by first-class mail a copy of this Order to each person who becomes a member, officer or director of Superior Court Trial Lawyers Association within thirty (30) days of such person's becoming a member, officer or director, during each of the first three (3) years after this Order becomes final; and

C. Within thirty (30) days after the Order becomes final and for ninety (90) days thereafter, post a copy of this Order in each location in which notices of meetings of respondent Superior Court Trial Lawyers Association are customarily posted.

III

It is further ordered that the respondents herein shall within sixty (60) days of service upon them of this Order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied and are complying with this Order, and shall file such other reports of compliance as the Commission may from time to time require.

IV

It is further ordered that each of the individual respondents named herein shall, for a period of five years after this Order becomes final, promptly notify the Commission of the discontinuance of his or her present legal practice, business or employment and his or her affiliation with a new legal practice, business or employment. Each such notice shall include the individual respondent's new business address and a statement of the nature of the legal practice, business or employment in which the respondent is newly engaged. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered that respondent Superior Court Trial Lawyers Association shall notify the Commission at least thirty (30) days before any proposed change in its form of organization that may affect compliance obligations arising out of this Order.

By the Commission, Chairman Oliver and Commissioner Strenio not participating.

Issued: June 23, 1986.

Emily H. Rock,

Secretary.

[FR Doc. 86-15272 Filed 7-7-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 7-85-55]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, SC; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the legal citation for the Atlantic Intracoastal South Carolina Drawbridge Regulation which was published on April 10, 1986 (51 FR 12320).

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION:

List of Subjects in 33 CFR Part 117

Bridges.

Correction

The amendatory language for § 117.911 appearing at the bottom of the second column on page 12320 of the **Federal Register** of April 10, 1986, is corrected to read as follows:

* * * * *

§ 117.911 [Corrected]

2. Section 117.911 is amended by adding a new paragraph (e) to read as follows:

* * * * *

Dated: 2 July, 1986.

G.S. Duca,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 86-15292 Filed 7-7-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD 7-85-44]

Security Zone; Naval Submarine Base Kings Bay, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the legal citation for Kings Bay Naval Submarine Base Security Zone which was published on November 25, 1985 (50 FR 48404).

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Harry D. Craig, (305) 536-5651.

SUPPLEMENTARY INFORMATION:

List of Subjects in 33 CFR Part 165

Harbors; Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Correction

The amendatory language appearing at the top of the first column on page 48485 of the **Federal Register** of November 25, 1985, is corrected to read as follows:

* * * * *

2. Section 165.07-44, as added on October 15, 1985, (50 FR 41685) is redesignated § 165.731 and revised to read as follows:

* * * * *

Dated: 2 July 1986.

G. S. Duca,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 86-15294 Filed 7-7-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 8

Labor Standards Applicable to Employees of National Park Service Concessioners

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule will permit concessioners to employ children between the ages of 14 and 16 and will require all concessioners to comply with Federal child labor standards applicable to employees under the age of 16 regardless of the amount of the concessioner's annual dollar volume of business. The existing regulation prohibits employment by National Park Service (NPS) concessioners of persons under the age of 16 and restricts the employment of persons under the age of 18. Federal child labor standards are generally only applicable to businesses with an annual dollar volume of more than $362,500. The new rule will permit the employment of children between the ages of 14 and 16 and require all concessioners to comply with Federal child labor standards regardless of annual sales level. Federal and State labor laws will govern employees under 18 years of age.

EFFECTIVE DATE: August 7, 1986.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1985, the NPS published in the **Federal Register** (50 FR 19548) a proposal to delete 36 CFR 8.4 which prohibits concessioners from employing persons under 16 years of age in any occupation. By deleting § 8.4, child employment would have been governed by Federal or State laws as provided for in § 8.5. This new rule will permit concessioners to employ children between the ages of 14 and 16. As such, it will enable children to be gainfully employed who could otherwise not be employed by concessioners. It will benefit young people living near park areas, which are often isolated, by permitting concessioners to employ children under 16 who otherwise might be unemployed or would need to be transported to a place of work at considerable distance. This new rule will bring NPS concessioner employment standards in line with private businesses outside park areas to maintain consistency within the industry.

Summary of Comments

As a result of the proposed rule, the NPS received two letters supportive of the proposed rule and three letters opposing the change. A private citizen expressed fear that those under 16 years of age would be exposed to immoral influences by older employees. The Service Employees International Union and the American Federation of Labor and Congress of Industrial Organizations argued that the proposal would result in young people competing unfairly with older workers for employment opportunities, increase the potential for injuries, could be harmful to a child's formal education and that Federal child regulations do not cover business firms that have gross sales less than $362,500.

The NPS rejects the argument regarding immoral influences in that it is not believed that employees under 16 working for a concessioner would be exposed to immoral influences by older employees any more than if employed in any other permitted business outside park boundaries.

The unions are correct in that Federal child labor laws do not generally cover private businesses with sales less than $362,500. Through further study, it was learned that only six States where concessioners operate have child labor laws which equal or exceed the Federal standards. The other States have more liberal child labor laws, either in maximum allowable hours of work per week, allowing night work, or in the

type of equipment which may be operated.

The original intent of the NPS was to permit consessioners to employ children between the ages of 14 and 16 and to have Federal child labor laws apply to all concessioners. This intent has been incorporated in Section 8.5 by adding a new sentence stating: "All concessioners shall comply with Federal child labor regulations regardless of their annual volume of business or other exemptions provided by Federal law." For the purpose of clarity editorial changes have also been made to Section 8.5.

Drafting Information

The following individual participated in the writing of this regulation: James A. Owen, National Park Service, Concessions Division, Washington, DC.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no costs will result for any small entity as a result of this change. There may be limited positive results for children under the age of 16 to be gainfully employed by NPS concessioners. Parents living in or near the park would benefit by having their children under 16 years of age eligible to work for the concessioner, thereby not needing to transport children outside of a park area, sometimes at considerable distance, for employment purposes.

This action is categorically excluded from procedural requirements for compliance with the National Environmental Policy Act and thus no environmental assessment or environmental impact statement will be prepared.

List of Subjects in 36 CFR Part 8

Concessions, Labor, National parks.

In consideration of the foregoing, 36 CFR Part 8 is amended as follows:

PART 8—LABOR STANDARDS APPLICABLE TO EMPLOYEES OF NATIONAL PARK SERVICE CONCESSIONERS

1. The authority citation is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

§ 8.4 [Removed]

2. By removing § 8.4

§§ 8.4 through 8.9 [Redesignated from §§ 8.5 through 8.10]

3. By redesignating 8.5 through § 8.10 as § 8.4 through § 8.9.

4. By revising newly designated § 8.4 to read as follows:

§ 8.4 Federal and State labor laws.

A concessioner shall comply with all standards established pursuant to Federal or State labor laws, such as those concerning minimum wages, child labor, hours of work, and safety, that apply in the State in which the concession facility is located. All concessioners shall comply with Federal child labor regulations regardless of their annual volume of business or any other exemptions provided by Federal law.

Dated: June 11, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-15305 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-6-FRL-3043-9]

Administrative Orders Permitting a Delay in Compliance With Texas State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) proposed on January 7, 1986, (at 51 FR 627) to approve two Delayed Compliance Orders (DCOs) issued by the Texas Air Control Board (TACB) to Arrow Industries, Incorporated (Arrow), Carrollton, Dallas County, and Farmers Branch, Dallas County, Texas, on September 20, 1985. This action provides final approval for these DCOs. The DCOs require Arrow to bring air emissions of volatile organic compounds from their flexographic printing processes into compliance with the Texas State Implementation Plan (SIP) by December 31, 1985. The SIP required compliance by December 31, 1982. Dallas County is presently not attaining the National Ambient Air Quality Standard for ozone. Because the Orders have been issued to "major" stationary sources and permit delays in compliance with the Texas SIP, the Clean Air Act requires them to be approved by EPA before they can become effective. Since they are now approved by EPA, the DCOs constitute an addition to the Texas SIP. In addition, a source in compliance with an approved DCO may not be sued under the federal enforcement or citizen suit provisions of the Clean Air Act for violations of SIP provisions covered by the DCO.

EFFECTIVE DATE: This action will be effective August 7, 1986.

ADDRESSES: The State Orders, supporting material, evaluation report and public comments received in response to this notice are available for inspection during normal business hours at the Region 6 Office, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270 (as Docket number R6-85-DCO-10) and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, DC 20460, and the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Raymond Magyar, SIP Enforcement Section (6T-ES), Air, Pesticides, and Toxics Division, Environmental Protection Agency, Region 6 Office, (214) 767-9876.

SUPPLEMENTARY INFORMATION: On May 3, 1982 (47 CFR 18857), EPA approved TACB Regulation V, Rule 115.201, "Graphic Arts (Printing) By Rotogravure and Flexographic Processes in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant and Victoria Counties", as a revision to the Texas SIP. Rule 115.201 prohibits operation of certain flexographic or rotogravure printing facilities unless they limit emissions of volatile organic compounds (VOC) by utilization of either water-based inks, high solids content inks, or by the use of "add-on" control equipment such as carbon adsorption systems or incineration systems. Sources subject to the Rule were to have submitted a final control plan for compliance to the TACB by December 31, 1980, and were to be in compliance by December 31, 1982. Arrow's Carrollton and Farmers Branch plants are "major" stationary sources.

Each plant emits more than 100 tons of VOC per year from flexographic processes, and as such is subject to Rule 115.201. Based on Arrow's contention that water-based and/or high solids content ink would not be available by the SIP compliance date and that "add-on" control equipment was economically infeasible, on June 10, 1983, the TACB issued two Board Orders to Arrow extending their SIP compliance date for both plants until December 31, 1985. The TACB did not, however, submit the SIP compliance date extensions to EPA for revision to the SIP, and thus the SIP-required compliance date remained December 31, 1982. On January 30, 1984, and October 9, 1985, EPA notified Arrow's Carrollton and Farmers Branch facilities, respectively, under section 113(a)(1) of the Clean Air Act that they were operating in violation of the Texas SIP. Subsequently, the TACB developed the September 20, 1985 DCOs that are now proposed for approval under this notice. The TACB transmitted the DCOs to EPA on September 27, 1985. EPA reviewed the DCOs,[1] and found that they satisfy the requirements of section 113(d) of the Clean Air Act, including public notice and hearing requirements and section 121 of the Clean Air Act regarding consultation with general purpose local governments. The full texts of these orders were published on January 7, 1986, at 51 FR 627.

Since the DCOs are approved by EPA, compliance with their terms preclude federal enforcement action under section 113 of the Clean Air Act against Arrow for violations covered by the Order during the period that the Orders are in effect. Further, enforcement under the citizen suit provision of section 304 of the Clean Air Act are similarly precluded. The approved Orders constitute an addition to the Texas SIP. However, compliance with the Orders will not preclude assessment of any non-compliance penalty under section 120 of the Clean Air Act, unless the source is entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons were invited to submit written comments on the proposed approval action. No comments were received. The public should be advised that this action will be effective on the date listed in the effective date section of this rulemaking. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication of this notice of final rulemaking. This action may not be challenged later in proceedings to enforce its requirements (See Sec. 307(b)(2)).

Each DCO affects only one entity and involves an "Order", rather than a "Rule", and therefore this action is not subject to the requirements of the Regulatory Flexibility Act or to Executive Order 12291.

The Notice of Approval is issued under the authority of sections 113 and 301 of the Clean Air Act, 42 U.S.C. 7413 and 7601.

List of Subjects in 40 CFR Part 65

Air pollution control.

PART 65—[AMENDED]

Part 65 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C 7413 and 7601.

2. In § 65.481, two entries are added to the table in alphabetical order as follows:

§ 65.481 EPA approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulations involved	Date of FEDERAL REGISTER proposal	Final compliance date
Arrow Industries, Inc.	Carrollton, TX	TACB No. 85-10	§ 115.201	1/7/86	12/31/85
Arrow Industries, Inc.	Farmers Branch, TX	TACB No. 85-11	§ 115.201	1/7/86	12/31/85

Dated: June 23, 1986.

Lee M. Thomas,

Administrator

[FR Doc 86-15267 Filed 7-7-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-47002F; FRL-3028-7]

Chlorinated Benzenes; Final Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final rule, under section 4 of the Toxic Substances Control Act (TSCA), requiring: (1) Manufacturers and processors of 1,2,4-trichlorobenzene (TCB) to conduct oncogenicity testing of 1,2,4-TCB (CAS No. 120-82-1), (2) manufacturers and processors of monochlorobenzene (MCB) to conduct reproductive effects testing of MCB (CAS No. 108-90-7), (3) manufacturers and processors of ortho- and para-dichlorobenzenes (1,2- and 1,4-DCBs) to conduct reproductive effects testing of 1,2- and 1,4-DCBs (CAS Nos. 95-50-1 and 106-46-7, respectively), and (4) manufacturers and processors of 1,2,4,5-tetrachlorobenzene (1,2,4,5-TCB: CAS No. 95-94-3) to conduct reproductive effects and developmental toxicity testing of 1,2,4,5-TCB. This rule requires that the health effects testing for these chlorinated benzenes be performed according to the TSCA Health Effects Testing Guidelines in 40 CFR Part 798 for the required health effects. EPA is also terminating its rulemaking process for subchronic/chronic and oncogenicity testing of 1,2,4,5-TCB.

DATES: In accordance with 40 CFR Part 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1:00 eastern daylight time on July 22, 1986. These regulations shall become effective on August 21, 1986.

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, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a final test rule under section 4(a) of TSCA in response to the Interagency Testing Committee's (ITC) 1977 and 1978 designations of the chlorinated benzenes for health effects testing consideration and to satisfy a 1984 court order requiring the Agency to take final action on its July 18, 1980 proposed test rule (45 FR 48524) for the chlorobenzenes by June 1986.

I. Introduction

A. Test Rule Development Under TSCA

This notice is part of the overall implementation of section 4 of TSCA (Pub. L. 94-469, 90 Stat 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) which contains authority for EPA to require the

[1] "EPA Review of Texas State Delayed Compliance Orders for Arrow, Incorporated, Dallas County, Texas, September 20, 1985: October-November 1985". This evaluation is available at the Region 6 address given previously in this notice.

development of data relevant to assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental 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.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package published July 18, 1980 (45 FR 48510) for in-depth discussions of the general issues applicable to this action.

B. Regulatory History

In the **Federal Register** of October 12, 1977 (42 FR 55026), the Interagency Testing Committee (ITC) designated monochlorobenzene and the dichlorobenzenes for health and environmental effects testing consideration. On October 30, 1978 (43 FR 50630), the ITC also designated tri-, tetra- and pentachlorobenzenes for health and environmental effects testing consideration. The Agency responded to the ITC's health effects testing recommendations by issuing in the **Federal Register** of July 18, 1980 (45 FR 48524), a proposed health effects test rule for the chlorobenzenes chemical category requiring testing of specific members of both groups of chlorinated benzenes.

During October 1980 EPA held several public meetings to hear and respond to oral comments presented on various aspects of the proposed rule. The minutes for these meetings are contained in the record for this action.

In the **Federal Register** of December 7, 1983 (48 FR 54836), EPA issued a proposed rule-related notice and request for comments on a proposed negotiated testing agreement for reproductive effects testing of certain chlorinated benzenes, and a tentative decision to withdraw a number of the health effects testing requirements the Agency previously had proposed.

In late 1983, however, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO) filed an action under TSCA section 20 which challenged, among other things, EPA's utilization of negotiated testing agreements in lieu of initiating rulemaking under TSCA section 4(a) for four ITC-designated chemical substances. In an August 23, 1984 Opinion and Order, the district court found that in EPA's responses to chemicals designated by the ITC, non-enforceable negotiated agreements may not be adopted by EPA in lieu of requiring testing through enforceable section 4(a) test rules [see *NRDC and AFL–CIO* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984)].

The Court also agreed with another NRDC complaint against the length of time EPA had taken to issue the final decision on the health effects testing of the chlorinated benzenes. In the court's Final Judgment and Order of October 30, 1984, EPA was directed to issue its final decision on the chlorinated benzenes health effects testing by June 1986.

In accordance with the court's opinion, EPA decided not to adopt the industry testing program discussed in its December 7, 1983 notice, and announced this decision in the **Federal Register** issue of December 28, 1984 (49 FR 50408).

Also in the **Federal Register** of December 28, 1984 (49 FR 50408), EPA issued a notice withdrawing several portions of the July 1980 proposed test rule on the basis of insufficient exposure, adequate testing in progress, or the availability of data to reasonably predict the risk of certain health effects that those chlorinated benzenes may present to humans. This removed from further consideration the following health effects testing: (1) Structural teratogenicity (developmental toxicity) testing for MCB, 1,2-DCB, 1,4-DCB, and 1,2,4-TCB; (2) subchronic/chronic effects testing of MCB, 1,2-DCB, 1,4-DCB and 1,2,4-TCB; and (3) oncogenicity and reproductive effects testing of pentachlorobenzene.

Having decided to withdraw certain portions of the health effects test rule proposal and not to adopt a negotiated testing program, the Agency continued with the rulemaking process for the following portions of the chlorinated benzenes health effects testing proposal: (1) Oncogenicity testing of 1,2,4-TCB; (2) chronic/subchronic toxicity, oncogenicity, teratogenicity (developmental effects), and reproductive effects testing of 1,2,4,5-tetrachlorobenzene; and (3) reproductive effects testing of MCB and 1,2- and 1,4-DCBs.

EPA also stated in its December 28, 1984 notice, that the final rule concerning the chlorobenzene health effects testing requirements would be promulgated in a single phase, such that the rule would include test standards and reporting requirements. In the proposed rule, EPA set forth proposed reporting requirements and data submission deadlines and proposed that the testing should be done in accordance with the applicable proposed test standards, with possible chemical-specific modifications (45 FR 48565; July 18, 1980). In the **Federal Register** of November 27, 1985 (50 FR 48805), the EPA issued a notice revising its proposed rule of July 18, 1980, by updating the proposed health effects testing requirements to reflect the incorporation of current TSCA test guidelines issued by EPA's Office of Toxic Substances. In the updated notice, EPA proposed that the remaining health effects tests for the chlorinated benzenes would be performed in accordance with the methodologies cited in the TSCA Health Effects Test Guidelines in 40 CFR Part 798. By doing so the testing requirements would follow current Agency policy and ensure current and generally accepted minimal conditions for determining the health effects of test substances like the chlorinated benzenes.

The Agency has also published a final rule and an advance notice of proposed rulemaking for environmental effects testing of these chlorinated benzenes (51 FR 11728, April 7, 1986 and 49 FR 1760, January 13, 1984, respectively). This final rule addresses only the health effects decisions for the chlorinated benzenes.

Therefore, in accordance with the Final Order and Judgment in NRDC and AFL–CIO v. EPA, the Agency is taking this final action on the remaining portions of the chlorinated benzenes proposed health effects test rule to comply with the court's order.

II. Public Comment

The comments received by the Agency in response to the proposed rule for the chlorinated benzenes were from the affected industry and several trade associations. The Agency did not receive any comments which, in the Agency's judgment, rebutted the findings of potential unreasonable risk and insufficient data for reproductive effects for MCB and 1,2- and 1,4-DCBs, oncogenic effects for 1,2,4-TCB, and reproduction and developmental toxicity testing of 1,2,4,5-TCB.

In the proposed rule, the Agency raised a number of issues for comment. Several of the issues are no longer applicable to this rulemaking in light of additional data received and the withdrawal of portions of the proposed rule. Major issues relevant to the remaining rulemaking and comments received are discussed below.

1. Should any additional chlorinated benzenes be incorporated in the sample designated for testing? Should any be deleted? Alternatively, should all chlorinated benzenes that are members of the category, as defined by EPA, be tested?

Many comments were received on this issue. However, when considering: (1) The withdrawal of the proposed testing requirements in this notice together with those withdrawn in December 1984, (2) that much of the proposed testing has now been conducted, and (3) that very little of the originally designated representative test sample and proposed test requirements remain, EPA has decided not to require testing under a category-based approach for the remaining testing requirements.

2. Is the Agency's requirement that the chlorinated benzene test chemicals be 99.9 percent pure with no more than 0.05 percent benzene and 0.05 percent hexachlorobenzene appropriate?

The Chlorobenzene Producers Association (CPA) commented that the most appropriate approach to purity of materials to be tested is to select the purest material that is representative of that which is available in commercial quantities, rather than using laboratory-pure, 99.9 percent material. CPA indicated that commercial grades of high purity MCB, 1,2-DCB, 1,4-DCB, 1,2,4-TCB, and 1,2,4,5-TCB are (or recently have been) available. All of these products contain less than 0.05 percent hexachlorobenzene and less than 0.05 percent benzene. However, CPA felt that requiring purities of 99.9 percent is not practical for several of these products, nor representative of economically feasible purities in commercial products.

The Agency believes that in most instances testing should be required for a "representative" commercial grade of a test substance. However, the EPA believes that testing of a purer grade may be appropriate when a known impurity or contaminant in a commercial product is a suspected cause of adverse effects and is itself being characterized by other tests, or when the test substance is being tested as representative of a large group and test data on a purer form would better insure reliable extrapolation to other group members.

EPA will designate the purity of the test chemicals selected which will generate data expected to reasonably define the likely toxicological effects of the commercial variations of the test chemical in the market place. EPA initially believed that a 99.9 percent pure MCB, 1,2- and 1,4-DCB, 1,2,4-TCB and 1,2,4,5-TCB would best define the likely toxic effects of the commercially available chlorinated benzenes. However, on the basis of industry comments and the National Toxicology Program's (NTP) use of a test material characterized as having purities greater than 99 percent for its oncogenicity studies of MCB, 1,2- and 1,4-DCB, EPA is revising its purity requirement to be similar to that of NTP's, which the Agency believes is acceptable.

3. Are there significant studies that have not come to the attention of EPA which would provide sufficient data and experience for evaluation of the chlorinated benzenes?

Commenters suggested that EPA failed to cite numerous data from the existing literature which are of critical importance in evaluating the chlorobenzene compounds. The Agency has received the data cited by the commenters and finds that the data are insufficient for evaluation of the chlorinated benzenes. For the most part, the following studies either had deficiencies in performance or insufficient information reported to fully evaluate the study.

a. One commenter noted a Dow Chemical U.S.A. study in dogs with 1,2,4,5-tetrachlorobenzene. The chemical was administered in the diet at 5 mg/kg/day for 2 years. No citation was given. EPA believes that this study was deficient in that it was not conducted at the maximum tolerated dose, only one dose was used, the pathology data were not submitted for evaluation by the EPA, and insufficient information was provided on methodology and results for the EPA to properly assess its significance.

b. Cragg, S.T., Wolfe, G.F., and Smith, C.C. "Toxicity of 1,2,4-trichlorobenzene in Rhesus monkeys: Comparison of two *in vivo* methods for estimating P-450 activity." *Toxicology and Applied Pharmacology*. 45(1):340. 1978.

This study was only reported as an abstract. There was not enough information given for an extrapolation of risk to humans.

c. Gage, J.C. "The subacute inhalation toxicity of 109 industrial chemicals." *British Journal of Industrial Medicine*. 27:1–18. 1970.

This study used far too few animals (two to four males and females at three dose levels) and there was up to a 20 percent impurity of 1,2,3-trichlorobenzene in the 1,2,4-trichlorobenzene sample. In addition, no microscopic examinations were performed.

d. Powers, M.B. *et al.* "Repeated topical applications of 1,2,4-trichlorobenzene." *Archives of Environmental Health*. 30:165–167. 1975.

In this study histopathology was only done on five organ systems, the number of animals (rabbits) per sex was not reported, and prevention of licking or rubbing the chemical off the ear was not done. In addition, no clinical chemistry or hematology examinations were performed. Therefore, based on this study, it would be difficult for the Agency to perform an adequate risk estimate for humans.

e. Smith, C.C., Cragg, S.T., and Wolfe, G.F. "Subacute toxicity of 1,2,4-trichlorobenzene in subhuman primates." *Federal Proceedings*. 36:248, 1978.

This study was only reported as an abstract. There was no indication of microscopic examination and there was not enough information given for an adequate risk estimate for humans.

f. Watanabe, P.G., Yakel, H.O., and Kociba, R.J. "Subchronic toxicity study of inhaled 1,2,4-trichlorobenzene in rats". Dow Chemical Company. 1978.

This was not a complete subchronic study because no microscopic examinations were performed. The observations were mainly concerned with porphyrin metabolism.

g. ICI Americas Inc. 1980.

The long-term inhalation studies of 1,4-DCB have been reviewed. In these studies, the 1,4-DCB was administered at two dose levels (75 and 500 ppm) for 15 months to mice and 20 months for rats. The studies did not indicate significant toxicity of 1,4-DCB in either rats or mice at 500 ppm. Therefore, EPA cannot characterize the dose-response curve from the information submitted. Since previous studies have indicated toxicity to the kidneys and liver from this chemical, it is reasonable to assume

that 1,4-DCB does induce damage to these organs at a higher level of exposure and that the authors were not sufficiently dosing the test animals to elicit a toxic response. In addition, EPA cannot analyze the very slight indications of toxicity at 500 ppm in rats because only five animals/sex/dose group were sacrificed at the most significant times (i.e. at 26, 52 and 76 weeks). Although the authors stated that the studies were conducted to evaluate potential oncogenicity of 1,4-DCB, EPA believes that these studies are too short to be considered as adequate negative oncogenicity studies.

In summary, these studies are not adequate either in themselves or in combination with other subchronic data to reasonably predict the chronic/subchronic effects of 1,2,4-TCB. Nor are the studies sufficient to eliminate EPA's concern for 1,2,4-TCB's oncogenic potential.

4. What strain(s) of rat is (are) most appropriate for assessing the oncogenic effects of the chlorinated benzenes?

Most commenters felt that EPA should not specify species or strains for these tests. They felt that selection of species for assessing any toxicologic response is best made by the investigators who will conduct the study because experience with the species and strain is critical to the appropriate interpretation of data from any study.

EPA realizes that investigators have substantial experience with the species they use. Nevertheless, for uniformity of experimental design, for the proper conduct of oncogenicity studies by several laboratories, and for the meaningful interpretation of oncogenicity studies conducted between laboratories, the Agency issues guidelines for the conduct of oncogenicity studies and believes it is appropriate in certain instances to specify the species and strains to be used. These guidelines and specifications are based on a thorough review of the literature, consultations with appropriate scientists, and input from public comments.

EPA originally considered requiring the use of the Sprague-Dawley rat in the oncogenicity testing of 1,2,4-TCB. This was based on a study by Maltoni *et al.* (Ref. 1) which indicated a significant tumorigenic effect by benzene in the rat. This study provided in EPA's estimation sufficient evidence to suggest the rodent (Sprague-Dawley rat) as the test species for an oncogenic study with chlorinated benzenes. However, EPA now believes that because oncogenicity testing conducted by NTP on MCB, 1,2- and 1,4-DCB utilized the Fischer–344 rat, the required oncogenicity testing for 1,2,4-TCB should also use the Fischer–344 rat as one of the 2 test species. EPA believes this test species will provide a stronger basis on which to make a comparative analysis.

5. Should testing for reproductive effects be required for chlorinated benzenes?

Commenters suggested that the testicular effects observed in dogs and the increased ovarian weights in rats exposed to MCB, as cited by EPA in its findings for proposed reproductive effects testing (45 FR 48544), do not provide sufficient evidence suggesting an unreasonable risk of reproductive effects.

EPA disagrees. EPA believes both effects are suggestive of a potential reproductive hazard which cannot be ignored or postponed for future consideration. The Agency believes this hazard potential must be elucidated by full reproductive effects testing of the appropriate chlorobenzenes.

6. Has EPA overlooked a test that could be more informative in the assessment of reproductive problems associated with the proposed test chemicals?

Commenters suggested that a monitoring program for male fertility and chromosomal breakage in humans occupationally exposed to the chlorinated benzenes be run in parallel with tests for the same endpoints in laboratory animals.

EPA believes the reproductive effects studies being required will generate adequate information on the potential reproductive effects these chemicals may cause. The need for further studies as suggested in the comment will be considered upon evaluation of the required testing results.

III. Decision To Terminate Rulemaking Process for Subchronic and Oncogenicity Testing Requirements for 1,2,4,5-Tetrachlorobenzene

After proposing health effects testing for 1,2,4,5-tetrachlorobenzene (1,2,4,5-TCB), the Agency received additional information which indicated that production of the tetrachlorobenzenes was performed in a closed process. EPA learned that the chemicals were used as chemical intermediates, primarily in the production of pentachloronitrobenzene. The potential for exposure in this system was estimated to be less than 100 workers. After reviewing this information, EPA considered terminating its rulemaking process for 1,2,4,5-TCB.

However, during the Fall of 1983, EPA received information concerning the use of tetrachlorobenzenes as a temporary transformer retrofilling dielectric fluid in railroad equipment which was being operated by the Southeastern Pennsylvania Transit Authority (SEPTA). EPA began a review of this use to determine whether human exposure to the chemicals was significantly increased over that already known. Early in 1984, EPA received information about further use of tetrachlorobenzenes in retrofilling electrical transformers other than railroad equipment. When reviewing this information, together with that for railroad use, EPA concluded the potential existed for a greater number of people to be exposed to the tetrachlorobenzenes, and that exposures would be to a more general population; i.e., satisfying the risk findings under TSCA section 4(a)(1)(A).

Meanwhile, the National Toxicology Program (NTP) initiated activity to test the chemical for oncogenicity. Because NTP has initiated its pre-chronic testing program for 1,2,4,5-TCB, EPA has decided to terminate its rulemaking process for subchronic/chronic effects and oncogenic effects testing and is notifying the public of this decision in this notice at this time. EPA remains concerned about the reproductive and teratogenic (developmental) hazard potential, 1,2,4,5-TCB may pose to human health and is requiring this testing as described below.

IV. Final Test Rule for MCB, 1,2,- and 1,4-DCB, 1,2,4-TCB, and 1,2,4,5-TCB

A. Findings

1. *1,2,4-Trichlorinated benzene.* The EPA is basing the final oncogenicity testing requirement for 1,2,4-TCB on the authority of section 4(a)(1)(A) of TSCA. EPA finds that the manufacture, processing, use and disposal of 1,2,4-TCB may present an unreasonable risk of cancer to humans, that there are insufficient data to reasonably determine or predict the effects of such activities on human health, and that testing is necessary to develop these data. The bases for these findings, which are summarized in the following paragraphs in IV.A., are set forth in the Agency's chlorinated benzenes support document.

Approximately 10 to 20 million pounds of 1,2,4-trichlorobenzene are produced annually in the United States. 1,2,4-TCB is used as a dye carrier, synthetic intermediate, dielectric fluid, and as a solvent. NIOSH estimated that these uses could result in 86,340 workers being exposed to 1,2,4-TCB each year (Ref. 2). An industry survey indicated approximately 40,000 workers are potentially exposed to 1,2,4-TCB (Ref. 3).

The Agency has received no additional information which would contradict the exposure estimates discussed here. EPA believes that either figure represents sufficient human exposure to make a "may present an unreasonable risk" finding under TSCA 4(a)(1)(A).

After reviewing available literature for individual members of the chlorobenzenes group, EPA has concluded that there is sufficient information to indicate that 1,2,4-TCB may present an oncogenic hazard to humans. Monochlorobenzene was reported to induce a significant increase in neoplastic nodules of the liver in high dose (120 mg/kg) male rats when administered by gavage in corn oil to both rats and mice (Ref. 4). Studies reviewed by EPA in its 1980 Chlorinated Benzene Support Document (Ref. 5) have shown that hexachlorobenzene (HCB) will induce hepatomas, liver haemangioendotheliomas, and thyroid alveolar adenomas in hamsters; hepatomas in mice; and liver, kidney, adrenal, and parathyroid tumors in rats. It was concluded that the NTP bioassay on 1,2-DCB showed no evidence of carcinogenicity in male or female rats and mice (Ref. 9). However, EPA believes the NTP study results, particularly on the dose-related increase in malignant histiocytic lymphomas found in this study, may suggest that their significance in the study may be underestimated when compared with the NTP study results for 1,4-DCB. The NTP bioassay on 1,4–DCB was positive for rats and mice (Ref. 7). EPA believes that these data substantiate a concern for the oncogenic potential of 1,2,4-TCB.

Other chronic studies for 1,4-DCB concluded that it was not oncogenic to both rats and mice under the conditions of the study (Refs. 8 and 9). However, EPA believes these studies are of limited value because of the shortened exposure periods, the abbreviated histopathological examinations, and a background incidence of respiratory disease in many of the test animals. Viewed in the light of the positive NTP bioassay for 1,4-DCB, they do not alleviate EPA's concern for the oncogenicity potential of 1,2,4-TCB.

Positive results from testing 1,2,4-TCB in a cell transformation bioassay (one with uncertain correlation to oncogenicity because of the low number of chemicals that have been tested in the assay) (Ref. 10) also increase suspicion for its potential oncogenic hazard. Although short-term mutagenicity testing has produced mixed results with a high number of negative results for all the chlorobenzenes examined, the correlation between the negative findings for these tests for this class of chemicals and their potential oncogenicity is unknown. Therefore, prediction of potential oncogenic activity from short-term tests is severely limited for the chlorobenzenes and oncogenicity testing is necessary to determine the oncogenic potential.

EPA concludes on the basis of occupational exposure, the cell transformation results for 1,2,4-TCB, and the oncogenicity of structurally related chlorinated benzenes, that 1,2,4-TCB may present an oncogenic risk to humans.

2. *Mono- and dichlorinated benzenes.* The EPA is also promulgating a final reproductive effects testing requirement for MCB and 1,2- and 1,4-DCBs based on the authority of section 4(a)(1)(A) of TSCA. EPA finds that the manufacture, processing, use and disposal of MCB and 1,2- and 1,4-DCBs may present an unreasonable risk of reproductive effects to humans, that there are inadequate data to reasonably determine or predict the effects of such activities on human health, and that testing is necessary to obtain this data. Approximately 200 to 300 million pounds of MCB, and 100 to 150 million pounds of DCBs are produced annually. EPA believes the uses of the chemicals, which are set forth in the Agency's chlorinated benzene support document provide for sufficient human exposures to these chemicals. EPA also believes that adequate evidence for a potential reproductive effect in humans exposed to MCB exists because studies have demonstrated MCB's ability to affect the reproductive organs of rats and dogs (Ref. 11). For DCBs, EPA believes the close structural similarity between MCB and the DCB's provided a reasonable basis on which to conclude they too may present a reproductive hazard.

EPA acknowledges that the combined reproductive effects studies and embryo/fetal teratology screen on 1,2,4-TCB (Ref. 12), which produced negative results as discussed in the December 1984 notice (48 FR 54842), does present some question regarding the DCBs' potential for causing a reproductive hazard in humans. However, because the data provide suggestive evidence which conflicts with available suggestive data on the reproductive effects potential of MCB, EPA believes that only by actual study can the potential of MCB and the DCB's to cause this effect be satisfactorily established.

EPA is also aware of a reproductive effects study for MCB that has recently been conducted under the sponsorship of the chlorobenzene producers (Ref. 13). At this time EPA has received interim data from this study describing histopathological changes in the testes of male Sprague-Dawley rats exposed to 450 ppm MCB. If the study complies with the test standards established under this rule it may be submitted in satisfaction of the rule's test requirements for MCB. Should the study not meet the test standards described for MCB reproductive effects testing under this rule, but the manufacturers believed it provides adequate data to reasonably determine or predict the reproductive effects of the manufacturer, processing, use, and disposal of MCB, such manufacturers may petition EPA to withdraw the test rule. Similarly, if the manufacturers believe the MCB study results substantially alter the Agency's basis for requiring reproductive effects testing of 1,2- or 1,4-DCB, they may petition for reconsideration of those requirements.

EPA concludes that on the basis of the high occupational exposures to MCB, 1,2- and 1,4-DCBs, the suggestive evidence of MCB's potential to cause reproductive effects, and the close structural similarity between MCB and DCBs, both MCB and 1,2- and 1,4-DCBs may present an unreasonable risk of reproductive effects to humans.

3. *1,2,4,5-Tetrachlorinated benzene.* The Agency is basing the final reproductive and teratogenic (developmental) effects testing requirements for 1,2,4,5-TCB on the authority of section 4(a)(1)(A). EPA finds that the use of 1,2,4,5-TCB may present an unreasonable risk of reproductive and teratogenic (developmental) effects to humans, that there are insufficient data to reasonably determine or predict such effects on humans, and that testing is necessary to develop these data. The bases for these findings are summarized in the following paragraphs.

a. *Exposure.* EPA believes a liquid solution containing 1,2,4,5-TCB, which is being used as a temporary dielectric retrofilling fluid for use in PCB-containing electrical transformers, poses a significant source of potential 1,2,4,5-TCB exposure to humans. Electrical transformers can contain hundreds to thousands of gallons of dielectric fluid. PCB transformers typically contain about 500 gallons of PCBs, although they can contain up to 1,650 gallons. Currently, there are an estimated 140,000 PCB transformers in use in the United States. There are also an estimated 34 million transformers containing mineral oil that are contaminated with PCBs to varying degrees. EPA believes all of the 140,000 PCB transformers and many of the mineral oil transformers containing

over 50 ppm PCBs are potential candidates for retrofilling with the 1,2,4,5-TCB containing fluid. EPA believes that because of the typical liquid volume of these transformers, sufficient quantities of 1,2,4,5-TCB are present for human exposure.

EPA believes there are four population groups potentially at risk of exposure from the use 1,2,4,5-TCB as a temporary dielectric fluid: (1) Persons involved in the actual retrofill of existing equipment, (2) persons involved in the servicing/maintenance of the equipment, (3) other workers (recognizing that transformers in other than electrical substations are for the most part used exclusively in "commercial" areas including manufacturing plants), and (4) members of the general population (considering transformer locations near office buildings, shopping malls, and apartment buildings).

EPA's experience with the use, servicing, and retrofilling of PCB transformers and PCB contaminated transformers suggests that these activities have resulted in widespread human exposure to PCBs and that it is reasonable to assume the same exposure potential that exists for PCBs will also exist for 1,2,4,5-TCB. Although current controls exist to reduce the PCB exposure to humans via inspection of transformers, recordkeeping, and required removal programs, EPA believes that because insufficient health effects data exist for 1,2,4,5-TCB to support the need for continued safe handling of "retrofilled transformers, once the PCBs are removed, the care exhibited in servicing PCB containing or contaminated transformers can reasonably be expected to be relaxed, if not eliminated.

b. *Reproductive effects.* Although there are no reproductive effects studies for the tetrachlorobenzenes, EPA believes that reproductive effects may occur from sufficient exposure to the tetrachlorobenzenes. EPA anticipates antifertility effects will not occur except possibly at dose levels causing other toxic symptoms, and that there is a high probability that effects on the neonate will result from in utero dosing and/or on postnatal growth and development through excretion of the tetrachlorobenzenes through the mother's milk. Subsequent effects on growth and development of the young adult are also possible.

The fetal effects demonstrated to date have been reduced litter size with a few other equivocal effects on surviving embryos as seen in the following non-reproductive effects studies (Refs. 14, 15 and 16). Although evidence of effects on the surviving embryo/fetus is limited to 1,2,3,4-TCB exposure only (Ref. 16), the observation that the other two isomers (1,2,4,5,- and 1,2,3,5-TCB) cause reduced litter sizes and accumulate in the fetus and the mother (Ref. 14), indicate that a potential risk of effects on growth and development postnatally may occur given sufficient exposure.

The chlorinated hydrocarbons are known to gain access to the fetus via the placenta and to the neonate via the placenta and the milk supply. In the case of the tetrachlorobenzenes, pasage into the fetus has been demonstrated with effects (Refs. 14 and 16).

Kacew et al. (Ref. 14) analyzed tetrachlorobenzene residues in organs and tissue from Sprague-Dawley rat fetuses and dams dosed during days 6–15 of gestation. The isomer 1,2,4,5-TCB was found to accumulate to the greatest degree. Accumulation of 1,2,3,5-TCB was found to be approximately 100–200 times less in fetal and maternal tissue. There was no evidence that 1,2,3,4-TCB accumulated in either the fetus or the dam.

Two more highly chlorinated benzenes, penta- and hexachlorobenzenes, have been shown to cause fetal effects (Refs. 17 and 18). Although accumulation of these two analogs would probably be greater, tetrachlorobenzenes may be expected to behave in a similar manner.

These data indicate a potential risk of effects on growth and development for tetrachlorobenzenes. However, EPA concludes because there are no reproductive effects studies for 1,2,4,5-TCB or other tetrachlorobenzene isomers to characterize their potential effects on growth and development, reproductive effects testing is necessary. EPA believes that sufficient human exposure to 1,2,4,5-TCB exists from its use as a temporary dielectric retrofilling fluid to support a TSCA section 4(a)(1)(A) finding to require testing. At this time EPA is requiring that only 1,2,4,5-TCB be tested for reproductive effects according to the TSCA test guidelines because available data indicate that 1,2,4,5-TCB accumulates in body tissues to a greater degree than the other tetrachlorobenzene isomers. Based on the data resulting from these studies, EPA will reevaluate the need for reproductive testing of the other tetrachlorobenzene isomers.

c. *Developmental toxicity.* Although none of the tetrachlorobenzene isomers have demonstrated unequivocal potential to cause terata, developmental effects from in utero dosing have been demonstrated for all three isomers. Kacew et al. (Ref. 14) administered each isomer at 0, 50, 100 or 200 mg/kg body weight in corn oil to 8–10 rats per group from day 6–15 of gestation. Fetal effects were demonstrated in reduced litter sizes when the rats were dosed with 1,2,3,4, or 1,2,3,5-TCB at 200 mg/kg. The fetal effects from 1,2,4,5-TCB could not be determied because only one dam survived at this dose level. However, Kitchin and Ebron (Ref. 15) found a reduced number of implantations in rats exposed to the same isomer, 1,2,4,5-TCB.

In the 1,2,3,4-TCB group at 200 mg/kg, not only reduced litter size occurred but retarded ossification and an extra 14th rib was found. Although litter size reduction was the only statistically significant fetal effect noted, only 5 litter were seen at this dose level (Ref. 14). If more litters have been examined, terata and/or retarded growth may have been detected.

In the 1,2,3,5-TCB group dosed at 200 mg/kg, only one malformation occurred in 6 litters, but delayed osteogenesis in the cranium and sternebrae, small pup sizes and the presence of a 14th rib and clubbed foot led to the conclusion that if more litters had been examined, statistical significance in some of these parameters may have been found in addition to the reduced litter sizes (Ref. 14).

In the 1,2,4,5-TCB group dosed at 200 mg/kg, no fetal effects could be determined because all but one of the dams died approximately 6.5 days (mean time to deaths) after the beginning of dosing. An adequate NOEL may not have been demonstrated by the less than 10 litters per dose level used in these studies.

Kitchin and Ebron (Refs. 15 and 16) studied the effects of two of the isomers 1,2,3,4,-TCB and 1,2,3,5-TCB on maternal enzyme induction and embryonic growth at 0, 30, 100, 300 or 1000 mg/kg body weight on 10 rats per group from day 6–13 of gestation. The TCB was administered in gum tragacanth instead of the corn oil used by Kacew et al. (Ref. 14). Embryos were examined at day 14 of gestation.

The isomer 1,2,3,4-TCB demonstrated a reduction in crown-rump length and head length at 300 mg/kg. Except for enzyme induction, no other maternal toxicity occurred at this dose level. At 1000 mg/kg, 37 percent of the dams died and no fetal determinations were made (Ref. 16).

Exposure to 1,2,4,5-TCB demonstrated a reduced number of implants at 1000 mg/kg; reduced maternal weight gain also occurred at this dose level, and liver enzyme induction occurred at all dose levels (Ref.15).

The studies by Kacew et al. and Kitchin and Ebron are adquate to

indicate that fetal effects may be produced by all of the TCB isomers.

The teratological data available for the tetrachlorbenzenes demonstrate effects on development. However, EPA believes that the available studies are not adequate to reasonably predict the risk of developmental effects that 1,2,4,5-TCB, or other tetrachlorobenzenes, may present to humans and that developmental toxicity testing is necessary. EPA believes sufficient human exposure exists through 1,2,4,5-TCB's use as a temporary dielectric retrofilling fluid to support a TSCA section 4(a)(1)(A) finding to require testing. At this time EPA is requiring that only 1,2,4,5-TCB be tested for developmental toxicity according to the TSCA test guidelines because available data indicate that 1,2,4,5-TCB accumulates in body tissues to a greater degree than the other tetrachloro-benzene isomers. Based on the data resulting from these studies, EPA will reevaluate the need for developmental effects testing of the other tetrachlorobenzene isomers.

B. Test Standards

On November 27, 1985 (50 FR 48805), EPA issued a notice proposing the use of the TSCA guidelines in place of the proposed test standards, issued in the **Federal Register** on May 9, 1979 (44 FR 27334), and July 26, 1979 (44 FR 44054), for the required health effects testing of the chlorinated benzenes. As described in the November 27, 1985 notice, EPA had previously issued a change in its test standards policy (March 26, 1982; 47 FR 13012) that eliminated the use of rigid generic testing requirements or standards, as proposed on July 18, 1980, for the health effects testing of the chlorinated benzenes. EPA believes that public comments addressing the original generic test standards as well as those provided during the public comment period for this action, addressing their applicablity to the required testing for the chlorinated benzenes, have been adequately considered in the preparation of the TSCA guidelines. EPA believes that because of this effort, and the annual reviews of the guidelines by EPA, the original proposed test standards have been modified to a point where the resulting test data will reflect state-of-the-art toxicological procedures, and ensure current and generally acceptable minimal conditions for determining the health effects of the chlorinated benzenes. Therefore, the remaining health effects tests for the chlorinated benzenes shall be performed in accordance with the methodologies cited in the TSCA Health Effects Test Guidelines in 40 CFR Part 798, published in the **Federal Register** on September 27, 1985 (50 FR 39252).

At this time the Agency is requiring that oncogenicity testing for 1,2,4-TCB be conducted by testing 1,2,4-TCB in two mammalian species (the mouse and the Fischer-344 rat). The Agency is requiring that the oncogenicity testing be performed in accordance with the methodology cited in the TSCA Health Effects Test Guideline at 40 CFR Part 798.3300 and the TSCA Good Laboratory Practice Standards in 40 CFR Part 792. EPA is requiring that 1,2,4-TCB be administered in the feed.

EPA also is requiring that reproductive effects testing for MCB and 1,2- and 1,4-DCBs be conducted by testing MCB, 1,2- and 1,4-DCBs in the 2-generation reproductive and fertility study in the Sprague-Dawley rat. The Agency is requiring that the reproductive and fertility effects testing be performed in accordance with the methodology cited in the TSCA Health Effects Test Guideline at 40 CFR Part 798.4700. EPA is requiring that the route of administration for MCB, and 1,2- and 1,4-DCBs be inhalation.

EPA is also requiring that reproductive effects and developmental effects testing for 1,2,4,5-TCB be conducted. The Agency is requiring that the reproductive and fertility effects testing be performed in accordance with the methodology cited in the TSCA Health Effects Test Guidelines at 40 CFR Part 798.4700. The Agency is requiring that the developmental effects testing be performed in accordance with the methodology cited in the TSCA Health Effects Test Guidelines at 40 CFR Part 798.4900. EPA is requiring that the reproductive and fertility effects testing be conducted using the Sprague-Dawley rat and that the developmental effects testing be done in the Fischer 344 rat and the New Zealand White rabbit (both species were previously used in the developmental effects testing of MCB, 1,2- and 1,4-DCB). 1,2,4,5-TCB shall be administered in the feed in the reproductive and fertility effects study and shall be administered by oral gavage in the developmental effects study. Developmental effects testing of the tetrachlorobenzenes by Kacew, et al. (Ref. 14) demonstrated the effective use of this route of administration.

C. Test Substance

EPA is requiring that MCB, 1,2- and 1,4-DCB, 1,2,4-TCB, and 1,2,4,5-TCB, containing no more than 0.05 percent benzene and 0.05 percent hexachlorobenzene, be used as the test substances for the tests required by this rule. The purity of the test substances must be at least 99 percent. EPA is aware that commercially available chlorinated benezenes have been offered at a 99.9 percent level of purity. However, because NTP oncogenicity testing has utilized purities specified as greater than 99 percent, EPA believes requiring a similar purity for the required testing in this rule will be acceptable.

D. 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 exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because EPA has found that insufficient data exist to reasonably determine the effects on human health from the manufacture, processing, use, and disposal of MCB, 1,2- and 1,4-DCBs and 1,2,4-TCB, and the use of 1,2,4,5-TCB, EPA is requiring that persons who manufacture (or import) and/or process MCB, 1,2- or 1,4-DCB, 1,2,4,-TCB, or 1,2,4,5-TCB, 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 rule for each of the chemicals they manufacture (or import) and/or process. The end of the reimbursement period will be 5 years after the last final report is submitted for a given chemical 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 in 40 CFR Part 790.

EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing for MCB, 1,2- or 1,4-DCB, 1,2,4-TCB, or 1,2,4,5-TCB. As noted in Unit IV.C, EPA is interested in evaluating the effects attributable to these chlorinated benzenes and has specified a relatively 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.

E. Reporting Requirements

EPA is requiring 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 requiring that manufacturers and processors responsible for the oncogenicity testing of 1,2,4-TCB report the study results within 53 months after the effective date of this rule. Manufacturers and processors responsible for the reproductive effects testing of MCB, or 1,2- or 1,4-DCB, or 1,2,4,5-TCB must report these study results within 29 months after the effective date of this rule. Manufacturers and processors responsible for the developmental effects testing of 1,2,4,5-TCB must report the study results within 12 months after the effective date of this rule.

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, and exporter of MCB, 1,2- or 1,4-DCB, 1,2,4-TCB, or 1,2,4,5-TCB must report to EPA the first annual export or intended export of any of these chemicals to any one country. EPA will notify the foreign country concerning the test rule for the chemical.

F. 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 substance 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 the purpose of determining compliance with the final rule for MCB, 1,2,- and 1,4-DCBs, 1,2,4-TCB, and 1,2,4,5-TCB. 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 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 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. Economic Analysis of Rule

To assess the potential economic impact of this rule, EPA has prepared an economic analysis (Ref. 14) 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 these chlorinated benzenes: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. If these indications are negative, 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.

Total direct testing costs for the final rule for MCB, 1,2-DCB and 1,4-DCB are projected to range from $590,229 to $768,141. Since the three chemicals are produced jointly, the direct costs of testing have been dispersed over the total production of the three chlorobenzenes. Including the costs for environmental effects testing which EPA has proposed in a prior rule (Ref. 14), the total costs of testing MCB, 1,2-DCB and 1,4-DCB range from $595,021 to $774,551.

The total direct costs testing 1,2,4-TCB range from $562,627 to $747,009. Because 1,2,4-TCB is commercially manufacturered as a joint product with 1,2,3-TCB, the direct costs of testing have been dispersed over the total production for both trichlorobenzenes. Including the costs for environmental effects testing for 1,2,4-TCB and 1,2,3-TCB which EPA has previously proposed, raises the total testing costs for 1,2,4-TCB to $587,064 to $779,348.

The estimated range of test costs for 1,2,4,5-tetrachlorobenzene is from $181,000 to $240,000. Because the production level of tetrachlorobenzene is Confidential Business Information (CBI), the quantitative impact projected by EPA must remain CBI.

The annualized tests costs (using a costs of capital of 25 percent over a period of 15 years) range from $154,194 to $200,717 for MCB, 1,2-DCB and 1,4-DCB and from $152,132 to $201,960 for 1,2,4-TCB. Based upon the most recent production data, the unit test costs for the mono- and dichlorobenzenes range from 0.04 to 0.05 cents per pound. These costs are equivalent to 0.11 to 0.12 percent of the list price of MCB, 0.11 to 0.14 percent of the unit sales value of 1,2-DCB, and 0.10 to 0.13 percent of the unit sales value of 1,4-DCB.

Unit test costs for 1,2,4-TCB range from 0.94 to 1.24 cents per pound after adjusting for upstream testing costs. These costs represent from 1.5 to 2.0 percent of 1,2,4-TCB price.

Based on these costs and the uses of these chlorinated benzenes, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is extremely low. For MCB, DCBs and TCBs, this conclusion is based upon the following observations:

1. The estimated unit test costs are low and should not affect demand, and
2. The demand for these compounds as chemical intermediates is dispersed over numerous end markets.

The potential for significant adverse economic impact on tetrachlorobenzene production is low. This conclusion is based upon the following observation.

1. Production of tetrachlorobenzene is expected to be substantial in the near-term; and
2. Review of the industry structure and cost characteristics of tetrachlorobenzene manufacture indicates that the manufacturer is collecting monopoly profits which will not be significantly affected by the testing costs.

Refer to the economic analysis (Ref. 14) for a complete discussion of test costs estimation and the potential for economic impact resulting from these costs.

VI. 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 rule.

VII. Rulemaking Record

EPA has established a public record for this rulemaking proceeding [docket number OPTS-47002F]. This record includes:

A. Supporting Documentation

(1) **Federal Register** notices designating the chlorinated benzenes to the priority list (42 FR 55026 and 43 FR 50630) and all comments received on the chlorinated benzenes.

(2) **Federal Register** notice of EPA's proposed health effects test rule on chlorinated benzenes (45 FR 48424) and all comments received on the proposed testing.

(3) **Federal Register** notice (48 FR 54836) requesting comment on the negotiated testing program and proposed decision to withdraw certain proposed testing requirements, and comments, received.

(4) **Federal Register** notice (49 FR 50408) announcing its final decision to withdraw several proposed testing requirements.

(5) **Federal Register** notice (50 FR 48805) announcing a revision to the proposed test standards, and comments received.

(6) Communications consisting of letters, contact reports of telephone conversations, and meeting summaries.

(7) Proposed test standards for oncogenicity, reproductive effects (44 FR 44054 and 27334) and comments submitted on those standards which may be found in public dockets Nos. OPTS-46005 and 46003.

(8) Transcript of September 25, 1984 Public Meeting.

B. References

(1) Maltoni, C., and Scarnato, C. "First experimental demonstration of the carcinogenic effects of benzene. *Med. Lavoro.* 5: 352-357. 1979.

(2) National Institute of Occupational Safety, and Health. National Occupational Hazard Survey Data Base. Washington, D.C. U.S. Department of Health, Education, and Welfare. 1979.

(3) Hull and Company. "Employee exposure to trichlorobenzene products." Prepared by Hull and Company of Greenwich, Connecticut for the Chlorobenzene Producers Association. October 22, 1980.

(4) National Toxicology Program. "NTP technical report on the toxicology and carcinogenesis studies of chlorobenzene." U.S. Department of Health and Human Services. October 1985. NIH Publication Number 86-2517.

(5) U.S. Environmental Protection Agency. "Assessment of testing needs: chlorinated benzenes." Office of Pesticides and Toxic Substances. U.S. Environmental Protection Agency. July 1980.

(6) National Toxicology Program. "NTP technical report on the toxicology and carcinogenesis studies of 1,2-

dichlorobenzene." U.S. Department of Health and Human Services. October 1985. NIH Publication Number 86-2511.

(7) National Toxicology Program. "NTP draft technical report on the toxicology and carcinogenesis studies of 1,4-dichlorobenzene." U.S. Department of Health and Human Services. March 1986. NIH Publication Number 86-2575.

(8) Imperial Chemical Industrial Limited. "Para-dichlorobenzene: long term inhalation study in the rat." Report Number CTL/P/447. Received by the Test Rules Development Branch of the U.S. Environmental Protection Agency, Washington, D.C., on March 23, 1982.

(9) Imperial Chemical Industries Limited. "Para-dichlorobenzene: long term inhalation study in the mouse." Report Number CTL/P/478. Received by the Test Rules Development Branch of the U.S. Environmental Protection Agency, Washington, D.C., on March 23, 1982.

(10) Shimada, T., *et al.* "Study of effects on cultured liver cells of three chlorinated benzenes." Final report. Naylor Dana Institute. American Health Foundation. Valhalla, New York. December 5, 1983.

(11) Monsanto Company. TSCA Section 8(d) submission 8DHQ-1078-0212 (1). "Industrial bio-test draft report of 90-day subacute vapor inhalation toxicity study with monocholorobenzene, in beagle dogs and albino rats. Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C., 1978.

(12) Robinson, S., *et al.* "Multigeneration study of 1,2,4-trichlorobenzene in rats." *Journal of Toxicology and Environmental Health.* 8:489-500. 1981.

(13) Chlorobenzene Producers Association. Letter from Alan W. Rautio to Don R. Clay. May 8, 1986.

(14) Kacew, S., Ruddick, J.A., Parulekar, V.E., *et al.* "A teratological evaluation and analysis of fetal tissue levels following administration of tetrachlorobenzene isomers to the rat." *Teratology.* 29:21-27. 1984.

(15) Kitchin, K. T. and Ebron, M.T. "Maternal hepatic effects of 1,2,4,5-tetrachlorobenzene in the rat." *Environmental Research.* 32:134-144. 1983a.

(16) Kitchin, K.T. and Ebron, M.T. "Maternal hepatic and embryonic effects of 1,2,3,4-tetrachlorobenzene in the rat." *Toxicology.* 26:243-256. 1983b.

(17) Khera, K.S. and Villeneuve, D.C. "Teratogenicity studies on halogenated benzenes (pentachloro-, pentachloronitro-, hexabromo- in rats." *Toxicology.* 5:117:122. 1975.

(18) Courtney, K.D. "Hexachlorobenzene (HCB)." A review. *Environmental Research* 20:225-266. 1979.

(19) U.S.EPA. "Economic impact analysis of final health effects rule for chlorobenzenes." Office of Pesticides and Toxic Substances, U.S.EPA. Contract No. 68-02-4235. March 11, 1986.

The record, containing the information considered by the Agency in developing this decision, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. E-107, 401 M St., SW., Washington, D.C. 20460.

VIII. Other Regulatory Requirements

A. Classification of Rule

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 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 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, if any, 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 final 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.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: June 24, 1986.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Part 799 is amended in Subpart B as follows:

a. By adding § 799.1051 to read as follows:

§ 799.1051 Monochlorobenzene.

(a) *Identification of test substance.* (1) Monochlorobenzene (CAS Number 108-90-7) (hereinafter "MCB") shall be tested in accordance with this section.

(2) MCB of at least 99 percent purity shall be used as the test substance.

(3) The test substance shall not contain more than 0.05 percent benzene and 0.05 percent hexachlorobenzene.

(b) *Persons required to submit study plans, conduct tests and submit data.* All persons who manufacture (import) or process monochlorobenzene other than as an impurity after the effective date of this rule (August 21, 1986) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests, and submit data as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this Chapter for single-phase rulemaking.

(c) *Health effects testing*—(1) *Reproductive and fertility effects*—(i) *Required testing.* (A) A test for reproductive and fertility effects shall be conducted with MCB in accordance with § 798.4700 of this chapter.

(B) The route of administration for the reproductive and fertility effects testing of MCB shall be inhalation.

(C) The test species shall be the Sprague-Dawley Rat.

(ii) *Reporting requirements.* (A) The reproductive and fertility effects test shall be completed and the final results submitted to the Agency within 29 months of the effective date of this rule.

(B) Progress reports shall be submitted to the Agency every 6 months after the effective date of the final rule.

Approved by the Office of Management and Budget under control number 2070-0033)

b. By adding paragraphs (a)(3), (b)(5), (d) and an OMB control number to § 799.1052 to read as follows:

§ 799.1052 Dichlorobenzenes.

(a) * * *

(3) For health effects testing required under (e), both test substances shall not contain more than 0.05 percent benzene and 0.05 percent hexachlorobenzene.

(b) * * *

(5) For health effects testing required under (e), all persons who manufacture (import) or process 1,2- and/or 1,4-dichlorobenzene, other than as an impurity, after the effective date of this rule (August 21, 1986) to the end of the reimbursement period, for each of these chemicals that they manufacture and/or process, shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests, and submit data as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this chapter for single-phase rulemaking.

* * * * *

(d) *Health effects testing*—(1) *Reproductive and fertility effects*—(i) *Required testing.* (A) A test for reproductive and fertility effects shall be conducted with both 1,2- and 1,4-DCBs in accordance with § 798.4700 of this chapter.

(B) The route of administration for the reproductive and fertility effects testing of both 1,2- and 1,4-DCB shall be inhalation.

(C) The test species shall be the Sprague-Dawley rat.

(ii) *Reporting requirements.* (A) Both reproductive and fertility effects tests shall be completed and the final results submitted to the Agency within 29 months of the effective date of this final rule.

(B) Progress reports for both studies shall be submitted to the Agency every 6 months after the effective date of the final rule.

(Approved by the Office of Management and Budget under control number 2070–0033)

c. By adding paragraphs (a)(3), (b)(5), and (e) to § 799.1053 to read as follows:

§ 799.1053 1,2,4-Trichlorobenzene.

(a) * * *

(3) For health effects testing required under (e), the test substance shall not contain more than 0.05 percent benzene and 0.05 percent hexachlorobenzene.

(b) * * *

(5) For health effects testing required under (e), all persons who manufacture (import) or process 1,2,4-trichlorobenzene, other than as an impurity, after the effective date of this rule (August 21, 1986) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests, and submit data as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this chapter for single-phase rulemaking.

* * * * *

(e) *Health effects testing*—(1) *Oncogenicity*—(i) *Required testing.* (A) A test for oncogenic effects shall be conducted with 1,2,4-TCB in accordance with § 798.3300 of this chapter.

(B) The route of administration for the oncogenicity testing for 1,2,4-TCB shall be via the animal feed.

(C) Two rodent species shall be used and one shall be the Fischer-344 rat.

(ii) *Reporting requirements.* (A) The oncogenicity test shall be completed and the final results submitted to the Agency within 53 months of the effective date of this final rule.

(B) Progress reports shall be submitted to the Agency every 6 months after the effective date of the final rule.

d. By adding § 799.1054 to read as follows:

§ 799.1054 1,2,4,5-Tetrachlorobenzene.

(a) *Identification of test substances.* (1) 1,2,4,5-Tetrochlorobenzene (CAS Number 95–94–3) (hereinafter "1,2,4,5-TCB") shall be tested in accordance with this section.

(2) 1,2,4,5-TCB of at least 99 percent purity shall be used as the test substance.

(3) The test substance shall not contain more than 0.05 percent benzene and 0.05 percent hexachlorobenzene.

(b) *Persons required to submit study plans, conduct tests and submit data.* All persons who manufacture (import) or process 1,2,4,5-tetrochlorobenzene, other than as an impurity, after the effective date of this rule (August 21, 1986) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests, and submit data as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this chapter for single-phase rulemaking.

(c) *Health effects testing.*—(1) *Reproduction and fertility*—(i) *Required testing.* (A) A test for reproduction and fertility effect shall be conducted with 1,2,4,5-TCB in accordance with § 798.4700 of this chapter.

(B) The route of administration for the reproduction and fertility testing for 1,2,4,5-TCB shall be dietary.

(C) A rodent test species shall be used and shall be the Sprague-Dawley rat.

(ii) *Reporting requirements.* (A) The reproduction and fertility test shall be completed and the final results submitted to the Agency within 29 months of the effective date of this final rule.

(B) Progress reports shall be submitted to the Agency every 6 months after the effective date of the final rule.

(2) *Developmental toxicity.*—(i) *Required testing.* (A) A test of developmental toxicity shall be conducted with 1,2,4,5-TCB in accordance with § 498.4900 of this chapter.

(B) The route of administration for the developmental toxicity testing for 1,2,4,5-TCB shall be via oral gavage.

(C) Two rodent species shall be used in the study. One shall be the Fischer-344 rat and the second the New Zealand white rabbit.

(ii) *Reporting requirements.* (A) The developmental toxicity testing shall be completed and the final results submitted to the Agency within 12 months of the effective date of this final rule.

(B) Progress reports shall be submitted to the Agency every 6 months after the effective date of the final rule.

(Approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc. 86–15053 Filed 7–7–86; 8:45 am]
BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 508 and 525

[APD 2800.12 CHGE 28]

General Services Administration Acquisition Regulation; Required Sources of Supply and the Trade Agreements Act

AGENCY: Office Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is revised to incorporate the substance of GSAR Acquisition Circulars AC–85–5 and AC–86–3. This change amends section 508.705–73 to eliminate the prohibition against requesting a price reduction when negotiating adjustments to delivery schedules for delinquent orders under contracts with workshops for the blind or other severely handicapped. Section 525.402 is amended to reflect the current dollar threshold for applicability of the Trade Agreements Act. Miscellaneous other changes are made in Part 508 to reflect current organization and document titles.

EFFECTIVE DATE: June 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA

Acquisition Policy and Regulations (VP), (202) 566-1224.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 1985, the General Services Administration (GSA) published in the **Federal Register** (51 FR 52780) Acquisition Circular AC-85-5 and on March 13, 1986, (51 FR 8677) Acquisition Circular AC-86-3, which temporarily revised the GSAR and invited comments from interested parties on the changes. Comments received from the American Bar Association and various GSA offices have been incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The changes implement the U.S. Trade Representative's decision to reduce the dollar threshold for applicability of the Trade Agreements Act and provides for nonprofit workshops for the blind and other severely handicapped to be dealt with in a manner consistent with all other GSA contractors when negotiating adjustments in delivery schedules. Accordingly, no flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 508 and 525

Government procurement.

1. The authority citation for 48 CFR Parts 508 and 525 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 508—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 508.602 is amended by revising paragraph (b) to read as follows:

508.602 Policy.

* * * * *

(b) A contract for services shall not be awarded to the Federal Prison Industries, Inc. (FPI) without providing for full and open competition unless the contracting officer justifies such action in accordance with FAR 6.302. FAR 6.302-5 may not be cited as justification for a sole source acquisition of services from FPI because 18 U.S.C. 4121-4128 does not authorize or require the procurement of services from FPI.

3. Section 508.705-70 is amended by revising paragraph (b) to read as follows:

508.705-70 Adding items to the Procurement List.

* * * * *

(b) The Committee for Purchase from the Blind and Other Severely Handicapped (the Committee), if requested by the CNA, may assign the supply or service to the CNA for development by a workshop and will list the item in the Preliminary Evaluation Record. A copy of the record, updated monthly, is maintained by the Office of Small and Disadvantaged Business Utilization (AU).

* * * * *

4. Section 508.705-73 is amended by revising paragraphs (a) and (a)(1) to read as follows:

508.705-73 Delinquent delivery orders.

(a) Contracting officers shall take appropriate action on delinquent delivery orders until all deliveries are made. Contracting officers shall follow the procedures outlined in FAR 8.705 and the regulations of the Committee for Purchase from the Blind and Other Severely Handicapped (see 41 CFR 51-5.2 and 51-5.7).

(1) In cases of excusable delays, contract delivery schedules should be extended without obtaining consideration. However, when the delay is inexcusable, normal procedures should be followed in reviewing and adjusting contract prices if appropriate.

* * * * *

PART 525—FOREIGN ACQUISITION

5. Section 525.402 is amended by revising paragraph (a) to read as follows:

525.402 Policy.

(a) Pursuant to FAR 25.402(a), contracting officers shall evaluate offers of $149,000 or more for an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The $149,000 threshold must be inserted in paragraph (b) of the FAR clause at 52.225-9 (see Article 30 of the GSA Form 3507, Supply Contract Clauses).

* * * * *

6. Section 525.402-71 is amended by revising paragraph (c) to read as follows:

525.402-71 Delegation of limited waiver authority.

* * * * *

(c) When the head of the contracting activity grants such a waiver, a copy of the waiver will be furnished to the Associate Administrator for Acquisition Policy for subsequent transmittal to the U.S. Trade Representative.

Dated: June 24, 1986.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc 86-15225 Filed 7-7-86; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1180

[Ex Parte No. 282 (Sub-11)]

Rail Consolidation Procedures; Continuance in Control of a Nonconnecting Carrier

AGENCY: Interstate Commerce Commission.

ACTION: Final rule and exemption.

SUMMARY: The Commission is expanding its railroad class exemption (49 CFR 1180.2(d)(2)) to include the continuance in control of a nonconnecting carrier by a person already controlling one or more other rail carriers. This modification will further several goals of the rail transportation policy. By eliminating the need for Commission review and formal decisions, as well as the time and expense to prepare pleadings with attendant decisional delays, it will reduce regulatory oversight over the rail transportation system and regulatory barriers to entry. By facilitating acquisitions of lines from larger carriers that might otherwise be abandoned as unprofitable but that can often be operated more efficiently by short-lines, it ensures the development and continuation of a sound rail transportation system to meet public needs, fosters sound conditions in transportation, and encourages efficient rail management. The exemption does not cover transactions involving class I carriers. Carriers using this exemption will remain subject to standard employee protective conditions.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7245.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking in this proceeding

was published at 51 FR 1828, January 15, 1986.

Additional information is contained in the Commission's full decision in this proceeding. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

This action will not significantly affect the quality of the human environment or energy conservation, nor will it have a significant economic impact on a substantial number of small entities, because it reduces regulatory burdens.

List of Subjects in 49 CFR Part 1180

Administrative practice and procedure; Railroads.

Dated: June 27, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix

Title 49, Subtitle B, Chapter X, Part 1180, Subpart A, of the Code of Federal Regulations is amended to read as follows:

PART 1180—[AMENDED]

1. The authority citation following §§ 1180.2, 1180.4 and 1180.6 and preceding Subpart C are removed, and the authority citation for 49 CFR Part 1180 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10903–10906, 11341, 11345, 11346; 5 U.S.C. 553 and 559; 45 U.S.C. 904 and 915.

2. Paragraph (d)(2) of § 1180.2 is revised to read as follows:

§ 1180.2 Types of transactions.

* * * * *

(d) * * *

(2) Acquisition or continuance in control of a nonconnecting carrier or one of its lines where (1) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

* * * * *

[FR Doc. 86–15274 Filed 7–7–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Eriogonum Ovalifolium var. Williamsiae (Steamboat Buckwheat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for *Eriogonum ovalifolium* var. *williamsiae* (Steamboat buckwheat). This plant is only known from one site at Steamboat Hot Springs, Washoe County, Nevada, where it grows in several colonies scattered over approximately 100 acres. This species is vulnerable to habitat alteration that may be caused by the potential threats of drilling for geothermal development, recreational and commercial development, and mining activities near where it occurs. It is presently affected by off-road vehicle use, dumping of refuse, and alterations to moisture patterns. This determination that *Eriogonum ovalifolium* var. *williamsiae* is endangered implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is August 7, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The Steamboat buckwheat was first collected in 1884 by K.C. Brandegee, but was not recognized taxonomically until 1981, when James Reveal (1981) described it as a new variety of *Eriogonum ovalifolium* The species is known only from one site at Steamboat Hot Springs in Washoe County, Nevada. Most of the plants are concentrated on 20 acres of a total of 80 acres of Bureau of Land Management (BLM) land at the Hot Springs (currently leased to Washoe County for eventual development as a recreational and interpretive site), and on 40 acres owned by a private citizen. The buckwheat occurs on open, slightly to steeply sloped areas composed of loose, gravelly, sandy-clay soil derived from hotsprings deposits. The plant is a low perennial with small, oval, greenish-white leaves that are densely congested in tight rosettes. It frequently forms large mats. It has small white flowers (often with a pink midrib on each sepal) that are clustered in a head at the end of an erect stem 4 to 10 inches (10 to 25 centimeters) high.

The species has only been collected from the area around Steamboat Hot Springs, but is thought to have been more widespread in the past. Approximately one acre of habitat was destroyed in about 1978 during the construction of a U.S. Post Office. It is not known what effects other past developments have had on the buckwheat. Two collections from the 1930's refer to Reno Hot Springs as a collection site. A mineral bath by that name was operated, in the past, a few miles from Steamboat Hot Springs. No plants occur there at this time. It is possible that this site was actually Steamboat Hot Springs, since herbarium labels are often quite general. At Steamboat Hot Springs Spa, a nearby commercial development, no plants have been found even though the habitat is similar to sites where colonies do occur. *Eriogonum ovalifolium* var. *williamsiae* is thought to have declined because of past development activities and is vulnerable, due to its restricted range, to any further alterations of its remaining habitat.

On December 15, 1980 (45 FR 82480), the Service published a notice of review of plant taxa. *Eriogonum ovalifolium* var. *williamsiae* was included in that notice (as *E. ovalifolium* var. nov. ined.) as a category-1 species, indicating that the Service then had sufficient information to support a proposal to list it as threatened or endangered. A supplement to the 1980 notice of review, published on November 28, 1983 (48 FR 53640), also placed this taxon in category 1 as *E. ovalifolium* var. *williamsiae*. The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. Category 1 and 2 species included in the December 15, 1980, notice of review are treated as under petition to be listed. A finding was required on such species on or before October 13, 1983. On October 13, 1983, and again on October 12, 1984, findings were made that the listing of the Steamboat wild buckwheat was warranted, but precluded by other listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a

finding requires recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. Consequently, a new finding was required by October 13, 1985, which was represented by the proposed rule published on September 12, 1985 (50 FR 37252).

Summary of Comments and Recommendations

In the September 12, 1985, proposed rule (50 FR 37252) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, private landowners, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Reno Gazette-Journal* on December 17, 1985. The comment period was reopened until January 27, 1986, to accommodate this advertisement.

A total of six written comments were received and are discussed below. Three comments neither supported nor opposed the listing and provided some additional information concerning potential projects: One comment, from an attorney representing a private landowner, expressed concern over possible effects of the listing on geothermal development in the area and offered to participate in planning aimed at reducing any potential conflicts; two comments supported the listing, one of which voiced concern over potential impacts to buckwheat habitat from geothermal development.

The Nevada Department of Transportation (NDOT) provided information about two planned highway projects that may possibly impact the Steamboat buckwheat. However, one project is outside the known distribution of the species, and final alignment for the second project has not yet been decided. The Bureau of Land Management commented that geothermal development of public land adjacent to the Steamboat buckwheat population may be affected by the listing since such activities "might alter the discharge rates and temperatures of the water sources depended on by the species". The Washoe County Department of Comprehensive Planning included area-wide planning documents that (1) recognize the Steamboat buckwheat as an "endangered" species in Nevada, following Mozingo and Williams (1980); and (2) "support public and private efforts toward the development of geothermal resources." The Service responds that potential effects of any proposed projects involving Federal lands, funds, or permits will be addressed in appropriate section 7 consultation(s) which will identify any determinable effects on the buckwheat and provide recommendations and/or alternatives to avoid or minimize impacts.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Eriogonum ovalifolium* var. *williamsiae* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Eriogonum ovalifolium Nutt.* var. *williamsiae* Reveal (Steamboat buckwheat) are as follows (abstracted from Williams 1982):

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the past, as discussed in the "Background" section, development led to a decline in the species. The *Eriogonum* is detrimentally affected by drilling of geothermal test wells (Mozingo and Williams 1980), development of a park on the Bureau of Land Management (BLM) parcel that is leased to the Washoe County Parks and Recreation Department, and a planned commercial development on private land that is adjacent to a colony of plants. Also threatening this small population is the possibility of mining on private lands. BLM has restricted mining on public lands containing the species. Cinnabar is sufficiently abundant to be commercially profitable, and stibnite, gold, and silver are found in small amounts in the species' habitat.

Roads have been built through most of the colonies of *Eriogonum ovalifolium* var. *williamsiae*, and off-road vehicle (ORV) travel has further disturbed the habitat and destroyed plants. BLM has designated the main terrace with active geothermal activity as an Area of Critical Environmental Concern and has fenced this area on three sides. Although it is posted as closed to motor vehicles, ORV's have entered on the unfenced side and driven across the terrace. It is not known whether trespassers are intentionally damaging the Steamboat buckwheat, but with increased public awareness of the species it will become more vulnerable to such actions. Also, refuse has been dumped on and near the buckwheat colonies in some areas, resulting in additional loss of habitat.

The Steamboat buckwheat is sensitive to changes in moisture and has been observed to die when more than normal moisture is received. Degradation of its habitat by ORV use and dumping of refuse may alter moisture patterns, further threatening the species. There is also a possibility that drilling of geothermal test wells may contribute to changes in water regimes for the plants.

B. *Overutilization for commercial, recreational, scientific, or eductional purposes.* Species of *Eriogonum* are often collected for rock gardens. Although it is not known whether this species has been sought by collectors in the past, it is possible that its rare status may make it a desirable garden subject.

C. *Disease or predation.* Nothing is known about disease or predation that may harm this plant.

D. *The inadequacy of existing regulatory mechanisms.* This species is protected on private and State lands by the Nevada Division of Forestry under provision of NRS 527.270 c 527.300. These regulations, however, do not apply to Federal lands on which the species is found, nor do they allow for protection of the species' habitat. Under provisions of State law, the private landowner is required to notify the State if the plants are going to be destroyed so that they may be salvaged by the State prior to destruction. Listing under the Act would provide this taxon with additional habitat protection and protection from collecting on Federal land.

E. *Other natural or manmade factors affecting its continued existence.* The species is known from only one population, consisting of seven colonies on less than 100 acres of land. Even though the species is abundant where it occurs, with individual plants numbering about 10,000–15,000, its restricted distribution makes it vulnerable to fire or any other disturbance in its habitat. The further loss of individuals may have adverse effects on the reproductive capacity and survival of the species. During a field survey in 1981, no seedlings were found, indicating that the buckwheat may have low reproductive potential.

The Service has carefully assessed that best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Eriogonum ovalifolium* var. *williamsiae* as

endangered without critical habitat. The need for such listing is demonstrated by the restricted range of the lone population and the immediate and potential threats faced by the species. Critical habitat is not being proposed for *Eriogonum ovalifolium* var. *williamsiae* for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factors A and B in the "Summary of Factors Affecting the Species," the Steamboat buckwheat is vulnerable to collecting and vandalism, activities not prohibited by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants on lands under Federal jurisdiction. Publication of precise critical habitat descriptions, and maps delineating localities of colonies, would make this species more vulnerable to collecting pressures and vandalism than it is at present.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation action by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibition against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and were recently revised at 51 FR 19926 (June 3, 1986). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since BLM closed mining on its land where *Eroigonum ovalifolium* var. *williamsiae* occurs, the only known Federal activity that may affect the species is the proposed development of a recreational area by Washoe County on land leased from BLM. Development of such an area will require measures for protection of the *Eriogonum*. BLM has already expressed a willingness to work with the public and with the private landowner to develop conservation and management programs for the *Eriogonum*. Such programs might include the development of a cooperative agreement with landowners, and/or possibly a land exchange.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or to remove it and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade in this species is known. It is anticipated that few trade permits involving *Eriogonum ovalifolium* var. *williamsiae* would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Mozingo, H. N. and M. Williams. 1980. Threatened and Endangered Plants of Nevada—An Illustrated Manual. U.S. Fish and Wildlife Service and Bureau of Land Management. 268 pp.

Reveal, J. 1981. Notes on endangered buckwheats with three newly described forms from the western United States. Brittonia 33: 446.

Williams, M. 1982. Status report on *Eriogonum ovalifolium* var. *williamsiae*. Unpubl. report under contract with U.S. Fish and Wildlife Service. 30 pp.

Author

The primary author of this final rule is Randy M. McNatt, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Bldg. C. Reno, Nevada 89502 (702/784–5227 or FTS 470–5227).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Polygonaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
*	*	*	*	*	*	*
Polygonaceae—Buckwheat Family:						
Eriogonum ovalifolium var *williamsiae*	Steamboat buckwheat	U.S.A. (NV)	E	237	NA	NA
*	*	*	*	*	*	*

Dated: June 12, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-15349 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Mezoneuron Kavaiense (Uhiuhi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a Hawaiian plant, *Mezoneuron kavaiense* (uhiuhi), to be an endangered species. Once fairly common on the islands of Hawaii, Maui, Oahu, and Kauai, only 3 small populations of this endemic species, totaling fewer than 50 individuals, remain. These are located on State and privately owned land in North Kona, island of Hawaii; in the Waianae Mountains, island of Oahu; and in western Kauai. Populations of the species face threats from continued cattle grazing, wildfire, and impaired seedling establishment because of exotic plant species, rodent and insect damage, and feral animal browsing on or near sites on which they occur. Protective measures are needed to ensure its continued existence. This determination that *Mezoneuron kavaiense* is an endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is August 7, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Mezoneuron kavaiense (uhiuhi) is an endemic Hawaiian tree that grows to 10 meters (34 feet) in height and 30 centimeters (12 inches) in truck diameter, with loose, spreading branches. The bark is rough-scaly and of a dark gray to brown color. The leaves are pinnate, having 4 to 8 leaflets about 3 centimeters (1.25 inches) in length. The flowers are arranged in terminal racemes 2.5 to 10 centimeters (1 to 4 inches) long and are dark red in color (Rock 1913). Seed pods are flat, very thin, bluish-glaucous when young, and pale pink to gray when older. They are about 8 centimeters (3.2 inches) long and 5 centimeters (2 inches) wide, with a conspicuous line running down the length of the pod (Lamoureux 1982).

Sites occupied by *Mexoneuron kavaiense* can be described as dryland open forest on rough weathered (unweathered on Hawaii) lava on steep slopes, ranging in elevation from 76 meters (250 feet) to 910 meters (3,000 feet). Annual rainfall varies from 75 centimeters (30 inches) to 152 centimeters (65 inches) and is evenly distributed throughout the year. Associated species include *Erythrina sandwicensis, Chenopodium oahuense, Diospyros ferrea,* and *colubrina oppositifolia* (Lamoureux 1982). *Kokia drynarioides,* an endangered species (see 49 FR 47397; December 4, 1984), coexists with uhiuhi in North Kona, island of Hawaii.

Although well known to Hawaiian natives, who used its strong, dark, heavy wood for spears and fishing implements, the species remained uncollected by botanists until 1865, when Horace Mann, Jr. obtained specimens from Kauai. He later described them as a new species, *Caesalpinia kavaiensis* (Mann 1867). William Hillebrand acquired additional specimens for Oahu and Maui and transferred the species to the genus *Mezoneuron,* as *Mezoneuron kavaiense* (Hillebrand 1888). As they differ only in minor characters of the seed pod, the genera *Mezoneuron* and *Caesalpinia* are combined under the older name *Caesalpinia* by many botanists. Commonly known as uhiuhi, the tree is also referred to as kea (on Maui only).

Historically known to have occurred on the islands of Hawaii, Oahu, Maui, and Kauai, *Mezoneuron kavaiense* has declined to only 3 populations, totaling fewer than 50 individuals, located on the slopes of Hualalai, North Kona, Hawaii; in the Waianae Mountains, Oahu; and in the Waimea Canyon in western Kauai. The Hawaii population occurs on the Pu'uwa'awa'a Ranch, State-owned land, and on private land owned by the Bernice P. Bishop Estate. These lands are leased as cattle pasture.

Grazing by cattle, goats, and other herbivores is the most probable cause for the species' decline, and continues to impact the remaining trees. In recent years rodent and insect damage and competition form exotic plant species, especially fountaingrass *(Pennisetum setacrum),* have reduced the number and survivorship of seedlings, and increased the probability, extent, and intensity of wildlife (Lamoureux 1982). Only 1 of the 3 remaining populations exhibits signs of successful reproduction. A cooperative effort among Federal, State, and private agencies is needed to preserve the remaining trees and promote the species' recovery.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to he endangered, threatened, or extinct. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823) accepting this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended). On June 16 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act. *Mezoneuron kavaiense* was included in the Smithsonian report, the notice of review of July 1, 1975, and the proposal of June 16, 1976.

The Act, as amended in 1978, required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with 4 other proposals that

had expired (44 FR 70796). In the **Federal Register** of December 15, 1980 (45 FR 82480), the Service published a revised notice of review. *Mezoneuron kavaiense* was included in this notice as a category-1 species, indicating that existing data warranted a proposal to list it as endangered or threatened.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The deadline for making a finding on species then under petition, including *Mezoneuron kavaiense*, was October 13, 1983. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing *Mezoneuron kavaiense* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(c)(i) of the Act. A new finding was required to be made on or before October 13, 1985. A proposal, constituting a final finding that the petition was warranted, was published on August 5, 1985 (50 FR 31632), based on information available in 1976 and information gathered after that time, and summarized in a detailed status report prepared under contract by a University of Hawaii botanist (Lamoureux 1982). The Service now determines *Mezoneuron kavaiense* to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the August 5, 1985, proposed rule (50 FR 31632) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited public comment was published in the *Hawaii Tribune-Herald* on October 27, 1985, the *Garden Island* on October 29, 1985, the *Honolulu Star Bulletin* and the *Honolulu Advertiser* on October 31, 1985. Five comments were received and are discussed below. A public hearing was requested and held in Kailua-Kona, Hawaii November 4, 1985, and in Lihue, Kauai November 7, 1985. The comment period was reopened following the public hearing, closing again December 9, 1985 (50 FR 42196). Two persons testified at the Kailua-Kona and one at the Lihue hearing; this testimony is included in the following summary.

Comments were received from the Governor of the State of Hawaii, the Director of the Waimea Arboretum and Botanical Garden, a member of the Botany Department of the University of Hawaii, and a private citizen. Testimony at the public hearing was presented on behalf of the Administrator of the Division of Forestry and Wildlife of the State Department of Land and Natural Resources and by a representative of the Kamehameha School/Bishop Estate. All comments submitted prior to the close of the comment period on December 9, 1985, and all testimony given at the public hearing have been considered in formulating this final rule.

All letters of comment received supported the listing of *Mezoneuron kavaiense* as an endangered species. The testimony given on behalf of the Administrator of the State Division of Forestry and Wildlife at both hearings also supported the listing. Most of the comments of the representative of the Kamehameha School/Bishop Estate concerned listing and research procedures and recovery plans. As these are not specifically pertinent to this listing action, they are not included in this summary of comments but instead have been referred to the appropriate Service personnel.

The Estate representative wanted to know the number of individual plants on Estate property and the location of these individuals. One is believed to be on Estate land and the approximate location was pointed out on a map. The Estate representative believed that the Service's documentation was inadequate for listing the species and that it had not been searched for extensively enough. The botanist Joseph Rock worked in the Kona area of Hawaii Island at the turn of this century. He was assisted by cowboys who had spent years on the land and knew it and its plants well. Rock wrote in 1913 that on Hawaii Island, the tree is ". . . only found in Kona . . . (where) it is not uncommon." Recent random sampling indicates that the tree is rare in Kona, extinct on Maui, and reduced to a single individual on Kauai. The total known remaining members of the species in the wild number fewer than 50 individuals restricted to a single population in the Waianae Mountains of Oahu, a population in the Pu'uwa'awa'a area of Hawaii, and the tree on Kauai. There are many threats to the species, especially the Hawaii Island population: most of the trees grow in a ranch paddock; rat and insect damage to the seeds has been observed; no seedings are present; and fires in the area are common. Even if additional plants were located and the species found to be more common, the Service believes that the species' existence would probably be in jeopardy due to the threats enumerated above. Finding a few additional individuals would not be a surprise, but the chance of finding a large, thriving population is very small.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Mezoneuron kavaiense* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Mezoneuron kavaiense* (Mann) Hbd. (uhiuhi) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* At one time, *Mezoneuron kavaiense* was common enough in the Hawaiian islands to have its wood used by natives for spears and fishing implements. Since the arrival of European settlers and their domestic stock, the species has declined sharply and, in the past century alone, 3 populations have been extirpated and another has been reduced to a single tree. Fewer than 50 trees currently remain in the wild, occurring on Hualalai, North Kona, island of Hawaii; in the Waianae Mountains, island of Oahu; and in western Kauai. The species' habitat is subject to degradation through the grazing of cattle, sheep, goats, and other herbivores. Exotic plant species, especially fountaingrass, jeopardize its existence by inhibiting regeneration and increasing the probability, extent, and intensity of wildlife (Lamoureux 1982). Presently, only the Oahu population is exhibiting signs of successful reproduction.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The wood of the uhiuhi is extremely hard, close-grained, dark-colored, and durable (Rock 1913). It was used by native Hawaiians for spears, digging sticks, tapa beaters, sled-runners, and "la'au melo-melo" (fishing devices). Harvesting of the few remaining trees poses a continued threat since the wood is highly prized by certain knowledgeable people (Lamoureux 1982).

Collection of seeds, seedlings, and saplings for private gardens presents an additional, if slight, threat to the species. The tree is attractive and, given proper care, grows readily in cultivation (Lamoureux 1982).

C. *Disease or Predation.* The black coffee twig borer (*Xylosandrus compactus*) affects *Mezoneuron kavaiense* by reducing the survival of seedlings and saplings (Lamoureux 1982). Rodent damage has been observed on Hawaii, where seeds were taken from fruit on the ground and on the tree (Lamoureux 1982). The grazing of cattle (Hawaii), goats (Hawaii, Oahu, and Kauai), and sheep (Hawaii) on shoots, seedlings, and saplings also seriously affects the species.

D. *The inadequacy of existing regulatory mechanisms.* The Pu'uwa'awa'a Ranch is zoned for agriculture, and managed to maximize grazing potential rather than to provide protection for native species such as *Mezoneuron kavaiense*. State-owned land that supports the species on Oahu and Kauai is zoned for conservation, but such zoning provides no specific protection to the species. Several of the trees are in State forest reserves; regulations prohibit the removal, destruction, or damage of plants growing on State forest lands.

E. *Other natural or manmade factors affecting its continued existence.* Reduction of the gene pool and genetic variability, resulting from small population sizes, could have detrimental effects on the continued existence of *Mezoneuron kavaiense*.

The Hawaii population, which occurs on the slopes of a dormant volcano, could also be destroyed if an eruption occurs. The last eruption of Hualalai sent lava through the center of the uhiuhi's present habitat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Mezoneuron kavaiense* as endangered. The historical decline of the species, including its extirpation on Maui; the small number of individuals remaining in the wild; and the present threats faced by the species warrant this determination. For the reasons discussed below, critical habitat is not being designated at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," *Mezoneuron kavaiense* is threatened by collecting, an activity difficult to control and not regulated by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. *Mezoneuron kavaiense* occurs on State and private land not under Federal jurisdiction. Publication of a critical habitat description in the **Federal Register** and local newspapers would serve to increase the risk of taking or vandalism, while providing no additional benefit to the species. Therefore, it would not be prudent to determine critical habitat for *Mezoneuron kavaiense* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Section 6 of the Act details conditions for cooperative action between the Service and State agencies. The State of Hawaii has entered into a cooperative agreement with the Service, and this may facilitate needed protection for the uhiuhi. Since much of the species' habitat is on State land, cooperation between Federal and State officials is necessary to ensure its continued survival. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and were recently revised at 51 FR 19926 (June 3, 1986) Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destory or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consulation with the Service. No Federal activities are known or expected to affect *Mezoneuron kavaiense*. Protection of this species will require cooperation among private landowners, the State of Hawaii, the Counties of Hawaii, Honolulu, and Kauai, and the U.S. Fish and Wildlife Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62 and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 now apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Due to its depleted state in the wild, and low percentage of seedling survival, propagation of *Mezoneuron kavaiense* in nurseries may be necessary for its continued existence and recoverey. Cultivated specimens are currently found on several sites in the Hawaiian Islands. If propagation of the species for its recovery is proposed, permits for scientific purpose and for enhancing the propagation of the species, allowed under § 17.62, may be

requested. Otherwise, it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquires regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Hillebrand, W. 1888. Flora of the Hawaiian Islands. Carl Winter, Heidelberg. 673 pp.

Lamoureux, C. 1982. Unpublished status survey of *Mezoneuron kavaiense* (Mann) Hbd. U.S. Fish and Wildlife Service, Honolulu. 46 pp.

Mann, H., Jr. 1867. Enumeration of Hawaiian plants. Proc. Amer. Acad Arts 7:143–235.

Rock, J.F. 1913. The indigenous trees of the Hawaiian Islands. Honolulu. 518 pp.

Author

The primary author of this final rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, 96850 (808/546–7530 or FTS 546–7530).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
Mezoneuron kavaiense	Uhiuhi	U.S.A. (HI)	E	238	NA	NA

Dated: June 12, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–15350 Filed 7–7–86; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 60585–6085]

Shrimp Fishery of the Gulf of Mexico; Termination of Emergency Interim Rule

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of termination of emergency interim rule.

SUMMARY: NOAA issues this notice terminating the emergency regulations closing Federal waters to shrimp trawling 9 to 15 miles off the coast of Texas. The closure was implemented to allow brown shrimp to grow to a larger, more valuable size. Due to unusually fast growth this year, brown shrimp have reached the optimal harvest size earlier than anticipated. The intended effect of this action is to allow harvest of brown shrimp at optimal size in Federal waters coincident with the opening by the State of Texas of its waters.

EFFECTIVE DATE: The emergency interim rule published May 13, 1986, terminates at 30 minutes after sunset (local time) on July 2, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, National Marine Fisheries Service, Southeast Regional Office, Fishery Operations Branch, 9450 Koger Boulevard, St. Petersburg, Florida 33702, telephone number 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was implemented by Federal regulations on May 20, 1981 (48 FR 24789). These regulations provide for an annual closure of Federal waters to shrimp trawling off Texas. The closure is intended to coincide with the closure by the State of Texas of its waters in order to delay harvest of small brown shrimp until they grow larger and more valuable. This year the Gulf of Mexico Fishery Management Council (Council) requested the Secretary of Commerce (Secretary) to implement emergency regulations reducing the geographical scope of the FMP to allow the take of harvestable-sized shrimp in Federal waters from 15–200 nautical miles offshore while protecting the majority of smaller shrimp located inshore. The emergency interim rule (51 FR 17487, May 13, 1986) became effective 30 minutes after sunset May 10, 1986, through 30 minutes after sunset July 9, 1986.

Biological data collected by the Texas Parks and Wildlife Department since implementation of the emergency rule

indicate that unusually fast growth has occurred and brown shrimp will reach optimal harvest size earlier than anticipated. As required by section 305(e)(3) (c) of the Magnuson Fishery Conservation and Management Act, the Council, by majority vote, has agreed with the Secretary to terminate the emergency interim rule implementing the Texas closure in the fishery conservation zone as of 30 minutes after sunset July 2, 1986. This opening of Federal waters coincides with the opening of its waters by the States of Texas. Requirements for reporting incidental take of turtles and reducing trawl time or using a trawl efficiency device also terminate 30 minutes after sunset July 2, 1986.

Classification

This action is authorized by 50 CFR Part 658 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 1986

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service

[FR Doc. 86-15329 Filed 7-2-86; 4:18 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 130
Tuesday, July 8, 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 AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Docket No. 0092A]

General Administrative Regulations—Standards for Approval; Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule; Correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a Proposed Rule in the Federal Register on Tuesday, July 1, 1986, at 51 FR 23782, issuing a new Subpart L in Chapter IV of Title 7 of the Code of Federal Regulations (CFR) to contain the Standards for Approval; Reinsurance Agreement Regulations (7 CFR Part 400, Subpart L), effective for the 1988 contract year. In § 400.152(b) an "and" appears at the end of the paragraph which significantly changes the intent of the qualifying criteria set out in this section. This word should have been "or". This notice is published to correct that error.

ADDRESS: Written comments on this correction should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: FR Doc. 86-14790, appearing at page 23786 (July 1, 1986) is corrected as follows:

§ 400.152 [Corrected]

PART 400—[AMENDED]

1. The authority citation for 7 CFR Part 400, Subpart L, continues to read as follows:

Authority: Secs. 501-520, Pub. L. 75-430, 52 Stat. 73, 77 (7 U.S.C. 1501, 1520), as amended.

2. On page 23786, § 400.152(b) of 7 CFR Part 400, Subpart L, is corrected at the end thereof by changing the word "and" to "or".

Done in Washington, DC, on July 2, 1986.

E. Ray Fosse,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-15290 Filed 7-7-86; 8:45 am]
BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Parts 1030, 1032, 1033, 1036, 1049, and 1050

[Docket Nos. AO-361-A24, et al.]

Milk in the Chicago Regional and Certain Other Marketing Areas; Decision on Proposed Amendments and Opportunity To File Written Exceptions to Tentative Marketing Agreements and to Orders

7 CFR Part	Marketing Area	AO Numbers
1030	Chicago Regional	AO-361-A24
1032	Southern Illinois	AO-313-A35
1033	Ohio Valley	AO-160-A55
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A49-RO1
1049	Indiana	AO-319-A35
1050	Central Illinois	AO-355-A24

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would modify the plant location adjustments to prices under the Southern Illinois, Ohio Valley, Indiana, and Central Illinois milk orders based on industry proposals considered at a public hearing held March 12-14, 1986. The location adjustment provisions of the four orders are amended in order to conform with the higher Class I differentials mandated by the Food Security Act of 1985. In several orders, changes are also needed to assure the proper intra-market alignment of prices.

The hearing in this proceeding reopened an earlier proceeding on proposed amendments to change the location adjustment provisions of the Eastern Ohio-Western Pennsylvania order. A separate document will deal with the Eastern Ohio-Western Pennsylvania order and the issues related thereto.

This decision does not adopt any change for the Chicago Regional milk order in that all relevant proposals were withdrawn at the hearing.

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed interim amended orders.

DATE: Comments are due on or before July 23, 1986.

ADDRESS: Comments (eight copies) should be filed with the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed amendments modify the transportation allowances provided under the four orders to make them conform more closely to the economic conditions that currently exist in the marketplace. The main economic condition involved is the Class I differentials that became effective May 1, 1986, as mandated by the Food Security Act of 1985, and the costs of transporting milk as reflected in such Class I differentials. Reflection of these changed marketing conditions through amendments to plant location adjustments to order prices will not result in a significant added price impact on regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued February 14, 1986; published February 21, 1986 (51 FR 6241).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this interim final decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid specified marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), and the Administrative Procedure Act (5 U.S.C. 556–557).

Interested parties may file written exceptions to this interim final decision with the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, D.C. 20250, by the 15th day after publication of this decision in the **Federal Register**. Eight copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Indianapolis, Indiana, on March 12–14, 1986, pursuant to notice thereof issued February 14, 1986 (51 FR 6241).

The material issues on the record of the hearing relate to:

1. Location adjustment provisions of the six orders.

(a) General basis and setting for location adjustment revisions.

(b) Location adjustment revisions for specific order markets.

(c) Point of pricing diverted milk under the Central Illinois, Ohio Valley and Southern Illinois orders.

2. Expedited action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Location adjustments—(a) General basis and setting for location adjustment revisions.* This hearing was the third of four separate regional hearings held on proposals to amend the location pricing provisions of the respective orders to conform with the higher Class I differentials mandated by the Food Security Act of 1985. A regional hearing as opposed to a separate hearing for each of the markets involved was considered appropriate because handlers in each of the six markets compete actively for milk supplies and sales with handlers in one or more of the other markets.

The issue developed on this record is the reappraisal of the pricing of producer milk under the six orders at specific locations. Essentially, the proposals considered at the hearing were intended to mitigate many of the adverse consequences on competitive and historical price relationships occasioned by the mandated higher Class I differentials. These adverse effects of the mandated higher Class I differentials centered around the fact that such increases were not uniform between and among the markets.

For example, the Class I differential increases for the six markets considered in this proceeding varied from a low of 10 cents per hundredweight for the Eastern Ohio-Western Pennsylvania market to a high of 47 cents per hundredweight for the Indiana market. The following table shows the Class I differentials for the six orders involved herein before May 1, 1986, and on and after that date:

Market	Class I differential (dols. per cwt.)		
	Before May 1, 1986	Effective May 1, 1986	Increase
Central Illinois	$1.39	$1.61	$.22
Chicago Regional	1.26	1.40	.14
E. Ohio—W. Pennsylvania	1.85	1.95	.10
Indiana	1.53	2.00	.47
Ohio Valley	1.70	2.04	.34
Southern Illinois	1.53	1.92	.39

The present Class I prices under these orders at various locations, in general, increase in relation to distance from the north and northwest to the south and southeast segment of each order's marketing area. This gradation of prices reflects the additional value that milk has at the various plant locations within each order's marketing area relative to the cost of obtaining milk supplies on a regular basis from alternative sources (an important source of alternative milk supplies for these markets, as well as for many other markets, is the Upper Midwest region). Even in the absence of a regulatory program, it would be expected that the Class I price structure for this group of markets would increase in a southerly and southeasterly direction from the heavy milk producing Upper Midwest region reflecting the variable cost of moving milk supplies from this region.

The Class I prices that now apply at various locations under the orders for this group of markets were established to reflect the value of an economic service to handlers by distant producers bearing the cost of moving their milk to a handler's plant. This is the case even though a handler may obtain its entire supply from local producers. In the absence of an adequate local supply, a handler would have to procure milk from other supply areas. Thus, the value of milk at such a plant's location necessarily must reflect the cost of obtaining milk from alternative supply sources. It follows, therefore, that the economic value of milk to a producer is determined by the alternative outlets available for such producer's milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, would not be available to plants at such locations.

The record establishes that an appropriate pattern of pricing at specified locations (zone and location adjustments at distant plants) should continue to reflect the relative cost of transporting milk to the respective locations from an area of alternative milk supplies available at lower prices. The best alternative supply for this group of markets continues to be the large volume of Grade A milk available in northeastern Iowa, central and western Wisconsin and southeastern Minnesota (Upper Midwest region). However, the rate used as an indicator of the influence of transportation on the relative costs of moving milk supplies from these alternative sources to the principal locations in the respective markets should be updated. In this regard, the 1.5 cents per 10 miles rate that has generally had widespread use under orders as a reasonable estimate of the variable cost of moving bulk milk should be changed to a higher rate of 2 cents. This higher transportation cost was a major consideration of proponents in proposing restructuring of the location pricing provisions of the respective orders.

The new Class I differentials established for the respective orders under the Food Security Act of 1985 approximate a price difference of 2.0 cents per 10 miles from the Upper Midwest to the principal population centers of the markets in question. Various witnesses testified to the necessity of reflecting the higher transportation costs in the location adjustment provisions of the respective orders in order to achieve equity between handlers who buy milk from different sources and between producers who sell milk priced at different locations. In fact, the Congressional rationale used in establishing Class I differentials at higher levels in 35 of the orders was to reflect the higher cost of moving milk from the surplus to deficit areas that was not reflected in the minimum Class

I price structures of the orders.* Accordingly, pricing considerations for specific areas of each of the markets involved, as discussed later, are dealt with within this framework.

As noted earlier, and as indicated by the record evidence, there is a significant overlap of supply areas for the respective markets and a broad area of overlapping sales in which handlers actively compete for fluid outlets on an inter-order basis. Under these circumstances, it would not be possible to long maintain orderly marketing in the region unless there were a close interrelationship of handler milk costs and producer returns. It is quite apparent that orderly marketing could not exist unless the location adjustment provisions of the respective orders establish the minimum prices at the various plant locations in terms of the varying increases in the mandated Class I differentials that became effective May 1. The modified location adjustment provisions adopted for the four orders in question will provide reasonable intra- and inter-order market price alignment under the existing competitive situation in the general region and the higher Class I differentials that are in effect.

Sixteen proposals by cooperative associations and proprietary handlers, all of which would revise the location pricing structures in five of the six orders involved in this proceeding, were included in the hearing notice. At the hearing, however, the various proponents revised many of the proposals, or abandoned them.

No action is taken in this proceeding on proposals (Proposal No. 1 submitted by Central Milk Producers Cooperative, and Proposal No. 2 submitted by Dean Foods Company) to add under the location pricing structure of the Chicago Regional order a plus location adjustment zone that would apply to several northwest Indiana counties. These suggested changes were included in the hearing notice of this proceeding. However, there was no testimony presented at the hearing either in support of or in opposition to the proposals. In view of this, there no longer exists a basis for their consideration.

As indicated in the hearing notice, the hearing reopened a public hearing previously held with respect to the Eastern Ohio-Western Pennsylvania milk order (Docket No. AO–179–A49). It was reopened for the limited purpose of receiving evidence regarding the mandated higher Class I differential as it may relate to a proposal to change the location adjustment structure of the order that was considered at a hearing held in August 1985. The proponent of this proposal testified regarding the impact of the higher Class I differential on its proposal. Since the issue surrounding the proposal is not related to the overall issues dealt with herein, a separate decision will be issued on this matter.

It is apparent from the record evidence that handlers, in general, took a position that revisions to the location adjustment provisions for this group of markets should be based on resale competition among handlers. In this regard, they maintained that adjustments in the prices at specific plant locations are needed to offset the impact of the mandated higher Class I differentials on resale competition among competing handlers.

Milk prices are not established on the basis of resale competition among handlers. Instead, they are established at a level that will insure an adequate supply of milk for the regulated market. As indicated before, this has resulted in a pricing system that increases with distance from the Upper Midwest region.

Further, it should be noted that a basic feature of an order is that handlers regulated thereunder and similarly located are uniformily subject to the same minimum class prices on all their milk. The uniformity of pricing among handlers is specifically prescribed by the Act and may be varied only to reflect certain things, including "adjustment for . . . the locations at which delivery of such milk, or any use classification thereof, is made to such handler."

A discussion of the location pricing issue for each of the four remaining orders follows.

(b) *Location adjustment revisions for specific order markets—Order 32—Southern Illinois.* The boundaries of the three pricing zones of the marketing area should remain intact. However, the location adjustment in the Northern and Southern Zones should be minus 17 cents and plus 9 cents, respectively.

At plants located outside the marketing area and in the St. Louis metropolitan area, the adjustment should be plus 9 cents, identical with the Southern Zone adjustment. At all other plants located in the State of Missouri and south and east of Interstate 44, no adjustment should apply.

At plants located in the four Indiana counties of Fountain, Parke, Vermillion, and Warren, the applicable location adjustment should be minus 17 cents.

At all other plants regulated under Federal order 32 and 100 miles or more from Alton, Vandalia, or Robinson, Illinois, whichever is nearest, the adjustment to the base zone price should be minus 20 cents for the first 100 miles and then minus an additional 2 cents for each 10 miles or fraction thereof that the distance exceeds 110 miles. In determining the location adjustments, the market administrator should use the *Household Carriers' Guide* to obtain the applicable mileage.

Presently, the marketing area is divided into three zones; namely, Base, Northern and Southern. The Base Zone includes the 25 Illinois counties of Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Greene, Jasper, Jefferson, Jersey, Lawrence, Macoupin, Marion, Montgomery, Richland, Shelby, Wabash, Washington, and Wayne, and the township of Alton in Madison County.

The Northern Zone includes the 13 Illinois counties of Champaign, DeWitt, Douglas, Edgar, Logan, Macon, McLean, Menard, Morgan, Moultrie, Piatt, Sangamon, and Vermilion.

The Southern Zone includes the 11 Illinois counties of Franklin, Hamilton, Jackson, Madison (except Alton Township), Monroe, Perry, Randolph, Saline, St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the City of Belleville), White, and Williamson.

No adjustment applies at plants in the Base Zone. At plants in the Northern Zone the present location adjustment is minus 7 cents and at plants in the Southern Zone it is plus 7 cents.

In the St. Louis metropolitan area; namely, St. Clair County, Illinois (Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the City of Belleville only), Jefferson, St. Charles, and St. Louis Counties, Missouri, and the City of St. Louis, plants are presently subject to a plus 7-cent adjustment. For plants located in the State of Illinois and south of the northern boundaries of Adams and Schuyler Counties (except the territory in St. Clair County, Illinois, listed in the plus 7-cent area) and in the four Indiana counties of Fountain, Parke, Vermillion, and Warren, an adjustment of minus 7 cents applies. For all other out-of-area plants, the adjustment is minus 15 cents for any such plant located 100 miles or more from Alton, Robinson, or Vandalia, Illinois, and an additional minus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

* Official notice is taken of pages 22 through 24 of the "Report of the Committee on Agriculture" which accompanied H.R. 2100.

Included in the hearing notice was a proposal of Prairie Farms Dairy, Inc., Land O'Lakes, Mid-America Dairymen, Inc., Midwest Dairymen's Co., and Wisconsin Dairies (Prairie Farms, et al.) which proposed that for pricing purposes, there should be five zones. Under its proposal, the territory of the Northern Zone would be unchanged; however, plants located there would have a minus 12-cent adjustment. Plants in the Indiana counties of Fountain, Parke, Vermillion, and Warren would also have a minus 12-cent adjustment.

The Southern Zone would be revised to exclude Randolph County, Illinois, and include the Missouri county of Cape Girardeau. This zone would be plus 22 cents over the base price.

Under the Prairie Farms, et al., proposal, all present Base Zone counties excluding Bond, Clinton, and Washington would have a minus 2-cent adjustment. Additionally, the last zone, with an adjustment of plus 7 cents, would include the City of St. Louis and St. Louis County, both in Missouri; and St. Clair (only the territory within Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the City of Belleville) and Randolph Counties in Illinois.

Plants located outside of the areas described above would face an adjustment of minus 20 cents if such plants are 100 or more miles from Alton, Robinson, or Vandalia, Illinois, and an additional minus 2.0 cents for each 10 miles or fraction thereof that such distances exceed 110 miles. As proposed, the market adminstrator would use the *Household Carriers' Guide* in determining mileages.

At the hearing, Prairie Farms, et al., modified its proposal to provide for only four pricing zones. The Northern Zone's adjustment would be minus 10 cents. The territory of the present Base Zone would be unchanged and the adjustment there would be zero cents. The Southern Zone for pricing purposes would, in addition to Randolph County, Illinois, also exclude the Illinois counties of Madison, St. Clair, and Monroe. The last zone, with an adjustment of plus nine cents, would now also include for pricing purposes the Illinois counties of Madison (excluding Alton Township), St. Clair, and Monroe, and the Missouri counties of St. Charles and Jefferson.

A second proponent, Associated Milk Producers, Inc. (AMPI), proposed that the Base Zone include only the two Illinois counties of Clinton and Washington, and the township of Alton in Madison County. The remaining 23 Base Zone counties would be Northern Zone counties and would be subject to the minus 7-cent location adjustment. The Southern Zone's adjustment would be plus 22 cents. The territory in St. Clair County that is outside of the marketing area of all of Missouri would have an adjustment of plus 7 cents.

AMPI also proposed that an adjustment of minus 20 cents would apply to a plant located outside of the area described above if such a plant is 100 or more miles from Alton, Robinson, or Vandalia, Illinois, and an additional minus 2.0 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

At the hearing, AMPI abandoned its proposal and chose to support the Prairie Farms, et al., proposal. However, AMPI modified the Prairie Farms, et al., proposal to provide for a minus 17 cents in the Northern Zone.

A third proponent, Beatrice Dairy Products (Beatrice), proposed that the Northern Zone should have an adjustment of minus 21 cents.

The Prairie Farms, et al., proposal, as modified, was supported at the hearing by a cooperative association, Dairymen, Inc. (DI), and a proprietary handler, The Kroger Co. Dairy (Kroger).

Also at the hearing, a producer organization, National Farms Organization (NFO), requested several changes in location pricing; a description follows. In adddition to a minus 21-cent adjustment in the Northern Zone, the Southern Zone, including Cape Girardeau County, Missouri, would have a plus 25-cent adjustment. The St. Louis metropolitan area would remain at a plus 7-cent adjustment. At all plants located outside of the marketing area, except those in the St. Louis metropolitan area and in the Illinois counties of Adams, Brown, Pike, Schuyler, and Scott, the adjustment would be minus 20 cents for the first 100 miles and minus 2 cents per 10 miles beyond 110 miles.

In support of its proposal to restructure the order's location pricing provisions, the spokesman for Prairie Farms, et al., claimed that the mandated Class I differentials have changed relative price relationships between competing handlers and, thus, have created inequities between handlers. The advantages gained by certain handlers, he said, can lead to unnecessary movements of packaged milk. He believes that if adjustments are not made in the pricing zones to combat packaged movements from the North, then the Order 32 handlers will either sustain sales losses, close their plants, or find new customers to their south.

In as far as attracting raw-milk supplies to Order 32 plants, the spokesman stated that before the mandate, these plants had no difficulty obtaining sufficient supplies, and with the increase in Class I differentials, milk supplies will be more than adequate.

The spokesman stated that the Northern Zone's adjustment should be increased proportionately with the increase in the base price. The spokesman arrived at a rounded figure of minus 10 cents. He added that three pool plants are located in this zone.

He stated that the Southern Zone's proposed adjustment of plus 22 cents attempts to provide better alignment between St. Louis, Missouri, and Paducah, Kentucky. The spokesman pointed out that with adoption of the Prairie farms, et al., proposal, plants at Jackson, Missouri and Carbondale, Illinois, located between these two points, would have a differential which approaches the ideal rate of 2 cents-per-10 miles from Paducah.

The spokesman stated that a new zone, one which encompasses the St. Louis area, including four counties that currently are in the Southern Zone, should have an adjustment of plus 9 cents in order to spread out the intra-order alignment (2 cents more than the present adjustment). The spokesman claimed that this zone should include all the counties where distributing plants with sales in St. Louis area are located. This way, he said, handlers in this area will be competing on an equal basis.

For plants located outside of the marketing area, he stated that the mileage factors should reflect that rate which was used to arrive at the mandated differential at Alton, Illinois, which was 2 cents-per-10 miles. The spokesman further stated that mileage factors should also apply at locations northwest of the marketing area which currently are subject to the Northern Zone adjustment. Therefore, he said, prices at the plant at Quincy, Illinois, in this area would then be better aligned with prices at plants regulated under the Iowa and Central Illinois orders. As a corollary, he added that the market administrator should use the latest education of the *Household Carriers' Guide* in determining mileage.

As noted previously, except for the adjustment for the Northern Zone, AMPI supported the Prairie Farms, et al., location adjustment arrangement for the market. For the Northern Zone, AMPI proposed a minus 17-cent adjustment rather than Prairie Farms' Northern Zone adjustment of 10 cents. Based on a distance of 410 miles from Eau Claire, Wisconsin, to Champaign, the spokesman stated that at 2 cents-per-10 miles a proper Class I differential for the Northern Zone would be $1.72. However, when considering alignment

between Champaign and Peoria, a distance of 87 miles, and alignment between Champaign and Indianapolis, a distance of 124 miles, he stated that a more appropriate Class I price differential would be $1.75. This, he further stated, would yield a rate of 1.6 cents and 1.9 cent-per-10 miles between Champaign and Peoria and between Champaign and Indianapolis, respectively. It was his opinion that these rates between cities would be more appropriate than the 2.3 cents and 1.4 cents proposed by Prairie Farms, et al., between those respective points.

Beatrice's witness testified that its Champaign plant is supplied primarily by AMPI (80 percent) and the milk originates mainly in southwestern Wisconsin. The milk is delivered direct from farms or through pump-over facilities which are not supply plants.

The spokesman claimed that the new mandated differentials will effectively bar Beatrice from competing with handlers regulated under Federal orders north of Order 32. He stated that while the Class I differential for the Northern Zone of Order 32 increased 39 cents (from $1.46 to $1.85), for Orders 30 and 50 (i.e., Chicago regional and Central Illinois) the Class I differentials increased only 14 cents and 22 cents, respectively. Proponent believes that adoption of a $1.71 differential for the Northern Zone will overcome such adversity created by the mandated differentials and maintain the status quo between major markets.

The spokesman stated that they desired a 2 cent-per-10-mile rate between Champaign and Chicago, which would have required a minus 24-cent adjustment in the Northern Zone. However, he pointed out that in achieving inter- and intra-order alignment between Champaign and Chicago, Peoria, Indianapolis and other Order 32 plants, the $1.71 differential proved to be proper.

Kroger supported the Prairie Farms, et al., proposal as modified. (However, the Kroger spokesman stated that no change would be the best course of action.) The main area of concern to the handler, the spokesman said, is the adjustment for the Northern Zone. Because Kroger's plant in Indianapolis, regulated under the Indiana order, competes with the Beatrice-Champaign plant in the areas of Terre Haute and Crawfordsville, Indiana, the spokesman stated that an acceptable Northern Zone Class I differential can be no lower than $1.82. This is so, he said, because Terre Haute and Crawfordsville are only 60 and 69 miles, respectively, from Champaign, thus affording the Champaign handler 3 cents and 2.6 cents-per-10 miles to these areas.

For reasons similar to Kroger's, Dean Foods Company (Dean), in its brief, supported the Prairie Farms, et al., proposed as modified. (Although, like Kroger, Dean would prefer that no change be made in the Northern Zone's adjustment). Dean's pool plant in Rochester, Indiana (regulated under Order 49) competes with Order 32 plants in the eastern Illinois-western Indiana area. Dean stated that historically, there has been a 1-cent and a 7-cent difference in the Class I differentials at plants in Order 32's Northern Zone and at plants in Order 49's minus 8-cent area (where the Rochester plant is located) and in Order 49's Base Zone, respectively. Because other proposals would drastically change these historic relationships (i.e., assuming the Kroger proposals are adopted under Order 49, the Beatrice proposal yields a 13-cent and a 29-cent difference between the Northern Zone and the minus 8-cent area and the Base Zone, respectively; and the AMPI proposal yields a 9-cent and a 25-cent difference, respectively) Dean recommends that the Prairie Farms, et al., proposal, which yields a 2-cent and an 18-cent difference, respectively, be adopted.

Dairymen, Inc., supported the Prairie Farms, et al., proposal as modified at the hearing. The spokesman said that DI's major concern regards inter-order alignment between pool plants in Champaign and Olney, Illinois and plants regulated under the Louisville-Lexington-Evansville order (No. 46) which marketing area lies southeast of Federal order 32. He stated that the Champaign and Olney plants also have sales in the Order 46 area.

The spokesman for NFO stated that NFO's mathematically derived north-south alignment maintains historic alignment in those areas where adjustments from the mandated differential would apply. The spokesman believes that applying the same rate per 10 miles to zoned locations, all situated on a north-south line outside of Chicago, as that applicable at the mandated base zone (i.e., 2.81 cents), will accomplish this. For adjustments at pool plants located outside of the geographical marketing area of Order 32, the spokesman testified that NFO supports the Prairie Farms, et al., proposal.

In its brief, NFO argued that the mileage guide should not be used because the book's figures, in many instances, are approximates. NFO contends that the market administrator should continue to determine the shortest hard-surfaced distances in the manner that it has historically been measured.

As indicated elsewhere, a number of changes in the present location pricing structure of the order should be adopted. However, the adopted changes differ in some respects from what the several proponents proposed and supported at the hearing. Nevertheless, the main purpose of such changes is essentially the same as was advanced at the hearing by the several participants, i.e., to reduce an aberration in pricing that can result from the application of the present location adjustment provisions of the order to the mandated higher Class I differential at certain plant locations. In this regard, the record clearly demonstrates that the order's present location pricing structure applicable at distant plants will not assure that the higher mandated Class I differential when extended to the varied locations of milk delivery will promote orderly marketing. This is particularly true with respect to the present zone price adjustments for the Northern Zone.

The value of milk for fluid use in the Northern Zone and for the entire market is influenced by the close proximity to an area of lower-priced alternative sources, primarily to the north in Illinois and in the Upper Midwest region. This northern portion of the marketing area, which abuts the Central Illinois marketing area, is affected by the extensive overlapping of procurement areas with other lower-priced markets.

Presently, there are two pool distributing plants and one pool supply plant located in the Northern pricing zone. The record shows that the principal distribution area of one of these plants located at Champaign, Illinois, is to the north and west. As indicated, the principal major population centers served by this handler include Peoria, Kankakee, Bloomington-Normal, Moline and Chicago. Except for the Bloomington-Normal area, all of the other population centers listed are part of one of the marketing areas of the Chicago Regional, Central Illinois or Iowa orders. All of these markets have a lower price structure than at the Champaign plant.

Champaign is 87 miles from a Peoria distributing plant that is regulated under the Central Illinois order. The new Class I price under the Central Illinois order is 24 cents less than the comparable price at the Champaign location. Further, Chicago, Illinois, is 133 miles from Champaign. A handler at this location has a 45-cent lower price than at the Champaign location under the new mandated price structure. This same

price difference exists between the other Order 32 plant in the Northern Zone at Bloomington, Illinois, and the Chicago plant location. However, the distance between the Bloomington plant and Peoria plant is only 39 miles. The Peoria handler regulated under the Central Illinois order now has a Class I price 24 cents lower than the price at the Bloomington location.

These price differences are in excess of the transportation rates reflected in the new mandated Class I differentials for transporting milk from lower-priced markets to plant locations in the Northern Zone. Such differences in producer prices for any extended time will be disruptive and could result either in Northern Zone handlers resorting to lower-priced sources of milk to offset a competitive price disadvantage or the loss of Class I sales.

Accordingly, the present location for the Northern Zone should be increased from a minus 7 cents to a minus 17 cents. This will provide a Class I differential for the zone of $1.75. Although this adjustment rate differs somewhat from what Prairie Farms, et al., and Beatrice proposed, it is concluded that this adopted rate will result in a close relationship of prices at plants in this area and will tend to obtain effective price alignment with other segments of the marketing area and with nearby other markets.

While the adopted 10-cent increase in the location adjustment rate for the Northern Zone will result in increases in the difference in prices between this segment of the market and markets to the east, particularly those under the nearby Indiana order, nevertheless, the overriding factor is the need to maintain alignment of this Zone's prices with that of the other Illinois markets to the north and with prices in the Upper Midwest region. The alignment of prices in the Northern Zone with prices in Wisconsin and Minnesota is necessary to reflect a general pattern of pricing throughout the marketing area that is based on a location value reflecting this lower-priced alternate supply.

No change should be made in the boundaries of either the Base or Southern pricing zones of the order. However, the plus location adjustment rate for the Southern Zone should be increased from 7 cents to 9 cents.

At the time of the hearing, there were three pool distributing plants and a pool supply plant located in the Southern Zone. The three distributing plants were located in the Illinois counties of Madison, Randolph, and St. Clair. Two of these counties—Madison and St. Clair—are included in the St. Louis metropolitan area and the other abuts this area. The supply plant is located in Carbondale, Illinois (Jackson County). Carbondale is nearly 100 miles southeast of St. Louis.

It should be noted that the most populated segment of the St. Louis metropolitan area (the Missouri portion) was included in the marketing area of the former St. Louis-Ozarks order that was terminated on April 1, 1985. Since then, most of the distributing plants located in the St. Louis, Missouri area that were previously regulated by the St. Louis-Ozarks order are now pool plants under the Southern Illinois order.

The three distributing plants located in the present Southern Zone are in competition with each other and with handlers located in the St. Louis area. Thus, the location value of milk in this general area of southern Illinois depends principally upon the price obtainable for milk delivered to the St. Louis metropolitan area from alternative sources of supply from the Upper Midwest region plus cost of delivery. The St. Louis metropolitan area is a major consumption center for milk. Milk supplies in and around this area, however, are insufficient to meet total needs, and thus, substantial quantities of the milk for these handlers must come from the heavy production region in northeastern Iowa, western Wisconsin and southern Minnesota. The record shows that in December 1985, nearly 20 percent of the milk delivered by Southern Illinois order producers originated from farms located in northeastern Iowa, western Wisconsin and southern Minnesota. The use of a plus 9-cent location adjustment in the St. Louis area in conjunction with a minus 17-cent adjustment at Champaign and Bloomington reflects the gradation of Class I prices from north to south that is necessary to reflect the cost of moving milk to the various intervening locations throughout the marketing area.

Prairie Farms, et al., proposed a plus 22-cent location adjustment for its Carbondale plant. Proponent claimed that this rate would better align prices at this location with the higher prices in the southern markets.

Historically, the prices now applicable at the Carbondale plant have been the same as those that apply at plants located within or adjacent to the St. Louis metropolitan area. This type of price alignment has been maintained because of the relationship of the Carbondale plant with distributing plants serving the St. Louis area. The record of the current proceeding does not indicate in any way that applying the St. Louis price structure to the Carbondale plant is now inappropriate and resulting in disorderly marketing conditions. Accordingly, the present Carbondale-St. Louis price relationship should be continued.

The location adjustment provisions applicable to Class I and uniform producer prices at plants outside the marketing area and 100 miles or more from the nearest basing points of Alton, Vandalia, or Robinson, Illinois, should be modified in several ways. The mileage used would be the shortest highway mileage as determined by the market administrator from the *Household Carriers' Guide*. This change was proposed by Prairie Farms, et al., to provide the market administrator more guidance in making mileage determinations for plants and in recognition that this is a common method in which distances are measured under orders.

Also, the location adjustment rate of 1.5 cents per hundredweight per each 10 miles under the order should be increased to 2.0 cents. This increase conforms the location adjustment rate to increase in hauling costs for transporting milk from surplus supply areas to metropolitan centers as reflected in the new mandated Class I price differential for the order. It will also provide closer price alignment with the new mandated Class I price differentials in surrounding competing markets.

As proposed by Prairie Farms, et al., a minus location adjustment based on the distance from Alton, Illinois, should apply to Prairie Farms' distributing plant in Quincy, Illinois. This plant is located about 108 miles northwest from the basing point of Alton, Illinois. The adopted change would increase the location adjustment rate at this plant from minus 7 cents to minus 20 cents. Since the Quincy plant is considerably closer to the area of heavy milk production than many of the other Southern Illinois order plants, increasing the minus location rate at this location will more closely reflect the location value of milk at Quincy relative to the value of milk at regulated plants situated in nearby lower-priced markets.

At the hearing, Prairie Farms, et al., suggested that a plus 22-cent location adjustment rate apply to the pool supply plant located at Jackson in Cape Girardeau County, Missouri. Presently, a minus 18-cent rate applies at this plant location.

It would make no economic sense to adopt this suggestion since this would make the price at the Jackson, Missouri, supply plant higher than the price at the distributing plants in the St. Louis area to which the plant ships its milk. In this regard, not only would there not be a transportation allowance built into the

pricing structure, but there would actually be a disincentive to ship milk to distributing plants because the milk would be worth more when physically received at the Jackson supply plant.

As adopted herein, no location adjustments (base zone prices) would apply at any Missouri plant located south and southwest of the St. Louis metropolitan area. This would change the location pricing structure at two pool supply plants at Jackson and Cabool, Missouri. Currently, the location adjustment rates at these plants are minus 18 cents and minus 27 cents, respectively.

Similar to many other orders, prices under the Southern Illinois order have been reduced at distant plants located outside the marketing area irrespective of such plant's location. As noted earlier, milk supplies which are very heavy in Minnesota, Wisconsin and northeastern Iowa are obtained on a regular basis by Southern Illinois handlers, while in areas south and southwest of the Southern Illinois market, milk supplies are generally much less plentiful. Thus, Southern Illinois handlers should not be encouraged to produce milk from plants in these tighter supply areas through the application of minus location adjustments. In the interest of marketing efficiency, any available milk supplies in an area south and southwest of the St. Louis metropolitan area should be encouraged to move those markets that are more distant from the heavy production areas than is the Southern Illinois market.

As indicated, no location adjustments should apply to the area in question. It is reasonable to expect that the minimum location value of milk for this region is at least the Base Zone price and that the operator of a supply plant in the area would have to pay at least the Base Zone price to obtain adequate supplies. In view of these considerations, it appears appropriate to apply the Base Zone price at such locations.

At the hearing, Prairie Farms, et al., proposed that Class I location adjustments credits apply only to bulk transfers between pool plants under both the Central and Southern Illinois orders. Presently, Class I location adjustments credits apply to both bulk and package transfers. Both orders should be modified accordingly.

The effect of this modification would tend to reduce the amount of the location adjustment that would be passed back to the transfering plant. Thus, adoption of the proposal would serve to discourage the movement of milk to distributing plants for Class II or III use.

Order 33—Ohio Valley. For the sole purpose of applying location adjustments, the marketing area should be comprised of the following five pricing zones:

Zone 1 should include only the seven northernmost Ohio counties of the order's present Northwestern Zone (Fulton, Hancock, Henry, Lucas, Putnam, Seneca, and Wood Counties) plus the townships of Woodville and Madison in Sandusky County, and the Michigan territory of the Ohio Valley marketing area. The applicable location adjustment at plants located in this area should be minus 24 cents and result in a Class I differential of $1.80.

Zone 2 should include the 10 remaining present Northwestern Zone counties (Allen, Auglaize, Crawford, Hardin, Logan, Marion, Mercer, Morrow, Richland, and Wyandot), the city of Delphos in Van Wert County, and the three Ohio counties of Drake, Shelby and Union which presently are in the Central Zone. The applicable adjustment should be minus 14 cents which would result in a Class I differential of $1.90.

Zone 3 should include 18 Ohio counties presently in the Central Zone (Butler, Champaign, Clark, Clinton, Delaware, Fairfield, Fayette, Franklin, Greene, Hocking, Knox, Licking, Madison, Miami, Montgomery, Pickaway, Preble, and Warren) and six Ohio counties presently in the Southeastern Zone (Coshocton (except Adams Township), Guernsey (except Oxford, Londonderry, and Millwood Townships), Morgan Muskingum, Noble, and Perry). No adjustment to the mandated Class I differential of $2.04 should apply at plants located in these 24 Ohio counties.

Zone 4 should include the remaining 26 counties presently in the Central Zone, consisting of 12 Ohio counties (Adams, Brown, Clermont, Gallia, Hamilton, Highland, Jackson, Lawrence, Pike, Ross, Scioto, and Vinton), the 12 Kentucky counties, and the two Indiana counties. Also in this zone should be three Ohio counties (Athens, Meigs, and Washington) and six West Virginia counties (Calhoun, Gilmer, Pleasants, Ritchie, Wirt, and Wood) that presently are in the Southeastern Zone. The applicable location adjustment at plants located in these 35 counties should be plus 7 cents for a Class I differential of $2.11.

Zone 5 should include the 20 remaining Southeastern Zone counties, consisting of 14 West Virginia counties and six Kentucky counties. The applicable location adjustment at plants in this last pricing zone should be plus 15 cents for a Class I differential of $2.19.

At plants located outside the marketing area in the Ohio counties of Defiance, Paulding, Van Wert (except the City of Delphos), or Williams, the adjustment should be minus 24 cents, identical with the Zone 1 adjustment.

At plants located outside the marketing area in the Louisville-Lexington-Evansville marketing area or east of the Mississippi River and south of the northern boundary of Kentucky, West Virginia, or Virginia, the location adjustment should be the same as that adopted for Zone 4.

At all other pool plant locations not specified above, the location adjustments should be determined in the same manner as now prescribed in the order.

Presently, the marketing area is divided into three pricing zones; namely, Northwestern, Central, and Southeastern. The Northwestern Zone includes the 17 Ohio counties of Allen, Auglaize, Crawford, Fulton, Hancock, Hardin, Henry, Logan, Lucas, Marion, Mecer, Morrow, Putnam, Richland, Seneca, Wood, and Wyandot; the townships of Woodville and Madison in Sandusky County; and the city of Delphos in Van Wert County. This zone also includes, in the State of Michigan, the townships of Blissfield, Deerfield, Ogden, Palmyra, and Riga in Lenawee County; and the county of Monroe, excluding the townships of Ash, Berlin, Dundee, Exeter, London, and Milan.

The Central Zone includes the 33 Ohio counties of Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Knox, Lawrence, Licking, Madison, Miami, Montgomery, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, and Warren. Also included in this zone are the 12 Kentucky counties of Boone, Boyd, Bracken, Campbell, Grant, Greenup, Harrison, Kenton, Lewis, Mason, Pendleton, and Robertson; and the two Indiana counties of Dearborn and Ohio.

The Southeastern Zone includes the nine Ohio counties of Athens, Coshocton (except Adams Township), Guernsey (except Oxford, Londonderry, and Millwood Townships), Meigs, Morgan, Muskingum, Noble, Perry, and Washington. Also included in this zone are the six Kentucky counties of Floyd, Johnson, Lawrence, Magoffin, Martin, and Pike, and the 20 West Virginia counties of Boone, Cabell, Calhoun, Fayette, Gilmer, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Pleasants, Putnam, Raleigh, Ritchie,

Roane, Wayne, Wirt, Wood, and Wyoming.

No adjustment applies at plants in the Central Zone. Plants in the Northwestern Zone are subject to a location adjustment of minus 5 cents and a plus 5-cent adjustment applies at plants in the Southeastern Zone.

Presently, for a plant located outside of the marketing area and 60 miles or less from one of ten specified cities in the marketing area, the location adjustment is that which applies at the nearest specified city. The order also provides that minus location adjustments apply at plants located outside the marketing area and 60 miles or more in any direction from the nearest of ten basing points specified in the order. This location adjustment is a minus sum of the adjustment at the nearest specified city, less 11 cents and less an additional 1.5 cents for each 10 miles or fraction thereof that such distance from the nearest specified city exceeds 70 miles. Such a minus adjustment does not apply at plants located in the Louisville-Lexington-Evansville marketing area (No. 46), or at plants located east of the Mississippi River and south of the northern boundary of Kentucky, West Virginia, or Virginia.

A cooperative association, Milk Marketing, Inc. (MMI), proposed that the marketing area should be divided into six zones, and also a seventh, out-of-area zone, should be established. As proposed, Zone 1 would include the seven northernmost Ohio counties of the Northwestern Zone, the two townships in Sandusky County, and the Michigan territory of the marketing area. Plants located in the zone would have a minus 24-cent adjustment. At the hearing, proponent modified the proposal to include in this zone, for pricing purposes only, the Ohio counties of Defiance and Williams.

Zone 2 would include the remaining 10 counties of the Northwestern Zone and the city of Delphos in Van Wert County. Also included in this zone would be the three Ohio counties of Darke, Shelby, and Union which are presently included in the Central Zone. The location adjustment for Zone 2 would be minus 14 cents.

Zone 3 would include 24 Ohio counties: 18 that are presently in the Central Zone and the six northernmost counties of the Southeastern Zone. No adjustment applies in this zone.

Zone 4 would include the remaining 12 southernmost Ohio counties of the present Central Zone, nine counties from the Southeastern Zone (three Ohio and six West Virginia counties), the two Indiana counties, and the 12 Kentucky counties of the present Central Zone. The adjustment applicable at plants in this zone would be plus 7 cents.

Zone 5's counties, all presently in the Southeastern Zone, consists of the six Kentucky counties and 11 West Virginia counties. Zone 5's adjustment would be plus 15 cents.

Zone 6 would include the remaining three southernmost counties of the Southeastern Zone, all in West Virginia. The adjustment applicable here would be plus 21 cents.

The out-of-area zone would include eight Kentucky counties physically located in the marketing area of Federal Order 46. The adjustment applicable here would be plus 17 cents. At the hearing, proponent chose not to testify in support of this adjustment.

Proponent's proposal also provided that the adjusted Class I price at plants physically located in the marketing area of the Indiana Order (No. 49) or the Eastern Ohio-Western Pennsylvania Order (No. 36) would not be lower than the Class I price under either Order 49 or Order 36 applicable at such location.

A proprietary handler regulated under Order 46, Southern Belle Dairy (Southern Belle), proposed that a new Southwestern Zone should be established. This zone would consist of 16 counties which are presently part of the Central Zone. Centered around Cincinnati, this zone would include five Ohio counties, the two Indiana counties, and nine Kentucky counties. The applicable adjustment here would be plus 7 cents.

A third proponent, Arps Dairy, Inc. (Arps), proposed that the adjustment applicable at plants located in the present Northwestern Zone be minus 25 cents. At the hearing, the spokesman stated that Arps would support the proposals of MMI if they modified their proposals by providing an adjustment at Defiance County of minus 24 cents, the adjustment that MMI proposed for their Zone 1.

National Farmers Organization supported the proposals of MMI as presented at the hearing. Dairymen, Inc. also supported the MMI proposals; however, it requested that the adjustment in MMI's proposed Zone 6 be plus 28 cents and the adjustment in the out-of-area zone of the Lexington-Winchester, Kentucky, area be plus 22 cents.

Beatrice took exception to certain parts of the MMI proposals. In this regard, the handler requested that Zones 5 and 6 be combined into a single price zone with an applicable adjustment throughout of plus 15 cents.

Kroger supported the MMI proposals as modified at the hearing by MMI's not supporting a special out-of-area zone for the Lexington-Winchester, Kentucky, area.

Proponent MMI testified that due to the mandated Class I differentials throughout the order system, changes are needed in the location pricing structure of the order with special emphasis placed on price zones of the marketing area. Proponent believes that adoption of its proposals will maintain inter-order alignment while recognizing the need to move milk within the marketing area from the areas of production to the various locations of distributing plants. The spokesman added that the cooperative's proposals also maintain where possible historical competitive relationships.

The spokesman stated that MMI's proposed Zone 1 recognizes historical competitive relationships between the northwestern part of the Order 33 marketing area and Orders 40 (Southern Michigan) and 49. The spokesman indicated that MMI's minus 24-cent adjustment ($1.80 differential) for this area is in line with the mandated differential at Detroit, Michigan (Order 40), of $1.75 and the proposed $1.80 differential at Ft. Wayne, Indiana (Order 49).

Furthermore, the spokesman stated that the increased minus adjustment for Zone 1 recognizes that that area has an over-abundant supply of milk in relation to the area's Class I needs. He showed that in May 1985, Zone 1 and surrounding areas had producer marketings of 46 million pounds of milk when only slightly under 10 million pounds of milk was needed for Class I purposes by plants in that zone. The same comparison for December 1985 revealed marketings of 40 million pounds and need of only 9.5 million pounds. Therefore, he believes that the increased minus adjustment must be adopted because this excess milk should be encouraged to move to the location at which it was needed.

Proponent's argument for Zone 2 is similar to that for Zone 1, that is, milk must be encouraged to move southward out of the areas where Class I needs are far surpassed by the milk supply of the area. The spokesman showed that in May 1985, Zone 2 and surrounding areas had producer marketings of 87 million pounds of milk when only 6 million pounds were needed for Class I uses. And, for December 1985, proponent's figures revealed that 84 million pounds were marketed while only 5 million pounds were needed for Class I uses.

Proponent testified that Zone 3, or the Base Zone, which would include six presently Southeastern Zone counties.

recognizes how milk moves now, not how it once moved or how it theoretically should move. He stated that this proposed zone would extend west to east through the middle of the marketing area because the primary reserve supply for Order 33 comes from northeastern Ohio, southwestern Pennsylvania, and Michigan, all areas that are north or east of this zone, not west from Wisconsin.

The spokesman stated that these first three zones represent good intra-order alignment. From Toledo (Zone 1) to Columbus (Zone 3) the rate per 10 miles is 1.8 cents. From Lima (Zone 2) to Columbus (Zone 3) this rate is 1.6 cents. And, from Zone 1—Toledo to Zone 2—Lima the rate is 1.1 cents.

Proponent stated that proposed Zone 4, which extends west-east from the Cincinnati area to the Marietta area, has very little production in many of its counties. However, he pointed out that several major distributing plants are in this zone. Therefore, he concluded that a higher price in this zone is needed to encourage the milk to move to these demand centers.

The spokesman showed that in May 1985, Zone 4 and surrounding areas had producer marketings of 57 million pounds of milk when 40 million was needed for Class I purposes. Again in December 1985, 40 million pounds were needed and 45 million pounds were marketed. Proponent then pointed out where these figures reveal a need for a higher price in this zone, especially in the Cincinnati area. First, he stated that 4 of the 40 million pounds of milk needed for Class I uses were shipped down from the Zone 3 supply plant in Dayton. Also, some of the milk which is marketed in this zone comes from counties south of Cincinnati which supply the Winchester plant, thus leaving the Cincinnati plants at a deficit. One further point made by the spokesman was that it costs more for MMI to service the needs of the Cincinnati handlers than it does to service the Dayton and Columbus handlers (i.e., 23–28 cents per hundredweight at Cincinnati vs. 5–8 cents per hundredweight at Dayton-Columbus). Concerning inter-order alignment, the spokesman stated that proposed Zone 4 maintains proper alignment with surrounding markets.

Proposed Zones 5 and 6, the spokesman stated, are two more areas deficient in milk production. Higher prices, he said, are needed to attract milk to these areas. He stated that the 8-cent difference between Zones 4 and 5 is necessary because it costs more to service the plant in Charleston (Zone 5) than it does to service the plants in Boyd and Greenup Counties, Kentucky (Zone 4). The plus 21-cent adjustment for Zone 6 is necessary, he said, for inter-order alignment with the Tennessee Valley order (No. 11). These last three zones, the spokesman said, create new competitive relationships between plants that all used to be in the Southeastern Zone.

Regarding MMI's proposal to limit the out-of-area adjustment for a pool plant physically located in another Federal order area to the prevailiing price of that other order at that location, the spokesman said that sales into the Order 33 area from Order 49 and Order 36 handlers in November 1985 were 10.3 and 11.0 million pounds, respectively. Also, he stated that some plants have a high percentage of their sales in the Order 33 marketing area. Therefore, proponent is concerned that if one or more of these plants becomes regulated under Order 33, then they will gain a competitive edge on sales in the area where they are physically located. He also added that the resulting blend price to producers who deliver to these plants will be less than competitive, thus, jeopardizing the supply of milk to the plants.

In support of its proposal, the spokesman for Arps stated that in order to attain inter-order price alignment between Order 33 and Orders 40 and 49, the adjustment to the base price in the Northwestern Zone should be minus 25 cents. Under the new mandated differentials, he said, the base price for Order 40 increased only 15 cents while that in Order 33 went up 34 cents, leaving the difference between the two at 29 cents. Arps' proposal would narrow this difference to 4 cents in the Northwestern Zone. Its proposed $1.79 differential, he said, also is in line with the $1.80 differential that was proposed for nearby Indiana counties in the Order 49 marketing area.

The spokesman pointed out that under MMI's proposal as noticed, the location adjustment at Arps would be that which applies at Zone 2 (minus 14 cents). Because more of their sales are in the territory of MMI's proposed Zone 1 rather than in Zone 2, and because the majority of their sales are in the unregulated counties directly west of proposed Zone 1, proponent believes that they should be subject to the Zone 1 minus adjustment. Therefore, he stated that if MMI modified its proposal to include Defiance County in Zone 1 (minus 24 cents) then Arps would support MMI's proposal and abandon their own.

In support of its proposal, Southern Belle's witness testified that approximately 66 percent of Southern Belle's sales are in direct competition with sales of Cincinnati and Winchester handlers who are regulated under Order 33. Historically, he said, Order 46 handlers and the Cincinnati-Winchester handlers have had the same Class I differential. Proponent believes that this relationship should not change. He added that this is reasonable because both Orders' handlers share common sales and procurement areas. Therefore, he said, proponent's proposals, in increasing the differential in the Cincinnati-Winchester area, would restore the price to the competitors to the same level as that which was mandated for Order 46 handlers.

Three proprietary handlers, Louis Trauth Dairy, Inc., of Newport, Kentucky, H. Meyer & Sons Dairy Co., of Cincinnati, Ohio, and United Dairy Farmers, also of Cincinnati, opposed all of the proposals to amend Order 33's location adjustment provisions. The spokesmen for the handlers stated that in the past, none of these dairies has had any problem receiving an adequate supply of milk. Therefore, they believe that there is no need to increase the Class I differential in the Cincinnati area.

However, the main concern for the handlers, they said, is that the proposals, by giving the Dayton and Columbus handlers a 7-cent advantage over the Cincinnati handlers, would alter competitive relationships which now exist between the Central Zone handlers. Because the Cincinnati-Dayton-Columbus handlers now compete for the same milk supplies and the same customers, they believe that an increase in the differential at Cincinnati relative to that which was mandated for the present Central Zone is not appropriate.

The National Farmers Organization supported MMI's proposals because they would provide for a north-south spread in Class I differentials that would be effective in moving milk from areas of production to areas of need within the marketing area. The spokesman emphasized that milk cannot move over great distances for five cents or less difference in price, as is the case now between Toledo and Cincinnati. However, he said that through a combination of the mandated differentials and MMI's proposals, a much more reasonable increase in price will take place as one moves milk southward. In addition, he pointed out that the improved intra-order alignment as proposed by MMI would bring about alignment with surrounding order areas.

Regarding MMI's proposal to limit the minus adjustment at a pool plant

physically located in the marketing areas of either Order 49 or Order 36, the spokesman said that NFO supports the proposal and believes that such a provision will help avoid the need for hearings on inter-order alignment problems in the future.

Huntington Interstate Milk Producers Association (Huntington), a dairy farmer cooperative headquartered in Huntington, West Virginia, in its brief, also supported MMI's proposals. Huntington agrees that the proposed six zones would both attract adequate milk supplies to the order's handlers and provide inter-order alignment in light of the mandated changes.

Dairymen, Inc. supported MMI's proposals with a few minor exceptions. The spokesman stated that DI's primary concern is proper price alignment between the southern portions of the Order 33 area and the Tennessee Valley order (No. 11). In order to achieve this alignment, the spokesman showed that at a rate of no greater than 3 cents-per-10 miles, the appropriate Class I differentials at Cincinnati, Ohio, Winchester, Kentucky, and Beckley, West Virginia, should be $2.11, $2.26, and $2.32, respectively.

The differential proposed for the Cincinnati area, he said, is the same as that for the Louisville area, and this proper because both points are equidistant from Indianapolis and Eau Claire. According to this same reasoning, the spokesman stated that the differential proposed by MMI for Winchester is proper because the distance from Indianapolis and Eau Claire warrants a higher price here.

Concerning the Beckley price, the DI spokesman stated that alignment between Beckley and Bristol, Tennessee (Order 11), is necessary because plants in these areas share common sales areas. A differential at Beckley that results in a rate higher than 3 cents per 10 miles is not acceptable to DI, he said.

Beatrice took exception to MMI's proposed Zone 6. Beatrice's main concern is that its plant in Beckley, West Virginia, would be unduly disadvantaged if it were to be in a different zone than its major competitor in Charleston, West Virginia. The spokesman stated that the Beckley plant's sales are about 25 percent in MMI's proposed Zone 6 area and about 75 percent in the proposed Zones 4 and 5. He added that less than 1 percent of the Beckley plant's sales are south of Zone 6, and this is so because the terrain south of Beckley is rough and the population is scarce. In addition, he said, Beatrice's plant located in Radford, Virginia, which is regulated under Order 11, sells in the market south of Beckley.

Kroger supported MMI's proposals as presented at the hearing. Kroger operates two plants regulated under Order 33, one in Newark, Ohio, which would not be subject to change, and another in Winchester, Kentucky, which would be in a plus zone if MMI's proposals were adopted. The spokesman stated that the proposed $2.11 differential at Winchester would be acceptable because there is a long-term cost of getting milk to the area.

In its brief, Southeastern Dairies, Inc. (Southeastern), an Order 46 pool handler, supported those proposals that would maintain uniform Class I prices for Order 46 handlers and for competing Order 33 handlers in the Cincinnati-Winchester areas.

It is apparent from the evidence presented that the location pricing structure of the order should be modified to better align the new mandated Class I differentials at distant plants within the order's marketing area and with nearby markets. The record also establishes that the order's present location pricing structure does not adequately encourage or compensate for the movement of milk from production areas to plants in the market's population centers. This has been particularly true in the situation where the prices applicable under the order to milk delivered in the southern and southeastern part of the marketing area are the same or only slightly higher than the order prices applicable to plant locations in central and northern Ohio and southeastern Michigan.

The Ohio Valley marketing area includes contiguous territory in 61 Ohio counties, 20 West Virginia counties, 18 Kentucky counties, two Indiana counties and two Michigan counties. It is approximately 375 miles from northwest to southeast and about 200 miles from west to east where it adjoins the Eastern Ohio-Western Pennsylvania marketing area. The marketing area also adjoins the marketing areas of four other orders—Kentucky, Indiana, Southern Michigan and Tennessee Valley. The central and northern part of the marketing area is in an area of relatively heavy milk production in central and northwestern Ohio. Part of the supply area for the market extends into northern Indiana, southeastern Michigan and southeastern Wisconsin and is an area from which an alternative source of supplies of large volumes of Grade A milk for the market is available.

The overriding factor in considering a proper location pricing structure for the market is the need to maintain alignment of the Ohio Valley market price at various locations with that of other nearby markets and with prices in the Chicago milkshed. A close alignment of prices in the Ohio Valley market with prices under the Southern Michigan and Chicago orders is necessary to maintain outlets for producer milk in the Ohio Valley market.

The primary problem of market price alignment on this record relates to the Ohio Valley-Southern Michigan relationship which has changed significantly since the new mandated Class I price differentials became effective on May 1. Prior to May 1, the Class I price difference between the Northwestern Zone (Toledo area) of the order and the Base Zone of the Southern Michigan order (southeastern Michigan area) was 5 cents per hundredweight. With the new higher Class I differential, this difference has increased to 24 cents per hundredweight. A price difference of this magnitude reflects more than the actual variable cost of hauling milk a distance of 60 miles (mileage between Detroit and Toledo). Such a break in prices between the Ohio Valley market and the lower-priced Southern Michigan market can disrupt competitive equity among handlers and would not provide inter-market price alignment, based on transportation costs, with competing plants.

Much of the milk supply in this market originates from the central and northern Ohio and southeastern Michigan part of the marketing area. For example, in December 1985, eight of the ten leading milk producing counties for the market were located in Ohio within the order's Central or Base Zone. During this month, nearly 29 percent of the producer milk on the market came from these eight counties. In total, these eight counties plus the remaining Ohio and Michigan counties included in the Northwestern Zone of the order supplied 42 percent of the total producer milk in December 1985.

The population centers of Toledo, Lima, Dayton, Columbus, and Springfield are located within this major production area and thus are closer to the market's production area than Cincinnati and other consumption areas in the southern and southeastern portions of the market. This latter area should be included in higher-priced zones so as to encourage milk to move to these areas.

The present three-zone pricing structure of the order, however, does not provide the needed price difference within the marketing area to encourage adequate supplies at all plant locations throughout the market. The price level that now exists at the various distant consuming centers from the heavy producing areas to the north and

northwest is the same or only slightly more than the levels that prevail in the heavy production areas. Because of this and considering the varying distances of the population centers of the Ohio Valley market from the sources of heavy milk supplies, the establishment of additional zones for pricing purposes, that reflect a gradual increase in price levels from north and northwest to south and southeast, will provide better price alignment throughout the large marketing area.

Accordingly, on the basis of the record established, an appropriate intra- and inter-order price alignment for the market can best be achieved and maintained by adopting, with one exception, the zone pricing structure of the marketing area proposed and supported at the hearing by MMI.

As adopted herein, the marketing area is divided into five separate zones with the base zone designated as Zone 3. This zone embraces the population centers of Columbus, Dayton, and Springfield, Ohio. A price level 14 cents (Zone 2) and 24 cents (Zone 1) lower than the base zone price at Lima and Toledo, Ohio, respectively, will result in a more realistic alignment of prices between these locations and prices under the Chicago Regional and Southern Michigan orders. Since Cincinnati and other plant locations in the southern and southeastern part of the marketing area are considerably further from the area of heavy milk production than are other Ohio Valley order plants, a plus 7-cent and 15-cent adjustment, respectively, at these locations will reflect the gradation of Class I prices from north and northwest to south and southeast that is necessary to insure reasonable allowances for transporting distant milk to each consuming center of the market.

Also, the application of location adjustments at plants situated outside the marketing area should be modified. In this regard, a plus 7-cent adjustment as opposed to the present no adjustment should apply at plants located in the Louisville-Lexington-Evansville (Order 46) marketing area or east of the Mississippi River and south of the northern boundary of Kentucky, West Virginia or Virginia. This change will increase prices at a Winchester, Kentucky, plant which is the only pool plant under the Ohio Valley order that is located in the marketing area of Order 46. The price adopted herein for the Winchester location would be identical to the new higher Class I differential adopted under a separate proceeding for Order 46 (Official notice is hereby taken of the proceeding applicable to Order 46, published June 5, 1986 (51 FR 20446)). Thus, the same prices would apply regardless of which order regulated the Winchester plant.

Another change adopted herein that would effect the application of location adjustments at plants outside the marketing area is in the adjacent northwestern Ohio unregulated counties of Defiance, Paulding, Van Wert (except the city of Delphos), and Williams. The adjustment for these counties should be minus 24 cents. This change will result in prices at plants in this area identical to the price level adopted for Zone 1. This close price relationship is necessary because of the extensive overlapping of supplies and sales among handlers in the general area.

No change should be made in the present application of location adjustments at other plant locations situated outside the marketing area. However, the location value at any such plant will be affected, of course, by the changes adopted herein in the location adjustment rate for the nearest designated basing point applicable to the respective plant. Accordingly, this will result in an effective pattern of price alignment.

The adopted Class I differential at various pool plant locations within and outside the marketing area would be as follows: Toledo, $1.80; New Bremen, $1.90; Columbus, $2.04; Dayton, $2.04; Cincinnati, $2.11; Marietta, $2.11; Beckley, $2.19; Charleston, $2.19; and Winchester, Kentucky, $2.11. The following table shows the new mandated Class I differential for orders in surrounding markets:

Order	Class I price differential
Southern Michigan (Detroit)[1]	$1.75
Indiana:	
Fort Wayne	1.80
Indianapolis	2.00
Louisville-Lexington-Evansville	2.11
Eastern Ohio-Western Pennsylvania:	
Cleveland	2.03
Wheeling	2.00
Tennessee Valley	2.77

[1] A direct delivery differential of 10 cents per hundredweight applies to all producer milk received at the Detroit location.

As noted earlier, MMI proposed that a pricing zone of plus 21 cents apply to the following three southwestern West Virginia counties: Fayette, Raleigh and Wyoming. The only pool plant located in this small segment of the marketing area is at Beckley in Raleigh County. Beckley is the only populated center in the area. The Beckley plant competes extensively for supplies and sales with other pool plants located in the same region.

In support of higher price at Beckley, proponent cooperative stated that a 6-cent higher price at this location over the price at other plants in the region would improve price alignment with the higher-priced markets to the south and southeast. While the thrust of the proposal was to improve the inter-order price relationship between Beckley and, particularly, the Bristol, Virginia-Tennessee area under the Tennessee Valley order, the record evidence does not indicate that such alignment is a major factor influencing the economic value of milk at the Beckley location. Rather, the record establishes that the value of milk at this location is influenced mainly by the close competitive relationship for the limited supplies and sales among handlers serving the region, particularly with a Charleston plant operation. Under this situation, it is desirable to maintain the same price structure throughout the region.

As adopted herein, the Class I differential in the Cincinnati metropolitan area would be 7 cents higher than in the Columbus-Dayton-Springfield area (base zone). Several Cincinnati handlers expressed opposition to any increase in price at Cincinnati, claiming that it would have a disruptive effect on their ability to compete throughout much of central Ohio where their sales overlap with Columbus-Dayton-Springfield handlers. They urged that the same Class I prices that now exist for milk received at Cincinnati and in the Columbus-Dayton-Springfield area be retained.

Based on a transportation rate of 2 cents per 10 miles, which is substantially less than the cost of hauling packaged milk, the 56-mile distance from Dayton to Cincinnati would suggest a hauling cost of about 12 cents per hundredweight.[1] Thus, it is not reasonable to expect that the adopted 7-cent higher price at Cincinnati would be disruptive to the handlers based at that location in competing with base zone handlers for fluid milk sales in the Cincinnati metropolitan area.

As noted earlier, several of the Cincinnati handlers testified that the proposed 7-cent higher Class I price would place them at a competitive disadvantage with base zone handlers in central and west central Ohio where both groups of handlers compete for sales. When a handler chooses to sell

[1] The nearest plant in the base zone to Cincinnati is located at Dayton. The other plants in this zone at Columbus and Springfield are 109 miles and 73 miles, respectively, from Cincinnati.

milk in a lower-priced area, the handler must assume any competitive risk.

Contrary to the Cincinnati handlers' contentions, local nearby milk producers do not supply the total needs of the Cincinnati market. Rather, the record of this proceeding establishes that milk supplies move regularly to the Cincinnati market from the heavy producing areas north of the Dayton area. As noted earlier, the present pricing structure of the order provides little or no incentive for the movement of milk to the market's population centers' distributing plants, including plants located in the Cincinnati area, either on a direct-ship basis or through a supply plant. Since producers normally bear the costs of transporting milk from their farms to a processing plant, they seek a market outlet which will return them the highest price with the least transportation cost. Under the order's present pricing structure, producers in the heavy milk producing areas can receive about the same price if they ship to a nearby plant or to a more distant distributing plant. Restructuring the present zone pricing pattern as adopted herein will provide a more attractive uniform price at Cincinnati relative to supply areas to the north. Consequently, it will better insure the availability of milk at plants in the market's population centers such as Cincinnati.

The location price adopted herein for the Lexington-Winchester, Kentucky, area is less than the price DI recommended for the area. However, the price level adopted for the area is needed to maintain alignment of the Lexington-Winchester price with that of the other Kentucky markets. Such alignment is necessary to maintain Class I outlets for producer milk in the Ohio Valley market. Thus, the price adopted will result in a close relationship of prices at plants in this area and will tend to obtain effective price alignment.

MMI's proposal relating to the application of a location adjustment to a plant regulated under the Ohio Valley order but located in either the Order 36 or the Order 49 marketing area should not be adopted on the basis of this record. As proposed, the applicable location adjustment at such a plant would result in the same price under the Ohio Valley order as would apply under the order in which the plant was located.

There was nothing on the record which indicated a current or an imminent marketing problem that the proposal addressed. In fact, the record establishes that it is extremely unlikely under current marketing conditions that such a provision would ever be applied. Accordingly, there is no basis on this record to adopt the proposal.

Order 49—Indiana. The Indiana order should continue to provide for no location adjustment at plants located within certain specified Indiana counties, the State of Ohio, or any area south of the marketing area. The Class I differential at plants in this "base" pricing zone should be $2.00. However, the following three minus location adjustment zones, consisting of territory within and outside of the marketing area, should be established:

(a) A minus 20-cent adjustment should apply at plants located within the present minus 4-cent area, excluding the four counties in the northeast corner of Indiana (Lagrange, Steuben, Noble, and DeKalb) and Whitley County but including the additional Indiana counties of Benton and Fulton. The Class I differential in this 13-county area should be $1.80;

(b) A minus 30-cent adjustment should apply at plants located within the present minus 8-cent area, excluding Benton and Fulton Counties but including the four counties in the northeast corner of Indiana, the Indiana counties of LaPorte, Starke, and Whitley, and the Michigan counties of Branch and St. Joseph. The Class I differential in this 18-county area should be $1.70; and

(c) A minus 40-cent adjustment should apply at plants located within Lake and Porter Counties, Indiana, which presently are part of the minus 12-cent area. The Class I differential in this 2-county area should be $1.60.

At all other plants located outside of the areas specified above, the adjustment to the base price should be minus 2 cents for each 10 miles or fraction thereof that the plant is located from the nearest of the Monument Circle, Indianapolis, Indiana, or the main post offices of Fort Wayne, South Bend, or Valparaiso, Indiana, plus the location adjustment applicable at such point.

Presently, there are three areas in which a specific minus location adjustment applies. These areas include 25 counties in the marketing area and six counties which are not in the marketing area as follows:

(a) A minus 4-cent location adjustment applies at plants in the 16 Indiana counties of Adams, Allen, Blackford, Carroll, Cass, De Kalb, Huntington, Jay, Lagrange, Miami, Noble, Steuben, Wabash, Wells, White, and Whitley;

(b) A minus 8-cent adjustment applies at plants in the nine Indiana counties of Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, and St. Joseph, and in the two Michigan counties of Berrien and Cass; and

(c) A minus 12-cent adjustment applies at plants in the four Indiana counties of Lake, LaPorte, Porter, and Starke.

At plants either in the remaining 41 counties of the marketing area in Indiana, or in unspecified Indiana counties, or in the State of Ohio, no adjustment to the base price applies.

At plants located outside the territory specified above, the adjustment is minus 1.5 cents for each 10 miles or fraction thereof that the plant is located from the nearest of Monument Circle, Indianapolis, Indiana, or the main post offices of Fort Wayne, South Bend, or Valparaiso, Indiana, plus the location adjustment applicable at such city.

One proponent, Hoosier Milk Marketing Agency, Inc. (Hoosier),[2] proposed that six minus location adjustment areas should be established. Under its proposal, plants located within the present minus 4-cent area, excluding the four counties in the northeast corner of Indiana and Whitley County, and including Benton and Fulton Counties, Indiana, would be subject to a minus 20-cent adjustment. The location adjustment applicable at other locations, as proposed, follows:

(a) A minus 24-cent adjustment would apply in the two Indiana counties of Kosciusko and Whitley;

(b) At plants located within the present minus 8-cent area, with the exception of Benton, Fulton, and Kosciusko and with the inclusion of La Porte and Starke Counties, Indiana, the applicable location adjustment would be minus 29 cents;

(c) Plants located within the four counties in the northeast corner of Indiana would be subject to a minus 32-cent adjustment;

(d) A minus 36 cents would apply at plants within the Michigan territory of the marketing area. Plants located within the two counties in the northwest corner of Indiana, Lake and Porter, would be subject to a minus 40-cent adjustment; and

(e) Plants located within certain Indiana counties and the State of Ohio where presently no location adjustment applies would continue to be free of any adjustment.

At the hearing, Hoosier modified its proposal to provide that the townships of Constantine and Mottville in St.

[2] An association of four dairy cooperatives (Associated Milk Producers, Inc., (AMPI), Milk Marketing, Inc. (MMI), Michigan Milk Producers Association (MMPA), and Southern Milk Sales (SMS).

Joseph County, Michigan, be included in the minus 32-cent area along with the four counties in the northeast corner of Indiana.

A second proponent, Milk Foundation of Indiana (MFI), proposed that four minus areas should be established as follows:

(a) A minus 6-cent adjustment would apply at plants within the Indiana counties of the marketing area where presently no adjustment applies, excluding the 11 counties of Decatur, Fayette, Franklin, Jackson, Jefferson, Jennings, Lawrence, Ripley, Rush, Switzerland, and Union in the south-southeastern corner of the marketing area;

(b) At plants located within the present minus 4-cent, 8-cent, and 12-cent areas, the applicable minus location adjustments would be 14 cents, 21 cents, and 28 cents;

(c) At plants located within the remaining 11 Indiana counties regulated under Order 49, or in any Indiana counties not specified above for an adjustment, or in the State of Ohio, or south of the Ohio River, no adjustment to the base price would apply; and

(d) At all other plants located outside of the areas specified, the adjustment would be minus 2 cents for each 10 miles beyond a certain point plus the adjustment applicable at that point.

Proponent MFI modified the proposal at the hearing to provide that the proposed minus 6-cent, 14-cent, and 28-cent areas be changed to minus 13 cents, 17 cents, and 25 cents, respectively, and that Jackson County, Indiana, be placed in the minus 13-cent area.

A third proponent, Dean Foods Company, proposed that all minus adjutments to the base price be made on the basis of distance from a central point. Specifically, there would be a zero zone located within a 10-mile radius of Monument Circle, Indianapolis. Beyond this zone, the applicable adjustment at a plant would be minus 2 cents for each 10 miles or fraction thereof.

Dean abandoned this pricing scheme in favor of one proposed at the hearing by another proprietary handler, The Kroger Co. Dairy. As proposed, the present minue adjustments would double. Therefore, under this proposal the minus adjustments would be 8 cents, 16 cents, and 24 cents.

A proprietary handler, Pleasant View Dairy (Pleasant View), opposed all the proposals as they pertained to the two northwestern Indiana counties of Lake and Porter. The handler requested that the applicable adjustment be minus 60 cents.

A cooperative marketing agency, Central Milk Producers Cooprative (CMPC), supported the proposal of Hoosier. National Farmers Organization also testified in support of Hoosier's proposal; however, it requested that the location adjustment at plants located in any of the four counties in the northeast corner of Indiana be minus 25 cents.

As previously mentioned, Kroger, at the hearing, requested that the present minus adjustments be doubled.

In support of its proposal, the spokesman for Hoosier claimed that the "zero zone", (i.e., the section of the marketing area consisting of counties where no adjustment to the Class I differential applies), is a deficit milk production area. He showed that in May 1985, producer deliveries in this area were 29.2 million pounds while the needs of handlers in this area were 77.7 million pounds. Likewise, for November 1985, he showed that the producer deliveries of 29.0 million pounds were far short of the 78.2 million pounds needed by the handlers. In both months, he said, approximatley 60 percent of the milk demands of handlers were met because proponent hauled in milk from outside of the zero zone. To asssist in this movement of milk from the north-northeast production areas to the high-demand low-production southern areas of the market, proponent believes that the minus location adjustments should be increased as it has proposed.

The spokesman stated that the proposed minus adjustments were set at a rate of approximatley 2 cents per 10 miles. This, he said, would provide for the proper intra-market movement of milk and would achieve proper price alignment with adjacent Federal orders. He added that the mandated Class I differentials had changed inter-order relationships and that proponent's proposal strives to restore these to what they have been historically.

To the east of Indiana, the Hoosier spokesman stated that Fort Wayne, at a minus 20 cents (Class I differential of $1.80) lines up with MMI's Order 33 proposed Zone 2's $1.90. This, he said, maintains at least a 10-cent Class I difference as Order 49 adjoins Order 33. Likewise, he said, a 12-cent difference is maintained for northeastern Indiana which adjoins northwestern Ohio.

In the northernmost part of Order 49, the Michigan counties, the spokesman stated that the proposed Class I differential of $1.64 (a minus 36-cent adjustment) equals that which applies at Order 40 pool plants located here. And, he said, in the northwestern corner of Indiana, where Order 49 adjoins Order 30, Hoosier proposed a minus 40-cent adjustment. The spokesman stated that it is critical to maintain alignment between Orders 49 and 30 because of plants that shift regulation from one market to the other.

The spokesman for MFI claimed that the Class I differentials mandated by the Food Security Act of 1985 have changed competitive relationships between Order 49 handlers and handlers regulate under the orders for the surrounding markets to the detriment of the former. He pointed out that the resulting "rates-per-ten out of Eau Claire", ranging from 1.6 cents to Chicago to 2.3 cents to Indianapolis, indicate a misalignment of prices in the areas where Order 49 handlers compete for Class I sales. Therefore, proponent believes that unless adjustments are made, Order 49 handlers will lose Class I sales to plants regulated under other Federal orders both in and out of the Indiana marketing area.

He stated that presently about 26 percent of the Indiana market's Class I sales are made in other order areas (in November 1985, this equaled 30 million pounds of milk). He contends that such sales will be prohibitive if changes are not made in the minus adjustments to line up Class I prices between Order 49 and neighboring orders.

Also, he believes that competition from other Federal order handlers for Class I sales in the Indiana marketing area will increase because of the price advantage given to these other areas by virtue of the mandated Class I differentials. He stated that already 14 percent of the packaged fluid milk distribution in the Indiana marketing area is from handlers regulated under other Federal orders where lower Class I differentials were mandated, (i.e., Orders 40, 30, and 32). Thus, he concluded that a reduced Indiana price, for purposes of inter-market alignment, would keep Indiana plants competitive.

The spokesman stated that MFI's proposed minus 13-cent adjustment in central Indiana would maintain a 17-cent difference that historically has existed between this area and Order 33's base zone. This adjustment, he said, would also establish a rate of 2 cents per ten miles between Indianapolis and the nearest plant regulated under Order 46 to the south. Such a rate, he added, is appropriate because it was used to establish the Class I differential of $2.11 at Louisville.

Proponent testified that the adjustments proposed for the other areas of the Indiana order provide improved alignment with surrounding orders while maintaining intra-order relationships between Order 49 plants. He believes that there is no need to change intra-market pricing relationships because under the present

system adequate amounts of milk flow from areas of production to areas of need. Further, he stated that if intra-order relationships were changed, then the internal market would be disrupted in that pool plants in the northern zones would be able to more easily sell packaged milk to the south, to the disadvantage of the Indianapolis handlers. Proponent did concede that the minus adjustment in the northwest corner could be increased without harming intra-alignment because pool plants here do not interact with other pool handlers to their south.

At the hearing, Dean, who operates a pool distributing plant in Rochester, Indiana, abandoned its proposal and supported the pricing scheme suggested by the representatives for Kroger, a pool handler located in Indianapolis.

The Kroger suggestion presented at the hearing doubles the magnitude of the present minus adjustments to the Class I differential. The Kroger spokesman stated that internally adequate volumes of milk flow to where needed under the present pricing system. However, recognizing the need for inter-order alignment, especially between Orders 49 and 40, the spokesman stated that a few minor changes should be made. He added that doubling the adjustments would not distort historical intra-order relationships.

Dean, in its brief, gave its support to the Hoosier minus 36-cent adjustment at plants in the Michigan territory of the marketing area. Dean maintains that adoption of both the new minus 36-cent zone and the increased adjustments proposed by Kroger will result in the reasonable alignment of Order 49 with adjacent markets.

Pleasant View opposed all noticed proposals as they relate to Lake and Porter Counties, Indiana. The spokesman stated that 75 percent of Pleasant View's milk distribution is in Lake and Porter Counties. The remaining 25 percent is in Cook County, Illinois, which is part of the Chicago Regional marketing area. Consequently, he said, Pleasant View competes with handlers regulated under Order 30.

The spokesman pointed out that Pleasant View simply wants to keep competitive with the Order 30 handlers, which occasionally includes a handler located in Lake County. He claimed that the mandated differentials for the two orders (i.e., $1.40 for Order 30—Cook County and $1.88 for Order 49—Lake and Porter Counties) bars Pleasant View from competing. However, he said Pleasant View's request of a minus 60-cent adjustment would equate for all handlers in the area the cost of raw milk.

Dairymen, Inc., opposed those proposals that would reduce the Class I differential in Jackson County, Indiana, to below the base differential of $2.00. The spokesman pointed out that the pool distributing plant in Seymour, Jackson County, Indiana, is only 50 miles north of Louisville, Kentucky, where the Class I differential is $2.11. Also, he said, the Seymour handler and Order 46 handlers share a common sales area. Therefore, he concluded that the $2.00 differential mandated for Indianapolis is appropriate and should continue to apply in the southern portion of Order 49's Base Zone.

In its post-hearing brief, Southeastern also argued that the Class I price in the present Base Zone should not be less than the $2.00 differential mandated in the Food Security Act of 1985. Southeastern stated that the MFI proposal gives Base Zone handlers an extra 13-cent advantage over their Louisville competitors. In addition, Southeastern contends that the MFI proposal is unlawful, in that it establishes a new 0-cent adjustment area where no plants are located, and is irrational because the Indianapolis area is milk-deficient and needs to attract outside supplies.

Central Milk Producers Cooperative supported the Hoosier proposal. The spokesman stated that Hoosier's proposal both recognizes distances from the market center and reflects parameters imposed by alignment of prices with neighboring Federal orders.

National Farmers Organization also supported the Hoosier proposal, however, with an exception. The spokesman requested that the applicable location adjustment at plants located in the four counties in the northeast corner of Indiana be minus 24 cents (as modified in its brief) as opposed to Hoosier's minus 32 cents. NFO's rationale for such a request, he said, is that when moving west to east from Chicago, Illinois, through the northern section of Indiana to Cleveland, Ohio, or when moving north to south from Lansing, Michigan, through eastern Indiana to Louisville, Kentucky, a depression in price occurs in the Shipshewana, Indiana, area. Therefore a Class I differential of $1.76 in the four-county area would align the progression.

As noted elsewhere, the 47-cent increase in the new mandated Class I differential for this market was the largest price change of any of the markets included in this proceeding. It is quite apparent from the record evidence that the magnitude of this increase changes the price relationships that have existed between the Indiana and surrounding competing markets at various plant locations. In this regard, there is a substantial inter-market relationship with respect to competition for supplies and sales with the nearby markets in Illinois, Ohio, Michigan, Kentucky and Wisconsin. The record establishes that the new Class I price applicable at various locations in the market does not provide a reasonable relationship to the Class I price level in competing markets after considering transportation costs.

The present location pricing structure of the order was designed to encourage the movement of milk from production areas to the principal consuming centers of the market. Additionally, it was developed to maintain reasonable intra- and inter-market price alignment which is essential to the attraction of milk supplies to the various locations where needed. Thus, the Class I price for the Indiana market was structured essentially to provide for price alignment at various plant locations reflecting the geographical relationship of the market to the area of heaviest milk production.

The record evidence indicates that a large part of the milk for the market is produced within the marketing area. The heaviest concentration of production for the market is in the northern and northeastern segment of the marketing area. Producers located in this production area are intermingled with dairy farmers producing milk for the Ohio Valley and Southern Michigan markets and also for nearby manufacturing plants. Additionally, producers supplying the markets are located in the same area as producers supplying the Central Illinois, Southern Illinois and Louisville markets. Thus, the supply relationship is affected by the extensive overlapping of procurement areas with other markets. Further, dairy farmers and their cooperative associations, in attempting to achieve the highest returns for their milk, are influenced by the price relationship among the several markets.

Handlers in the Indiana market also are influenced in their procurement decisions by inter-market price relationships. The Class I prices in other markets, particularly in the Chicago Regional and Southern Michigan markets, represent the cost of alternative supplies from such sources and thus play an integral role in the supply and demand situation in this market. In this regard, the record shows that regularly supplemental milk supplies for the Indiana market are obtained from the Chicago Regional and Southern Michigan markets.

Under these circumstances, it would not be possible to long maintain orderly marketing unless there were a close interrelationship of handler milk costs and producer returns. It is quite apparent that orderly marketing could not persist if the present location adjustment provisions of the order established the effective price at the various plant locations considering the wide variation among the several markets in the price increases mandated by the Food Security Act of 1985.

Accordingly, the modifications in the location adjustment provisions of the order herein adopted will provide reasonable price alignment reflecting the existing competitive situation in the general area under the mandated higher price structure. They will help insure handlers competing for supplies and sales in the same geographic locations relatively equal product costs and thus remove a potential source of market disruption which otherwise could result.

As adopted herein, the marketing area should continue to be divided into four pricing zones. The "base" pricing zone should continue to include the same territory that now exists where no location adjustments apply. However, the territory included in the three pricing zones where minus location adjustments apply should be revamped. As indicated previously, the applicable adjustment for each of these zones should be increased.

The following table shows a comparison of the present and proposed plant location adjustments at selected Indiana plant locations for the Indiana market:

Plant location	Cents per hundredweight	
	Present location adjustment	Proposed location adjustment
Anderson	0	0
Bloomington	0	0
Cambridge City	0	0
Fort Wayne	4	20
Gary	12	40
Highland	12	40
Huntington	4	20
Indianapolis	0	0
New Paris	8	30
Richmond	0	0
Rochester	8	20
Seymour	0	0
Shelbyville	0	0
Shipshewana	4	30
Warsaw	8	30

Changes in the present location pricing structure within the marketing area, as adopted herein, differ in varying degrees from what producers and handlers proposed and supported at the hearing. However, such changes were considered necessary to provide a Class I price applicable at the various plant locations in the marketing area that has a reasonable relationship to the new mandated Class I price levels in nearby markets competing for supplies and sales. A reasonable price alignment with nearby markets is essential in insuring adequate milk supplies at all locations at which milk is delivered. Further, the zone price differences adopted herein will better insure the availability of milk at plants in the market's populated centers.

The order should continue to provide that no location adjustments shall apply at any plant located in Ohio or Indiana if outside of the marketing area. This location pricing arrangement is in recognition of the competitive situation that exists between the Indiana market and the nearby Ohio and Kentucky markets. At other plant locations outside of the marketing area a location adjustment should apply and should be computed at the rate of 2.0 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearest basing point of the Monument Circle, Indianapolis, Indiana, or the main post offices of Fort Wayne, South Bend or Valparaiso, Indiana.

This increase in the location adjustment rate from the present 1.5 cents to 2.0 cents will reasonably reflect the higher hauling costs that prevail today for transporting milk from heavy milk production areas to consuming centers and which formed the basis of the new higher mandated Class I price differentials. Such increase also will provide closer interorder price alignment.

As noted elsewhere under Hoosier's proposal, the marketing area would be divided into six pricing zones with a 20-cent per hundredweight price difference between the base zone and the next zone to the north. Beyond this point, the price differences between zones range between 4 cents and 6 cents. While price differences between locations are necessary within the marketing area to reflect the additional value that milk has at various plant locations relative to the value of milk in the heavy production area to the north, the price differences between plant locations proposed by Hoosier are insufficient to achieve appropriate intra-order price alignment. This is because of the location of plants in the market, and the general procurement and distribution areas of competing handlers located within the marketing area relative to the base zone.

Contrary to NFO's position, the location value of milk in the Shipshewana and Auburn, Indiana, area (Lagrange County) should not be 8 cents higher than is adopted herein for this area. At the hearing and in its post-hearing brief, NFO argued that the price applicable at these two locations should be 24 cents less than the base price (Indianapolis price). It claimed that such price level for these locations would achieve proper alignment with the Toledo, Ohio, segment of the Ohio valley market and the lower price to the north in the Southern Michigan market. The record establishes that NFO's specific interest in the price for this area stems from the fact that it supplies producer milk to the pool supply plant at Shipshewana and the chese plant at Auburn.

Lagrange County, Indiana, is located in the northeastern segment of the marketing area and abuts the State of Michigan to the north. This area is the heaviest milk producing area for the market. In fact, La Grange County is one of the 10 leading milk producing counties for the market.

The location value of milk for this entire general area must be based on the gradation of Class I prices from north to south that is necessary to reflect the cost of moving milk to the principal market centers in the base zone. Based on a transportation rate of 2.0 cents per 10 miles, the adopted location price at Shipshewana is in reasonable alignment with the base zone price. The 167-mile distance from Shipshewana to Indianapolis would suggest a price difference of 34 cents. As adopted herein, the price difference would be 30 cents. Accordingly, the adopted location adjustment of minus 30 cents for Lagrange County provides appropriate price alignment from this supply area to the market's principal populated center. Any higher price for the area as suggested by NFO could provide a disincentive for producers to deliver their milk to distributing plants at the market center(s).

Essentially, the several handlers' proposals and their modifications were concerned with either reducing or maintaining the same price differences between price zones and/or mitigating some of the effect of the new mandated price increases. Still other handlers at the hearing objected to the proposed location adjustments at various plant locations on the basis that they would competitively disadvantage their operations relative to competing handlers. Handlers admitted on the record that their principal concern with respect to conforming the order's location pricing structure to the new mandated Class I differentials dealt mainly with resale price competitive relationships

The fact that handlers compete to some degree with other handlers located in a lower price zone is not a basis for restructuring the location price structure of the order as proponent handlers would seem to argue in support of their position regarding price differences between zones. Since, in most cases, handlers compete in some areas with lower-priced milk, a price criterion that recognizes such competition, irrespective of plant location, would result in a reduction of producer returns otherwise necessary to insure an adequate milk supply at all plant locations. Of course, handlers who distribute milk to lower-priced zones or areas to the north cannot expect to compete on the same cost basis with handlers located in such areas who have lower procurement costs.

On the basis of this record, the request made at the hearing by Pleasant View Dairy, Highland, Indiana, that the applicable price for Lake County, Indiana (Gary area) be the Chicago Regional order's Zone 1 price (base zone price) should not be granted. The handler believes that proper price alignment can best be realized when the Class I prices between the two orders at this location are identical. Also, the handler maintains that this change is necessary to maintain the historical interorder price alignment between the two markets.

Historically, the price difference between the Chicago Regional order's Zone 1 Class I price and the Indiana order's Class I price in Gary, Indiana, has been 15 cents. As adopted herein, this price difference would increase to 20 cents. The record evidence does not demonstrate that the 15-cent price difference has caused marketing problems or has contributed to disorderly marketing conditions. Rather, this price difference has been necessary in order to maintain reasonable price alignment between the two markets because of the additional transportation costs incurred by distributing plants in obtaining adequate milk supplies from Wisconsin, the normal source of supplies for the Chicago city market as well as some other distributing plants at nearby locations. The 20-cent difference in Class I prices between the two orders, as adopted herein, recognizes that the additional transportation costs incurred in obtaining milk from Wisconsin are now higher because of higher hauling costs. Therefore, adopting a location pricing structure for Lake County, Indiana, that will provide a 20-cent price difference between the Chicago and Indiana orders is reasonable and will provide for the proper inter-order price alignment at this location.

The proposal of MFI to establish a new base zone and apply a minus 13-cent location adjustment at plants that are now in a no location adjustment zone should be denied. As proposed, the new base zone would apply to a number of southeastern Indiana counties in which there are no pool plants. Conversely, the proposal would reduce the new Class I price by 13 cents at 12 of the 20 plants that were pooled under the order at the time of the hearing. The underlying purpose of the proposal was to reduce the impact of the mandated higher Class I differential for Order 49 on handlers located in the base zone of the present order.

This area encompasses by far the largest segment of the marketing area in terms of population, Class I sales, and receipts of producer milk. It is quite apparent that it was the intent of the Congress that the mandated Class I differential of $2.00 for the order be applied to the no location adjustment or base zone where prior to May 1, 1986, a differential of $1.53 applied. Hence, the intent of the proposal does not comport with the Class I differential established for this market by the Food Security Act of 1985. This Act specifically provided that the Class I price differential applicable under Order 49 shall be $2.00 per hundredweight May 1, 1986, and shall continue in effect for at least a 2-year period and subsequently thereafter unless modified by amendment. Accordingly, the proposal is not appropriate.

Order No. 50—Central Illinois. The order should be amended to provide a single price applicable at plants located in the marketing area and in the two Illinois counties of Henry and Mercer, outside the marketing area. The Class I price differential applicable to this area would be $1.61.

At plants located 50 miles or more from the City Hall in Peoria, Illinois, which are also outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee, the adjustment to the Class I price should be minus 10 cents for the first 50 miles and then an additional 2 cents for each 10 miles or fraction thereof that the distances exceed 60 miles. In determining the location adjustments, the market administrator should use the *Household Carriers' Guide* to obtain applicable mileage.

The order now provides for two separate pricing zones; namely, Zone I and Zone II. Zone I includes the 13 Illinois counties of Cass, Ford, Fulton, Knox, Livingston, Marshall, Mason, McDonough, Peoria, Stark, Tazewell, Warren, and Woodford. Zone II includes the six Illinois counties of Bureau, Grundy, Iroquois, Kankakee, La Salle, and Putnam.

No location adjustment applies at plants in Zone I. At plants in Zone II and in the out-of-area counties of Henry and Mercer, Illinois, the location adjustment is minus 5 cents.

Also, the order establishes a 7.5-cent lower price on milk received from producers at plants located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee, if such plants are 50 or more miles from the City Hall in Peoria, Illinois. Such price is reduced an additional 1.5 cents for each 10 miles, or fraction thereof, beyond 60 miles.

Prairie Farms proposed that the minus adjustment applicable at pool plants located outside the State of Illinois or at in-state plants north of the 6-county border be increased to 10 cents if such plants are 50 or more miles from Peoria's City Hall. The additional reduction for each 10 miles or fraction thereof beyond 60 miles would be 2.0 cents.

At the hearing, proponent modified the proposal to provide for a single Class I differential to apply throughout the marketing area and in the counties of Henry and Mercer, Illinois. This would be the mandated differential of $1.61. Also, the proponent proposed that the market administrator utilize the *Household Carriers' Guide* in determining mileage.

Associated Milk Producers, Inc., also proposed that a single price apply throughout the marketing area and in the Illinois counties of Henry and Mercer. At the hearing, the cooperative supported the out-of-area location adjustment provision proposed by Prairie Farms.

Prairie Farms operates a pool distributing plant at Peoria, Illinois. AMPI represents about 38 percent of the producer milk pooled on Order 50. Because there are no plants in the Zone II area, both proponents believe that it is no longer necessary to have two prices in the maket. Also, because the new mandated Class I price reflected approximately a transportation rate from the Upper Midwest to Peoria of 2 cents per 10 miles, both believe that such a rate should also be used in determining the adjustment to the Class I differential at plants located outside of Illinois and in Illinois, north of the market's price zone.

In 1970, when Zone II was established (Official notice is hereby taken of the partial decision establishing Zone II for the Central Illinois order issued Novemebr 5, 1970 (35 FR 17046)) there were four handlers located in the Zone II counties hwo competed extensively with one another throughout the six-county area both in the procurement and distribution of fluid milk products. They also were located about equidistant from alternative milk sources in Wisconsin. Thus, it was then appropriate that a single price level be established in that area.

The record establishes that there are no longer any pool plants in the Zone II area. Only Prairie Farms plant in Peoria and a plant in Forrest, Illinois, remain in the entire marketing area, and they are both in Zone II. Therefore, there is no longer any need to have two separate prices in the marketing area. Accordingly, the proposals of Prairie Farms and AMPI in this regard are herein adopted.

In order to reflect higher transportation costs, the location adjustment rate of 1.5 cents per hundredweight per each 10 miles should be increased to 2.0 cents as proposed. This increase in the rate will reflect the higher hauling costs prevail today for transporting milk from alternative milk sources for the market.

The Class I price level in the Chicago market at Eau Claire, Wisconsin, is a dominant factor in determining the price level in the Central Illinois market. This is because it represents the level of price at which an alternative supply of milk is available for the market. The Class I differential mandated by the Congress in the Food Security Act of 1985 for Peoria, Illinois (base zone location), which became effective May 1, 1986, is $1.61. This figure reflects a rate of 1.97 cents per 10 miles between Peoria and Eau Claire. It is apparent that the current location adjustment rate of 1.5 cents should be updated. Accordingly, it is appropriate to adopt a 2.0-cent rate, as proposed, in determining the location value of milk at distant plants.

In determining the shortest highway mileage between out-of-area plants and Peoria's city hall, the market administrator should utilize the *Household Carriers' Guide*. This change would provide the market administrator more guidance in making mileage determinations for plants. Also, use of this guide is a common practice in determining highway mileage under the Federal orders.

(c) *Point of pricing diverted milk under the Central Illinois, Ohio Valley and Southern Illinois orders.* These three orders should not be amended to price producer milk diverted from a pool plant to a nonpool manufacturing plant at the location of the pool plant from which diverted under certain specific conditions.

Under the present terms of the Ohio Valley order, all diverted milk is priced at the location of the plant where it is actually received. The Central Illinois order, however, prices only that producer milk diverted to nonpool plants more than 110 miles from Peoria, Illinois, at the location of the plant to which it is delivered. Milk that is diverted to a nonpool plant 110 miles or less from Peoria, Illinois, is priced at the location of the pool plant from which diverted.

Under the present Southern Illinois order, milk diverted to a nonpool plant more than 50 miles from the pool plant from which diverted, is priced at the location of the nonpool plant to which it is delivered. However, milk that is diverted to a nonpool plant located less than 50 miles from the pool plant from which diverted, is priced at the location of the pool plant from which diverted.

AMPI proposed that the point of pricing diverted milk under both the Central Illinois and Southern Illinois orders be modified. In the case of the former order (Central Illinois), AMPI proposed at the hearing that, in addition to milk that is diverted to a nonpool plant located 110 miles or less from Peoria, milk diverted to a plant located in Ogle County, Illinois, also be priced at the pool plant from which diverted. With respect to the Southern Illinois order, the cooperative proposed that in the case of diversions from a pool distributing plant, diverted milk be priced at the location of such plant if no more than four days' production of milk of a producer is diverted therefrom during the month. As proposed, all milk diverted in excess of four days' production each month would be priced at the location of the plant of actual receipt.

The cooperative contended that the proposal for the Southern Illinois market was intended to accommodate a situation of very limited need, which is to divert milk from a distributing plant that is not needed when the plant is not processing milk, usually on a Sunday. The witness for the cooperative indicated that usually diversions in this regard are made from distributing plants located in the market center(s) to distant nonpool plants at which the location value of milk is substantially less. He added that pricing diverted milk at the pool plant from which diverted would tend to improve the equity in prices among producers who deliver their milk directly to the market's distributing plants on a regular basis.

In support of its proposal to amend the Central Illinois order, AMPI's witness explained how the cooperative balances milk supplies for the market. In this regard, the witness testified that when the market's fluid handlers have excess supplies, AMPI diverts on a regular basis such supplies to a manufacturing operation in Ogle County, Illinois. He contended the under this circumstances the adoption of the cooperative's proposal to price milk at the location of the pool plant from which diverted will defray, in part, the cost of its role of balancing milk supplies for the market.

In the same vein, MMI proposed that the milk of producers located in certain specified areas that is diverted from a pool plant located in the Ohio Valley marketing area be priced at the plant from which diverted. As proposed, this special pricing arrangement would apply to the diverted milk of any producer located in the State of Ohio and the Michigan counties of Hillsdale, Lenawee, Monroe, Jackson, and Washtenaw.

The spokesman for the proponent coopertive testified that there are inadequate manufacturing facilities within the marketing area to handle the market's reserve milk supply. He said this is especially true in the northwestern part of the marketing area where substantial quantities of the reserve milk supplies for the market are located and where a major bottling operation and a cheese plant receive milk only five days a week. The only alternative outlet for these reserve supplies then, he said, is the cooperative's reserve processing plant at Goshen, Indiana, where, under the present order, a minus locations adjustment of 23.5 cents applies. He stated that in just one month, May 1985, 9.3 million pounds of milk were diverted to Goshen at a cost of $18,500 in location adjustments alone. The spokesman stated that the cooperative, in order to pay its producers whose milk is diverted a competitive price, must absorb a large part of the order's minus location adjustment applicable at the Goshen plant location and any additional hauling costs involved in moving such milk. He maintained that the present application of location adjustments on diverted milk places an unfair and unwarranted financial burden on the cooperative who is the principal balancer of the market's fluid milk supply requirements.

In its post-hearing brief, NFO supported MMI's proposal to change the

point of pricing of diverted milk of producers located within certain areas of the milkshed. The producer organization argued that the provision is necessary to insure that producer organizations balancing the market will not be penalized for facilitating the disposition of reserve supplies associated with the market.

Dean Foods, Kraft, Inc., and Prairie Farms, et al., in their post-hearing briefs opposed the adoption of AMPI's diversion pricing proposals either for Orders 32 or 50 or for both orders. Essentially, the basis of their opposition was that pricing diverted milk at the pool plant from which diverted, even on a limited basis as proposed, will reduce producer returns and will further cause additional misalignment of producer blend prices among and between markets in the region.

It is obvious from proponents' testimony that the purpose of changing the point of pricing diverted milk under certain situations was to have all producers in the market share some, if not all, of the costs of balancing the market. In this regard, pricing milk at the location of the pool plant from which diverted tends to subsidizes, at the expense of producers generally, the more distant producers whose milk is diverted to distant manufacturing plants rather than delivered to the market. This is because the distant producers receive the higher f.o.b. market's uniform price on milk that is not moved to the market's center and on which the full cost of farm-to-market transportion has not been incurred. Thus, the point at which diverted milk is priced can have a significant impact on the distribution of returns to producers.

Pricing diverted milk at the plant from which diverted has been used infrequently under orders to accommodate a situation of very limited need to divert milk. This does not appear to be the situation surrounding the basis of the three proposals. Instead, the justification offered in support of them was to pass on to all producers on the market some of the costs involved in balancing the market's supplies by proponents. As portrayed on the record, the need to divert milk as a product of the balancing function performed by proponents was done on a regular rather than on a very limited basis.

Beyond this, the proposals to price diverted milk at the plant from which diverted is inconsistent with the basic principles of location pricing under an order. In this connection, an order's location adjustments recognize the greater value of producer milk at a plant location in or near the principal population centers of the market as compared to its value at other locations. This treatment is in accordance with the Act which specifically provides for the pricing of milk "at the location at which delivery * * * is made." In view of this, it would not be appropriate to price milk as if delivered to the pool plant from which diverted when actually delivered as diverted milk to a plant at a location at which a different price based on the location adjustment would be applicable if delivered to a pool plant at the same location.

Counsel, through an objection raised at the hearing, argued that AMPI's proposal to revise the point of pricing diverted milk under the Central Illinois order should not be considered in this proceeding because proper notice was not provided to the public since the proposal was not included in the hearing notice. The Administrative Law Judge did not rule on the objection, but indicated that the objection should be resolved at the decision-making level. Since it is concluded that there should be no change in the order's provisions related to point of pricing diverted milk, there is no need to consider further the objection.

2. *The need for emergency action with respect to issue No. 1.* A recommended decision is omitted on the basis that the due and timely execution of the Secretary's functions require such omission to conform the orders to the Class I differential changes that became effective on May 1, 1986. However, this decision should be issued as an interim final decision so that interested parties have an opportunity to file exceptions to interim changes in the orders adopted with this decision.

The hearing notice stated that evidence would be taken to determine whether conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure. Much of the testimony at the hearing on the need to omit a recommended decision centered on the view that the Department should have in place by May 1, 1986 amendments to the location adjustment provisions of the 35 Federal orders to reflect changes in the Class I differentials mandated by the Food Security Act of 1985, effective on May 1, 1986.

In their briefs, DI, Pleasant View, MFI, Hoosier and MMI supported the omission of a recommended decision. The three Cincinnati handlers (Trauth, Meyer, and United) opposed the omission of a recommended decision. Beatrice supported the omission of a recommended decision concerning issues under Order 32; however, they urged that a recommended decision be issued covering location adjustments for the Ohio Valley order. Kraft opposed omission of a recommended decision if the Secretary favored adoption of the proposals concerning pricing diverted milk. Three proprietary plant operators and four cooperatives expressed no position in their briefs on the omission of a recommended decision.

The complexity of the issues and the diversity of opinion regarding the proposals under consideration warrant the issuance of an interim final decision. Such procedure will provide interested parties an opportunity to file exceptions to the decision and, thereby, assist the Department in tailoring amendments so that the value of producer milk under each of the orders at various plant locations will be aligned on an intra-market and inter-market basis to reflect changes in the Class I differentials mandated by the Food Security Act of 1985, effective on May 1, 1986.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the aforedsaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The interim marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act as amended by the Food Security Act of 1985;

(b) The interim marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of

milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held; and

(c) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demdand for milk in the aforesaid marketing areas, and the minimum prices specified in the interim marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Interim Marketing Agreement and Interim Order Amending the Orders

Annexed hereto and made part hereof are two documents, an Interim Marketing Agreement regulating the handling of milk and an Interim Order amending the orders regulating the handling of milk in the aforesaid marketing areas, which have been decided upon as the detailed and appropriate means of affectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

March 1986 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended by interim orders, regulating the handling of milk in the aforesaid marketing areas is approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1032, 1033, 1049, and 1050

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 26, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

Interim Order [1] *amending the orders, regulating the handling of milk in certain specified marketing areas*

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 U.S.C. Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order relative to handling. The handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the proposed order, as follows:

The authority citation for Parts 1032, 1033, 1049, and 1050 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Note.—No amendatory action taken.

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. Section 1032.52 is amended by revising paragraphs (a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), (b) and adding (a)(2)(iii) to read as follows:

§ 1032.52 Plant location adjustments for handlers.

(a) * * *

(1) For a plant located within one of the zones designated in § 1032.2, the adjustment shall be as follows:

Zone	Adjustment per hundredweight
Base Zone	No adjustment.
Northern Zone	Minus 17 cents.
Southern Zone	Plus 9 cents.

(2) * * *

(i) Plus 9 cents. St. Clair County (Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the city of Belleville only) in the State of Illinois and the counties of Jefferson, St. Charles and St. Louis and the city of St. Louis in the State of Missouri.

(ii) Minus 17 cents. In the counties of Fountain, Parke, Vermillion and Warren in the State of Indiana.

(iii) No location adjustment shall apply at a plant located in the State of Missouri south and east of Interstate Highway 44 that was not in an area described in paragraph (a)(2)(i) of this section.

(3) For a plant located outside the marketing area and the area described in paragraph (a)(2) of this section, the adjustment shall be minus 20 cents for any such plant located 100 miles or more from the city or village limit of Alton, Robinson, or Vandalia, Illinois, whichever is nearest, and minus additional 2.0 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(4) In determining location adjustments pursuant to this section, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator from the latest Mileage Guide as published by the Household Goods Carrier's Bureau.

(b) For purposes of calculating such adjustment, bulk transfers between pool plant shall be assigned Class I disposition at the transferee-plant only to the extent that 110 percent of Class I disposition at the transferee-plant

exceeds the sum of receipts at such plant from producers and handlers described in § 1032.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to receipts of fluid milk products from pool plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

* * * * *

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. Section 1033.6 is amended by revising paragraphs (a), (b), (c), and adding (d) and (e) to read as follows:

§ 1033.6 Ohio Valley marketing area.

* * * * *

(a) "Zone 1" shall include the following territory:

Ohio Counties

Fulton, Hancock, Henry, Lucas, Putnam, Sandusky (Woodville and Madison Townships only), Seneca, Wood.

Michigan Counties

Lenawee (Blissfield, Deerfield, Ogden, Palmyra, and Riga Townships only).

Monroe (except Ash, Berlin, Dundee, Exeter, London, and Milan Townships).

(b) "Zone 2" shall include the following territory:

Ohio Counties

Allen, Auglaize, Crawford, Darke, Hardin, Logan, Marion, Mercer, Morrow, Richland, Shelby, Union, Van Wert (city of Delphos only), Wyandot.

(c) "Zone 3" shall include the following territory:

Ohio Counties

Butler, Champaign, Clark, Clinton, Coshocton (except Adams Township), Delaware, Fairfield, Fayette, Franklin, Greene, Guernsey (except Oxford, Londonderry, and Millwood Townships), Hocking, Knox, Licking, Madison, Miami, Montgomery, Morgan, Muskingum, Noble, Perry, Pickaway, Preble, Warren.

(d) "Zone 4" shall include the following territory:

Ohio Counties

Adams, Athens, Brown, Clermont, Gallia, Hamilton, Highland, Jackson, Lawrence, Meigs, Pike, Ross, Scioto, Vinton, Washington.

Kentucky Counties

Boone, Boyd, Bracken, Campbell, Grant, Greenup, Harrison, Kenton, Lewis, Mason, Pendleton, Robertson.

Indiana Counties

Dearborn, Ohio.

West Virginia Counties

Calhoun, Gilmer, Pleasants, Ritchie, Wirt, Wood.

(e) "Zone 5" shall include the following territory:

Kentucky Counties

Floyd, Johnson, Lawrence, Magoffin, Martin, Pike.

West Virginia Counties

Boone, Cabell, Fayette, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Raleigh, Roane, Wayne, Wyoming.

2. Section 1033.53 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), redesignating (a)(4) as (a)(5) and revising (a)(5) and adding new (a)(4) to read as follows:

§ 1033.53 Plant location adjustments for handlers.

(a) * * *

(1) At a plant located in one of the zones set forth in § 1033.6, the adjustment shall be as follows:

Zone	Adjustment per hundredweight
1	Minus 24 cents.
2	Minus 14 cents.
3	No adjustment.
4	Plus 7 cents.
5	Plus 15 cents.

(2) At a plant located outside the marketing area and 60 miles or less from the city hall of the nearest city listed herein, excluding plants located in the area specified in (a)(4) of this section, the adjustment shall be the adjustment applicable at Cincinnati, Coshocton, Dayton, Lima, Marietta, or Toledo, Ohio; Ashland or Maysville, Kentucky; or Beckley or Charleston, West Virginia; whichever city is nearest;

(3) At a plant located outside the marketing area and more than 60 miles from the city hall of the nearest city listed in paragraph (a)(2) of this section, excluding plants located in the area specified in (a)(4) of this section, the adjustment shall be the adjustment applicable at the nearest city, less 11 cents and less an additional 1.5 cents for each 10 miles or fraction thereof in excess of 70 miles that such plant is located from the city hall of the nearest city listed above. However, at any such plant located in the Louisville-Lexington-Evansville marketing area under Part 1046 of thic chapter or east of the Mississippi River and south of the northern boundary of Kentucky, West Virginia, or Virginia, the adjustment shall be the adjustment applicable at Zone 4;

(4) At a plant located outside the marketing area in the Ohio counties of Defiance, Paulding, Van Wert, (except the city of Delphos), or Williams, the adjustment shall be minus 24 cents; and

(5) For the purpose of computing location adjustments pursuant to this section, distances shall be measured by the shortest hard-surfaced highway distance as determined by the market administrator.

* * * * *

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Note.—A separate document will be issued regarding the issues related thereto.

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. In § 1049.52, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 1049.52 Plant location adjustment for handlers.

(a) * * *

(1) At any plant located within:

Rate of adjustment per hundredweight

	Cents
(i) The State of Ohio or any Indiana county not specifically named in paragraph (a)(1)(ii) through (a)(1)(iv) of this section or at an location south of the marketing area as specified in § 1049.2	0
(ii) Any of the Indiana counties of: Adams Allen, Benton, Blackford, Carroll, Cass, Fulton, Huntington, Jay, Miami, Wabash, Wells, and White	20
(iii) Any of the Indiana counties of: DeKalb Elkhart, Jasper, Kosciusko, Lagrange, La Porte, Marshall, Newton, Noble, Pulaski, Starke, Steuben, St. Joseph, and Whitely and any of the Michigan counties of Berrien, Branch, Cass, and St. Joseph	30
(iv) Any of the Indiana counties of: Lake and Porter	40

(2) For any plant at a location outside the territory specified in the preceding paragraph (a)(1) of this section, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Mounment Circle, Indianapolis, Indiana, or the

main post offices of Fort Wayne, South Bend, or Valparaiso, Indiana, and shall be 2.0 cents for each 10 miles of fraction thereof from such point plus the amount of the location adjustment pursuant to paragraph (a)(1) of this section applicable at the respective point.

* * * * *

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. In § 1050.52, paragraphs (a) and (b) are revised to read as follows:

§ 1050.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk at a plant located outside the State of Illinois or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee shall be reduced 10 cents if such plant is 50 miles or more from the City Hall in Peoria, Illinois, plus an additional 2.0 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles. Distances applied pursuant to this paragraph shall be the shortest hard-surfaced highway distances as determined by the market administrator from the latest Mileage Guide as published by the Household Goods Carrier's Bureau.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1050.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

* * * * *

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Uranium Mill Tailings Regulations: Ground-Water Protection and Other Issues

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations governing the disposal of uranium mill tailings. The proposed changes are intended to incorporate into existing NRC regulations the ground-water protection regulations published by the Environmental Protection Agency (EPA) for these wastes. This action is being taken to comply with the mandate in the Uranium Mill Tailings Radiation Control Act and the NRC Authorization Act for FY 1983 to conform the NRC regulations to the standards promulgated by the EPA.

DATE: The comment period expires on September 8, 1986. Comments received after this date will be considered if it is practical to do so but assurance of consideration may not be given except for comments received on or before this date.

ADDRESS: Mail comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to Room 1121, 1717 H Street NW., Washington, DC between 8:15 am and 5:00 pm weekdays. Comments received on the Advance Notice of Proposed Rulemaking may be examined at the Commission's Public Docket Room, 1717 H Street NW., Washington, DC between 8:15 am and 5:00 pm weekdays.

FOR FURTHER INFORMATION CONTACT: Robert Fonner, Office of the Executive Legal Director, telephone (301) 492-8692, or Kitty S. Dragonette, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4300.

SUPPLEMENTARY INFORMATION:

I. Background

The Nuclear Regulatory Commission (NRC or Commission) is proposing additional modifications to its regulations for the purpose of conforming them to generally applicable requirements promulgated by the Environmental Protection Agency (EPA). The EPA requirements contained in Subparts D and E of 40 CFR Part 192 (48 FR 45926; October 7, 1983) apply to the management of uranium and thorium byproduct material and became effective for NRC and Agreement State licensees and license applicants on December 6, 1983. This proposed action would modify existing regulations of the Commission to incorporate the EPA ground-water protection requirements found in 40 CFR Part 192. The affected Commission regulations are contained in Appendix A to 10 CFR Part 40, which was promulgated in final form on October 3, 1980 (45 FR 65521) and amended on October 16, 1985 (50 FR 41852) to conform to the provisions of the EPA standards affecting matters other than ground-water protection.

EPA developed and issued its regulations pursuant to section 275b. of the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. 2022); section 275b was added by section 206 of Pub. L. 95-604, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). These EPA regulations included, by cross-reference, certain regulations issued by EPA under the Solid Waste Disposal Act (SWDA). Under section 18(a) of Pub. L. 97-415, the Nuclear Regulatory Commission Authorization Act for fiscal years 1982 and 1983, the Commission was directed to conform its regulations to EPA's with notice and opportunity for public comment. Comments are requested on choices and decisions the NRC must make concerning issues and actions that are within its discretion. Comments on the basic value, validity, lawfulness, or appropriateness of EPA's SWDA regulations are not requested.

II. Overview of Comments in Response to ANPRM

The additional action that the Commission might take to amend its mill tailings regulations for ground-water protection was the subject of an Advance Notice of Proposed

Rulemaking (ANPRM) published for comment on November 26, 1984 (49 FR 46425). The comment period on the ANPRM originally expired on January 25, 1985 but was extended until March 1, 1985 (50 FR 2293; January 16, 1985). Four environmental groups, six industrial representatives, four states, and two Federal agencies responded. Copies of the responses and a staff analysis of the comments received are available in the NRC's Public Document Room.

The ANPRM described NRC's tentative approach for the ground-water protection modifications. Comments generally addressed this approach. Ten specific issues were listed in the ANPRM for comment and commenters addressed each of ten issues. Commenters also repeated or referenced issues raised in comments submitted on the proposed rule for conforming to standards other than those pertaining to ground-water protection (40 FR 46418; November 24, 1984). These comments were addressed in the final rulemaking (50 FR 41852, October 16, 1985). The issues associated with this proposed rule are presented under topics IV through VIII. Because of the nature of the comments, the Commission was able to respond to issues rather than individual comments.

Some of the comments were helpful in the decision on scope of rulemaking. Some were useful in clarifying or emphasizing points in drafting the proposed amendments. Others will be useful as the Commission continues to implement the regulations and develop or modify guidance documents.

Elements of NRC's overall approach described in the ANPRM included consolidating all SWDA related requirements, eliminating cross-references to EPA standards, including all 40 CFR provisions already imposed by EPA (40 CFR 264.92–94, 264.100, 264.111, and 264.221) and considering all other provisions of 40 CFR Part 264 listed in the preamble to 40 CFR Part 192. All categories of commenters addressed the general or overall approach NRC should take.

Industry commenters urged NRC to revise substantially the SWDA requirements to reflect the differences between tailings and other hazardous wastes and the isolated location of most tailings sites. Industry commenters also emphasized that tailings more closely resemble mining wastes and that wastes from other parts of the mining industry have not been subjected to the hazardous waste rules in 40 CFR Part 264. Industry repeated and referenced arguments raised on the companion NRC rulemaking that NRC should reject the EPA standards and undertake an independent new rulemaking that balances risks and costs and that the EPA standards are flawed on technical and jurisdictional grounds. New NRC regulations advocated by industry would retain the aquifer use standards and include generic alterative requirements and flexibility rather than relying solely on licensee developed alternatives to provide flexibility and potentially more cost effective solutions.

One environmental group suggested that NRC develop comprehensive new requirements including vadose (unsaturated) zone monitoring and use the SWDA requirements only as a baseline. EPA, one state, and the environmental commenters repeated concerns about the delayed conformance and urged prompt action. States concurred in the approach to develop a unified set of regulations that can stand alone without cross-references to 40 CFR Part 264.

EPA provided a copy of its recently published "Groundwater Protection Strategy" and suggested that this document be considered in developing additional requirements, particularly on levels of ground-water cleanup.

III. Summary of Comments on Specific Issues Listed in ANPRM

Public comment was requested on ten specific issues or questions. Commenters were asked to provide the basis in fact for any opinions offered or assertions made. In the following discussion, each issue is repeated and an overview of issues raised in comments is given.

Issue (1): Should the SWDA-comparable requirements to be placed in NRC regulations be explicitly restated to precisely duplicate EPA's language, or should substantive requirements be paraphrased?

Most commenters addressing this point supported paraphrasing. One state urged maximum comparability with the EPA standards on both procedural and substantive aspects. EPA urged restatement except where administratively inappropriate.

Issue (2): Should all of Subpart F be included? What should not be included?

Industry suggested that Subpart F be changed in varying degrees to accommodate the differences between tailings and hazardous waste. EPA, an environmental group, and one state advocated incorporating all of Subpart F. Others suggested including all substantive parts of Subpart F. Based on comments by all categories of commenters, whatever text is developed for insertion in NRC regulations needs to make sense in general and make sense for application to tailings. Flexibility is a paramount concern.

Issue (3): What should be included in a listing of hazardous constituents for mill tailings to replace the 375-item-long list in Appendix VIII to 40 CFR Part 261 referenced in 40 CFR 264.93? Should constituents not usually present or not present above trace levels be included? What criteria should be applied to decide what constituents should be included?

Most commenters addressing this issue advocated an abbreviated list that reflects the hazardous constituents of concern in tailings. Comments acknowledged that hazardous constituents of concern will be site specific. A trace amount approach for hazardous constituents was suggested by a number of comments. Industry suggested that NRC develop a generic list of hazardous constituents relevant to tailings and set concentration limits for each based on health and environmental effects of each. The diverse nature of the comments suggested that decisions on health effects from hazardous constituents will be controversial because of the lack of precision in estimating health effects from nonradiological materials.

EPA pointed out the provision in 40 CFR 264.93(b) to exclude hazardous constituents but cautioned that a generic waiver could require a very difficult demonstration. EPA emphasized the site specific flexibility provided by the provisions that hazardous constituents are those that have been detected in groundwater underlying a regulated unit *and* that are reasonably expected to be in or derived from the waste. The second test can take into account the site specific ore composition, operating history, and leachate data.

Issue 4: The NRC must establish SWDA-comparable requirements to the maximum extent practicable. In this context, what is practicable given current practice and the current state of technology?

Industry noted that the weight loading and hydraulic head in a tailings impoundment means that some seepage is likely over the long term. Industry also challenged the practicality of the liner requirement based on cost, on liner instability when installed over large areas, and on creation of a "bathtub effect" which requires active maintenance of a leachate collection system. Industry pointed out the practical problem with artificially dewatering tailings, particularly the slimes, and the cross-purpose posed by the requirement for essentially

immediate emplacement of thick covers which would inhibit natural dewatering.

One commenter stated that it is practical to establish the hydrogeological characteristics and attenuative properties at mill sites and to plan, conduct, and interpret ground-water monitoring. States stressed the importance of the site and impoundment design and construction and expressed reservations about primary reliance on a synthetic liner for ground-water protection. One state listed three areas of questionable practicality: (1) ability to monitor all 40 CFR Part 261 Appendix VIII constituents, (2) corrective action to restore aquifers, and (3) the detailed information to approve alternate monitoring requirements. EPA and an environmental group commented that all of the EPA SWDA standards are practicable.

Issue (5): Should NRC retain the basic sequence embodied in Subpart F where licensees who detect ground-water contamination progress through a graduated scale of action, from detection monitoring, through compliance monitoring, and on to corrective action, with significant time delays allowed between steps while plans and programs are being developed, reviewed, and implemented? Would it be advisable, practicable or appropriate to require, for example, that all NRC licensees have approved compliance monitoring programs that are automatically activated and implemented when needed?

Six commenters recommended that licensees have compliance monitoring programs that are automatically activated and implemented. Industry disagreed. All categories of commenters suggested that the basic sequence in Subpart F be retained. An environmental group expressed concerns that the sequence will allow to much time to elapse before corrective actions are implemented. EPA noted that the elements in Subpart F can all be included in the license with automatic triggers to avoid delays. One commenter expressed concern about the need to accommodate the large size of tailings impoundments in monitoring programs. One commenter noted that development of contingency plans up front would help design for closure and corrective action. One state urged maximum use of existing monitoring programs. Industry urged flexibility to accommodate site specific circumstances.

Issue (6): Should the basic SWDA scheme for the timing and duration of a "compliance" period, a "closure" period, and a "post-closure care" period be maintained? What modifications, deletions, additions should be made?

Industry noted that the 30-year post-closure care period in SWDA standards conflicts with the UMTRCA provisions for transfer to the government after stabilization. Industry also noted that the SWDA requirement for completing closure in 180 days after operations stop is inconsistent with the need to dewater tailings for 5 to 10 years before final stabilization. Some comments supported the basic SWDA scheme and expressed the view that sufficient flexibility exists to deal with site specific problems. States supported the concept of a post-closure phase in order to minimize the risk that the government agency providing long-term care would have to rectify problems with stabilization, and urged requirements for post-closure care that minimized reliance on active maintenance. EPA commented that 40 CFR Part 192 already includes two time periods that are different from SWDA rules and that NRC may need to adopt different closure and post-closure periods for tailings.

Issue (7): To what extent, how, and under what conditions should leak detection systems under single-liner impoundments be allowed to fulfill the requirements for a detection monitoring program that otherwise requires a monitoring well in the uppermost aquifer?

Comments reflected no clear consensus on this issue but expressed the view that this issue should be a site specific decision. One comment indicated that leak detection systems should fulfill monitoring requirements only when site features under the impoundment would effectively prevent migration to the aquifer. One state questioned the value of a leak detection system in view of the difficulty of repairing leaks under large volumes of tailings and expressed concern about creating migration pathways to the aquifer. EPA and an environmental group opposed reliance on leak detection systems in place of monitoring because monitoring assures detection of contamination, leak detection systems are subject to failure, and their long-term reliability has not been proven.

Issue (8): How detailed should NRC's regulations be, and what should and should not be required in areas such as well construction, sampling analysis, determinations of annual average and seasonal background concentrations, minimum detection levels, statistical treatment of data and determinations of statistically significant differences, recordkeeping and reporting, quality assurance, etc?

Two comments recommended specifying details concerning well construction to assure long-term reliable sampling, but the consensus in the comments was that the topics listed are more appropriately addressed in guidance documents. EPA urged that the level of detail be at least equivalent to that of Subpart F but that NRC should maintain flexibility. EPA acknowledged that implementation of Subpart F involves areas that require further research and development.

Issue (9): To what extent must the NRC provide supporting environmental impact analyses considering the nature of the requirements under consideration, some of which have already been imposed by EPA and are effective? If supporting environmental evaluations are needed for SWDA-comparable rule changes except for the requirements already imposed by the EPA, should the NRC continue to proceed with only a single rulemaking to establish a complete set of SWDA-comparable requirements?

Three commenters recommended a single rulemaking. One state reemphasized the need for prompt NRC action. A state comment expressed the view that additional analyses would be a wasted effort because certain of the EPA requirements are "unsupportable." One industry comment reiterated that NRC must undertake comprehensive environmental evaluations of its own. An environmental group repeated its position that conformance coupled with additional rules to be RCRA comparable is a minor effort and of such limited scope not to constitute a major Federal action requiring additional support. EPA also expressed the view that minimal additional supporting analyses are needed for NRC to issue SWDA-comparable requirements.

Issue (10): Is the flexibility cited in the proposed addition to the Introduction of Appendix A, 10 CFR Part 40, sufficient or should the NRC develop and support additional modifications to conform to the physical stability aspects of the EPA standard?

Commenters other than industry reflected a consensus that the cited flexibility is sufficient. Industry expressed concern about the burden on individual licensees to propose and defend specific alternatives. States, environmental groups, and EPA opposed any modification of the prescriptive requirements in Appendix A. An environmental group argued that EPA fully intended that requirements such as those in Appendix A be included in tailings programs in order to assure compliance with its standards and concluded that there is no real difference in NRC's and EPA's approach that warrants any additional changes.

IV. Issues Previously Resolved

From the Commission's point of view, the following issues were resolved in the first-step rulemaking:

(1) NRC is proceeding with rulemaking and case-by-case implementation and enforcement of the EPA standards on the basis that the EPA standards in 40 CFR Part 192 are valid and consistent with EPA authority with one exception. The exception is the requirement for EPA concurrence on site specific decisions in 40 CFR 192.32(a)(2)(iv) and (v).

(2) NRC is not required to undertake a completely new independent rulemaking to justify existing requirements in Appendix A to 10 CFR Part 40 by the addition of requirements to consider risks and economic costs to section 84a(1) of the AEA or any other provisions of UMTRCA.

(3) NRC can take time needed for the second-step rulemaking without compromising protection of the public health and safety and the environment.

(4) NRC can approve site specific alternatives to NRC and EPA standards proposed by licensees without EPA concurrence.

(5) Under section 274o(2) of the AEA, Agreement States are allowed to adopt standards which are equivalent to or more stringent than those promulgated by EPA or NRC.

V. Commission Authority and Responsibility

A Commission statement on its authority and responsibility was included in both the proposed rule notice (49 FR 46418; November 26, 1984) and the ANPRM. The statement described the Commission's view of the flexibility afforded under section 84c of the AEA and NRC authority to make independent site specific decisions. The notice of final rulemaking (50 FR 41852; October 16, 1985) addressed the issue raised by commenters on the statement and affirmed the statement. No new issues were identified in response to the ANPRM. The statement is repeated here for the reader's convenience.

"Section 84c. of the Atomic Energy Act states that:

> A Licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose an and final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.

The Commission historically has had the authority and responsibility to regulate the activities of persons licensed under the Atomic Energy Act of 1954, as amended. Consistent with that authority and in accordance with section 84c. of that Act, the Commission has the discretion to review and approve site specific alternatives to standards promulgated by the Commission and by the Administrator of the Environmental Protection Agency. In the exercise of this authority, section 84c. does not require the Commission to obtain the concurrence of the Administrator in any site specific alternative which satisfies Commission requirements for the level of protection for public health, safety, and the environment from radiological and nonradiological hazards at uranium mill tailings sites. As an example, the Commission need not seek concurrence of the Administrator in case-by-case determinations of alternative concentration limits and delisting of hazardous constituents for specific sites. It should be understood that the proposed conforming regulations deal with the exercise of the Commission's responsibility and authority under the Atomic Energy Act of 1954, solely as regards uranium mill tailings sites and have no broader connotation.

The Commission believes that licensee proposals for alternatives can be an important and effective way to help deal with the problems associated with implementing the new EPA standards. The Commission expects that it may require several years to have its conforming regulations fully in place. It expects to use the flexibility provided by section 84 in the interim to consider and approve alternative proposals from licensees. Section 84c. provides NRC sufficient authority to independently approve alternatives so long as the Commission can make the required determination."

VI. Scope of This Proposal

The relevant Federal legislation on uranium mill tailings contains two mandates. Sections 84a(2) and 275f(3) of the AEA require NRC to conform to the EPA standards in 40 CFR Part 192. The rulemaking published October 16, 1985 (50 FR 41852) responded to this mandate but only partially fulfills it since ground-water provisions of the EPA standards were not incorporated. The second mandate in section 84a(3) of the AEA is more general and directs NRC to assure that mill tailings are managed in a manner that is comparable with EPA's requirements for management of similar hazardous material under SWDA. EPA incorporated some of its SWDA permitting regulations by reference into its mill tailings standards but left to NRC discretion which additional requirements might be appropriate.

Alternative approaches for this rulemaking range from a reference to 40 CFR Part 192 requirements for ground-water protection to development of comprehensive new regulations.

Three specific alternatives were considered for this rulemaking:

1. Fulfill the conformance mandate by referencing in Appendix A of 10 CFR Part 40, the ground-water standards in 40 CFR Part 192. Extensive guidance documentation would have to be prepared to clarify the requirements imposed by the referenced standards in SWDA regulations. Development of discretionary regulations would be deferred.

2. Fulfill the conformance madate by inserting into 10 CFR Part 40 the clearly nondiscretionary ground-water provisions of the EPA standard specifically referred to in 40 CFR Part 192, as well as selected and closely related referenced standards. This alternative would eliminate the need to refer to two sets of regulations. Implementation guidance would still be needed and developed, but the amount needed would be reduced. Development of discretionary regulations would also be deferred under this alternative.

3. Proceed with development of a new part that integrates NRC and EPA regulations, includes discretionary details, and responds to the second mandate for SWDA comparable requirements for conventional mills.

Alternative 2 was selected based on comments on the ANPRM, the state of the industry, and Commission judgment.

The current depressed state of the domestic uranium industry and projections by industry and Department of Energy (DOE) on the future state of the industry suggest that NRC should limit expenditure of resources for rulemaking applicable to licensing of new conventional mills. The major points leading the Commission to this conclusion are: (1) poor market conditions, over-production, and foreign competition have resulted in a large decrease in domestic uranium production, (2) slow recovery of the

industry is forecast but the timing and degree of recovery are uncertain, (3) forecasts indicate little new facility activity for at least five years, (4) solution (*in situ*) mining may be the most active technology in the near-term, and (5) NRC can reassess the need for more comprehensive rulemaking based on industry and DOE analyses of market trends and licensing caseload forecast and experience. (These five points are discussed in Revision 1 of "Overview of the State of the Uranium Industry For Rulemaking Purposes" dated December, 1985 which is available in the NRC's Public Document Room.) The severity of the depressed state of the industry was emphasized by the latest DOE annual finding on industry viability. On September 26, 1985, the Secretary of Energy informed the President that the uranium industry was not viable.

The poor outlook for domestic production means a corresponding downturn in new facility licensing activity. In the absence of license applications for new conventional uranium mills, the regulatory focus will be on interim stabilization, decommissioning, and reclamation of mill tailings sites no longer in operation. In the application of the ground-water provisions of 40 CFR Part 192 to existing sites, site specific decisions will predominate. These site specific decisions would not likely benefit greatly from generic rulemaking.

Alternative 2 also minimizes use of NRC resources until EPA issues standards applicable to other mining and milling wastes. As discussed later in this section and under Topic VIII, some of these wastes are currently not considered hazardous by EPA. Future EPA standards for these wastes might include prescriptive features that NRC would consider appropriate to apply to mill tailings. Liner and corrective action technology for mining wastes can mature, and future rulemaking could draw on the experience resulting from site specific application of the general requirements already imposed. The difficult climate for consensus because of divergent views and lack of data on risks and health effects related to hazardous constituents may diminish as EPA develops and issues additional quantitative standards. Although the potential for deferred rulemaking would still exist under Alternative 2, it would reduce the near-term uncertainty.

Further, a comparison of the EPA's SWDA regulations in 40 CFR Part 264 and existing NRC regulations indicates that the conformed NRC regulations would include all the major regulatory principles in the SWDA rules. The differences between the conformed NRC regulations and the EPA SWDA standards would primarily be in the level of detail and specificity or in aspects that are not necessarily needed for mill tailings management. Experience from site specific implementation can be used to identify areas where clarification or additional details might be needed in NRC's regulations or guidance documents.

The mandate in section 84(a)(3) of the AEA requires NRC to assure that byproduct material is managed in a manner that "conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended." The mandate has no specific deadline and represents a continuing NRC responsibility to be sure that the overall uranium recovery regulatory framework is comparable to EPA rules for similar hazardous material. The Commission believes that the combination of conformed regulations, policy and guidance, and license conditions can adequately meet this mandate for the foreseeable future. Further, the Commission anticipates that EPA will address the important issue of protection of ground-water with respect to mineral ore processing wastes. The nonradioactive constituents in uranium mill process wastes appear to be more comparable to the hazards in such other ores than to the chemical process wastes to which the SWDA rules primarily apply.

VII. Coordination With EPA

The action proposed in this notice is undertaken pursuant to sections 84a(2) and 275f(3) of the AEA and reflects requirements already imposed by EPA, and already subject to implementation and enforcement by NRC under section 275d of the AEA.

For the reasons discussed in the previous section, the Commission considers it inappropriate to consider this rulemaking as requiring EPA concurrence under section 84a(3) of the AEA. The EPA has not yet promulgated standards for "similar hazardous material" (i.e., mineral ore processing wastes) under the SWDA. The Commission notes that some of these comparable solid wastes, including uranium mining wastes, are not considered hazardous under EPA's rules. *See* 40 CFR 261.4(b)(7).

The Commission also notes that EPA addressed the issue of EPA concurrence in its October 7, 1983 notice on 40 CFR Part 192 (see 48 FR 45942). EPA referred to NRC's responsibility under UMTRCA to implement EPA's standards and to be comparable to EPA requirements for similar hazardous materials. EPA indicated that it expected to" . . . insure that NRC's regulations satisfy these [UMTRCA] admonitions through its concurrence role." Specific provisions of the SWDA standards were identified as incorporated into 40 CFR Part 192 and other provisions were listed by EPA as "relevant." The listed "relevant" regulations include prescriptive general requirements for aspects such as data collection and analysis for the various ground-water monitoring programs and site inspections. EPA expected NRC to incorporate into its conformed rules discretionary general requirements from the listed "relevant" regulations. Thus, EPA expected to concur in these general requirements. However, none of the general requirements from the listed "relevant" regulations are proposed for incorporation in this proposed rule.

VIII. Content of This Proposal

The EPA requirements in 40 CFR Part 192 (48 FR 45926) included, by cross-reference, ground-water protection standards in 40 CFR Part 264. Part 264 was promulgated by the EPA pursuant to authority provided by the Resource Conservation and Recovery Act (RCRA), which amended the SWDA. Part 264 itself contains references to other EPA rules and a number of internal cross references. Determining what provisions EPA actually imposed was thus not a completely straightforward exercise. In deciding the precise language to incorporate, the Commission generally had the following objectives:

1. Preserve the traditional EPA and NRC roles in which EPA issues general standards and NRC conducts the detailed implementation and enforcement program.

2. Incorporate only those imposed provisions where NRC has no legal discretion to deviate on a generic basis.

3. Provide maximum flexibility to implement the standards in guidance and site specific licensing decisions.

4. Develop a NRC regulation that is self-contained without references to EPA's SWDA regulations.

5. Change EPA's language and add implementation features only where necessary to make the incorporated standards understandable in the uranium mill tailings context or to

eliminate procedural aspects, guidance, explanations, and duplication.

6. Merge the thorium and uranium standards and generally consolidate requirements by topic in Appendix A.

7. Reflect the Commission's position that EPA site specific concurrences conflict with Commission authority and responsibilities.

Application of these objectives and a careful reading of the EPA standards resulted in the proposed modifications of Appendix A to 10 CFR Part 40 in its Introduction, and in Criteria 5, 6, and 7, as well as the proposed addition of a new Criterion 13. These modifications conform the NRC rules to the provisions of 40 CFR Part 192 not addressed in the earlier conforming action. The following specific sections of 40 CFR Part 264 which were promulgated on July 26, 1982, are incorporated in modified text form into Appendix A. (Note that 40 CFR Part 192 incorporated SWDA rules as codified on January 1, 1983. These sections were not amended in 1982 after promulgation.) EPA imposed these sections in its final standards published October 7, 1983 (48 FR 45942).

Subpart F

40 CFR 264.92 Ground-water protection standard.
40 CFR 264.93 Hazardous constituents.
40 CFR 264.94 Concentration limits.
40 CFR 264.100 Corrective action program.

Subpart G

40 CFR 264.111 Closure performance standard.

Subpart K

40 CFR 264.221 Design and operating requirements for surface impoundments.

EPA also indicated that the following specific sections should be addressed by NRC in implementing the standards. The Commission will address these sections of EPA's regulations in guidance documents and site specific licensing decisions as needed.

Subpart F

40 CFR 264.91 Required programs.
40 CFR 264.95 Point of compliance.
40 CFR 264.96 Compliance period.
40 CFR 264.97 General ground-water monitoring requirements.
40 CFR 264.98 Detection monitoring program.
40 CFR 264.99 Compliance monitoring program.

Subpart G

40 CFR 264.117 Post-closure care and use of property.

Subpart K

40 CFR 264.226 Monitoring and inspection.
40 CFR 264.228 Closure and post-closure care.

The following narrative discusses how the imposed provisions of the EPA standard are being incorporated into 10 CFR Part 40.

The Introduction to Appendix A to 10 CFR Part 40 contains general information, concepts, and clarification of terminology. The proposed addition to the Introduction defines new terms used in the proposed additions to Criteria 5, 6, and 7. The definitions for aquifer, dike, existing portion, ground water, leachate, licensed site, liner, surface impoundment, and uppermost aquifer are essentially quoted from 40 CFR Part 192 and 40 CFR 264.10. Definitions in 40 CFR Part 192 for closure, closure plan, and disposal area were modified for clarity. Definitions for compliance period and point of compliance were developed from the intent of 40 CFR 264.95 and 264.96 coupled with the unique application to licensing under UMTRCA.

In the earlier conforming action, a paragraph noting the dual regulations applicable to ground-water protection was added at the beginning of Criterion 5 of Appendix A to 10 CFR Part 40. This paragraph was intended to clarify the regulatory situation pending additional rulemaking by the Commission and is being revised to reflect the present action.

The EPA standards in 40 CFR 192.32(a) (1) and (2) establish primary and secondary ground-water protection standards for application during operations and prior to the end of closure. The primary standard is essentially a design standard for surface impoundments used to manage mill tailings. 40 CFR 192.32(a)(1) requires design, construction, and installation of a surface impoundment in accordance with 40 CFR 264.221. The key element in impoundment design is a liner, but other aspects of the impoundment are also addressed. The specifics of the standard are contained in referenced 40 CFR 264.221(a)–(d).

Paragraph (a) of § 264.221 and 40 CFR 192.32(a) contain references to 40 CFR 264.228. 40 CFR 192.32(a)(1) states ". . . except that at sites where the annual precipitation falling on the impoundment and any drainage area contributing surface runoff to the impoundment in less than the annual evaporation from the impoundment, the requirements of § 264.228(a)(2)(iii)(E) referenced in § 264.221 do not apply . . ." The Commission considers this reference to § 264.228 to be clarifying implementation guidance and not binding regulations for impoundment design. The effect of the quoted text is to caution that at sites where evaporation exceeds influent moisture, the final cover does not need a permeability less than or equal to that of the liner in the botton of the impoundment. Thus it deals with impoundment closure rather than impoundment operation. The standards for cover design in 40 CFR 192.32(b) prevail.

References to § 264.228 in § 264.221 provide options on liner design based on whether the liner will be removed at closure or not. Thus, they are essential to state completely the design standard and are paraphrased in the proposed modifications. Proposed paragraphs 5A (1)–(5) of Criterion 5 of Appendix A to 10 CFR Part 40 correspond to 40 CFR 264.221 (a)–(d) with appropriate procedural and administrative changes.

A secondary ground-water protection standard is provided by 40 CFR 192.32(a)(2) to address leakage from impoundments. As worded, the secondary standard is not limited to leakage from impoundments so it applies to management of any byproduct materials whether they exist within an impoundment or not. The secondary standard establishes a procedure for limiting releases of hazardous constituents for byproduct materials to safe levels by incorporating 40 CFR 264.92–264.94. 40 CFR 192.32(a)(2) (i) and (ii) supplement 40 CFR 264.92–264.94 for uranium byproduct materials. Paragraph (a)(2)(i) adds the elements molybdenum and uranium to the list of hazardous constitutents. Paragraph (a)(2)(ii) adds radioactivity limits to Table 1 of 40 CFR 264.94. 40 CFR 192.41 (a)–(c) provide for equivalent supplements for thorium when thorium byproduct materials are involved. Paragraphs 5B (1)–(6) proposed as additions to Criterion 5 of Appendix A to 10 CFR Part 40 correspond to 40 CFR 264.92–264.94. Proposed paragraph 5C to Criterion 5 contains Table 1 of § 264.94 with the supplemental readioactivity limits added. Proposed new Criterion 13 to Appendix A to 10 CFR Part 40 lists the hazardous constituents in Appendix VIII of 40 CFR 261 referenced in § 264.93 with molybdenum, uranium, thorium and radium-226 and radium-228 added. Criterion 13 also explains the gross alpha activity will be treated as a hazardous constituent. The Commission assumes that the addition of limits for radium-226 and radium-228 and gros alpha activity (see 40 CFR 192.32(a)(2)(ii)) to Table 1 also meant that they should be treated as hazardous constituents. Such treatment is procedurally required to apply the limits.

In drafting paragraph 5B(1)–(6) of the proposed revisions to Appendix A to 10 CFR Part 40, the Commission

emphasized the site specific decisions called for in the secondary standard. The principal feature of the secondary standard not incorporated in the modification of the scheme by 40 CFR 192.32(a)(2) (iv) and (v). Paragraph (a)(2)(iv) of 40 CFR 192.32 states that "The regulatory agency may establish alternate concentration limits. . . provided that, after considering practicable corrective corrective actions, these limits are as low as reasonably achievable and. . . the standards of § 264.94(a) are satisfied at all points at a greater distance than 500 meters from the edge of the disposal area and/or outside the site boundary." The limits in § 192.32(a)(2)(iv) were not intended as mandatory in all cases. They define when the decision on an alternate concentration limit would involve little or no judgement and they were added solely for the purpose of allowing limited independent NRC action. Because the Commission believes that EPA exceeded its authority in so limiting NRC action, and because the limiting conditions can be misconstrued to apply to all alternate concentration limit cases, the proposed modifications to 10 CFR Part 40 do not include § 192.32(a)(2)(iv) and (v). However, the Commission's as low as reasonably achievable (ALARA) policy remains in effect for these decisions without the terms of § 192.32(a)(2)(iv). To emphasize its continued commitment to the policy, it is repeated in the proposed modifications. Performing practicable corrective actions would be a normal part of applying the ALARA principle.

The Commission considers this issue a procedural one, rather than a matter of health and safety or environmental protection, because 40 CFR 264.93 and 264.94 are included in the proposed changes. These sections include the required finding of no significant present or potential hazard and the listed factors to be considered. The proposed modifications clearly and explicitly limit NRC to site-specific decisions. NRC and EPA staff agreement on implementing guidance should provide a practical method of resolving this procedural aspect of 40 CFR Part 192. EPA and NRC staff have been working together on drafts of alternate concentration limit methodologies. Work on the methodologies is proceeding in parallel with this rulemaking action and should be completed before final rule changes are in place.

The alternate concentration limit determinations are expected to be an integral part of implementing the EPA standard, particularly at existing sites. The Commission does not foresee the need to use the provision to delist detected hazardous constituents as provided in proposed paragraph 5B(3) of Appendix A to 10 CFR Part 40. The flexibility in the EPA standard as reflected in proposed paragraph 5B(2) of Appendix A to 10 CFR Part 40 should accommodate anticipated licensing needs. If this does not prove to be the case, similar development of mutually acceptable guidance could be pursued.

The requirements for detection monitoring program in 40 CFR 192.32(a)(2)(iii) are incorporated into the expanded monitoring requirements in the proposed addition to Criterion 7 of Appendix A to 10 CFR Part 40. The proposed modifications to Criterion 7 also include other monitoring and information requirements needed to comply with the secondary ground-water protection standards. They emphasize the purpose or objective of the programs and encourage the use of existing programs.

40 CFR 192.33 cross-references the requirement for a corrective action program as described in 40 CFR 264.100. The corrective action program is a key part of the secondary ground-water protection standard because it addresses the problem of how to deal with ground-water contamination that exceeds the established limits. Paragraph 5D of Criterion 5 of Appendix A to 10 CFR Part 40 reflects the requirement for corrective action, the purpose of the program, and the required type of action to be considered as it is outlined in 40 CFR 264.100. The proposed paragraph 5D of Appendix A to 10 CFR Part 40 also includes the 18 month time limit imposed by 40 CFR 192.33 for corrective action programs. The 40 CFR 264.100 requirement for monitoring the effectiveness of the corrective action program is included in the proposed modifications to Criterion 7 of Appendix A to 10 CFR Part 40.

Procedural aspects of 40 CFR 264.100 were simplified for consistency with NRC licensing practices under UMTRCA. Commission prior approval of the corrective action programs was added to assure that the licensee does not implement an expensive or irreversible program that the Commission would find unacceptable. Flexibility to allow action prior to full review and approval by the Commission was included to cover the unlikely event that immediate action was required. The proposed requirements are intended to provide that any corrective action program will be completed by the owner/operator prior to license termination and transfer of the site to a government agency for long-term care.

The proposed additions to Criterion 5 of Appendix A to 10 CFR Part 40 are designated as paragraphs 5A through 5D to facilitate referencing. For consistency and clarity, the remaining paragraphs of Criterion 5 are now being designated as 5E through 5H. There are no changes to the existing text other than a two word change in 5E(4). "Toxic substances" is changed to "hazardous constituents" for consistency.

Section 40 CFR 192.32(b) prescribes standards for application after the closure period to be used to design and develop closure plans. The closure requirements applicable to radiological hazards were incorporated into Criterion 6 of Appendix A to 10 CFR Part 40 in the earlier conforming action. The closure requirements applicable to nonradiological hazards are established in 40 CFR 192.32(b) by requiring compliance with 40 CFR 264.111. The proposed addition to Criterion 6 of Appendix A to 10 CFR Part 40 adds the closure performance standard in 40 CFR 264.111.

IX. Impact of the Proposed Amendments and Regulatory Analysis Considerations

A. Finding of No Significant Environmental Impact

The Commission has determined under NEPA and the Commission's regulations in 10 CFR Part 51 that NRC's incorporation of the EPA standards as proposed in this action would not be a major Federal action significantly affecting the quality of the environment and therefore an environmental impact statement is not required. The significant Federal action was the promulgation by EPA of its regulations on September 30, 1983.

In proposing these additional modifications to its regulations in Appendix A to 10 CFR Part 40, the Commission intends to complete the action to conform them to the EPA standards. The purpose of these changes is to clarify previously existing language in promulgated EPA standards and incorporate mandatory requirements into NRC's regulations. The action proposed here by the Commission is a consequence of previous actions taken by the Congress and the EPA, and is legally required by section 275f(3) of the Atomic Energy Act of 1954, as amended.

Commission action in this case is essentially nondiscretionary in nature, and EPA is viewed as the lead agency. For purposes of environmental analysis, this action rests upon existing environmental and other impact

evaluations prepared by EPA in the following documents: (1) "Final Environmental Impact Statement for Standards for the Control of Byproduct Materials from Uranium Ore Processing (40 CFR Part 192)," Volumes 1 and 2, EPA 520/1–83–008–1 and 2, September 1983,[1] (2) "Regulatory Impact Analysis of Final Environmental Standards for Uranium Mill Tailings at Active Sites," EPA 520/1–83–010, September 1983, and (3) Supplementary Information, Interim Final Rulemaking for 40 CFR Part 122, 260, 264, and 265, "Hazardous Waste Management System; Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; and EPA Administered Permit Programs," published July 26, 1982 (47 FR 32274). NRC also prepared an overview of the potential actions that might be required of NRC and Agreement state licensees by the EPA standards entitled, "Summary of the Waste Management Programs at Uranium Recovery Facilities as They Relate to the 40 CFR Part 192 Standards," NUREG/CR–4403.[2]

The Commission has prepared the following overview and update of the impacts on the environment and uranium and thorium milling industry associated with the ground-water protection standards proposed for incorporation. Over 20 additional references were used in preparing the overview and update. A list is available in the NRC's Public Document Room. The following discussion is consistent with the content and format guidance for a Regulatory Analysis (NUREG/BR–0058, Revision 1, May 1984).[2] The following discussion addresses in general terms the economic and other factors that would be addressed in a comprehensive Regulatory Flexibility Analysis if one was required by this action to meet the requirements of the Regulatory Flexibility Act. (As indicated in the discussion under "Regulatory Flexibility Certification," a Regulatory Flexibility Analysis is not required.) The summary information is not intended to be strict cost/benefit analysis or a technical justification for the standards. It does, however, generally relate economic cost to the benefit expected from compliance to the standard. The summary information should also help the reader more fully understand the nature and potential impacts of the proposed action.

Statement of the Problem—The earlier discussion outlined the legislative mandate for this rulemaking.

Objectives—The proposed changes are intended to conform NRC's regulations to the ground-water standards imposed by EPA for the protection of the environment in managing uranium and thorium byproduct wastes.

Alternatives—The earlier discussion under "Scope of this Proposal" outlined the three alternative scopes of rulemaking considered. The no action alternative was rejected because it was inconsistent with law. Independent development of new regulations to replace existing NRC and EPA regulations was rejected in response to comments on the first step conforming action published October 16, 1985. As emphasized in this earlier rulemaking, the Commission views its legal options to include approval of site specific alternatives to both NRC and EPA regulations. This flexibilitly was explicity acknowledged by additions to the Introduction of Appendix A. In contrast, the Commission does not view its legal options to include generic alternatives to the standards proposed for incorporation by this action.

B. Costs and Benefits of the Modifications

As just noted, the Commission considers only site specific alternative standards to those proposed for incorporation to be within its discretion. Thus a discussion of the costs and benefits of alternative standards is inappropriate. The following discussion is therefore limited to an overview of the costs and benefits of the six major features of the EPA standards being incorporated. The features are (1) synthetic liners, (2) alternatives to synthetic liners, (3) ground-water monitoring, (4) alternate concentration limits, (5) closure, and (6) corrective actions for ground-water contamination.

1. Synthetic Liners

As provided in Criterion 5A(1), liners for tailings surface impoundments must be designed, constructed, and installed to prevent any migration of wastes out of the impoundments during the active life of the facility. As a practical matter, this provision requires installation of synthetic liners to mitigate migration of hazardous constituents from the tailings from all new and expanded impoundments. In 1980, the NRC staff concluded that seepage control is the most effective approach for reducing potential ground-water contamination. Seepage control actions relevant to Criterion 5(A)1 would include installation of synthetic liners such as flexible polymeric membrane, plastic, or rubber liners.

Synthetic liners are a state-of-the-art component of uranium tailings impoundments to minimize ground-water contamination caused by leakage from tailings impoundments. Synthetic liners that are properly designed and installed are more effective than other types of liners in preventing significant ground-water contamination from active tailings impoundments. Persons living near uranium processing sites may benefit directly from the preservation of the quality of ground water and surface water. The benefits of ground-water protection cannot be generically assessed, however, because these benefits are determined by highly site-specific factors.

Since 1977, NRC has required licensees to construct new uranium tailings impoundments using either synthetic or engineered clay liners. The requirement to install synthetic liners in new or existing tailings impoundments will significantly increase the cost of tailings disposal compared with costs incurred at uranium mills constructed before 1977. Accuracies of cost estimates for liners at future sites are inherently limited by site-specific factors that affect liner costs, including liner type and characteristics, impoundment design, impoundment size, time of installation, and location of the processing facility. Based on cost evaluations described in NRC's Generic Environmental Impact Statement on Uranium Milling (GEIS NUREG–0706)[2] and this updated analysis, installation of synthetic liners is expected to account for 1 to 2 percent of the value of uranium produced at a typical uranium mill. (See Table 1 at the end of this section.) The value of uranium was estimated by assuming that the mill operates for 15 years, an annual yellowcake production of 580 metric tonnes (MT), and a fixed market price for yellowcake of $44,100 per MT ($20 per pound, 1985 dollars).

The average size of existing uranium tailings impoundments or groups of impoundments in the United States is

[1] Single Copies of the Final Environmental Impact and the Regulatory Impact Analysis, as available, may be obtained from the Program Management Office (ANR–458), Office of Radiation Programs, U.S. Environment Protection Agency, Washington, DC 20460; telephone number (703) 557–9351. A copy of each document is also available for inspection and/or copying in NRC's Public Document Room 1717 H Street NW., Washington, DC 20555.

[2] Copies of NUREG/CR–4403, NUREG/BR–0058, and NUREG 0706 may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Copies are available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

approximately 70 hectares (175 acres). Based on unit costs of synthetic liners installed at other waste disposal sites in the United States, the cost of synthetic liner installation in an average-size impoundment would be expected to range from $4.2 to $10.4 million (1985 dollars). Unit costs for liners installed prior to 1985 were escalated to 1985 costs in proportion to increases in construction price indexes. Table 1 compares estimated costs for synthetic liner installation with costs of other ground-water protection measures based on a simplified site model. These cost estimates may differ from actual costs based on site-specific factor including the actual size and number of impoundments used.

2. Alternatives to Synthetic Liners

As an alternative to synthetic liner installation, Criterion 5A(1) provides licensees and applicants with flexibility to construct storage impoundments for uranium tailings, provided that tailings constituents do not migrate into subsurface soils, geologic media, ground water, or surface water during the active life of the facility. The licensee or applicant would be required during closure of the facility to remove or decontaminate all waste residues (e.g., tailings), contaminated impoundment components (e.g., liners, embankments), contaminated soils and geologic media, and contaminated structures and equipment. In contrast, relocation of the tailings would generally not be required for disposal impoundments constructed with synthetic liners.

The use of tailing impoundments for storage rather than disposal is not considered economically viable at conventional mills because of the high costs of removing, decontaminating, and disposing large volumes of tailings and contaminated wastes. This alternative also involves costs for developing and constructing chemically-treated or admixed liners that will prevent waste migration through the liner into soils, geologic media, ground water, and surface water. As seen in Table 1, the estimated cost for excavating and hauling tailings to a nearby disposal site significantly exceeds the cost of synthetic liner installation. Use of impoundments for tailings storage appears even less likely considering additional costs for the alternative including disposal site preparation costs; design, testing, and installation costs for liners; and costs for dewatering the tailings so they can be relocated to a disposal site.

Criterion 5A(3) provides the applicant or licensee with an opportunity for another exemption from the synthetic liner requirement if the applicant or licensee can demonstrate to the Commission that a combination of design, operation, and site characteristics prevents migration of hazardous constituents into ground water or surface water at any future time. This demonstration should consider such factors as the nature and quantity of wastes, alternate design features and operation practices, hydrogeologic site characteristics, and other factors that could influence the quality of leachate and mobility of hazardous constituents. Liners made of clay or other natural materials may be an integral part of the design considerations under the flexibility provided by paragraph 5A(3).

Costs incurred in successfully demonstrating the exemption will vary based on the relative importance and type of site characteristics, design features, and operation practices. For example, a successful demonstration based primarily on site characteristics may only require additional collection of site characterization information to supplement information contained in environmental assessments and licensing evaluations pursuant to Criterion 5G(2). The incremental cost in this case would be limited to the additional costs of collecting more-detailed hydrogeologic information (e.g., aquifer tests analyses, ground-water monitoring results, stratigraphic data). In contrast, a demonstration may be based primarily on appropriate operational practices such as drying the tailings with cyclones or belt filters. The cost of this alternative would be the capital costs of necessary equipment and structures, as well as the maintenance and operational costs associated with the equipment and structures. The costs of clay, admixed, or asphalt liners are estimated in Table 1. Because of the diversity of potential alternatives to synthetic liner installation, the costs of the alternatives are expected to vary from less than to greater than the costs of synthetic liners as described in Table 1.

The potential benefits gained from the exemption are essentially equivalent to potential benefits associated with synthetic liner installation, namely protection of ground water and surface water quality. This benefit may be realized by humans living near uranium processing facilities and the surrounding environment. The flexibility could also allow more cost-effective options. As a potential secondary benefit of the liner exemption, Criterion 5A(3) may stimulate effective application of new control and operation technologies for environmental protection at uranium processing facilities. Successful applications could benefit other programs for radiological and non-radiological waste management.

3. Ground-water Monitoring

Criterion 7A requires implementation of ground-water monitoring programs and analysis of ground-water monitoring data. These programs directly support the secondary ground-water protection standard of phased monitoring and corrective actions based on monitoring results. The secondary standard and monitoring requirements apply to all impoundments, not just new or expanded ones. Most existing monitoring programs at NRC licensed uranium processing sites needed only minor modifications to serve as detection monitoring for leakage of hazardous constituents from the impoundments. However, the programs may need to be upgraded to comply with the subsequent requirements for providing data to set standards and demonstrating compliance with site-specific ground-water protection standards and the effectiveness of correction actions. For example, licensees may need to install new wells at sites where existing monitoring wells are inadequate to evaluate all aspects of a corrective action program and they may need to expand monitoring programs to sample for more constituents.

The costs of upgrading existing ground-water monitoring programs at uranium processing sites will be affected by site-specific factors such as the adequacy of existing monitoring wells, extent of ground-water contamination, and hydrogeologic site characteristics. These costs will be incremental to costs for ground-water monitoring at existing sites for compliance with licensing conditions and preparation of environmental assessments. Ground-water monitoring costs may also be affected by site-specific decisions such as pursuing an exemption to the synthetic liner requirement, requesting alternate concentration limits, or selecting corrective actions for groundwater contamination. Based on unit costs for monitoring wells in the United States, the initial cost for installing 30 shallow (50-foot deep) wells at a site ranges from about $43,000 to $105,000 (1985). Sampling these wells semi-annually and analyzing samples for major and minor ions, inorganic hazardous constituents, radionuclides, and organic indicator parameters would be expected to range from $40,000 to $140,000 per year (1985).

Annual costs for routine maintenance of monitoring wells amounts to a small fraction (e.g., 1 to 2%) of the initial capital expense. In comparison with the costs of other ground-water protection measures, the total cost of ground-water monitoring is relatively small for the new model mill and the associated assumptions on time periods.

4. Alternate Concentration Limits

Today's proposed amendments provide licensees with flexibility in developing site-specific ground-water protection standards that incorporate alternate concentration limits in lieu of background concentration limits or the limits listed in Criterion 5C. The Commission may establish alternate concentration limits provided that a hazardous constituent does not pose a present or potential hazard to humans or the environment as long as its concentration does not exceed this alternate limit at the point of compliance.

The costs associated with applications for alternate concentration limits will vary based on site-specific factors that determine information needs for the demonstration. Information needed to support applications for alternate limits would draw heavily on information contained in environmental reports and license applications. Because detailed site information is an existing requirement (see Criterion 5C), justifications for alternate concentration limits should only need to be supplemented with information about adverse effects of hazardous constituents on humans and the environment based on reputable literature. The cost of assembling this information is expected to be minimal compared with costs for other ground-water protection actions such as liner and cover installation or ground-water monitoring. Costs for assessing practicable corrective actions and other aspects of showing that proposed alternate concentration limits are ALARA would be very site specific but should also be small compared to other costs.

5. Closure

The proposed addition to Criterion 6 establishes the objectives for dealing with nonradiological hazards during closure. The objectives are generally the same as those already in place for radiological hazards. Closure design will also be impacted by the proposed modifications to Criterion 5. For example, Criterion 5 increases the likelihood that synthetic liners will be used at all future sites. The addition to Criterion 6 also heightens concern over long term infiltration and mobilization of waste components. The arid western environmental characteristics of most processing sites in combination with effective earthen covers for radon control and erosion protection should generally be sufficient to minimize long-term infiltration into stabilized impoundments. However, some tailings disposal impoundments in humid climates with synthetic liners may require more complicated cover designs and installations to prevent detrimental accumulation of water in the stabilized impoundment after closure (i.e., bathtub effect). For example, a site in a humid climate may require a composite cover to meet both the radiological and nonradiological objectives. The composite cover might include compacted silt to control radon diffusion and a bituminous concrete surface seal to minimize infiltration and mobilization of nonradiological constituents.

The cost of a bituminous concrete seal for an average-size impoundment would be expected to range from $1.3 to $1.7 million (1985). As with other large-scale construction projects, the costs of seals and other closure measures may vary considerably based on site-specific factors such as type and characteristics of the seal, cover design, size of cover, location of the processing site, and the effectiveness of tailings stabilization and dewatering prior to impoundment closure. The cost of synthetic, admixed, or concrete cover seals would be expected to be comparable to the cost of synthetic liners beneath tailings impoundments.

6. Corrective Actions for Ground-water Contamination

In recognition of potential failures of impoundment liners and covers, today's proposed amendments provide for a secondary ground-water protection standard involving a phased approach for ground-water monitoring and corrective action. Corrective actions may be required to restore ground water to its background quality to avoid adverse effects on humans and the environment. The objective or corrective action programs is to return hazardous constituents in the uppermost aquifer to their respective concentration limits at the point of compliance. Corrective action may involve eliminating the source of ground-water contamination by either relocating the tailings to a suitable disposal site or treating them in place to limit the mobility and release of hazardous constituents. In addition, the corrective action program may also involve treating ground water between the point of compliance and the site boundary.

Licensees have been operating programs to mitigate ground-water contamination at uranium mills for several years. The corrective action programs required in today's amendments may substantially increase the costs associated with ground-water protection at uranium processing facilities by requiring expansion of existing mitigation programs or development of new corrective action programs. Accuracies of cost estimates for corrective action programs are inherently limited by site-specific factors such as the extent and type of contamination, volume of tailings, hydraulic and geochemical properties of the hydrogeologic system, impoundment design, and other factors that affect the technical feasibility, practicality, timing, and extent of corrective actions for ground-water contamination.

TABLE 1.—COST COMPARISON FOR GROUND-WATER PROTECTION ACTIONS AT A MODEL CONVENTIONAL MILL[1]

Type of action	Cost range (millions 1985 dollars)	Percentage of product value
Synthetic Liners	4.2 to 10.4	1.1 to 2.7
Clay, Admixed, and Asphalt Liners	1.4 to 8.0	0.4 to 2.1
Slurry Trench	4.2 to 7.2	1.1 to 1.9
Grout Curtain	16.6. to 33.3	4.3 to 8.7
Bituminous Concrete Cover	1.3 to 1.7	0.3 to 0.4
Ground-Water Drains (w/o treatment)	1.8 to 2.2	0.5 to 0..6
Withdrawal Wells (w/o treatment)	0.5 to 0.7	0.1 to 0.2
Withdrawal Wells (with treatment)	7.3 to 33.0	1.9 to 8.6
Relocation of Tailings	24.5 to 53.1	6.4 to 13.8

[1] Assumes the following site model: 70 hectare (175 acres) tailings impoundment in which tailings have been deposited to a thickness of 9 meters; contaminated ground-water plume extends from the upgradient side of impoundment to 500 meters laterally downgradient of the downgradient edge of the impoundment; unidirectional ground-water flow field; aquifer is 15 meters thick, composed of silty sand, and has a porosity of 20%; uranium mill produces yellowcake for 15 years with an annual production rate of 580 MT at a fixed market price of $44100 per MT; tailings are relocated to aa disposal site (uncosted) within 9 kilometers of the original impoundment.

Note: Costs for uranium recovery facilities other than conventional mills (e.g., *in situ* evaporation ponds, heap leaching impoundments) would be considerably less due to the much smaller scale. The ponds or impoundments associated with these activities are typically only about a half hectare (1 acre) in size although *in situ* evaporation ponds for commercial scale operations might be larger (e.g. 5–10 acres in size). Actions taken at these facilities would be expected to be similar in purpose and design to those implemented at uranium mills.

Table 1 compares relative costs of ground-water protection actions, including components of corrective action programs such as slurry trench installation, grouting, drain and well installation and operation, relocation of tailings, and aquifer restoration. (Note that the listed actions include measures that have not been successfully demonstrated at existing NRC licensed tailings sites but they represent possible options.) The costs of component actions would be summed to develop cost estimates of integrated corrective

action programs. An example of an integrated corrective action program might include installation of a bentonite slurry wall upgradient of a contaminated ground-water plume, installation and operation of injection and withdrawal wells for aquifer restoration, and construction and operation of a water treatment facility to improve the quality of water removed from the contaminated aquifer. The corrective action program might also include enhanced or early dewatering of tailings or modifying the planned cover to add sealing materials. In addition to activities directly related to design and implementation of the corrective action programs, the program also incurs costs for detailed ground-water monitoring and evaluation of monitoring data to evaluate the effectiveness of corrective action programs. The costs of corrective actions may account for a significant proportion (e.g., 20% for the model mill in Table 1) of the value of yellowcake produced depending on the type and extent of corrective actions.

C. Impacts on Other Requirements and Persons

NRC and Licensee Staffing.—The major impacts of the selected alternative on NRC programs is the resource savings of the reduced rulemaking scope and the reduced need to develop or modify existing guidance documents. Because the EPA standards are already imposed, the rulemaking itself has no direct effect on licensing actions. Licensees will probably have to increase staff and/or use consultants to some degree to comply with the ground-water protection standards in interim and final reclamation programs. The depressed state of the industry has resulted in significant licensee staff reductions and uncertainties. Thus, it is difficult to assess the impact of the rulemaking itself on the licensees' fluid staffing situation.

Agreement States—There are four Agreement States regulating uranium milling and mill tailings that will be impacted by the proposed ground-water protection regulations: Texas, New Mexico (the Governor of New Mexico has requested that the NRC reassert its authority over uranium milling and mill tailings by letter dated March 18, 1986), Colorado, and Washington. Following promulgation of final rules by the Commission, each of the four States will need to amend their uranium milling regulations so that the State's regulatory program for uranium mills remains equivalent to, to the extent practicable, or more stringent than, the NRC's regulatory program for uranium milling. However, since the States are already required by law to implement and enforce the EPA standards to which this rulemaking would conform NRC regulations, there should be minimal impact.

Memorandum of Understanding (MOU) With EPA—Negotiations on a MOU with EPA were initiated soon after the EPA standards were issued in October of 1983 to facilitate NRC implementation of the standards, to reduce inconsistencies, and to clarify responsibilities. Several draft MOU's have been discussed with EPA since that time. Many of the original issues which were to be addressed by the MOU have been resolved and the main issue that is left to be addressed is how NRC will establish alternate concentration limits and to what extent EPA will be involved in those decisions. Work on the MOU was deferred by mutual consent in late 1984 pending development of a generic methodology by NRC and EPA staff for evaluating alternate concentration limits. At this writing, the effort to develop a generic methodology is still underway. When the methodology is completed, NRC and EPA may use an MOU to establish procedures for its application. It is also possible that after NRC's uranium mill tailings regulations are issued, other agreements with EPA might be necessary requiring the development of an MOU with a different focus than has been discussed in the past.

Constraints.—Unless court action sets the EPA standards aside, NRC is obligated to conform its rules and implement and enforce the EPA standards. A United States Court of Appeals has upheld the EPA standards proposed for inclusion in Appendix A to 10 CFR Part 40. *See, American Mining Congress* v. *Thomas*, 772 F.2d 640 (10th Cir. 1985).

Decision Rationale.—The basis for deciding the scope of rulemaking has been discussed elsewhere. The rationale for truncating the EPA referenced standards was discused under "Content of This Proposal."

D. Implementation

The four Agreement States regulating uranium mill operations have some form of operational criteria and objectives which are intended to provide ground-water protection. There are differences between 40 CFR Part 192 and the State programs for ground-water protection, particularly in the areas of point of compliance measurements, selected indicator parameters and application of the principle of nondegradation. Other mitigating actions have been noted which have been sanctioned by the Agreement States, e.g., relocation of tailings by Cotter Corporation in Colorado and pumpback systems by mills in New Mexico. Additionally four mills (2 in Colorado and 2 in New Mexico) have been added to the Superfund National Priority Listing as a back-up for achieving compliance with 40 CFR Part 192 and 10 CFR Part 40. Some form of ground-water monitoring is under way by the mills in the Agreement States. When the NRC issues its final regulation on this topic, we expect the States to refine their requirements to be equivalent to the NRC regulation to the extent practicable, or more stringent. In general, the States are attempting to meet the intent of 40 CFR Part 192 to the best of their abilities.

NRC has taken a number of steps to inform its licensees about the EPA standards and to implement and enforce the standards. On February 2, 1984, NRC issued a letter to NRC licensees which provided guidance on how all aspects of the standards would be implemented and reminded licensees that the standards were in effect. A letter to licensees dated July 10, 1984, set forth the NRC criteria for an acceptable detection monitoring program and provided the results of a preliminary review of existing ground-water monitoring programs relative to these criteria. Staff developed a technical position on detection monitoring as part of the process of preparing and issuing license amendments on detection monitoring. Between April 22 and May 7, 1985, NRC issued amendments to its milling licensees not in the process of decommissioning. Subsequent to the issuance of the site-specific license amendments, 11 of the 13 licensees requested hearings. The amendments were withdrawn on June 26, 1985 and replaced by immediately effective orders on July 19, 1985. As noted in a **Federal Register** notice dated November 7, 1985 (50 FR 46370), licensees also requested hearings on the orders and the immediate effectiveness of the orders was rescinded. The notice resulted in an additional request for hearing from the Environmental Defense Fund. The requests for hearings are being processed in accordance with usual agency procedures. NRC has also taken enforcement action for violation of the liner requirement in the standard. The depressed state of the industry has minimized the need to implement certain aspects of the ground-water protection standards. For example, licensees do not need new impoundments when they are not operating. NRC will continue to implement and enforce the standards on

a site specific basis in the interim while this rulemaking is pending.

The public should also note that for several years prior to promulgation of the EPA standards, NRC has been implementing programs to protect ground-water quality at NRC-licensed facilities. All new impoundments licensed by NRC since 1977 have been lined with either synthetic or natural materials. All facilities have in place ground-water monitoring systems designed to locate and quantify seepage from the impoundments. Approximately three-fourths of the facilities have remedial or mitigative programs in place to intercept and return contaminated ground water to the impoundments. Enhanced water evaporation systems are also used at four facilities.

The EPA/NRC cooperative efforts on generic methodologies for determining acceptable alternate concentration limits were discussed earlier under "Content of this Proposal." Any decisions needed before mutually acceptable methodologies are in place will be handled on a case-by-case basis. Licensing decisions will be made in accordance with the health and safety and environmental standards imposed by the EPA standard as reflected in the proposed modifications in this present action.

There are several NRC Regulatory Guides that will be impacted by the proposed rulemaking. Draft Regulatory Guide MS-146-4 [3] and the corresponding Branch Position WM-8101 [4], describe acceptable engineering practices for the design, installation, and inspection of seepage control liners. Major revision will be required in these two guidance documents. Regulatory Guide 3.5 [5] addresses the content of license applications for uranium mills. Regulatory Guide 4.14 [5] is concerned with environmental monitoring at uranium mills. Minor revision of Regulatory Guides 3.5 and 4.14 may be necessary.

Several other guides address ground water (e.g., "Ground-water Monitoring in Uranium In Situ Solution Mines" (WM-8102 [4] but were found not to be impacted by the proposed rulemaking. As implementation experience is gained, additional regulatory documents on ground-water matters may be prepared. No specific needs have been identified at this time other than the alternate concentration methodology discussed previously.

E. *Relationship to Other Existing or Proposed NRC Requirements 10 CFR Part 40*—The modifications proposed by this action would complete the mandate to conform NRC rules to the EPA standards. The modifications have been integrated into Appendix A of Part 40 to consolidate topics to the extent practicable.

SWDA Comparable Changes—The mandate in section 84(a)(3) of the AEA on comparability to SWDA requirements has been addressed previously. The Commission's regulations and licensing requirements will cover the basic elements of the SWDA regulations when the present action is completed. The Commission does not consider detailed regulations necessary to accomplish the AEA mandate. The Commission will continue to monitor DOE and industry assessments of the state of the industry, evolution of the technologies associated with the SWDA regulations, NRC and State licensing experience, and EPA ground-water policy development and rulemaking for mining and similar wastes. Based on current assessments of the state of the industry, the need for additional rulemaking to accommodate applications for new mills would probably be at least 5 years away. None of the other factors to be monitored suggest the need for Commission rulemaking any sooner.

Petition for Rulemaking—On November 30, 1982, the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 53889) a notice of receipt of a petition for rulemaking submitted by the Union Carbide Corporation (PRM-40-24). The petitioner requests that the NRC amend Criteria 1, 5, 6, and 10 of 10 CFR 40 Appendix A. The petitioner suggests specific amendments to the criteria governing the selection of new tailings disposal sites or the adequacy of existing tailings disposal sites, the seepage of toxic materials into the ground water, the earth cover to be placed over tailings or wastes to prevent the surface exhalation of radon, and the charge imposed on the mill operator to cover the costs of long term surveillance. The petitioner believes that its suggested changes would significantly reduce compliance costs incurred by the petitioner in the operation of its uranium milling facilities and would continue to adequately protect the public health, safety and the environment.

The NRC is required by law to conform its uranium mill tailings regulations to the final standards issued by the EPA for uranium and thorium mill tailings. The NRC has chosen to meet this mandate in two rulemaking proceedings that set out amendments to Appendix A to 10 CFR Part 40. The final rule published October 16, 1985 (50 FR 41852), completed the first rulemaking action. That final rule revised Appendix A to 10 CFR Part 40 in order to conform these provisions to EPA's standards for all EPA requirements except those relating to ground-water protection. This proposed rule, which is part of the second rulemaking proceeding, proposes the amendments to Appendix A to Part 40 the NRC believes necessary to incorporate EPA's ground-water protection requirements into its regulations. Most of the issues raised by the petitioner would amend portions of Appendix A to Part 40 affected by these rulemaking actions designed to conform NRC regulations to EPA standards.

The amendments suggested by the petitioner for Criterion 5 concern ground-water issues which are addressed in detail in this proposed rule. The petitioner requested that Criterion 5 be amended to give consideration to the use, characteristics, size, and availability of ground water for potable use in determining potentially deleterious impacts of tailings leachate to human health. Although these factors are addressed in this proposed rule, the scope of the proposed amendments to Criterion 5 is limited to those actions needed to comply with the mandate to conform these regulations to EPA standards.

The petitioner's suggested amendments to Criteria 1 and 6 concern issues which the NRC addressed in the final rule published October 16, 1985 (50 FR 41852). In Criterion 1, the petitioner requested that tailings be isolated from the environment during . . . "operations and for a period of 100-200 years thereafter without active maintenance . . ." rather than for "thousands of years" as originally set out in Appendix A to Part 40. In Criterion 6, the petitioner

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[3] Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control.

[4] Copies of WM-8101 and WM-8102 may be obtained from the Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 427-4312.

[5] Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082.

requested that remedial action be cost-effective and based on a realistic assessment of the health hazard to the public concerning earth cover thickness and the surface exhalation of radon. Although the October 16, 1985 final rule amended Criteria 1 and 6 extensively, the scope of those amendments was limited to the actions needed to conform these provisions to EPA's requirements.

The petitioner suggested that Criterion 10 be amended so that a 2% annual real interest rate rather than the current 1% annual real interest rate on collected funds be imposed on each mill operator to cover the cost of long-term surveillance. The petitioner believes that the 2% annual real interest rate is a more accurate percentage spread between inflation and interest rates. This issue is beyond the scope of the rulemaking actions necessary to conform NRC regulations to EPA standards and has not been addressed in either the October 16, 1985 final rule or in this proposed rule.

When the NRC publishes its final rule on ground-water protection, the rulemaking proceedings necessary to conform its regulations to EPA standards will be completed. At that time, the NRC will make a final determination on the issues raised by the petitioner and publish its findings in the Federal Register.

X. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing NRC requirements in 10 CFR Part 40 were approved by the Office of Management and Budget approval number 3150–0020. This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

XI. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not, if promulgated, have a significant economic impact upon a substantial number of small entities. Therefore, no Regulatory Flexibility Analysis has been prepared. The basis for this finding is the nature of the licensees. Of the licensed uranium mills,only two qualify as small entities. Almost all the mills are owned by large corporations. One mill is partly-owned by a company that could qualify as a small business, according to the Nuclear Regulatory Commission's generic small entity definition of less than 3.5 million dollars in annual receipts. However, under the Regulatory Flexibility Act, a small businessis one that is independently owned and operated. Because this mill is not independently owned, it does not qualify as a small entity.

List of Subjects in 10 CFR Part 40

Government contracts, Hazardous materials-transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, and Uranium.

XII. Proposed Modifications

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, 5 U.S.C. 553, and Uranium Mill Tailings Radiation Control Act of 1978, as amended, the NRC is proposing the following amendments to 10 CFR Part 40.

1. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83, Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2236, 2282); secs. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846). Sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41(b) and (c), 40.46, 40.51(a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.25(c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Appendix A to Part 40 is amended as follows:

Appendix A to Part 40—Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content

2. Introduction to Appendix A is amended by adding the following text at the end of the Introduction:

Introduction. * * *

The following definitions apply to the specified terms as used in this Appendix:

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Closure" means the activities following operations to decontaminate and decommission the buildings and site used to produce byproduct materials and reclaim the tailing and/or waste disposal area.

"Closure plan" means the Commission approved plan to accomplish closure.

"Compliance period" begins when the Commission sets secondary groundwater protection standards and ends when the owner or operator's license is terminated and the site is transferred to the State or Federal agency for long-term care.

"Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids or other materials.

"Disposal area" means the area containing byprducts materials to which the requirements of Criterion 6 apply.

"Existing portion" means that land surface area of an existing surface impounded on which significant quantities of uranium or thorium byproduct material has been placed prior to September 30, 1983.

"Ground water" means water below the land surface in a zone of saturation.

"Leachate" means any liquid, including any suspended or dissolved components in the liquid, that has percolated through or drained from the byproduct material.

"Licensed site" means the area contained within the boundary of a location under the control of persons generating or storing byproduct materials under a Commission license.

"Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment which restricts the downward or lateral escape of byproduct material, hazardous constituents, or leachate.

"Point of compliance" is the site specific location in the uppermost aquifer where the ground-water protection standard must be met.

"Surface impoundment" means a natural topographic depression, manmade excavation, or diked area which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

3. Criterion 5 is revised to read as follows:

Criterion 5—Criteria 5A–5D and new Criterion 13 incorporate the basic ground-water protection standards imposed by the Environmental Protection Agency in 40 CFR Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure.

Ground-water monitoring to comply with these standards is required by Criterion 7A.

5A(1)—The primary ground-water protection standard is a design standard for surface impoundments used to manage uranium and thorium byproduct material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, ground water, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, ground water, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.

5A(2)—The liner required by paragraph 5A(1) above be—

(a) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation.

(b) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(c) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

5A(3)—The applicant or licensee will be exempted from the requirements of paragraph 5A(1) of this criterion if the Commission finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will prevent the migration of any hazardous constituents into ground water or surface water at any future time. In deciding whether to grant an exemption, the Commission will consider—

(a) The nature and quantity of the wastes;

(b) The proposed alternate design and operation;

(c) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(d) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

5A(4)—A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave actions; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

5A(5)—When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.

5B(1)—Uranium and thorium byproduct materials must be managed to conform to the following secondary ground-water protection standard: Hazardous constituents enterng the ground water from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the Commission pursuant to paragraph 5B(2) of this criterion. Specified concentration limits are those limits established by the Commission as indicated in paragraph 5B(5) of this criterion. The Commission will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the ground water. The point of compliance must be selected to provide prompt indication of ground-water contamination on the hydraulically downgradient edge of the disposal area. The Commission shall identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under Criterion 7A indicates leakage of hazardous constituents from the disposal area.

5B(2)—A constituent becomes a hazardous constituent subject to paragraph 5B(2) when the constituent—

(a) Is reasonably expected to be in or derived from the byproduct material in the disposal area;

(b) Has been detected in the ground water in the uppermost aquifer; and

(c) Is listed in Criterion 13 of this appendix.

5B(3)—The Commission may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the Commission will consider the following:

(a) Potential adverse effects on ground-water quality, considering—

(i) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wild-life, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects.

(b) Potential adverse effects on hydraulically-connected surface water quality, considering—

(i) The volume and physical and chemical characteristics of the waste in the licensed site;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The patterns of rainfall in the region;

(v) The proximity of the licensed site to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(ix) The potential damage to wild-life, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(x) The persistence and permanence of the potential adverse effects.

5B(4)—In making any determinations under paragraphs 5B(3) and 5B(6) of this criterion about the use of ground water in the area around the facility, the Commission will consider any identification of underground sources of drinking water and exempted aquifers made by the Environmental Protection Agency.

5B(5)—At the point of compliance, the concentration of a hazardous constituent must not exceed—

(a) The Commission approved background concentration of that constituent in the ground water;

(b) The respective value given in the table in paragraph 5C if the constituent is listed in the table and if the background level of the constituent is below the value listed; or

(c) An alternate concentration limit established by the Commission.

5B(6)—The Commission will establish a site specific alternate concentration limit for a hazardous constituent as provided in paragraph 5B(5) of this criterion if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the Commission will apply it as low as reasonably achievable criterion in 10 CFR 20.1(c). The Commission will also consider the following factors:

(a) Potential adverse effects on ground-water quality, considering—

(i) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity of ground water and the direction of ground-water flow;

(iv) The proximity and withdrawal rates of ground-water users;

(v) The current and future uses of ground water in the area;

(vi) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality;

(vii) The potential for health risks caused by human exposure to waste constituents;

(viii) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(ix) The persistence and permanence of the potential adverse effects.

(b) Potential adverse effects on hydraulically-connected surface water quality, considering—

(i) The volume and physical and chemical characteristics of the waste in the licensed site;

(ii) The hydrogeological characteristics of the facility and surrounding land;

(iii) The quantity and quality of ground water, and the direction of ground-water flow;

(iv) The patterns of rainfall in the region;

(v) The proximity of the licensed site to surface waters;

(vi) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(vii) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;

(viii) The potential for health risks caused by human exposure to waste constituents;

(ix) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(x) The persistence and permanence of the potential adverse effects.

5C—Maximum Values for Ground-Water Protection

Constituent or property	Maximum concentration
Milligrams per liter	
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7-expoxy-1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	0.1
Toxaphene ($C_{10}H_{10}Cl_8$, Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TD Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01
Picocuries per liter	
Combined radium-226 and radium-228	5
Gross alpha-particle activity (excluding radon and uranium when producing uranium byproduct material or radon and thorium when producing thorium byproduct material)	15

5D—If the ground-water protection standards established under paragraph 5B(1) of this criterion are exceeded at a licensed site, a corrective action program must be put in operation as soon as is practicable, and in no event later than eighteen (18) months after the Commission finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for Commission approval prior to putting the program into operation, unless otherwise directed by the Commission. The objective of the program is to return hazardous constituent concentration levels in ground water to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the ground water at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituent that exceed concentration limits in ground water between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the ground-water protection standard. The Commission will determine when the licensee may terminate corrective action measures based on data from the ground-water monitoring program and other information that provide reasonable assurance that the ground-water protection standard will not be exceeded.

5E—In developing and conducting ground-water protection programs, applicants and licensees shall also consider the following:

(1) Installation of bottom liners (Where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the ground-water monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any defects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).

(2) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.

(3) Dewatering of tailings by process devices and/or in-situ drainage systems (At new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amendable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(4) Neutralization to promote immobilization of hazardous constituents.

5F—Where ground-water impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore ground-water quality. The specific seepage control and ground-water protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

5G—In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(1) The chemical and radioactive characteristics of the waste solutions.

(2) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate to ground water. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposts of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attentuation properties of underlying soil and rock.

(3) Location, extent, quality, capacity and current use of any ground water at and near the site.

5H—Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable

methods include lining and/or compaction of ore storage areas.

4. Criterion 6 is amended by adding the following new paragraph at the end of Criterion 6:

Criterion 6— * **

The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the license shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

5. Criterion 7 is amended by adding the following new paragraph at the end of Criterion 7:

Criterion 7— * **

7A—The licensee shall establish a detection monitoring program needed to establish the ground-water protection standards in paragaph 5B(1) of this appendix. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set ground-water protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the Commission to establish the standards under Criterion 5B. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the Commission to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the Commission in orders or license conditions. Once ground-water protection standards have been established pursuant to paragraph 5B(1), the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the Commission. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

6. Add the following new heading and a new Criterion 13 at the end of Appendix A to read as follows:

V. Hazardous Constituents

Criterion 13—Secondary ground-water protection standards required by Criterion 5 of this appendix are concentration limits for individual hazardous constituents. The following list of constituents identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the byproduct material and has been detected in ground water. For purposes of this Appendix, the property of gross alpha activity will be treated as if it is hazardous constituent. Thus, when setting standards under paragraph 5B(5) of Criterion 5, the Commission will also set a limit for gross alpha activity.

Hazardous Constituents

Acetonitrile (Ethanenitrile)
Acetophenone (Ethanone, 1-phenyl)
3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
2-Acetylaminofluorene (Acetamide, N-(9H-fluoren-2-yl)-)
Acetyl chloride (Ethanoyl chloride)
1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
Acrolein (2-Propenal)
Acrylamide (2-Propenamide)
Acrylonitrile (2-Propenenitrile)
Aflatoxins
Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo,exo-1,4:5,8-Dimethanonaphthalene)
Allyl alcohol (2-Propen-1-ol)
Aluminum phosphide
4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino[2',3':3,4]pyrrolo[1,2-a] indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8[((amino-cabonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexa-hydro-8a methoxy-5-methy-)
5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxazolone, 5-(aminomethyl)- 4-Aminopyridine (4-Pyridinamine)
Amitrole (1H-1,2,4-Triazol-3-amine)
Aniline (Benzenamine)
Antimony and compounds, N.O.S.[3]
Aramite (Sulfurous acid, 2-chloroethyl-, 2-[4-(1,1-dimethylethyl) phenoxy]-1-methylethyl ester)
Arsenic and compounds, N.O.S.[3]
Arsenic acid (Orthoarsenic acid)
Arsenic pentoxide (Arsenic (V) oxide)
Arsenic trioxide (Arsenic (III) oxide)
Auramine (Benzenamine, 4,4'-carbonimidoylbis[N,N-Dimethyl-, monohydro-chloride)
Azaserine (L-Serine, diazoacetate (ester))
Barium and compounds, N.O.S.[3]
Barium cyanide
Benz[c]acridine (3,4-Benzacridine)
Benz[a]anthracene (1,2-Benzanthracene)
Benzene (Cyclohexatriene)
Benzenearsonic acid (Arsonic acid, phenyl-)
Benzene, dichloromethyl- (Benzal chloride)
Benzenethiol (Thiophenol)
Benzidine ([1,1'-Biphenyl]-4,4'diamine)
Benzo[b]fluoranthene (2,3-Benzofluoranthene)
Benzo[j]fluoranthene (7,8-Benzofluoranthene)
Benzo[a]pyrene (3,4-Benzopyrene)
p-Benzoquinone (1,4-Cyclohexadienedione)
Benzotrichloride (Benzene, trichloromethyl)
Benzyl chloride (Benzene, (chloromethyl)-)
Beryllium and compounds, N.O.S.[3]
Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methyenebis(oxy)]bis[2-chloro-])
Bis(2-chloroethyl) ether, (Ethane, 1,1'-oxybis[2-chloro-])
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
Bis(chloromethyl) ether (Methane, oxybis[chloro-])
Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethyl-hexyl) ester)
Bromoacetone (2-Propanone, 1-bromo-)
Bromoacetone (Methyl bromide)
4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
2-Butanone peroxide (Methyl ethyl ketone, peroxide)
Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenyl-methyl ester)
2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol 2,4-dinitro-6-(1-methyl-propyl)-)
Cadmium and compounds, N.O.S.[3]
Calcium chromate (Chromic acid, calcium salt)
Calcium cyanide
Carbon disulfide (Carbon bisulfide)
Carbon oxyfluoride (Carbonyl fluoride)
Chloral (Acetaldehyde, trichloro-)
Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
Chlorinated benzenes, N.O.S.[3]
Chlorinated ethane, N.O.S.[3]
Chlorinated fluorocarbons, N.O.S.[3]
Chlorinated naphthalene, N.O.S.[3]
Chlorinated phenol, N.O.S.[3]
Chloroacetaldehyde (Acetaldehyde, chloro-)
Chloroalkyl ethers, N.O.S.[3]
p-Chloroaniline (Benzenamine, 4-chloro-)
Chlorobenzene (Benzene, chloro-)
Chlorobenzilate (Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester)
p-Chloro-m-cresol (Phenol, 4-chloro-3-methyl)
1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
Chloroform (Methane, trichloro-)
Chloromethane (Methyl chloride)
Chloromethyl methyl ether (Methane, chloromethoxy-)
2-Chloronaphthalene (Naphthalene, betachloro-)
2-Chlorophenol (Phenol, o-chloro-)
1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
3-Chloropropionitrile (Propanenitrile, 3-chloro-)

[3] The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this list.

Chromium and compounds, N.O.S.[3]
Chrysene (1,2-Benzphenanthrene)
Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
Coal tars
Copper cyanide
Creosote (Creosote, wood)
Cresols (Cresylic acid) (Phenol, methyl-)
Crotonaldehyde (2-Butenal)
Cyanides (soluble salts and complexes), N.O.S.[3]
Cyanogen (Ethanedinitrile)
Cyanogen bromide (Bromine cyanide)
Cyanogen chloride (Chlorine cyanide)
Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-,2-oxide)
Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
DDT (Dichlorodiphenyltrichlorothane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
Dibenzo[a,h]pyrene (1,2,5,6–Dibenzpyrene)
Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
1,2-Dibromoethane (Ethylene dibromide)
Dibromomethane (Methylene bromide)
Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
o-Dichlorobenzene (Benzene, 1,2-dichloro-)
m-Dichlorobenzene (Benzene, 1,3-dichloro-)
p-Dichlorobenzene (Benzene, 1,4-dichloro-)
Dichlorobenzene, N.O.S.[3] (Benzene, dichloro-, N.O.S.[3])
3,3'-Dichlorobenzidine ([1,1'-Bipheny1]-4,4'-diamine, 3,3'-dichloro-)
1,4-Dichloro-2-butene (2-Butene, 1,4-dichloro-)
Dichlorodifluoromethane (Methane, dichlorodifluoro-)
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)
trans-1,2-Dichloroethene (1,2-Dichloroethylene)
Dichloroethylene, N.O.S.[3] (Ethene, dichloro-, N.O.S.[3])
1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
Dichloromethane (Methylene chloride)
2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters [Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
Dichlorophenylarsine (Phenyl dichloroarsine)
Dichloropropane, N.O.S.[3] (Propane, dichloro-, N.O.S.[3])
1,2-Dichloropropane (Propylene dichloride)
Dichloropropanol, N.O.S.[3] (Propanol, dichloro-, N.O.S.[3])
Dichloropropene, N.O.S.[3] (Propene, dichloro-, N.O.S.[3])
1,3-Dichloropropene (1-Propene, 1,3-dichloro-)
Dieldin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
Diethylarsine (Arsine, diethyl-)
N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, 0,0-diethyl S-methyl ester)
O,O-Diethylphosphoric acid, 0-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
O,O-Diethyl 0-2-pyrazinyl phosphorothioate (Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester)
Diethylstilbesterol (4,4'-Stilbenediol, alpha, alpha-diethyl, bis(dihydrogen phosphate, (E)-)
Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4,[1-hydroxy-2-(methylamino)ethyl]-)
Dilsopropylfluorophosphate (DFP) (Phosphorofluoridic acid, bis(1-methylethyl) ester)
Dimethoate (Phosphorodithioic acid, 0,0-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3-3'-dimethoxy-)
p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
Dimehtylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
3,3-Dimethyl-l-(methylthio)-2-butanone, O-[(methylamino) carbonyl] oxime (Thiofanox)
alpha,alpha-Dimethylphenethylamine (Ethanamine,1,1-dimethyl-2-phenyl-)
2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
Dimethyl sulfate (Sulfuric acid, dimethyl ester)
Dinitrobenzene, N.O.S.[3] (Benzene, dinitro-, N.O.S.[3])
4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
1,4-Dioxane (1,4-Diethylene oxide)
Diphenylamine (Benzenamine, N-phenyl-)
1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
Di-n-propylnitrosamine (N-Nitroso-di-n-propylamine)
Disulfoton (O,O-diethyl S-[2-ethylthio)ethyl] phosphorodithioate)
2,4-Dithiobiuret (Thioimidodicarbonic diamide)
Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
Ethyl cyanide (propanenitrile)
Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediyl-biscarbamodithioic acid, salts and esters)
Ethyleneimine (Aziridine)
Ethylene oxide (Oxirane)
Ethylenethiourea (2-Imidazolidinethione)
Ethyl methacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
Fluoranthene (Benzo[j,k]fluorene)
Fluorine
2-Fluoroacetamide (Acetamide, 2-fluoro-)
Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
Formaldehyde (Methylene oxide)
Formic acid (Methanoic acid)
Glycidylaldehyde (1-Propanol-2,3-epoxy)
Halomethane, N.O.S.[3]
Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
Heptachlor epoxide (alpha, beta, and gamma isomers) 4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta, and gamma isomers)
Hexachlorobenzene (Benzene, hexachloro-)
Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)
Hexachlorocyclohexane (all isomers) (Lindane and isomers)
Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene (Hexachlorohexahydro-endo, endo-dimethanonaphthalene)
Hexachlorophene(2,2'-Methylenebis(3,4,6-trichlorophenol)
Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
Hydrazine (Diamine)
Hydrocyanic acid (Hydrogen cyanide)
Hydrofluoric acid (Hydrogen fluoride)
Hydrogen sulfide (Sulfur hydride)
Hydroxydimethylarsine oxide (Cacodylic acid)
Indeno (1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
Iodemethane (Methyl iodide)
Iron dextran (Ferric dextran)
Isocyanic acid, methyl ester (Methyl isocyanate)
Isobutyl alcohol (1-Propanol, 2-methyl-)

Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalen-2-one)
Lasiocarpine (2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
Lead and compounds, N.O.S.[3]
Lead acetate (Acetic acid, lead salt)
Lead phosphate (Phosphoric acid, lead salt)
Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
Maleic anhydride (2,5-Furandione)
Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
Malononitrile (Propanedinitrile)
Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
Mercury fulminate (Fulminic acid, mercury salt)
Mercury and compounds, N.O.S.[3]
Methacrylonitrile (2-Propenenitrile, 2-methyl-)
Methanethiol (Thiomethanol)
Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
Metholmyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester)
Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
2-Methylaziridine (1,2-Propylenimine)
3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-)
Methyl ethyl ketone (MEK) (2-Butanone)
Methyl hydrazine (Hydrazine, methyl-)
2-Methyllactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime (Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
N-Methyl-N'nitro-N-nitrosoguanidine (Guanidine, N-nitroso-N-methyl-N'-nitro-)
Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo)
Molybdenum and compounds, N.O.S. [3]
Mustard gas (Sulfide, bis(2-chloroethyl)-)
Naphthalene
1,4-Naphthoquinone (1,4-Naphthalenedione)
1-Naphthylamine (alpha-Napththylamine)
2-Naphthylamine (beta-Naphthylamine)
1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
Nickel and compounds, N.O.S. [3]
Nickel carbonyl (Nickel tetracarbonyl)
Nickel cyanide (Nickel (II) cyanide)
Nicotine and salts (Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
Nitric oxide (Nitrogen (II) oxide)
p-Nitroaniline (Benzenamine, 4-nitro-)
Nitrobenzine (Benzene, nitro-)
Nitrogen dioxide (Nitrogen (IV) oxide)
Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
Nitroglycerine (1,2,3-Propanetriol, trinitrate)
4-Nitrophenol (Phenol, 4-nitro-)
4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
Nitrosamine, N.O.S. [3]
N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
N-Nitrosodiethylamine (Ethanamine, N-ethyl-N-nitroso-)
N-Nitrosodimethylamine (Dimethylnitrosamine)
N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, N-nitroso-)
N-Nitrosonornicotine (Nornicotine, N-nitroso-)
N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
Nitrosopyrrolidine (Pyrrole, tetrahydro-, N-nitroso-)
N-Nitrososarcosine (Sarcosine, N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramide (Diphosphoramide, octamethyl-)
Osmium tetroxide(Osmium (VIII) oxide)
7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid (Endothal)
Paraldehyde (1,3,5-Trioxane, 2,4,6-trimethyl-)
Parathion (Phosphorothioic acid, 0,0-diethyl 0-(p-nitrophenyl)ester)
Pentachlorobenzene (Benzene, pentachloro-)
Pentachloroethane (Ethane, Pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
Pentachlorophenol (Phenol, pentachloro-)
Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
Phenol (Benzene, hydroxy-)
Phenylenediamine (Benzenediamine)
Phenylmercury acetate (Mercury, acetatophenyl-)
N-Phenylthiourea (Thiourea, phenyl-)
Phosgene (Carbonyl chloride)
Phosphine (Hydrogen phosphide)
Phosphorodithioic acid, O,O-diethyl S-[ethylthio)methyl] ester (Phorate)
Phosphorothioic acid, O,O-dimethyl O-[p-[(dimethylamino)sulfonyl)phenyl] ester (Famphur)
Phthalic acid esters, N.O.S.[3] (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.[3])
Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)
2-Picoline (Pyridine, 2-methyl-)
Polychlorinated biphenyl, N.O.S.[3]
Potassium cyanide
Potassium sliver cyanide (Argentate(1-), dicyano-, potassium)
Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)
1,3-Propane sultone (1,2-Oxathiolane, 2,2-dioxide)
n-Propylamine (1-Propanamine)
Propylthiouracil (Undecamethylenediamine, N,N[1]-bis(2-chlorobenzyl-), dipydrochloride)
2-Propyn-1-ol (Propargyl alcohol)
Pyridine
Radium -226 and -228
Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethyoxy-18-[3,4,5-trimethoxybenzoyl)oxy]-, methyl ester)
Resorcinol (1,3-Benzenediol)
Saccharin and salts (1,2-Benzoisothiazolin-3-one, 1,1-dioxide, and salts)
Safrole(Benzene,1,2-methylenedioxy-4-allyl-)
Selenious acid (Selenium dioxide)
Selenium and compounds, N.O.S.[3]
Selenium sulfide (Sulfur selenide)
Selenourea (Carbamimidoselenoic acid)
Silver and compounds, N.O.S.[3]
Silver cyanide
Sodium cyanide
Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
Strontium sulfide
Strychnine and salts (Strychnidin-10-one, and salts)
1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) (Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
Tetrachloroethane, N.O.S.[3] (Ethane, tetrachloro-, N.O.S.[3])
1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
Tetrachloroethane (Ethene, 1,1,2,2-tetrachloro-)
Tetrachloromethane (Carbon tetrachloride)
2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
Tetraethyldithiopyrophosphate (Dithiopyrophosphoric acide, tetraethyl-ester)
Tetraethyl lead (Plumbane, tetraethyl-)
Tetraethylpyrophosphate (pyrophosphoric acid, tetraethyl ester)
Tetranitromethane (Methane, tetranitro-)
Thallium and compounds, N.O.S.[3]
Thallic oxide (Thallium (III) oxide)
Thallium (I) acetate (Acetic acid, thallium (I) salt)
Thallium (I) carbonate (Carbonic acid, diethallium (I) salt)
Thallium (I) chloride
Thallium (I) nitrate (Nitric acid, thallium (I) salt)
Thallium selenite
Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
Thioacetamide (Ethanethioamide)
Thiosemicarbazide (Hydrazinecarbothioamide)
Thiourea (Carbamide thio-)
Thiuram (Bis(dimethylthiocarbamoyl) disulfide)
Thorium and compounds, N.O.S.[3], when producing thorium byproduct material
Toluene (Benzene, methyl-)
Toluenediamine (Diaminotoluene)
o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
Tolylene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)
Toxaphene (Camphene, octachloro-)

Tribromemethane (Bromoform)
1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
1,1,1-Tricloroethane (Methyl chloroform)
1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
Trichloroethene (Trichloroethylene)
Trichloromethanethiol (Methanethiol, trichloro-)
Trichloromonofluoromethane (Methane, trichlorofluoro-)
2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
2,4,5-Trichlorophenoxyacetic acid (2,4,5–T) (Acetic acid, 2,4,5-trichlorophenoxy-)
2,4,5-Trichlorophenoxypropionic acid (2,4,5–TP) (Silvex) (Propionoic acid, 2-(2,4,5-trichlorophenoxy)-)
Trichloropropane, N.O.S.[3] (Propane, trichloro-, N.O.S.[3])
1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
Tris(1-azridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl-)
Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
Trypan blue (2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl (1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
Uracil mustard (Uracil 5-[bis(2-chloroethyl)amino-)
Uranium and compounds, N.O.S[3]
Vanadic acid, ammonium salt (ammonium vandadate)
Vanadium pentoxide (Vanadium (V) oxide)
Vinyl chloride (Ethene, chloro-)
Zinc cyanide
Zinc phosphide

Dated at Washington, DC, this 26th day of June, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–15203 Filed 7–7–86; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 50 and 55

Degree Requirements for Senior Operators at Nuclear Power Plants; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking: Extension of comment period.

SUMMARY: On May 30, 1986, (51 FR 19561), the NRC published for public comment an advance notice of proposed rulemaking (ANPRM). The ANPRM communicated that the Commission is contemplating an amendment to its regulations to require, after January 1, 1991, that applicants for licenses as a Senior Operator of a nuclear power plant hold a baccalaureate degree in engineering or physical science from an accredited institution. The comment period for the ANPRM was to have expired on July 29, 1986. KMC, Inc. and Qualification of Reactor Operators Utility Group (QRO) have requested a sixty-day extension of the comment period. In view of the importance of the contemplated rule, the amount of time KMC and QRO suggest is required to conduct in-depth studies and to develop statistical information relevant to the ANPRM, the NRC has decided to extend the comment period for an additional sixty days. The extended comment period now expires on September 29, 1986.

DATES: The comment period has been extended and now expires September 29, 1986. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Send written comments or suggestions on the contemplated rulemaking to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of the comments received may be examined at the NRC Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: D. B. Jones, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–4813.

Dated at Washington, DC, this 1st day of July, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–15324 Filed 7–7–86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–CE–16–AD]

Airworthiness Directives; Consolidated Aeronautics Incorporated Lake Model 250 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain models of the Consolidated Aeronautics Incorporated Lake Model 250 series airplanes. This AD would require the addition of necessary hardware to protect the fuel shutoff handle from binding on the cabin upholstery. It has been reported that the upholstery can restrict movement of the fuel shutoff valve handle, preventing the flight crew from isolating the fuel system from the engine compartment, creating an extreme hazard if the airplane experiences an inflight fire or similar emergency.

DATES: Comments must be received on or before August 9, 1986.

ADDRESSES: Lake Aircraft Division Consolidated Aeronautics Incorporated, Service Bulletin No. B–66 dated May 31, 1985, applicable to this AD may be obtained from Lake Aircraft, Laconia Airport, Laconia, New Hampshire 03646; Telephone (603) 524–5868, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–16–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne E. Gaulzetti, ANE–153, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; Telephone (617) 273–7102.

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 or notice 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 Director before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–CE–16–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

It has been found that in certain Consolidated Aeronautics Incorporated Lake Model 250 airplanes the upholstery can restrict movement of the fuel shutoff valve handle, preventing the flight crew from isolating the fuel system from the engine compartment if the airplane experiences an inflight fire or similar emergency. Since the condition described is likely to exist or develop in other Lake Model 250 airplanes of the same design, the AD would require the addition of necessary hardware to protect the handles from binding with the cabin upholstery. The FAA has determined there are approximately sixteen (16) airplanes affected by the proposed AD. The cost of modifying the airplanes as required by the proposed AD is estimated to be $75 per airplane. The total cost is estimated to be $1,200 to the private sector. The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes. Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR 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.

§ 39.13 [Amended]

2. By adding the following new AD:

Consolidated Aeronautics Incorporated: Applies to Consolidated Aeronautics Incorporated, Lake Model 250 Airplanes, serial numbers 2 through 17, equipped with fuel shutoff valve mounting plate part number 3–6572–17.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent the possible contact of the fuel shutoff valve handle hardware and the cabin rear upholstery panel, accomplish the following:

(a) Modify the fuel shutoff valve mounting plate in accordance with instructions in Lake Aircraft Division Consolidated Aeronautics Incorporated Service Bulletin No. B–66 dated May 31, 1985.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Boston Aircraft Certification Office, ANE–150, 12 New England Executive Park, Burlington, Massachusetts 01803.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Lake Aircraft, Laconia Airport, Laconia, New Hamshire 03646, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 25, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–15236 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket Number 86–ANE–4]

Airworthiness Directives; Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR Turbofan Engines.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require inspection of the combustion chamber outer case for cracks adjacent to the rear flange and around the periphery of the PS4 and drain boss welds on certain PW JT8D engines. The proposed AD would supersede AD 86–04–01, Amendment 39–5236 (51 FR 5311), by requiring inspection of combustion chamber outer cases for cracks adjacent to the rear flange at reduced threshold cycles, and include inspection of PS4 and drain boss welds on certain PW JT8D engines. The proposed AD is needed to prevent rupture of the combustion chamber outer case due to fatigue cracking, that can originate at the PS4 and drain boss welds, as well as the rear flange, which could result in uncontained case rupture, inflight shutdowns, engine cowl release, and airframe damage.

DATES: Comments must be received on or before September 18, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 86–ANE–4, 12 New England Executive Park, Burlington, Massachusetts 01803 or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 86–ANE–4".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable alert service bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06456.

A copy of the ASB is contained in Rules Docket Number 86–ANE–4, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Jim Jones, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7121.

SUPPLEMENTARY INFORMATION: 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 will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic,

environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 86-ANE-4". The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that combustion chamber outer cases develop cracks during service. These cracks result from low cycle fatigue initiating in high stressed areas of the case. Analytical studies, substantiated by service experience, identify the high stressed areas to be in the periphery of the PS4 and drain boss welds, and the rear flange bolt holes. Cracks which develop along the circumference of boss welds or at the rear flange bolt holes can result in combustion chamber outer case ruptures.

To date, there have been a total of nine reported combustion chamber outer case ruptures, four of which occurred during 1985. One of the nine ruptures occurred from a PS4 boss weld crack and six occurred from drain boss weld cracks. The remaining two ruptures resulted from rear flange cracking, which prompted AD 86-04-01, Amendment 39-5236 (51 FR 5311). These ruptures caused both engine cowling and airframe damage.

On February 28, 1986, AD 86-04-01, Amendment 39-5236 (51 FR 5311), was issued requiring initial and repetitive visual inspections of the combustion chamber outer case for cracks adjacent to the rear flange bolt holes on certain PW JT8D engines. Fatigue cracks which initiate in the rear flange bolt holes can propagate into the wall of the case and progress in an axial direction until the case ruptures. The purpose of the inspection is to identify and remove from service, combustion chamber outer cases which have developed rear flange bolt hole cracks. The proposed AD would adjust the requirements of Amendment 39-5236 by reducing the initial threshold levels from 35,000 cycles to 30,000 cycles for JT8D-1 through -7B engines; 30,000 cycles to 25,000 cycles for JT8D-9 through -11 engines; and 25,000 cycles to 20,000 cycles for JT8D-15 through -17AR engines. The repetitive inspection intervals will remain unchanged from those of Amendment 39-5236. An alternative rear flange inspection using an eddy current procedure, has been added that allows increased repetitive inspection intervals of 12,000 cycles for JT8D-1 through -11 engines and 8,000 cycles between shop visits for JT8D-15 through -17AR engines. The above new requirements reflect the analysis of recent service experience.

The proposed AD also requires reporting of the inspection results to the FAA. Those results will be evaluated to determine if they are consistent with the service experience upon which the AD is founded, or whether further inspection or other action is needed.

Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would supersede AD 86-04-01, Amendment 39-5236 (51 FR 5311), and require initial and repetitive inspections of the combustion chamber outer case for cracks adjacent to the rear flange bolt holes, as well as around the periphery of the PS4 and drain boss welds on certain PW JT8D engines, in accordance with PW ASB 5676, dated July 15, 1986.

Conclusion

The FAA has determined that this proposed regulation involves approximately 6,367 engines (domestic fleet) at an approximate cost of 2.2 million dollars. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using aircraft in which PW JT8D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption: **"FOR FURTHER INFORMATION CONTACT":**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation 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 11.85.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 86-04-01, Amendment 39-5236 (51 FR 5311).

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent combustion chamber outer case rupture, inspect combustion chamber outer case assembly Part Numbers (P/N) 490547, 542155, 616315, 728829, 730413, 730414, 767197, and 767279, in accordance with PW Alert Service Bulletin (ASB) 5676, dated July 15, 1986, or FAA approved equivalent, as follows:

(a) Inspect combustion chamber outer case PS4 boss, drain bosses, and rear flange for cracks at each engine shop visit in addition to the requirements of Paragraphs (b) through (e) below.

(b) Inspect combustion chamber outer case PS4 boss and drain bosses which have not been weld-repaired, for cracks per the following schedule:

(1) PW JT8D-1, -1A, -1B, -7, -7A, and -7B engine cases with 24,000 total cycles in service (CIS) or more on the effective date of this AD; inspect within the next 2,500 CIS, or within 6,000 CIS since last inspection (SLI), whichever occurs later. Thereafter, reinspect at intervals not to exceed 6,000 CIS SLI.

(2) PW JT8D-1, -1A, -1B, -7, -7A, and -7B engine cases with less than 24,000 total CIS on the effective date of this AD; inspect before the accumulation of 26,500 total CIS, or within 6,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 6,000 CIS SLI.

(3) PW JT8D-9, -9A, and -11 engine cases with 16,000 total CIS or more on the effective date of this AD; inspect within the next 2,500 CIS, or within 6,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 6,000 CIS SLI.

(4) PW JT8D-9, -9A, and -11 engine cases with less than 16,000 total CIS on the effective date of this AD; inspect before the accumulation of 18,500 total CIS, or within 6,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 6,000 CIS SLI.

(5) PW JT8D-15 and -15A engine cases with 12,000 total CIS or more on the effective date of this AD; inspect within the next 1,600 CIS, or within 4,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 4,000 CIS SLI.

(6) PW JT8D-15 and -15A engine cases with less than 12,000 total CIS on the

effective date of this AD; inspect before the accumulation of 13,600 total CIS, or within 4,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 4,000 CIS SLI.

(7) PW JT8D–17, –17A, –17R, and –17AR engine cases with 9,600 total CIS or more on the effective date of this AD; inspect within the next 1,600 CIS, or within 4,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 4,000 CIS SLI.

(8) PW JT8D–17, –17A, –17R, and 17AR engine cases with less than 9,600 total CIS on the effective date of this AD; inspect before the accumulation of 11,200 total CIS, or within 4,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 4,000 CIS SLI.

(c) Inspect combustion chamber outer case PS4 boss and drain bosses which have been weld-repaired, for cracks per the following schedule:

(1) PW JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, and –11 engine cases regardless of total CIS; inspect within the next 1,500 CIS or within 3,500 CIS since weld repair or SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 3,500 CIS SLI.

(2) PW JT8D–15, –15A, –17A, –17R, and –17AR engine cases regardless of total CIS; inspect within the next 1,000 CIS or within 2,500 CIS since weld repair or SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 2,500 CIS SLI.

(d) Inspect combustion chamber outer case near flange for cracks per the following schedule:

(1) PW JT8D–1, –1A, –1B, –7, –7A, and –7B engine cases with 30,000 total CIS or more on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, within the next 200 CIS, or within 3,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 3,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 12,000 CIS SLI.

(2) PW JT8D–1, –1A, –1B, –7, –7A, and –7B engine cases with less than 30,000 total CIS on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, before the accumulation of 30,200 total CIS, or within 3,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 3,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 12,000 CIS SLI.

(3) PW JT8D–9, –9A, and –11 engine cases with 25,000 total CIS or within the next 2,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 2,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 12,000 CIS SLI.

(4) PW JT8D–9, –9A, and –11 engine cases with less than 25,000 total CIS on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, before the accumulation of 25,200 total CIS, or within 2,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 2,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 12,000 CIS SLI.

(5) PW JT8D–15 and –15A engine cases with 20,000 total CIS or more on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, within the next 200 CIS, or within 1,500 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 1,500 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 8,000 CIS SLI.

(6) PW JT8D–15 and –15A engine cases with less than 20,000 total CIS on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, before the accumulation of 20,200 total CIS, or within 1,500 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 1,500 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 8,000 CIS SLI.

(7) PW JT8D–17, –17A, –17R, and –17AR engine cases with 20,000 total CIS or more on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, within the next 200 CIS, or within 1,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 1,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspection per Appendix C requirements may be accomplished at intervals not to exceed 8,000 CIS SLI.

(8) PW JT8D–17, –17A, –17R, and –17AR engine cases with less than 20,000 total CIS on the effective date of this AD; inspect in accordance with Appendix A of PW ASB 5676, before the accumulation of 20,200 total CIS, or within 1,000 CIS SLI, whichever occurs later. Thereafter, reinspect at intervals not to exceed 1,000 CIS SLI. As an alternate means of compliance, the case may be inspected per Appendix C of PW ASB 5676. Thereafter, reinspect per Appendix C requirements may be accomplished at intervals not to exceed 8,000 CIS SLI.

(e) Remove cracked cases from service prior to further flight.

(f) Report the following information in writing, if the case is cracked, within 30 days of the inspection to the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, (Telex Number 949301 FAANE BURL) (reporting approved by the Office of Management and Budget (OMB) under OMB Number 2120–0056):

(1) Engine serial number.

(2) Inspection date.

(3) Case P/N and serial number.

(4) Case total time and cycles (If estimated, so note).

(5) Case time and cycles since last inspection.

(6) Method of inspection used.

(7) Crack location and size.

Notes.—(1) Inspection at shop visit of the rear flange by visual or fluorescent penetrant, and the case PS4 and drain boss welds by fluorescent penetrant in accordance with PW JT8D Engine Manual, P/N 481672, is considered an equivalent means of inspection to Appendix A and B of PWA ASB 5676, respectively.

(2) Inspection at shop visit of the rear flange per the PW JT8D Engine Manual, P/N 481672, eddy current inspection requirements, is considered an equivalent means of inspection to Appendix C of PWA ASB 5676.

(3) Cases for which the total cycles in service cannot be determined from engine records or manufacturer's production records must be assigned a total cycle count equal to the highest cycle engine model in the owners'/operators' fleet.

(4) Cases which have been operated in more than one model engine must be inspected to the criteria for the highest rated engine model in which it was operated.

(5) Shop visit is defined as the input of an engine to a repair shop where the subsequent engine maintenance entails any of the following:

(a) Separation of a major engine flange (lettered or numbered) other than flanges mating with major sections of the nacelle or reverser. Separation of flanges purely for purposes of shipment, without subsequent internal maintenance, is not a "shop visit".

(b) Removal of a disk, hub, or spool.

(c) Removal of the main or angle gearbox.

(d) Removal of fuel nozzles.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD may be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

The FAA will request the permission of the **Federal Register** to incorporate by reference the manufacturer's ASB identified and described in this document.

This amendment supersede Amendment 39–5236 (51 FR 5311), AD 86–04–01.

Issued in Burlington, Massachusetts, on June 27, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86–15237 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 24, 170, 231, and 240

[Notice No. 598; Re: Notice Nos. 584 and 320]

Revision and Recodification of Wine Regulations; Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: On March 7, 1986, ATF published Notice No. 584 at 51 FR 8098 proposing a revision of all Internal Revenue Code wine regulations and a recodification of these regulations into a new 27 CFR Part 24.

On June 18, 1986, The Association of American Vintners requested an extension of the comment period and on June 23, 1986, the Wine Institute also requested an extension. Both requests asked that the comment period be extended to December 31, 1986, to allow more time to review the lengthy and complex proposals revising wine regulations that have remained essentially unchanged for over thirty years.

The review and comment of these two associations are important to the rulemaking process since they represent most of the domestic wine producers. Additionally, we have only received one comment to date. Therefore, we are extending the comment period as requested.

DATE: Written comments must be received by December 31, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385.

Copies of written comments received in response to the notice relating to this project will be available during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Ariel Rios Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, (202) 566–7626.

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5002, 5008, 5041–5044, 5061, 5062, 5064, 5065, 5111–5113, 5121, 5122, 5142, 5143, 5146, 5171, 5173, 5179, 5205, 5206, 5214, 5215, 5291, 5301, 5332, 5351–5354, 5356–5358, 5361–5373, 5381–5388, 5391, 5392, 5511, 5512, 5551–5553, 5555–5557, 5661, 5662, 5684, 6065, 6091, 6109, 6201, 6301, 6302, 6311, 6651, 6656, 6676, 6806, 6861, 7011, 7110, 7302, 7342, 7502, 7503, 7601, 7602, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306; 44 U.S.C. 3504(h).

Approved: July 1, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 15247 Filed 7–3–86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Public Comment Period on a Proposed Amendment to the Alabama Permanent Regulatory Program; Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and public hearing on the substantive adequacy of a proposed program amendment submitted by the State of Alabama to modify the Alabama permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment, Alabama final rules 880–X–8J–.11 and 880–X–2A–06, Rulemaking 86–1, concerns Coal Processing Plants and Their Support Facilities, permitting requirements for such facilities, and related definitions. This notice sets forth the time and locations that the Alabama program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and the procedures for the hearing, if requested.

DATES: Written comments, data or other relevant information relating to the proposed amendment not received on or before 4:00 p.m. on August 7, 1986 will not necessarily be considered.

A public hearing on the proposed amendment has been scheduled for August 4, 1986 at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. John T. Davis at the address or phone number listed below by the close of business July 23, 1986.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 731–0890.

The public hearing will be held at the Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 731–0890.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Alabama program and all written comments received in response to this notice, will be available for review and copying at the OSMRE Field Office, the OSMRE Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the amendment by contacting the OSMRE Birmingham Field Office.

Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 228 West Valley Avenue, 3rd floor, Homewood, Alabama 35209

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street NW., Washington, DC 20240

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanation in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Birmingham Field Office, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the date listed under

"DATES." If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and detailed explanation of the conditions of approval of the Alabama program, can be found at 47 FR 22020 (May 20, 1982) and 48 FR 34206 (July 27, 1983). Subsequent actions concerning the Alabama program are listed in 30 CFR 901.15.

III. Proposed Amendment

On May 20, 1986, Alabama submitted a proposed amendment to modify requirements contained in the Alabama Surface Mining Commission rules at 880–X–9J–.11 and 880–X–2A–.06. The amendment relates to requirements for coal processing plants and their support facilities and related definitions. In the case entitled *In re: Permanent Surface Mining Reclamation Litigation II*, the District Court for the District of Columbia ruled, on July 6, 1984, that the Secretary's definitions for "coal preparation," "coal preparation plant," and "support facilities" improperly narrowed the regulatory scope of SMCRA. The Court held that processing facilities which in any way leach, chemically process, or physically process coal should be regulated as coal preparation plants, even if they do not separate coal from its impurities. The proposed Alabama rule is intended to bring these facilities under jurisdiction of the Alabama program in accordance with the court's decision. Alabama proposes an effective date of June 20, 1986, with permit applications for the affected facilities to be filed by August 20, 1986.

Section 1 of 880–X–8J–.11 pertains to operators of processing plants and associated support facilities and requires operators to obtain a permit in accordance with requirements of this Rule.

Section 2 specifies information to be included in the mining and reclamation plan and requires that the plan demonstrate that operations will be conducted in compliance with Rule 880–X–10J.

Section 3 directs that the regulatory authority find, in writing, that operations will be conducted in compliance with requirements of Rule 880–X–10J.

Section 4 directs that persons operating coal processing plants not previously subject to Rules 880–X–2A–.06, Definitions of Coal Processing, et al., amended under rulemaking 86–1 will have no later than sixty days after the effective date of the rule to apply for a permit or cease operations. Under Section 4, paragraph (a) exceptions are listed. Paragraph (b) directs that upon issuance of a permit by the ASMC under this rule, such processing plants shall comply with the performance standards of Chapter 880–X–10J.

Rule 880–X–2A–.06 is amended to add definitions of the terms "coal processing," and "coal processing plant" and to modify the definition of "surface coal mining operations."

Therefore, the Director, OSMRE is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from section 3,4,7, and 8 of the Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining Underground mining.

Dated: July 2, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86–15297 Filed 7–7–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 86–10]

Drawbridge Operation Regulations; Saint Joe River, ID

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Union Pacific Railroad Company (UPRR), the Coast Guard is considering a change to the regulations governing the operation of the UPRR railroad bridge across the Saint Joe River near Chatcolet, Idaho. The change would require that eight hours advance notice be given for bridge

openings from December 1, to March 15, Mondays through Fridays, except federal holidays, between the hours of 4:30 p.m. and 8:30 a.m. This proposal is being made because reportedly there is little, if any, navigation on the waterway during this period. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before August 22, 1986.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3564. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch, (Telephone: (206) 442–6864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with, or any recommended changes in, the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information:

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Commander Judith M. Hammond, Project attorney.

Discussion of the Proposed Regulations:

During most of the year, the UPRR bridge across the Saint Joe River near Chatcolet, opens on signal for the passage of vessels between the hours of 8:30 a.m. to 4:30 p.m. on Mondays through Fridays. At all other times, the draw span is left in the open to navigation position in order to accommodate tour boats and tugs which operate in the evenings and on weekends. During the winter months (December to March) the only vessel which reportedly requires bridge openings operates only on weekdays during daylight hours. The proposed change would allow the bridge owner to reduce staffing levels during this period of reduced vessel activity and still provide for the reasonable needs of navigation.

Economic Assessment and Certification:

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Navigation on the waterway in the wintertime is limited to daylight hours and would not be affected by the change. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if * adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.384 is added to read as follows:

§ 117.384 Saint Joe River.

The draw of the Union Pacific railroad bridge, mile 1.0, near Chatcolet, shall open on signal, except that: From December 1 to March 15, from 4:30 p.m. to 8:30 a.m., the draw shall open if at least eight hours notice is given.

Dated: June 26, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 86–15296 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD 12–86–10]

Drawbridge Operation Regulations for Middle River, CA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of The Atchison, Topeka and Santa Fe Railway Co. the Coast Guard is considering a change to the regulations governing the bridge across Middle River, mile 9.8, near Stockton, California to provide that the draw need not open. This proposal is being made because no requests have been made to open the draw for approximately six years. The bridge has only been opened twice for waterway traffic in over 30 years, September 23, 1975 and November 18, 1979. On May 23, 1986, the generator and control house were completely destroyed by fire, rendering the lift span inoperable. Repair time is estimated as seven months at an approximate cost of $125,000. This action should relieve the bridge owner of the burden of repairing and maintaining the machinery, and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before August 22, 1986.

ADDRESSES: Comments should be mailed to Commander (oan), Twelfth Coast Guard District, Building 51–3, Government Island, Alameda, CA 94501–5100. The comments and other materials referenced in this notice will be available for inspection and copying in the Bridge section at the above address. Normal office hours are between 6:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Assistant Chief, Bridge Section, Aids to Navigation Branch (telephone: (415) 437–3514).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Twelfth Coast Guard District will evaluate all communications received and determine

a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of these regulations are Rose E. Guerra, project officer, and Lieutenant Commander Peter K. Mitchell, project attorney.

Discussion of Proposed Regulations

The Middle River drawbridge has only been opened twice for waterway traffic in over 30 years, one in 1975 and once in 1979. All the larger vessels use Old River, approximately 1½ miles west, where the railroad maintains a drawbridge with an operator on duty 24 hours a day. The annual maintenance cost for the bridge as a movable structure is estimated to be $11,000, as a fixed structure $7,200. Repair of recent fire damage to restore the bridge to operable condition will cost approximately $125,000 and take about seven months. The railway company anticipates operating over a different route if the proposed merger with the Southern Pacific Transportation Company is approved, and would no longer need the bridge.

The segment that would be abandoned has five railroad bridges across navigable waters which come under Coast Guard jurisdiction, three are drawbridges and include this bridge. On 31 October 1984 the Coast Guard advised the railway company that when the line is no longer used for transportation purposes the Coast Guard will require them to place the movable bridges in the open to navigation position immediately. This requirement will be a part of the proposed regulation change.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. There have only been two requests for openings in over 30 years so there will not be any impact on navigation.

Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard is proposing to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section § 117.171 is amended by revising paragraph (b) to read as follows:

§ 117.171 Middle River.

* * * * *

(b) The draw of the Atchison, Topeka and Santa Fe railroad bridge, mile 9.8 near Middle River Station—

(1) Need not be opened for the passage of vessels.

(2) When this segment of the line is abandoned, the bridge shall be put in the open to navigation position until it is removed from the waterway.

* * * * *

Dated: June 25, 1986.

John D. Costello,

Vice Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District.

[FR Doc. 86–15295 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–14–M

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–91; Notice 1]

Interval for Review and Calculation of Relief Device Capacity

Correction

In FR Doc. 86–13670 appearing on page 21939 in the issue of Tuesday, June 17, 1986, make the following corrections:

1. In the second column in the second paragraph under **Background**, in the fourth line, "if" should read "is".

2. In the third column, in the first paragraph under **"Classification,"** in the fourth line from the bottom, "§ 192.43" should read "§ 192.743".

3. In the third column, in the first line of the List of Subjects, "devises" should read "devices".

BILLING CODE 1505–01–M

Federal Highway Administration

49 CFR Parts 391 and 395

[BMCS Docket No. MC–119 and MC–120; Notice No. 86–7]

Hours of Service of Drivers and Qualifications of Drivers; Extension of Comment Periods

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment periods.

SUMMARY: The FHWA issued two notices of proposed rulemaking published in the **Federal Register**—BMCS Docket No. MC–119, Hours of service of drivers; Request for comments, written comments due June 9 (51 FR 17214, May 9, 1986); and BMCS Docket No. MC 120, Qualification of drivers, written comments due July 14 (51 FR 17572, May 13, 1986). The comment periods for both are extended to August 18, 1986. This extension is in response to four requests to provide adequate time for those organizations to reach a consensus on the issues, develop a policy and prepare comments.

DATE: Comments must be received on or before August 18, 1986.

ADDRESS: All comments should refer to the docket number set forth in the above summary to which the comments relate and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 755–1011; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426–0824, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA received four requests to extend the comment periods of two rulemaking actions, Docket No. MC–119, Hours of Service od Drivers, comments due June 9, and Docket No. MC–120, Qualification of Drivers, comments due July 14. Three of the commenters requested an extension of 60 days and one requested an extension to September 1 in Docket No. MC–119. Two commenters requested an extension of 60 days and one requested an extension to September 1

in Docket No. MC–120. The American Trucking Associations, Inc. (ATA), said it is imperative that these proposals be considered at two forthcoming major trucking industry meetings scheduled in mid-June. The Private Truck Council of America, Inc. said their Safety Committee was meeting in Washington, DC, June 12–13 at which time these two proposals were scheduled for extended discussion. The National Tank Truck Carriers, Inc., said the next policy session will be held the second week of August and requested an extension to September 1. The International Brotherhood of Teamsters said the 30-day comment period in Docket No. MC–119 is not sufficient to allow the parties to comment on such an important rulemaking as that involving hours of service.

These requests have merit. Therefore, the comment period is being extended to August 18 for both dockets.

List of Subjects in 49 CFR Parts 391 and 395

Highways and roads, Highway Safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements, Motor vehicle safety, Driver qualifications.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

(49 U.S.C. 3102; 49 U.S.C. app. 2505; 49 CFR 1.48 and 301.60)

Issued on: June 27, 1986.

R.P. Landis,

Associate Administrator for Motor Carriers, Federal Highway Administration.

[FR Doc. 86–15264 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–22–M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 347 (Sub-No. 2)]

Rate Guidelines—Non-Coal Proceedings; Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed policy.

SUMMARY: In a decision served May 21, 1986, and published in the Federal Register on May 22, 1986 (51 FR 18811), the Commission proposed to adopt maximum rate reasonableness guidelines for captive, non-coal commodities. That notice established July 21, 1986 as the date for filing initial comments and required that reply comments be filed 45 days thereafter. In a petition dated June 30, 1986, the Chemical Manufacturers Association (CMA) seeks a 30-day extension of the deadlines for filing comments. CMA states that the extensions is necessary because of the complexity and importance of the issues and because of the time-consuming process of coordinating with expert consultants, in-house and outside counsel, and association members. The petition is supported by the National Industrial Transportation League, The Fertilizer Institute, and the Society of the Plastics Industry, Inc., Committee on Transportation and distribution. The Association of American Railroads does not oppose CMA's extension request.

We recognize the complexity and importance of the issues but at the same time do not want to see this proceeding unnecessarily lengthened or delayed. No further extensions are anticipated. Therefore, given the broad based support among the parties for the extension and lack of opposition we will grant the requested extension.

Accordingly, CMA's petition is granted and the comment periods will be extended for 30 days.

DATES: Initial comments are now due August 20, 1986; reply comments are due 45 days thereafter.

FOR FURTHER INFORMATION CONTACT:
Leslie J. Selzer, (202) 275–7627

or

Thomas J. Stilling, (202) 275–7442.

Decided: July 1, 1986.

By the Commission, Acting Chairman Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 86–15275 Filed 7–7–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Western Population of the Gopher Tortoise (Gopherus polyphemus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the western population of the gopher tortoise as a threatened species. This population occurs from the Tombigbee and Mobile rivers in Alabama to southeastern Louisiana. The historic western gopher tortoise habitat has been reduced more than 80 percent by conversion to urban areas, croplands, and pasturelands. Certain forest management practices have also reduced the value of some remaining forest habitats. Fragmentation of the western range has accentuated these impacts. Taking gopher tortoises for sale and use as food or as pets has had a serious effect on some populations. All these problems are complicated by the great length of time required for tortoises to reach sexual maturity and by their low reproductive rate. This proposal, if made final, would implement the protections provided by the Endangered Species Act of 1973, as amended. The Service requests comments and data from the public on this proposal.

DATES: Comments from all interested parties must be received by September 8, 1986. Public hearing requests must be received by August 22, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:
Mr. Dennis B. Jordan at the above address (601/960–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

The gopher tortoise (*Gopherus polyphemus*) was described in 1802 by F.M. Daudin. It is a large (shell 15–37 centimeters or 5.9–14.6 inches long) dark-brown to grayish-black terrestrial turtle with elephantine hind feet, shovellike forfeet, and a gular projection beneath the head on the yellowish, hingeless plastron or undershell (Ernst and Barbour, 1972). It ranges along the coastal plain from South Carolina through Florida to southeastern Louisiana.

The gopher tortoise most often lives on well-drained sandy soils in transitional (forest and grassy) areas (Ernst and Barbour, 1972). It is commonly associated with a pine overstory and an open understory with a grass and forb groundcover and sunny areas for nesting (Landers, 1980). Using statistics of the U.S. Department of Agriculture (USDA) (1978a) the Service

estimates that present ownership distribution of gopher tortoise habitat is approximately two-tenths in National Forest, one-tenth in other public ownership, three-tenths in forest industry, and four-tenths in other private ownership.

Conversion of gopher tortoise habitat to urban areas, croplands, and pasturelands along with adverse forest management practices has reduced the western portion of the historic range of the gopher tortoise by more than 80 percent. Fragmentation of the western range accentuates those impacts. Taking gopher tortoises for sale or use as food or pets has also had a serious effect on some populations. The seriousness of the loss of adult tortoises is magnified by the length of time required for tortoises to reach sexual maturity and their low reproductive rate. Current estimates of human predation and road mortality alone are at levels that could offset any annual addition to the population. Sightings of gopher tortoises have become rare in many areas and the ones sighted are much smaller than in the past (Diemer, 1984).

The gopher tortoise was included in the Notice of Review of Vertebrate Wildlife for listing as Endangered or Threatened Species (December 30, 1982; 47 FR 58454) as a species in Category 2. Category 2 included taxa for which information then in possession of the Service indicated that proposing to list the species was possibly appropriate, but for which available data were not judged sufficient to support a proposed rule. In 1983 the Service selected the gopher tortoise as a species of special emphasis, and developed a Regional Resource Plan for it. On July 18, 1984, Dr. Ren Lohoefener and Dr. Lynne Lohmeier submitted a petition to list the western population of the gopher tortoise. The petition and accompanying status report were accepted as providing substantial information that the requested action may be warranted. The report attached to the petition was sent out for expert review, together with a request for comments on the substantiality of its methods and conclusions, the petitioned action, and any other relevant data. Of 17 responses received, 14 provided comments or additional information that supported the petitioned action. Two reviewers recommended against listing the western population separately, and one recommended adoption of harvest restrictions only. On July 26, 1985, the Service made a 12-month finding that the action requested by the petitioners was warranted but precluded by other listing actions in accordance with 4(b)(3)(B)(iii). This proposed rule constitutes an additional required petition finding, confirming that the requested action is warranted. The status of the eastern population of the gopher tortoise is still under review by the Service and State conservation agencies.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the western population of the gopher tortoise (*Gopherus polyphemus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* According to Lohoefener and Lohmeier (1984), only 147,313 hectares (364,000 acres) of pine forested upland sandy soils that provide suitable habitat remain within the western range of the gopher tortoise. This reflects a habitat loss of 82 percent, although an additional 94,907 hectares (234,000 acres) of pine forested upland sandy soils exist that could provide additional habitat with suitable management. A general continuation of recent decline in forest area in these states is likely (USDA, 1978c). There was a statewide longleaf/slash pine acreage reduction of 24 percent in Mississippi from 1967 to 1983 (USDA, 1973a, 1978b, 1983a), 12 percent in Alabama from 1972 to 1982 (USDA, 1973b, 1983b), and 18 percent in Louisiana from 1967 to 1980 (USDA, 1965, 1975, 1980). Land use changes from forest to agriculture and growth of urban areas are responsible for most of this loss of gopher tortoise habitat. In Mississippi over the next 30 years, according to the Land Use Center, Mississippi Cooperative Extension Service, cropland is expected to double and pastureland to increase by 40 percent. Much of the crop and pasture acreage will come from flat to gently sloping forestland. Within the tortoise's range, human population projections indicate an increase of approximately 50 percent in Mississippi from 1980 to 2000 (according to the Land Use Center, Mississippi Cooperative Extension Service). A 53 percent human population increase occurred in Louisiana from 1970 to 1980, with less than a 10 percent increase during the same period of time in Alabama (Lohoefener and Lohmeier, in press).

In addition to this loss of habitat is adverse modification of habitat associated with some forest management practices. The gopher tortoise requires an open forest floor with grasses and forbs for food and sunny areas for nesting (Landers, 1980). Regular burning or thinning of trees is required to maintain this type of habitat. Private landowners may not manage their forest to provide suitable gopher tortoise habitat. Development of thick underbrush, closing of forest canopies, or clearcutting destroys food plants, inhibits nesting, and causes tortoises to relocate to the edge of roadsides and ditch banks, increasing their susceptibility to human predawn and vehicle mortality. One year after timber removal in South Carolina, Wright (1982) found no hatchling gopher tortoises, a 66 percent loss of juveniles, and a 32 percent loss of adults. In another area that was site prepared and planted to pine 30 years before, he found the lowest gopher tortoise population of several areas he compared, and no hatchling or juveniles.

Forest management on the DeSoto National Forest will probably be more compatible with the gopher tortoise than on private forests, but the National Forest is only 22 percent of the total western range (Lohoefener and Lohmeier, 1984; USDA, 1984). The greatest problem for the gopher tortoise caused by typical forest management is probably the closed canopy of young pine stands. Alternative forest management schemes will ulitimately determine the impact of forestry operations on the gopher tortoise. The effects of habitat loss and modification are magnified by the fragmented nature of the sand ridges within the western range of the gopher tortoise (Lohoefener and Lohmeier, 1984). Possible minor habitat effects may also result from training maneuvers of the U.S. Army in DeSoto National Forest.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Gopher tortoises are collected for use or sale as food or as pets. Research in Florida has shown up to 20 percent of a colony has been taken at one time by "gopher pullers" (Taylor, 1981), and Lohoefener and Lohmeier (1984) have documented a 4.8 percent annual human predation rate in Mississippi. The impact of this activity is magnified because of the fact that this effort is directed solely toward the adult, or reproducing, segment of the population. The number of tortoises taken for us as pets is unknown, but the

New Orleans Nature Center reports about 20 tortoises per year turned in by residents.

C. *Disease or predation.* The gopher tortoise suffers a heavy natural predation loss of almost 97 percent through the first two years of life (Landers, 1980; Wright, 1982). There is additional predation on juveniles and adults from two years to maturity, but the magnitude is unknown.

D. *The inadequacy of existing regulatory mechanisms.* The gopher tortoise is on the Mississippi State List of Endangered Species, and is considered a game animal in Alabama with no open season. Both of these actions offer some protection against taking. Lacey Act provisions are also applicable for these two States. The U.S. Forest Service has recently issued a closure order for taking gopher tortoises within DeSoto National Forest. Federal listing could enhance these protection efforts and provide protection that does not presently exist in Louisiana in relation to taking. Federal listing could also result in increased consideration for tortoise habitat in management practices on Federal lands. Some modification of forest management practices on the DeSoto National Forest in particular could be advantageous.

E. *Other natural or manmade factors affecting its continued existence.* The previously discussed threats are accentuated by the length of time required for gopher tortoises to reach sexual maturity and their low reproductive rate. Females take 13 to 21 years to reach sexual maturity (19 to 21 years as far north as southwestern Georgia), and lay an average of only 5.8 eggs per clutch (Landers and McRae, 1980; Landers *et al.*, 1982; Lohoefener and Lohmeier, 1984). There is some evidence to indicate that all females may not nest every year (Lohoefener and Lohmeier, 1984; Wright, 1982). Documented human predation and road mortality alone may already be at a level that would offset any annual recruitment to the population computed from these data. After subtracting all other mortality of juveniles and adults, such as that due to predators other than humans, or crushing of nests and juveniles during site preparation for tree planting, the likelihood of population decline is even greater. Declines of this nature seem to already be indicated in comparisons of recent status survey results. Auffenberg and Franz (1982) estimated a population density of 0.713 tortoises per hectare in Mississippi and 0.97 tortoises per hectare in Alabama in 1975, whereas Lohoefener and Lohmeier (1984) estimated a density of 0.107 and 0.32 per hectare in those states, respectively, in the early 1980's. Lohoefener and Lohmeier (1984) were also able to document only 11 active burrows in Louisiana in 1981, and only one remaining in 1984. Although these estimates may not be strictly comparable because of different methodologies, there is an indicated decline in population densities ranging from 67 percent in Alabama to 91 percent in Louisiana.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the western population of the gopher tortoise as threatened. Even though the previously discussed threats are currently impacting the gopher tortoise, it may be some time before the species is in danger of extinction. Therefore, it seems more appropriate to list the gopher tortoise as threatened, defined as likely to become in danger of extinction wihin the foreseeable future throughout all or a significant portion of its range. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent produent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," the gopher tortoise is threatened by taking. Publication of critical habitat descriptions would make this species even more vulnerable and increase enforcement problems. Therefore, it would not be prudent to determine critical habitat for the western population of the gopher tortoise at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402x and were recently revised at 51 FR 19926 (June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Activities by Federal agencies that modify habitat or change land use could affect the gopher tortoise. Such activities could include certain timber management practices of the Department of Agriculture and military training activities within the National Forest by the Department of Defense. Only relatively minor precautionary constraints should be needed to avoid such impacts.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations

governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue exonomic hardship that would be suffered if such relief were not available.

On July 1, 1975, the gopher tortoise was included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that export permits are required before international shipment may occur. Such shipment is strictly regulated by CITES member nations to prevent it from being detrimental to the survival of the species.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the gopher tortoise;

(2) The location of any additional populations of the gopher tortoise and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on the gopher tortoise.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to Endangered Species Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Mr. John J. Pulliam, III (see **ADDRESSES** section) at 601/960–4900 or FTS 490–4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "Reptiles," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Tortoise, gopher	*Gopherus polyphemus*	U.S.A. (AL, FL, GA, LA, MS, SC)	Wherever found west of Mobile and Tombigbee Rivers in AL, MS, and LA.	T		NA	NA

Dated: June 12, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-15351 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Alabama Red-bellied Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Alabama red-bellied turtle (*Pseudemys alabamensis*) as a threatened species. This herbivorous freshwater turtle is restricted to the lower part of the floodplain of the Mobile River drainage system in Baldwin and Mobile Counties, Alabama. There is only one known nesting area receiving repeated annual use, and turtles nesting at this location are threatened by high incidence of egg predation and human disturbance. These factors combined with an apparent small population size, low recruitment, and this turtle's restricted range indicate that without protection, the species could become endangered in the foreseeable future. This proposal, if made final, will implement the protection of the Endangered Species Act of 1973, as amended, for this turtle. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by September 8, 1986. Public hearing requests must be received by August 22, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Although recognized as distinct as early as 1856 (Agassiz 1857), the Alabama red-bellied turtle was not formally described until 1893 (Baur 1893), when the species was described from type-specimens from Mobile Bay in the Gustav Kohn collection (now in the National Museum of Natural History, Washington, D.C.). The taxonomic status of this turtle has been questioned (Carr 1938, 1952) and questions still remain regarding its relationships with other members of the *Pseudemys rubriventris* group, specifically the Florida red-bellied turtle (*Pseudemys nelsoni*). However, the Alabama red-bellied turtle is considered to be a valid species (Carr and Crenshaw 1957, Mount 1975, McCoy and Vogt 1979, Pritchard 1979, Ward 1984, and Dobie 1985a).

The Alabama red-bellied turtle is a large (20–25 centimeters or 8–10 inch carapace length), freshwater herbivorous turtle, normally with an orange to reddish plastron and a prominent notch at the tip of the upper jaw, bordered on either side by a toothlike cusp. The elongated carapace is highly arched and elevated along the mid-line; its highest point is often anterior to the midbody where the carapace is widest. The carapace is brown to olive, with yellow, orange or reddish streaks and mottling that form distinct, light vertical bars on the pleural scutes. The skin is olive to black with yellow to light orange stripes.

Characteristics most useful in distinguishing this species from other members of its genus in the Southeast include the number and configuration of stripes on the head (Ernst and Barbour 1972, Mount 1975, Dobie 1985a). The Alabama red-bellied turtle has more stripes than the Florida red-bellied turtle, and both the former and later have a prefrontal arrow which is normally absent in the river cooter (*Pseudemys concinna*) and the cooter (*Pseudemys floridana*). Arching of the shell, and the presence of a notch with prominent cusps also distinguish the Alabama red-bellied turtle from the river cooter and the cooter; cusps and shell arching are normally absent in the latter two species.

The Alabama red-bellied turtle inhabits the lower part of the floodplain of the Mobile River System in Baldwin and Mobile Counties, Alabama. It was once found as far north as the lake in Little River State Park (Mount 1975) in southern Monroe County and now occurs at least as far north as the Mobile River below David Lake in Mobile County. It appears to be most abundant from a point on the Tensaw River adjacent to Hurricane Landing south along the river system to Interstate Highway 10 (21 kilometers or 13 miles). Between Interstate Highway 10 and U.S. Highway 90 (1.3 kilometers or .8 miles) and north of Highway 90 in backwater areas of bays, water depth in many places is 1–2 meters (3.3–6.6 feet), and these areas have extensive beds of submerged and emergent aquatic vegetation. These broad, vegetated expanses of shallows appear to support a greater number of Alabama red-bellied turtles than any other area and they are considered to be the principal habitat of the species (McCoy and Vogt 1979, Dobie 1985a). Dobie (1985a) suggested that dense beds of aquatic vegetation provide turtles with substrate for basking (these turtles are heliothermic) and predator avoidance, in addition to food. This turtle is believed to repeatedly nest in only one area, although Dobie (1985a) suggested that the species may periodically nest along embankments of the causeway across Mobile Bay.

There has been some confusion over museum specimens catalogued as Alabama red-bellied turtles which were collected in Florida, Tennessee, Mississippi, Louisiana and east Texas. These specimens represented distributional records outside the range reported by McCoy and Vogt (1979) and Dobie (1985a). Dobie (1985a) examined to specimens collected in the panhandle of Florida. He identified the Wakulla

River specimen as river cooter and believed the other was a Florida red-bellied turtle. Dobie (1985a) suggested that records of Alabama red-bellied turtles obtained by Carr and Crenshaw (1957) from Tennessee, Louisiana, and east Texas may be river cooters, although he did not examine specimens from these locations. Records from the Mississippi Sound in Mississippi and Perdido Bay, Bon Secour Bay, and Dauphin Island, Alabama, are considered to be waifs (Dobie 1985a). Specimens of Alabama red-bellied turtles from the Tchoutacaboffa River in Mississippi and salt marshes of southeastern Louisiana (Viosca 1923) may represent an undescribed species (Dobie 1985a). Review of available information suggest that the Alabama red-bellied turtle is restricted entirely to small areas along the Lower Mobile drainage system.

Total population size and trend of this species are poorly known. McCoy and Vogt (1979) provided the only data on relative abundance for this turtle; they trapped 20 animals in 1008 hours of sampling (.02 turtles/hour). Dobie (1985a) questioned the utility of these data since trapping was more opportunistic than systematic. Dobie (1985b) showed a decline of young turtles in the population between 1970 and 1983. Of the 24 individuals collected from 1968 to 1970, 10 were juveniles and small adults, whereas only 1 out of 20 collected between 1971 and 1983 was a juvenile or small adult. Dobie (1985a) believed that decline in recruitment was caused mostly by disturbance and egg predation on the known nesting area. Dobie (1985b) observed 63 nests of the species on the nesting area between 1971 and 1983. Fourteen Alabama red-bellied turtle nests were found on the same nesting area in the summer of 1985 (B. Weisberger, Auburn University, personal communication). Clutch sizes observed in 1985 by Weisberger ranged from 4 to 9 eggs (average of 6, which is low when compared to other *Pseudemys*).

The only known nesting habitat, an island spoil bank bordered on one side by wooded swamp, is privately owned by four different parties. One parcel is 7 hectares (17 acres), and each of the other three is 0.4 hectares (1 acre). The owners of the largest parcel of the nesting island have been contacted and are very willing to cooperate with the Service to benefit the turtle.

The following is a brief history of actions which led up to this proposal. A symposium sponsored by the Alabama Department of Conservation and Natural Resources resulted in the publication of a list of endangered and threatened plants and animals in Alabama, which included the Alabama red-bellied turtle as a threatened species (Mount 1976). Based on this status, the Service included the Alabama red-bellied turtle in a notice of review, published in the **Federal Register** on June 6, 1977 (42 FR 28903). Subsequently, two surveys were funded to determine the status of the Alabama red-bellied turtle. The first of these, by C.J. McCoy and R.C. Vogt (1979), found that the species occurred from the confluence of the Mobile and Tensaw Rivers, south into Mobile Bay. They also added information on the location of this species' primary habitat. This study was cut short by Hurricane Frederick. The Service funded a second study (Dobie 1985a) to determine this species' range east and west of the Mobile River system. Twelve drainages and the lakes on St. Vincent Island were trapped (total trap hours—2087, total daylight trap hours—1022), and emphasis was placed on sampling the Pascagoula, Escambia, Choctawahatchee, and Apalachicola Rivers. Each of these four rivers is large and they have habitats similar to those on the lower parts of the Mobile River system. This intensive effort failed to locate individuals outside the Mobile River system, supporting the conclusion that this turtle is endemic to the Mobile River system. Dobie (1985a) also provided other information on aspects of the natural history of the turtle which he obtained from previous studies. In 1982, the International Union for Conservation of Nature recognized the status of the Alabama red-bellied turtle as either endangered, vulnerable, or rare (Dobie 1982); a final determination of this turtle's status was not made due to lack of information. In 1983, the Alabama red-bellied turtle was assigned the status of "Threatened and Declining" by a committee on reptiles and amphibians at the Alabama Non-game Conference (Mount 1984).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangeed or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Alabama red-bellied turtle (*Pseudemys alabamensis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Alabama red-bellied turtle is threatened primarily by human activities on this species' only known nesting site. Dobie (1985a) reported heavy use of the sand beach habitat by campers on summer holidays during times when turtles nested. Camp lights, people, and associated noise likely reduce nesting by the Alabama red-bellied turtle on the island during such high recreational use time periods. Three-wheeled vehicles were observed uncovering turtle nests, resulting in dehydration, predation, and breakage of eggs during the summer of 1985 (B. Weisberger, personal communication). These consistent disturbances to nesting habitat, and predation (see factor "C" in this section), have apparently reduced reproductive success and recruitment since 1970 (see Background).

The remainder of the turtle's habitat, the marshes and bays of the lower part of the Mobile River System, are not as disturbed as the nesting island. However, Dobie (1985a) observed what appeared to be areas with reduced amounts of aquatic vegetation south of Clover Leaf Landing. He suggested that these areas had been chemically treated. Mike Eubanks of the Mobile Office of the Corps of Engineers (personal communication) indicated that the Corps and State of Alabama had treated a limited amount of aquatic habitat with 2,4 D within the Lower Mobile Bay area. These treatments started in the 1950's and were limited to only a few small areas. The Corps discontinued its program in 1978, although the State of Alabama has continued small treatments since 1981. Chemical treatments were initiated primarily to control introduced aquatic vegetation such as water hyacinths. However, the Service believes that these treatments have not reduced the quality of Alabama red-bellied turtle habitat in the area. Rather, natural phenomena, such as movement of salt wedges up into bays during hurricanes, more likely account for reductions in aquatic vegetation along the Lower Mobile Bay area.

More information is needed to determine how turtles use certain microhabitats to perform ecological functions, such as nesting, feeding, wintering, and thermoregulation.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Dobie (1985a) reported that residents in the vicinity of the known nesting habitat of this turtle spent several days a year gathering and eating turtle eggs. This practice has apparently

declined in response to decreases in the number of nesting females and eggs.

Some Alabama red-bellied turtles have been trapped and sold as pets and food (Dobie 1985a). Headlights and dip nets have been used to collect turtles in weed beds during warm months, especially for obtaining turtles for the pet trade (Dobie 1985a). Pet dealers have advertised this species for up to twenty-five dollars per turtle (Dobie 1985a). Trawling has been used to obtain winter aestivating turtles for sale as food (Dobie 1985a). In addition, Alabama red-bellied turtles are incidentally harvested by commercial fishermen and shrimpers in gill, hoop, and trammel nets, and crab traps (McCoy and Vogt 1979). When combined with predation and physical disturbance to the nesting area, taking of this species increases the overall precarious nature of this turtle's future.

C. *Disease or predation.* There is no known threat from disease. The alligator is probably a frequent predator of hatchling and juvenile red-bellied turtles as evidenced by the high frequency of tooth scars found on the shells of young turtles (Dobie 1985a).

Domestic pigs were released on the nesting island during the late 1960's. These pigs follow turtles from the water to nest sites where they eat eggs during and subsequent to laying (Dobie 1985a). Domestic pigs are still on the island, although their predation on turtle eggs has not been reported in recent years.

Fish crow (*Corvus ossifragus*) predation appears to be one of the main factors limiting nest success of Alabama red-bellied turtles on the only known nesting site (Dobie 1985a). For nine red-bellied turtle nests (containing 3–6 eggs each) found between May 27 and July 15, 1978, 100 percent of the eggs were destroyed by crows (Meany 1979). Similar rates of predation were noted during the summer of 1985 (B. Weisberger, personal communication). Fish crows also prey upon black-knobbed sawback turtle (*Graptemys nigrinoda*) nests on this island; 95 percent of the nests were destroyed by crows during a study by Lahanas (1982). Heavy predation on Alabama red-bellied turtles is facilitated by concentration of nests on the sand spoil banks of the island; these natural dry sand beaches are relatively rare within the vicinity of the island. Fire ants may also prey upon turtle eggs, as they have been found in the nest chambers of the Alabama red-bellied turtle (See Mount 1981, and Mount *et al.* 1981, for possible significance of predation of fire ants on eggs).

D. *The inadequacy of existing regulatory mechanisms.* This species currently receives no statutory protection within the State of Alabama.

E. *Other natural or manmade factors affecting its continued existence.* Hurricanes may periodically reduce aquatic vegetation by forcing salt water wedges up into bays (see discussion in factor "A" of this section). Historically, these losses of aquatic vegetation probably had no permanent impact on the species; turtle numbers were reduced in years immediately following hurricanes, but increased as aquatic vegetation became reestablished. However, a reduction in recruitment of young turtles since 1970, primarily due to predation (see factor "A" of this section), may decrease the ability of the Alabama red-bellied turtle to handle catastrophic events such as hurricanes.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Alabama red-bellied turtle as a threatened species. Threatened status is proposed due to the species' restricted range, apparent scarcity, low population recruitment, and lack of statutory protection. Endangered status is not appropriate because the species is not faced with imminent extinction at this time. Critical habitat is not being proposed for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Alabama red-bellied turtle at this time. As discussed under factor "B" in "Summary of Factors Affecting the Species," collecting threatens this turtle's continued survival. The publication of critical habitat maps and other publicity accompanying critical habitat designation could increase collecting pressure and enforcement problems. Only one nesting site is known for this species, and identification of this area, which is privately owned, could increase the taking of nesting individuals, hatchings, or eggs.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and were recently revised at 51 FR 19926 (June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency may enter into formal consultation with the Service. If this species is listed as threatened, Federal involvement is expected to include the U.S. Army Corps of Engineers' permit activities (e.g., Clean Water Act, Section 404 permits). Coordination with the Corps of Engineers may be necessary to develop a vegetation control program that will enhance habitat of the Alabama red-bellied turtle in the Mobile River Basin. No major conflicts with Federal projects are foreseen at this time.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to

possess, sell, delivery, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to Endangered Species Field Supervisor (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Fred M. Bagley of the Service's Jackson Endangered Species Field Station (see Address section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Part 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "Reptiles," to the List of Endangered and Threatened Widlife:

§ 17.11 Endangered and threatened wildlife.

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Turtle, Alabama, red-bellied	*Pseudemys alabamensis*	U.S.A. (AL)	Entire	T		NA	NA

Dated: June 12, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-15353 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 130
Tuesday, July 8, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Monday and Tuesday, July 21–22, 1986. The meeting will be held on July 21 in the Secretary's Conference Room, Department of the Interior, 18th and C Streets, NW, Washington, DC and on July 22 in Room M07 at the Old Post Office, 1100 Pennsylvania Ave., NW, Washington, DC.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

I. Consideration of section 106 Regulations
II. Report of the Executive Director
III. Report of the 1986 Annual Report Task Force
IV. President's Historic Preservation Awards
V. International Activities
VI. New Business
VII. Adjourn

DATE: The meeting will begin at 9:30 a.m., Monday, July 21, 1986.

Note.—The meetings of the Council are open to the public. To facilitate entrance into the Department of the Interior it is recommended that those wishing to attend the meeting call the offices of the Advisory Council on Historic Preservation (202/786–0503) in advance.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Acting Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, Suite 806, Washington, D.C. 20004.

Dated: July 1, 1986.

John M. Fowler,

Acting Executive Director.

[FR Doc. 86–15277 Filed 7–7–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1986-Crop Honey Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Final Determinations.

SUMMARY: This notice sets forth the final determinations with respect to the loan rates and the principal features of the new loan repayment procedures of the price support loan program for the 1986 corp of honey. These determinations are made pursuant to section 201 of the Agricultural Act of 1949 (the "1949 Act"), as amended by section 1041 of the Food Security Act of 1985 (the "1985 Act").

EFFECTIVE DATE: April 1, 1986.

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

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3741 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447–6758. The Final Regulatory Impact Analysis describing the actions taken in this notice of determinations and their impact is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of final determinations has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not-major." It has been determined that these 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, States, or local Government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which these determinations apply are: Title: Commodity Loans and Purchases; Number: 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of final determinations since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is required.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 201(b) of the 1949 Act provides that the Secretary of Agriculture shall make available through loans, purchases, or other operations, price support to producers of 1986-crop honey at 64 cents per pound.

Section 403 of the 1949 Act authorizes appropriate adjustments to be made in

the support price for any commodity for differences in grade, type, staple, quality, location and other factors.

Section 201(b) of the 1949 Act also provides that the Secretary may permit producers who have obtained price support loans with respect to the 1986–1990 crops of honey to repay such loans at a level that is the lesser of:

(a) The loan level determined for such crop; or

(b) Such level that the Secretary determines will:

(1) Minimize the number of loan forfeitures;

(2) Not result in excessive total stocks of honey;

(3) Reduce the costs incurred by the Federal Government in storing honey; and

(4) Maintain the competitiveness of honey in domestic and export markets.

A Notice of Proposed Determinations for implementing provisions of section 201(b) of the 1949 Act was published in the **Federal Register** on March 6, 1986, at 51 FR 7839. That Notice provided that comments received on or before March 24, 1986, would be assured of consideration.

The proposed determinations were as follows:

1. The 1986 program would be a price support loan program with a loan rate of 64 cents per pound as required by statute.

2. The 1986-crop honey loan rate would be adjusted to reflect floral source, color, class and grade, and other market differentials under which honey is marketed.

3. Producers with price support loans for the 1986-crop honey would be permitted to repay such loans at the lesser of the loan level for such crop or at a level which the Secretary determines will minimize the number of loan forfeitures, not result in excessive total stocks of honey, reduce the costs incurred by the Federal Government in storing honey, and maintain the competitiveness of honey in domestic and export markets.

This notice of final determinations affirms the Secretary of Agriculture's determinations which were announced on April 1, 1986 as follows:

1. The average price support loan rate for the 1986 honey production will be 64.0 cents per pound.

2. The honey loan rates for extracted honey in 60-pound or larger containers based on color and/or class are as follows: white or lighter, 67.1 cents per pound; extra light amber, 63.1 cents per pound; light amber, 58.2 cents per pound; and other table and non-table honey, 52.2 cents per pound.

3. Producers with honey price support loans will be permitted to repay their loans at the price support level or a lesser level as determined by the Secretary.

Response to Public Comments

In making these final determinations, all comments concerning the proposed determinations, as well as some comments received prior to the publication of the notice of proposed determinations, were considered. The Department received comments from 29 commentors including 12 producers, 5 associations, 2 cooperatives, 3 producer/packers, 6 packers, and 1 queen and package bee producer. A number of suggestions made by the commentors have been adopted. All comments received are on file and available for public inspection in Room 3627-South Building, 14th & Independence Avenue, SW., Washington, DC.

No comments were received with respect to the loan rate or the adjustments to the loan rate to reflect floral source, color, class and grade, and other market differentials under which honey is marketed. The loan rate of 64 cents per pound is established by the 1949 Act and the differentials are based on historical differentials for such factors.

Commentors favored the new loan repayment option and generally recommended (including all 5 associations, both cooperatives, 2 packers, 6 producers, and 2 producer/packers) that all market factors (which included import prices and domestic sales) be used to establish the loan repayment level. This suggestion has been adopted. The loan repayment level to be determined and announced by the Secretary of Agriculture or a designee will be at a level that will provide an incentive for producers to repay their loans. The level will be primarily based on the market prices of honey. Market data from commercial honey business entities (honey importers/exporters, packers, producers and producer/packers) will be utilized in determining the market prices. Price and quantity data, by color and class, will be collected from a selected subset of these business entities to determine representative market prices for the various color classes of honey. Available data from the U.S. Custom Service will be used to assess import data collected and used in the determination of the representative market prices. The Agricultural Marketing Services' *National Honey Market News*, which is currently published monthly, will also be used to assess the market data used by CCC. The loan repayment levels will be determined on the basis of the representative market prices adjusted by such amount as to provide sufficient incentives (margins) to encourage producers to redeem their honey which is pledged as collateral for price support loans and thereby forego forfeiture of their loan collateral to the CCC in settlement of their loan(s).

With respect to the repayment level, the Notice of Proposed Determinations stated that:

> At this present time, it is contemplated that a repayment level may be established in a range of 20 to 40 cents a pound, which roughly reflects the wide range of potential landed import prices for honey. A repayment level in this range would result in direct competition with imported honey whereby commercial sales of domestically produced honey would increase and total stocks of domestically produced honey would decrease. This increased competition would minimize the number of loan forfeitures and thus reduce the costs incurred by the Federal Government in storing honey. Repayment within this range would not only make domestically produced honey more competitive with foreign honey in domestic markets but would increase its competitiveness in foreign markets as well.

Subsequent to that Notice, market prices have strengthened and it is likely that the repayment level will come close to or exceed the upper end of the range which was contemplated earlier.

The repayment levels will be determined and announced by the Secretary or a designee on a weekly basis. It is expected that changes in the market conditions may warrant adjustments in the repayment levels on a weekly basis to provide sufficient incentives for producers to redeem their loans.

Ten commentors suggested using the same color differentials used for establishing the loan rates in determining the new loan repayment levels. This suggestion has not been adopted because the differential in the market prices for different color honey at the time of redemption by the producer may be substantially different from the color differentials used in determining the loan rates.

Four commentors recommended that interest charges be forgiven when loans are repaid at the loan repayment levels. This suggestion has been adopted because it will provide an additional incentive for producers to redeem their loan collateral.

Nine commentors recommended that the honey redeemed at the loan repayment level not be permitted to be repledged for additional price support

loans. They recommend that provisions be adopted to ensure that such redeemed honey not be repledged for new loans by requiring the producers to have evidence that the honey was disposed of, such as sales receipts to verify the sale of honey. This suggestion has been adopted.

Five commentors suggested changes in the current loan availability and/or maturity dates. Four commentors suggested extending the loan availability and/or the maturity dates beyond the current January 31 and April 30 dates, respectively. One commentor suggested that the loan period be established at nine months.

These suggestions will be addressed in the regulations to be issued covering the 1986–1990 honey price support program which will contain details regarding procedural changes needed for the implementation of the program.

One commentor (an association) suggested that a 30-day waiting period be adopted before USDA processes a loan repayment request from producers. This suggestion for a specific waiting period has not been adopted because it is not expected that any significant additional time will be necessary to process a request by a producer for redemption of loan collateral at the new loan repayment level. Of course, when the producer pledges honey as loan collateral, there is the customary waiting period before the loan is approved to allow CCC to analyze the honey for moisture content, and in some cases adulteration.

Final Determinations

The 1986-crop honey price support program will be a price support loan program with a loan rate of 64 cents per pound.

The 1986-crop honey loan rate has been adjusted as follows to reflect floral source, color, class and grade, and other market differentials under which honey is marketed. White or lighter honey will be supported at 67.1 cents per pound; extra light amber, 63.1 cents per pound; light amber 58.2 cents per pound; and other table and non-table honey at 52.2 cents per pound.

Producers with price support loans for the 1986-crop honey will be permitted to repay such loans at the lesser of the loan level for such crop or at a level which the Secretary of Agriculture, or a designee, shall determine. The repayment level shall be a level which will minimize the number of loan forfeitures, not result in excessive total stocks of honey, reduce the costs incurred by the Federal Government in storing honey, and maintain the competitiveness of honey in domestic and export markets.

The Secretary, or a designee, shall publicly announce the repayment levels for each color and class of honey on a weekly basis.

Interest shall not be assessed on price support loans which are repaid at the lower repayment level announced by the Secretary or a designee.

Honey pledged as collateral for a price support loan which is redeemed at the lower repayment level shall not be eligible to be pledged as collateral for a new price support loan.

Signed at Washington, DC, on July 2, 1986.

Milton J. Hertz

Acting Executive Vice President Commodity Credit Corporation.

[FR Doc. 86–15289 Filed 7–7–86; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

Housing Demonstration Program; Acceptance of Proposals

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of housing demonstration program; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a notice published May 28, 1986, (51 FR 19240). In the list of State Directors and their addresses, the addresses of several State Offices were incorrect. The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: Mathias J. Felber, Branch Chief, Special Programs Branch, Single Family Housing Processing Division, Room 5343–S, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone 202–382–1543.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 86–11852 appearing on pages 19240 and 19241 in the issue of May 28, 1986.

1. Alaska—"Post Office Box 1289, Palmer, Alaska 99720" is corrected to read "Post Office Box 1289, Palmer Business Plaza, Palmer, Alaska 99645.

2. Arizona—"Room 3433, Federal Building, 230 North First Avenue, Phoenix, Arizona 85025" is corrected to read "201 E. Indianola, Suite 275, Phoenix, Arizona 85012."

3. Arkansas—The zip code "72201" is corrected to read "72203."

4. Florida—"Room 212, Federal Building, 401 S.E. First Street, Gainesville, Florida 32602" is corrected to read "Room 214, Federal Building, 401 S.E. First Avenue, Gainesville, Florida 32601."

5. Georgia—The zip code "30601" is corrected to read "30610."

6. Hawaii—"Waianuenue Avenue" is corrected to read "154 Waianuenue Avenue."

7. Idaho—"Room 429, Federal Building" is corrected to read "Room 429, Federal Building, 304 N. Eighth Street."

8. Illinois—The zip code "61820" is corrected to read "61821."

9. Louisiana—The zip code "71301" is corrected to read "71302."

10. Minnesota—"252 Federal Office Building and U.S. Courthouse" is corrected to read "252 Federal Office Building, 316 N. Robert Street."

11. Mississippi—"Room 528, Milner Building, Jackson, Mississippi 39201" is corrected to read "Suite 831, Federal Building, Jackson, Mississippi 39269."

12. New York—The zip code "13202" is corrected to read "13260."

13. North Carolina—"Room 514" is corrected to read "Room 525."

14. North Dakota—"Bismark, North Dakota 58501" is corrected to read "Bismarck, North Dakota 58502."

15. Oregon—"1220 S.W. 3rd Street" is corrected to read "1220 S.W. 3rd Avenue."

16. South Carolina—"240 Stonebridge Road, Columbia, South Carolina 29221" is corrected to read "Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, South Carolina 29201."

17. South Dakota—"Room 208" is corrected to read "Room 308."

18. Tennessee—The zip code "57350" is corrected to read "37203."

19. Texas—"W.R. Poage Building" is corrected to read "Suite 102, Federal Building."

20. Utah/Nevada—"Room 5311" is corrected to read "Room 8217."

21. Virginia—"Room 8213" is corrected to read "Room 8217."

22. Wyoming, "Room 3213, Federal Building 100 East B. Street, Casper, Wyoming 82601" is corrected to read "Room 1005, Federal Building, Casper, Wyoming 82602."

Dated: July 1, 1986.

Dwight O. Calhoun,

Acting Administrator, Farmers Home Administration.

[FR Doc. 86–15315 Filed 7–7–86; 8:45 am]

BILLING CODE 3410–07–M

Forest Service

Intent To Prepare an Environmental Impact Statement; Cowee-Davies Timber Sale Project, Tongass National Forest, AK

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, as amended (NEPA), USDA, Forest Service, will prepare an environmental impact statement for a timber sale and associated road and terminal transfer facility project for the Echo Cove Management Area (CO_3) of the Tongass National Forest.

The Echo Cove Management Area is situated on the mainland approximately 40 miles north of Juneau, Alaska. The proposed activity is to sell approximately 35 MMBF of timber for initial entry timber harvest and construct roads and a terminal transportation facility associated with the harvest and other multiple uses of the management area. Public involvement will include providing participation from those federal, state, and local agencies, organizations and individuals interested in the scoping process, which includes;

1. Identification of those issues to be addressed;
2. Identification of issues to be analyzed in depth;
3. Elimination of insignificant issues or those covered by previous environmental reviews;
4. Determination of potential cooperating agencies and assignment of responsibilities;
5. Identification of other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement, as provided in 40 CFR 1502.25.

Notice of initiation of the scoping process will also be sent to local news media.

The Forest Service will devleop a range of alternatives that will address the various issues, concerns and opportunities established in the scoping process. One of the alternatives considered will be a no-action alternative which would defer further commercial timber harvest and further road construction in the management area until at least after the scheduled revision of the Tongass National Forest Land Management Plan. Other possible alternatives may vary the location of cutting units and roads and terminal transfer facilities, and areas and volume to be scheduled for harvest.

The analysis is expected to take between one to two years, given current budget and staffing. It is currently anticipated that the draft and final environmental impact statements should be filed and available for public review in 1987.

The responsible official is K.W. Roberts, Forest Supervisor, Chatham Area, Tongass National Forest. Comments on this notice of intent or the proposed activity should be sent to Michael C. Johnson at 204 Siginaka Way, Sitka, Alaska 99835 (907) 747–6671, by October 1, 1986.

Dated: June 26, 1986.

K.W. Roberts,

Forest Supervisor.

[FR Doc. 86–15253 Filed 7–7–86; 8:45 am]

BILLING CODE 3410–11–M

Cowee-Davies (Echo Cove) Management Area Plan and Timber Sale Project Tongass National Forest Sitka, AK; Withdrawal of Decision Notices and Findings of No Significant Impact

In February 1982, the Forest Supervisor, Chatham Area, Tongass National Forest, made available to the public on environmental assessment (EA) regarding a proposal to harvest timber in the Echo Cover (CO3) Management Area of the Tongass National Forest, and associated road and log transfer facility development. This Management Area has been referred to as the Cowee-Davies Management Area in some Forest Service environmental analyses, to avoid confusion with private lands surrounding Echo Cove. On July 19, 1983, the Forest Supervisor issued a Decision Notice and Finding of No Significant Impact (FONSI), which adopted as a selected alternative a timber sale project that included approximately 25 miles of road construction and initial harvest entry sale of 26 million board feet (MMBF) of timber in small cutting units dispersed among the Cowee, Davies, Canyon, and Sawmill Creek drainages in the management area. The project also included construction of a log transfer facility to the north of Sawmill Cove, on the southeast shore of Berners Bay. The project would provide access to approximately 115 MMBF of additional operable commercial timber over a rotation period of 100 years of more.

Management Area CO3 received a LUD III designation in the Tongass Land Management Plan completed in March 1979 (TLMP). Draft and final Environmental Impact Statements (EIS) were prepared for TLMP. Commercial timber harvest and road construction are authorized by TLMP in such LUD III areas. Available commercial forest land in such areas was included in TLMP to calculate the allowable sale quanity for the commercial timber sale program on the Tongass National Forest. The Cowee-Davies Management Area Plan Decision Notice and Finding of No Significant Impact, issued April 24, 1981 by the Forest Supervisor, Chatham Area, adopted a timber sale of 35MMBF, a barge log transfer facility in the vicinity of Sawmill Cover, and associated road construction as the selected alternative for initial entry timber harvest in the management area. An EA was prepared for the Management Area Plan. The timber sale project decision notice, FONSI, and EA were tiered to TLMP and the TLMP EIS and to the Management Area Plan Decision Notice, FONSI, and EA.

On June 17, 1985, the Forest Service opened bids for a contract to construct the roads associated with the timber sale project. However, on the same day, opponents of the project filed a lawsuit seeking to enjoin roading and logging activities in Management Area CO3, based upon alleged violations of the National Environmental Policy Act (NEPA) and other laws. Sierra Club et al v. Blackwell et al, No. J85–015 Civ. (D. Alaska). On August 26, 1985, the federal district court issued a preliminary injunction against award of the road building contract and otherwise beginning road construction or logging operations in the area until further order of the court, based upon a tentative finding that the Plaintiffs were likely to succeed in showing that an environmental impact statement (EIS) would be required for the project. The Forest Service determined to reject all bids for the road contract and wait for further resolution of the litigation before determining whether to readvertise the contract. The litigation currently remains pending.

I have determined at this time that the resolution of this dispute will be expedited by preparation of an EIS that addresses the environmental impacts of the proposed project and alternatives to it, including a no action alternative. Particular issues, concerns, and opportunities to be addressed will be established during the scoping process to be conducted according to 40 C.F.R. 1501.7. The concerns which opponents of this project have raised in the litigation will be considered in this process.

I hereby withdraw the July 19, 1983 decision notice, and FONSI and

supporting EA for the Cowee-Davies timber sale project and the April 24, 1981 Cowee-Davies Management Area Plan Decision Notice, FONSI, and supporting EA. No commercial timber harvest or road construction shall occur in Management Area CO3 until additional environmental analysis and new decisions regarding any such action are completed and issued. Before reaching a new decision concerning the previously proposed Cowee-Davies Timber sale project and associated road contract and log transfer facility, or alternatives to these actions, an environmental impact statement concerning the project and alternatives to it will be prepared, in accordance with the Notice of Intent attached hereto.

This decision is subject to administrative appeal pursuant to 36 CFR 211.18. A written Notice of Appeal and Statement of Reasons must be filed with the deciding official within 45 days of the date of decision listed below.

Dated: June 26, 1986.

K.W. Roberts,

Forest Supervisor.

[FR Doc. 86-15252 Filed 7-7-86; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

Presidential Board of Advisors on Private Sector Initiatives; Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison.

SUMMARY: The Family, Neighborhood and Workplace Committee of the Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on July 18, 1986. The Presidential Board of Advisors was established on August 8, 1985 to advise the President and Secretary of Commerce, through The White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies. This includes methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; strengthening the professional resources of the private social service sector; and studying options for promoting the long-term development of private sector initiatives in the United States.

DATE, TIME AND PLACE: Friday, July 18, 1986, 10:00 a.m., at the National Center for Neighborhood Enterprise, 1367 Connecticut Avenue, NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Counsel, U.S. Department of Commerce, (202/377-4772) or the Alternate Control Officer, Nancy J. Olson, Director, Office of Business Liaison, U.S. Department of Commerce, (202/377-3942), Main Commerce Building, Washington, D.C. 20230.

Dated: June 30, 1986.

Nancy J. Olson,

Director, Office of Business Liaison.

[FR Doc. 86-15129 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-BW-M

International Trade Administration

[Docket No. 60612-6112]

Foreign Availability Assessments; Automatic Saving Equipment

AGENCY: Office of Foreign Availability Export Administration, Commerce.

ACTION: Notice of finding of availability assessments.

SUMMARY: The Office of Foreign Availability (OFA) of Export Administration is required by section 5(f) and (n) of the Export Administration Act of 1979, as amended (EAA), to initiate and review claims of foreign availability on items controlled for national security purposes.

OFA has completed an assessment on automatic sawing equipment specially designed for the processing of semiconductor wafers (controlled under ECCN 1355A of the Commodity Control List) and, based on such assessment, the Department of Commerce has found foreign availability for this commodity.

FOR FURTHER INFORMATION CONTACT: John Pastore, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-3564.

SUPPLEMENTARY INFORMATION:

Background

The Office of Foreign Availability has completed an assessment on the foreign availability of the following item:

Automatic Sawing Equipment, specifically designed for the processing of semiconductor wafers.

Such systems are a category of semiconductor manufacturing equipment controlled for national security purposes under ECCN 1355A of the Commodity Control List.

The purpose of the assessment was to determine whether national security export controls should be continued. The Office of Foreign Availability has completed an assessment of the availability from foreign sources of the above-mentioned equipment and has recommended a finding of foreign availability as defined by law. Based on such assessment, the Assistant Secretary for Trade Administration has determined that there exists foreign availability for such equipment within the meaning of section 5(f) of the EAA.

Based on this determination of foreign availability, Export Administration will publish regulations removing the controls on these saws, *i.e.*, the need for an individual validated license to destinations other than controlled countries, and will begin the process whereby the United States Government will work with COCOM member governments to reach agreement on an orderly removal of the multilateral controls on such saws to controlled countries.

If OFA receives substantive new evidence affecting this foreign availability determination, the assessment will be re-evaluated. Inquiries concerning the scope of this assessment may be directed to the Office of Foreign Availability.

Dated: July 2, 1986.

James K. Pont,

Acting Director, Office of Foreign Availability.

[FR Doc. 86-15342 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Issuance of Marine Mammals Permit to Dr. James R. Gilbert

On April 24, 1986, notice was published in the **Federal Register** (51 FR 15525) that an application had been filed by Dr. James R. Gilbert, Associate Professor of Wildlife Resources, University of Maine, 216 Nutting Hall, Orono, Maine 04469, to conduct scientific research on harbor seals (*Phoca vitulina concolor*).

Notice is hereby given that on July 1, 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; and Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: July 1, 1986.

J.W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-15303 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Marine Mammals; Permit to Dr. James H.W. Hain

On March 5, 1986, notice was published in the **Federal Register** (51 FR 7606) that an application had been filed by Dr. James H.W. Hain, Associated Scientist at Wood's Hole, Box 721, Wood Hole, Massachusetts, 02543, for a scientific research permit to conduct surveys on an unspecified number of cetaceans and pinnipeds.

Notice if hereby given that on July 1, 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, P.O. Box 1668, Juneau, Alaska 99802;

Director, Northeast Region, National Marine Fisheries Service, 7600 Sand Point Way, NW., BIN C15700, Seattle, Washington, 98115;

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.

Dated: July 1, 1986.

J.W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-15301 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Marine Mammals Permit to Brendan P. Kelly (P101A)

On February 26, 1986, notice was published in the **Federal Register** (51 FR 6577) that an application had been filed by Mr. Brendan P. Kelly, Research Associate, Institute of Marine Science, University of Alaska, Fairbanks, Alaska 99775-1080, for a Permit to take ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*) and harbor seals (*Phoca vitulina*) for scientific research.

Notice is hereby given that on June 27, 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; and Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: July 2, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 86-15304 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-22-M

Application for Marine Mammals; Permit by Dr. Sidney Lees (P382)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name Dr. Sidney Lees, Head Bioengineering Department, Forsyth Dental Center.

b. Address 140 Fenway, Boston, Massachusetts 02115.

2. Type of Permit: Scientific purposes.

3. Name and Number of Marine Mammals: Fin whale (*Balaenoptera physalis*) 3.

4. Activity: Importation from Iceland, of otic bones and associated tissues from 3 fin whales taken during the summer.

5. Period of Activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester Massachusetts 01930.

Dated: June 25, 1986.

Samuel W. McKeen,

Chief, Management and Budget Staff, National Marine Fisheries Service.

[FR Doc. 86-15302 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-22-M

Modification of General Permits to Take Marine Mammals

On January 16, 1984, Notice was published in the **Federal Register** (49 FR 1924) that general permits to take marine mammals incidental to commercial

fishing operations in Categories 1, 3, 4 and 5 were issued to the North Pacific Fishing Vessel Owner's Association, Seattle, Washington. The general permits in Categories 1, 3 and 5 issued to the North Pacific Fishing Vessel Owner's Association are hereby modified as follows:

General Permit Category 1: Towed or Dragged Gear

Section 2.b is deleted and replaced by:

"2.b. Not more than 1,000 northern sea lions (*Eumetopias jubatus*), 10 northern fur seals (*Callorhinus ursinus*), and 10 harbor seals (*Phoca vitulina*) may be killed or seriously injured annually.

"2.c. Not more than 10 small cetaceans may be accidentally killed or accidentally seriously injured annually. The use of firearms for taking small cetaceans is prohibited; except as specified in 2.d. below.

"2.d. Cetaceans may be harassed under this spent only by the non-injurious use of the authorized devices described below which are to be exploded no less than 5 meters from any marine mammals.

"Authorized devices are:

"(1) California Seal Control Device (seal bombs) or other equivalent device with no greater explosive power as described in 49 CFR 173.100(ii) and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effects;

"(2) Cracker shells (O.C. Ag Supply Co., Anaheim, CA) fired from 12 gauge shotgun or flare pistol or its equivalent with no greater explosive power and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effect; and

"(3) Acoustic harassment devices of 12 kHz to 17 kHz that produce sound levels no greater than 190 dB reference 1 micropascal."

General Permit Category 3: Encircling Gear; Purse Seining Not Involving the Intentional Taking of Marine Mammals

Section 2.b is deleted and replaced by:

"2.b. Not more than 300 northern sea lions (*Eumetopias jubatus*), 5 northern fur seals (*Callorhinus ursinus*), and 200 harbor seals (*Phoca vitulina*) may be killed or seriously injured annually."

"2.c. Not more than 10 small cetaceans may be accidentally killed or accidentally seriously injured annually. The use of firearms for taking small cetaceans is prohibited; except as specified in 2.d. below.

"2.d. Cetaceans may be harassed under this permit only by the non-injurious use of the authorized devices described below which are to be exploded no less than 5 meters from any marine mammals.

"Authorized devices are:

"(1) California Seal Control Device (seal bombs) or other equivalent device with no greater explosive power as described in 49 CFR 173.100(ii) and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effects;

"(2) Cracker shells (O.C. Ag Supply Co., Anaheim, CA) fired from 12 gauge shotgun or flare pistol or its equivalent with no greater explosive power and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effect; and

"(3) Acoustic harassment devices of 12 kHz to 17 kHz that produce sound levels no greater than 190 dB reference 1 micropascal."

General Permit Category 5: Other Gear

Section 2.b is deleted and replaced by:

"2.b. Not more than 750 northern sea lions (*Eumetopias jubatus*), 10 northern fur seals (*Callorhinus ursinus*), and 1200 harbor seals (*Phoca vitulina*) may be killed or seriously injured annually.

"2.c. Not more than 100 small cetaceans may be accidentally killed or accidentally seriously injured annually, or injured annually, except that the killing or injuring of the harbor porpoise (*Phocoena phocoena*) is prohibited under this permit. The use of firearms for taking small cetaceans is prohibited; except as specified in 2.d. below.

"2.d. Cetaceans may be harassed under this permit only by the non-injurious use of the authorized devices described below which are to be exploded no less than 5 meters from any marine mammals.

"Authorized devices are:

"(1) California Seal Control Device (seal bombs) or other equivalent device with no greater explosive power as described in 49 CFR 173.1000(ii) and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effects;

"(2) Cracker shells (O.C. Ag Supply Co., Anaheim, CA) fired from 12 gauge shotgun or flare pistol or its equivalent with no greater explosive power and used singly with a time interval of no less than 30 seconds to avoid intensification of sound or pressure effect; and

"(3) Acoustic harassment devices of 12 kHz to 17 kHz that produce sound levels no greater than 190 dB reference 1 micropascal."

Dated: July 1, 1986.

William G. Gordon,

Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 86-15300 Filed 7-7-86; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar and Cocoa Exchange Proposed Amendments Relating to the Coffee "C" Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Coffee, Sugar and Cocoa Exchange ("CSCE" or "Exchange") has submitted a proposal to amend Appendix V, Schedule C-2, of its coffee "C" futures contract. The proposal would change the differentials applicable to certain non-par growths of coffee deliverable on the coffee "C" contract. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

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

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to Appendix V, Schedule C-2, of the coffee "C" futures contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-7227.

Text of Amendments

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis, on behalf of the Commission, has determined that the proposal submitted by the Coffee, Sugar and Cocoa Exchange relating to its coffee "C" futures contract is of major economic

significance. Accordingly, the proposed amendments are printed below with brackets indicating deletions and italics indicating additions.

* * * * *

Appendix V

* * * * *

Schedule C-2

Difference in Value Between Grades and Growths

Mexico, Salvador, Guatemala, Costa Rica, Kenya, Nicaragua, New Guinea, Tanzania, Uganda.	Basis.
Colombia	Plus 200 pts.
Honduras	Minus 100 pts.
Venezuela	Minus [200] *100* pts.
Burundi, India, Rwanda	Minus [200] *300* pts.
Peru	Minus [200] *400* pts.
Dominican Republic, Ecuador.	Minus [300] *400* pts.
Ethiopia	Minus [400] *600* pts.

* * * * * *

Additional Information

The CSCE has indicated that it intends to make the proposed amendments effective two days following receipt of written notice of Commission approval with respect to the first delivery month following the last delivery month in which there is an open position at the time the amendments become effective.

In support of the proposed amendments, the Exchange states that the proposed differentials applicable to certain non-par growths of deliverable coffee conform to the cash market differentials for those growths.

Other materials submitted by the CSCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 522) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581 by August 7, 1986.

Issued in Washington, D.C. on July 1, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-15248 Filed 7-7-86; 8:45 am]

BILLING CODE 6351-01-M

Advisory Committee on CFTC-State Cooperation; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, Section 10(a), that the Commodity Futures Trading Commission's Advisory Committee on CFTC-State Cooperation will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, DC, headquarters located at Room 532, 2033 K Street, NW., Washington, DC 20581, July 24, 1986, beginning at 9:45 a.m. and lasting until 4:00 p.m. The agenda will consist of:

Agenda

1. Opening Remarks—Susan M. Phillips, Chairman, CFTC; Fowler C. West, Commissioner, CFTC and Chairman, Advisory Committee on CFTC-State Cooperation;

2. Discussion of problem of commodity-related fraud operations and cooperative enforcement efforts in this area;

3. Discussion of informal procedures to facilitate continued effective coordination between the Commission and other law enforcement authorities responsible for law enforcement in the commodities area;

4. Presentation regarding certain commodity retail operations that may pose law enforcement concerns;

5. Discussion of the CFTC's 1986 Reauthorization legislation;

6. Status report and discussion regarding the adoption of the North American Securities Administrators' Association Model State Commodity Code by Washington and other states;

7. Discussion of the "know your customer" rule recently adopted by the National Futures Association;

8. Discussion of the activities of the Investment Fraud Task Force, Office of the United States Attorney for the Central District of California;

9. Discussion of the proposed Commission rule concerning foreign futures and options; and

10. Discussion of other questions of concern to Committee members.

The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on matters of joint concern to the States and the Commission arising under the Commodity Exchange Act, as amended. The purposes and objective of the Advisory Committee are more fully set forth in the April 11, 1986 Fifth Renewal Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissoner Fowler C. West, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Advisory Committee on CFTC-State Cooperation c/o Commissioner Fowler C. West, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commissioner West in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on July 2, 1986.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-15291 Filed 7-7-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 133. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 133 is being published in the **Federal Register** to assure that

travelers are paid per diem at the most current rates.

EFFECTIVE DATE: 1 July 1986.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 133

To the heads of the Executive Departments and establishments.

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government Civilian Officers and Employees for official travel in Alaska, Hawaii, The Commonwealth of Puerto Rico and Possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 132 except for the cases identified by asterisks which rates are effective on the date of this Bulletin except where otherwise noted.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$19
Anaktuvuk Pass	140
Anchorage	122
Atqasuk	215
Barrow	144
Bethel	124
Cold Bay	120
Coldfoot	122
College	105
Cordova	113
Deadhorse	113
Dillingham	114
Dutch Harbor-Unalaska	105
Eielson AFB	105
Elmendorf	122
Fairbanks	105
Ft. Richardson	122
Ft. Wainwright	105
Juneau	109
*Katmai National Park [4]	148
Kenai	119
Ketchikan	113
*King Salmon [3]	134
Kodiak	110
Kotzebue [3]	126
Murhpy Dome [3]	105
Noatak	126
Nome	136
Noorvik	126
Petersburg	113
Point Hope	160
Point Lay	179
Prudhoe Bay	113
Sand Point	103
Shemya AFB [3]	30
Shungnak	126
Sitka-Mt. Edgecombe	113
Skagway	113
Spruce Cape	110
St. Mary's	100
Tanana	136
Valdez	136
Wainwright	165
Wrangell	113
Yakutat	100
All Other Localities [3]	91
American Samoa	81
Guam M. I.	93
Hawaii:	
Hawaii, Island of:	
Hilo	59
Other	84
Oahu	98
All Other Islands	84
Johnston Atoll [2]	23
Midway Islands [1]	13
Puerto Rico:	
Bayamon:	
12-16—5-15	132
5-16—12-15	105
Carolina:	
12-16—5-15	132
5-16—12-15	105
Fajardo (Including Luquillo):	
12-16—5-15	132
5-16—12-15	105
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	132
5-16—12-15	105
Ponce (Incl. Ft. Allen NCS)	99
Roosevelt Roads:	
12-16—5-15	132
5-16—12-15	105
Sabana Seca:	
12-16—5-15	132
5-16—12-15	105
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	132
5-16—12-15	105
All Other Localities	111
Virgin Islands of U.S.:	
12-1—4-30	126
5-1—11-30	112
Wake Island [2]	20
All Other Localities	20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

[3] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

[4] Effective 1 June 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 2, 1986.

[FR Doc. 86-15344 Filed 7-7-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 27, 1986.

The USAF Scientific Advisory Board Airlift Cross-Matrix Panel will meet at Wright-Patterson AFB, OH, on July 23 from 11:00 am to 5:00 pm.

The purpose of the meeting is to receive classified briefings on and review the Air Force AC-130U Gunship Program.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-15281 Filed 7-7-86; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Restriction of Eligibility for Grant Renewal to the Coalition of Northeastern Governors

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to renew on a restricted eligibility basis a grant to the Coalition of Northeastern Governors (CONEG) to organize and carry out a Regional Biomass Program in the Northeast Area of the Northern Tier States.

The grant is being renewed for 1 year beginning August 8, 1986. The estimated amount is $745,000.

Procurement Request No.: 860R21389.001.

Project Scope: This grant renewal is to continue a Regional Biomass Program in the Northeast Area of the Northern Tier States. The primary purpose is to implement biomass research and development, technology utilization, and technology transfer on a regional basis in a manner which will maximize the participation of the public and private sectors of each state. CONEG has the unique capability to equally represent all of the states in the Northeast subregion and involve the appropriate private and public interest groups in the states. CONEG is an existing, regionally organized consortium with background experience in management of similar activities. Eligibility for this study is, therefore, restricted to CONEG.

FOR FURTHER INFORMATION CONTACT: Bryan D. Walker (ER–122), Research Management Branch, Research and Waste Management Division, U.S. Department of Energy, Oak Ridge, Tennessee 37831, (615–567–6008).

Issued in Oak Ridge, Tennessee, on July 1, 1986.

Peter D. Dayton,

Director, Procurement and Contracts Division.

[FR Doc. 86–15438 Filed 7–7–86; 8:45 am]

BILLING CODE 6450–01–M

Restriction of Eligibility for Grant Renewal to the Council of Great Lakes Governors

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to renew on a restricted eligibility basis a grant to the Council of Great Lakes Governors to organize and carry out a Regional Biomass Program in the Great Lakes Area of the Northern Tier States.

The grant is being renewed for a 1-year period beginning September 1, 1986. The estimated amount is $555,000.

Procurement Request No.: 860R21390.001.

Project Scope: This grant renewal is to continue a Regional Biomass Program in the Great Lakes Area of the Northern Tier States. The primary purpose is to implement biomass research and development, technology utilization, and technology transfer on a regional basis in a manner which will maximize the participation of the public and private sectors of each state. CGLG has the unique capability to equally represent all of the states in the Great Lakes subregion and involve the appropriate private and public interest groups in the states. CGLG is an existing, regionally organized consortium with background experience in management of similar activities. Eligibility for this study is, therefore, restricted to CGLG.

FOR FURTHER INFORMATION CONTACT: Bryan D. Walker (ER–122), Research Management Branch, Research and Waste Management Division, U.S. Department of Energy, Oak Ridge, Tennessee 37831, (615–567–6008).

Issued in Oak Ridge, Tennessee on July 1, 1986.

Peter D. Dayton,

Director, Procurement and Contracts Division.

[FR Doc. 86–15439 Filed 7–7–86; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Economic and Environmental Impacts Task Group; Meeting

Notice is hereby given that the Economic and Environmental Impacts Task Group will meet in July 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Economic and Environmental Impacts Task Group will evaluate the impact of the 1970's energy crises on the U.S. economics—economic growth, employment, inflation, oil and gas industry cash flow, capital investment, international trade, the financial markets (U.S. and international), real interest rates, etc. The Task Group will also analyze the potential future economic impact of the factors on issues identified by the other Task Groups.

The Economic and Environmental Impacts Task Group will hold its fourth meeting on Thursday, July 24, 1986, starting at 10:00 a.m., in the Tri-Conference Room, E.I. Du Pont De Nemours & Comapny, on the 22nd Floor of The Exxon Building, 1251 Avenue of the Americas, New York, New York.

The tentative agenda for the Economic and Environmental Impacts Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review the factors affecting petroleum supply and demand.
3. Discuss the Group assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Economic and Environmental Impacts Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Economic and Environmental Impacts Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 1, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–15346 Filed 7–7–86; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Future Supply/Demand Factors Task Group; Meeting

Notice is hereby given that the Future Supply/Demand Factors Task Group will meet in July 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Future Supply/Demand Factors Task Group's activities will be to identify the major factors that will affect the U.S.'s future supply and demand of oil and gas and to evaluate the influence such factors could have on the vulnerability of the U.S. to future energy crises.

The Future Supply/Demand Factors Task Group will hold its third meeting on Tuesday, July 22, 1986, starting at 9:00 a.m., in Room 314 of the Chevron Corporation, 575 Market Street, San Francisco, California.

The tentative agenda for the Future Supply/Demand Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Future Supply/Demand Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Future Supply/Demand Factors Task Group will be permitted to do so, either before or after the meeting. Members of the pubic who wish to make oral statements should inform Ms. Pat Dickinson, Office of Advanced Fuels, Technology, Extraction and Environmental Controls, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC., between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC., on July 1, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-15345 Filed 7-7-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

American Council for an Energy Efficient Economy; Grant Award

AGENCY: Conservation and Renewable Energy Office, DOE.

ACTION: Notice of Intent to award Grant Number DE-FG01-86CE27460 to the American Council for an Energy Efficient Economy (ACEEE) for their Summer Study on Energy Efficient Buildings.

SUMMARY: The United States Department of Energy, Office of Conservation and Renewable Energy, Office of Buildings and Community Systems, is preparing a grant to ACEEE pursuant to provisions of 10 CFR 600.7(b) of the DOE Assistance Regulations. The purposes of the proposed Grant Number DE-FG01-86CE27460 are to facilitate the exchange of research, implementation of results, and advancement of knowledge in addition to fostering professional growth of individuals in the field and publication and distribution of conference papers. The proposed effort is a continuation of a summer study on energy efficient buildings that has been conducted by ACEEE.

Eligibility: Award of this effort shall be limited to ACEEE since it is managing the conference and the compilation of its proceedings. Since this has been a biennial conference ACEEE has the most familiarity with the technology needed to organize and successfully achieve the purposes of the grant.

The term of this effort is estimated to be nine months with an estimated cost of $40,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Rose Mason, MA-453.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC on July 1, 1986.

Edward T. Lovett,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 86-15283 Filed 7-7-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP86-346-000]

Columbia Gas Transmission Corp.; Intent To Prepare an Environmental Assessment on a Proposed New Pipeline and Point of Delivery and Request For Comments on Environmental Issues

July 2, 1986

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) will prepare an environmental assessment on the facilities proposed in the above-referenced docket. On February 25, 1986, Columbia Gas Transmission Corporation (Columbia) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act to increase its deliveries to Orange and Rockland Utilities, Inc. (ORU) by 10,000 dekatherms per day, to construct and operate pipeline and metering facilities, and to replace certain pipeline facilities with larger diameter pipeline. Columbia has requested that authorization be granted so that the facilities, located in Orange and Rockland Counties, New York, can be in service by November 2, 1986. The project would require about three months for construction.

In Orange County, Columbia would abandon in place two segments of 10-inch-diameter pipeline, totalling 7.2 miles, and would replace them with equal lengths of 24-inch-diameter pipeline. Both segments of pipeline are located near Interstate 84. (See Figure 1). In Rockland County, Columbia has proposed to modify an existing emergency interconnection and metering facility with Algonguin Gas Transmission Company (Algonguin) to permit its utilization for deliveries of volumes of gas for Columbia's account and for the account of ORU. Columbia would also build 5.8 miles of 24-inch-diameter pipeline along a new right-of-way from the Algonguin interconnection to a proposed new interconnection with ORU, the Buena Vista point of delivery (POD). These pipeline facilities and POD would be built in Rockland County.

The 7.2 miles segment of 24-inch-diameter replacement pipeline would be placed about 30 feet from the existing pipeline, and would require the clearing of an additional 50 feet of right-of-way width in addition to the existing 25-foot permanent right-of-way. Following the construction and restoration, Columbia would maintain 50 feet of permanent right-of-way width. All modifications to the existing Algonguin emergency interconnection and metering facility would take place within the existing cleared rights-of-way owned by Columbia and Algonguin southeast of the village of Wesley Hills, New York. The new Buena Vista POD would require a fenced site, measuring about 75 feet on a side, and would be located in the township of Clarkstown near the intersection of Buena Vista and Conklin Roads.

The proposed new pipeline from Algonguin's interconnection to the new Buena Vista POD would require a 75-foot-wide construction right-of-way with 50 feet to be maintained as permanent right-of-way. The proposed pipeline would parallel and be 30 feet west of Algonguin's existing pipelines for its proposed 1.0 mile through Harriman State Park. Columbia would also parallel and be 30 feet west of Algonguin's pipelines for the proposed 0.1 mile crossing of Kakiat County Park, which is administered by the Rockland County Park Commission. Columbia's proposed routing would intersect two areas of the southern portion of Mount Ivy County Park totalling 0.3 mile in length. The east crossing of Mount Ivy Park is in the vicinity of the Fire Training Center while the western crossing would be near Camp Hill Road. The proposed route also crosses the Palisades Interstate Parkway at the New York State Route 45 interchange.

The proposed pipeline would also cross residential areas in the vicinity of Pomona Heights, Happy Valley, and along Conklin Road. In the vicinity of Happy Valley, and Mount Ivy Park, the route would cross the South Branch of

Minisceongo Creek, two of its tributaries and associated wetlands. Near Wesley Chapel, off of U.S. Route 202, the proposed pipeline would also cross a wetland associated with the Mahwah River. The Mahwah River would be crossed near the intersection of U.S. Route 202 and Wilder Road (Country Road 12).

The staff's environmental assessment will be circulated for comment by parties to the proceeding and the public and will be offered as evidentiary material if hearings are held for this docket. Anyone wishing to present evidence on environmental matters must file with the Commission a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

A copy of this notice and a request for comments have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. Comments, on the scope of the environmental assessment should be filed as soon as possible but no later than August 7, 1986. All written comments must reference Docket No. CP86-346-000 and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Any recommendations that the FERC address specific environmental issues should be supported with a detailed explanation of the need to consider such issues. Additional information about the proposal, including detailed route maps for specific locations, is available from Mr. Mark Jensen, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-8207.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-15309 Filed 7-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-35-004]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

July 2, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on June 27, 1986 tendered for filing three alternate sets of the following revised tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1

Sixteenth Revised Sheet No. 4
First Revised Sheet No. 57(i)
First Revised Sheet No. 57(ii)
First Revised Sheet No. 57(iii)

Original Volume No. 2

Twenty First Revised Sheet No. 53
Twelfth Revised Sheet No. 77
Eleventh Revised Sheet No. 151
Sixth Revised Sheet No. 152
Fourth Revised Sheet No. 183
Sixth Revised Sheet No. 223
Sixth Revised Sheet No. 245
Second Revised Sheet No. 269
Second Revised Sheet No. 270
Fourth Revised Sheet No. 294

The foregoing tariff sheets reflect the increase in rates filed by Great Lakes in these proceedings on December 31, 1985, which rate increase was suspended by Commission order issued herein on January 30, 1986 until July 1, 1986, at which time they could be made effective on motion of Great Lakes.

In its January 30, 1986 order herein, the Commission directed Great Lakes to refile revised tariff sheets to reflect rates designed on the basis of the methodology set forth in the Commission's January 7, 1986 order on remand in Docket Nos. RP79-10-018, *et al.* That order also required Great Lakes to file revised tariff sheets to reduce its rates to reflect elimination of costs of facilities not in service by June 30, 1986.

The Great Lakes' filing notes that the Commission has before it on applications for rehearing the question of what rate determination methodology Great Lakes should utilize in the rates to become effective July 1, 1986 in these proceedings. Because of uncertainty as to what methodology it should utilize, Great Lakes filed three sets of alternate tariff sheets. The Alternate "A" tariff sheets reflect the rate determination methodology approved by the Commission in its remand order of January 7, 1986 in Docket Nos. RP79-10-018, *et al.*, which methodology the Commission ordered Great Lakes to use in its January 30, 1986 order herein and which methodology the Commission accepted in its April 2, 1986 order herein. However, the Commission has granted rehearing of both orders for further consideration in this regard. The Alternate "B" tariff sheets utilize the rate determination methodology underlying Great Lakes' existing rates, which reflects the methodology approved in Opinions 179 and 179-A. The Alternate "C" tariff sheets also reflect the Opinions 179 and 179-A methodology, except with respect to Rate Schedules T-6, T-8, T-9 and T-10, where Great Lakes has used the methodology in effect prior to Opinions 179 and 179-A since the Court of Appeals reversed and remanded [1] the Opinions 179 and 179-A methodology with respect to Rate Schedules T-6, T-8 and T-10 (Rate Schedule T-9 involves a service similar to the service under Rate Schedule T-6).

Great Lakes' tariff sheets reflect the cost of service as filed in these proceedings adjusted to reflect the elimination of the cost of facilities not expected to be in service on June 30, 1986, pursuant to the requirements of the Commission's January 30, 1986 suspension order herein. In addition, adjustments have been made to the base tariff rates to reflect the various reductions in the Canadian export price of natural gas that have occurred during the suspension period and have been approved by the Commission in Docket Nos. TA86-3-51-000 and 001; TA86-5-000 and 001; TA86-51-000, *et al.*, and TA86-7-51-000 and 001.

Accompanying Great Lakes' revised tariff sheet filing was its motion to place the alternate tariff sheets accepted by the Commission into effect commencing July 1, 1986.

Great Lakes requests that the Commission grant such waivers of its regulations as necessary in order that the Alternate "A" "B" or "C" tendered tariff sheets, whichever the Commission accepts, may become effective July 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before July 9, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-15310 Filed 7-7-86; 8:45 am]

BILLING CODE 6717-01-M

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[1] *ANR Pipeline Company v. FERC*, 771 F.2d 507 (D.C. Cir. 1985).

Office of Energy Research

Energy Research Advisory Board, Technical Panel on Magnetic Fusion; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92–463, 86 Stat 770), notice is hereby given of the following meeting:

Name: Technical Panel on Magnetic Fusion of the Energy Research Advisory Board.

Date & Time: July 24 and 25, 1986—9:00 a.m.–5:00 p.m.

Place: Department of Energy, 1000 Independence Avenue SW., Room 4A–110, Washington, DC 20585.

Contact: Charles E. Cathey, Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 252–2263.

Purpose of the Technical Panel

To perform a review of the conduct of the national magnetic fusion energy program and make recommendations to the Energy Research Advisory Board. After consideration of the Panel report, the Board shall submit such report, together with any comments that the Board deems appropriate, to the Secretary of Energy. The purpose of the Energy Research Advisory Board is to advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

July 24

- Presentation by Department of State on Prospects for International Collaboration in Fusion.
- Presentation on the Technical Planning Activity.
- Public Comment—10 minute rule.

Tentative Agenda

July 25

- Presentation by Fusion Community Representatives.
- Presentation on Environmental and Economic Aspects of Fusion Energy
- Presentation on Alternate Fusion Strategies.
- Public Comment—10 minute rule.

Public Participation

The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact Charles E. Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Freedom of information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on July 2, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86–15347 Filed 7–7–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE–FRL–3044–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FTS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Request for Information on Solid Waste Management Units (ICR #1300). (This is a new collection.)

Abstract: Owners or operators of hazardous waste treatment, storage, and disposal facilities will be required to describe solid waste management units and possible releases of hazardous wastes. The Agency will use this information to determine the likelihood of releases that may require corrective action, and reflect this determination in the Resources Conservation and Recovery Act (RCRA) permit.

Respondents: Owners or operators of hazardous waste treatment, storage, and disposal facilities.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0270, State Drinking Water Supply Program Information, was approved 6/17/86 (OMB #2040–0090; expires 4/30/87).

EPA ICR #0318, Estimate of Municipal Wastewater Treatment Facility Requirements—Needs Survey, was approved 6/17/96 (OMB #2040–0050; expires 2/29/87).

EPA ICR #0371, Survey of Community Water Systems, was approved 6/6/86 (OMB #2040–0103; expires 12/31/86).

EPA ICR #0662, New Source Performance Standards for Volatile Organic Compounds: Fugitive Emission Sources, Synthetic Organic Chemical Manufacturing Industry, was approved 6/20/86 (OMB #2060–0012; expires 6/30/89).

EPA ICR #0822, Pretreatment Baseline Monitoring Report, was approved 6/18/86 (OMB #2040–0012; expires 6/30/88).

EPA ICR #0823, Supplementary Report on Oil or Hazardous Substances Spill, was approved 6/7/86 (OMB #2040–0053; expires 6/30/89).

EPA ICR #1013, Provision for Discharge Authorization—Ore Recovery Mills, was approved 6/7/86 (OMB #2040–0093; expires 9/30/86).

EPA ICR #1288, Potential National Emission Standard for Hazardous Air Pollutant (NESHAP) Development for Ethylene Oxide Emission Sources, was approved 6/18/86 (OMB #2060–0134; expires 12/31/86).

EPA ICR #1294, Request for Information from Owners and Operators of Industrial-Commercial-Institutional Steam Generating Units with Heat Imput Capacities of Greater than 100 million Btu/hour, was approved 6/17/86 (OMB #2060–0136; expires 3/31/88).

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Nancy Baldwin, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, DC 20503

Dated: July 1, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86-15249 Filed 7-7-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-10 FRL-3045-4]

Withdrawal of Draft NPDES General Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Bering Sea General Permit Area II

ACTION: Withdrawal of General Draft NPDES Permit AKG286000, Bering Sea II.

SUMMARY: EPA is withdrawing National Pollutant Discharge Elimination System (NPDES) general permit number AKG286000, which was originally proposed on July 22, 1985 (50 FR 29928).

EFFECTIVE DATE: July 8, 1986.

FOR FURTHER INFORMATION CONTACT: Janis Hastings, Ocean Programs Section, M/S 430, Environmental Protection Agency Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, or telephone (206) 442-8504.

SUPPLEMENTARY INFORMATION: On July 22, 1985, the Regional Administrator, Region 10, proposed a draft NPDES general permit to authorize discharges from exploratory drilling operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) during Federal Lease Sale 89 (St. George Basin), with the exception of areas in the vicinity of the Pribilof Islands and Unimak Pass (50 FR 29928). Lease Sale 89, originally scheduled for September 1985, was subsequently delayed and finally cancelled by MMS in May 1986. MMS cited low current industry interest and a lack of commercial discovery announcements in the planning area as the basis for the decision. Consequently, EPA is withdrawing the draft Bering Sea II general permit (No. AKG286000), since this permit was proposed only for facilities in Lease Sale 89.

Dated: June 30, 1986.

Robert S. Burd,

Acting Regional Administrator, Region 10.

[FR Doc. 86-15269 Filed 7-8-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Adoption of Report and Order Concerning the Uniform System of Accounts; Public Notice

By this Public Notice the Commission announces that on May 1, 1986 it adopted a Report and Order in CC Docket 78-196, *Revision of the Uniform System of Accounts and Financial Reporting Requirements*, FCC 86-221, adopted May 1, 1986, released May 15, 1986. The Commission decision replaces the current accounting system for Class A, Class B and Class C Telephone Companies prescribed in Parts 31 and 33 with a new accounting system to be prescribed in Part 32, but will not be effective until January 1, 1988. The text of the new rules will not be published in the **Federal Register** until Fall, 1986. However, the full text of the Commission decision and accompanying rules is now available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., NW., Washington, DC. The complete text 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.[1]

This Notice contains a summary of the Report and Order in CC Docket 78-196. The public is advised that, although Federal Register publication of the full text of the rules will be delayed until Fall, 1986, this Notice, which includes a summary of the Report and Order, constitutes publication in the **Federal Register** for purposes of § 1.4(b)(1) and § 1.103(b) of the Commission's Rules, 47 CFR 1.4(b)(1), 1.103(b), which establish the date of public notice for purposes of seeking reconsideration at the Commission or judicial review of Commission rules adopted in notice and comment rulemaking proceedings.[2] Accordingly, the public is advised that petitions for reconsideration must be filed within 30 days of the day following publication of this Notice in the **Federal Register**. *See* 47 CFR 1.4 (a), (b), (b)(1).

Description of Commission Action

On January 3, 1985, the Commission issued a Further Notice of Proposed Rulemaking, (Further Notice), CC Docket 78-196 (50 FR 1590); (January 11, 1985) proposing to rescind Part 31 of the Commission's Rules and Regulations (Uniform System of Accounts for Class A and Class B Telephone Companies) and Part 33 of the Commission's Rules and Regulations (Uniform System of Accounts for Class C Telephone Companies). The Commission proposed to replace these Parts with a single new Uniform System of Accounts for Telephone Companies.

The existing system, originally established in 1935, was not flexible enough to respond to Commission needs in regulating a complex and changing telecommunications industry. In the Further Notice it was proposed to establish only two classes of carriers: Class A companies with annual gross operating revenues of $100 million or more and Class B companies with annual gross operating revenues of less than $100 million, with the companies in Class B being required to maintain a less burdensome level of accounting detail and system compliance than Class A. In addition, the Commission proposed a financial-based accounting system which involved a new numbering system which was logically ordered and was flexible enough to permit further expansion; a two-dimensional matrix concept under which the expenses would be classified by both purpose and type; and a disaggregation and realignment of balance sheet and income statement accounts to reflect products and services and accommodate generally accepted accounting principles (GAAP) to the extent regulatory considerations would permit. Existing accounting rules require the capitalization of a large volume of costs indirectly related to the cost of construction. The proposed system, to be more consistent with GAAP, would expense a portion of these costs as they are incurred.

All parties commenting on the Further Notice expressed concern over the high costs of implementation and smaller companies indicated that they may be unable to realize any benefits from the less burdensome requirements proposed for them. The cost concerns of the parties were primarily attributable to the new numbering system, the disaggregation of plant accounts, the expense matrix, and the shift from capitalization to expense of a portion of indirect construction costs. In all of these areas, comments were divided, with some parties supporting all or some aspects of the changes, and others adamantly opposed. There was some uniformity in the timing of

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[1] Parties who participated in CC Docket 78-196 and each State Commission have also been served with a copy of the full text of the *Report and Order* and accompanying rules. Although publication in the **Federal Register** will be deferred for this brief period, the new rules will be published well in advance of their effective date, satisfying the publication requirements of the Administrative Procedure Act, 5 U.S.C. 552(a)(1) (D), (E).

[2] *See also* 47 CFR 0.411(b)(2), 0.445(c), as amended, 51 FR 7443, March 4, 1986.

implementation. Most companies indicated it would take 36 months to adopt the system, if adopted as proposed.

The majority of commenters were opposed to the proposed new four-digit numbering system on the grounds that it added significantly to the cost of implementation and caused considerable data continuity problems. As a result of these comments, the new Part 32 will permit companies to use different numbers internally, provided that the title and content of their accounts and subaccounts match the content of the accounts and subaccounts prescribed in the new Part 32. However, in reporting to the Commission, the companies will be required to use the numbers the Commission prescribes. As a further accommodation, the numbering system will permit the use of existing numbers as the first three digits of the four-digit numbering system whenever practicable. These changes provide a flexibility which should ease the burden of conversion to the new system, while still providing this Commission with a system which accommodates its needs. Commenters to the Further Notice stated that our proposal to realign the plant-in-service accounts into various technology-specific accounts would require an extensive and costly inventory effort and that the disaggregation was inconsistent with the trend of technological changes in the industry. The final regulation will reduce the amount of disaggregation. This will reduce the necessary inventory effort and the need to allocate the cost of assets with integrated functions.

The Further Notice proposed a two-dimensional cost-type matrix to classify expenses. Under the matrix concept every expense incurred will be classified by both its purpose and its type. Comments were divided between those who supported the matrix and those who opposed it. In the final regulation the matrix concept will be retained but modified somewhat to limit the distribution of rents of real property and to make some other minor clarifying changes. Also in connection with expenses, many telephone company respondents objected to the elimination of traditional clearing accounts that are used to initially record expenses that are later cleared to other expense and asset accounts. The new Part 32 will permit companies to establish additional clearing accounts with prior Commission approval.

The Commission's current accounting rules require the capitalization of a large volume of indirect costs related to construction. These costs then become a part of the value of plant in service and are depreciated over the useful life of the asset. The system proposed in the Further Notice would expense a portion of these costs as they are incurred. We received comments with considerable variances in the estimates of the dollars which would be shifted from capital to expense. Some of these variances were attributable to differing interpretations of what kind of costs would be shifted. Instructions in the final regulation are clarified, which should eliminate a significant portion of the differences. However, the Report and Order requires the Regional Bell Holding Companies, AT&T and GTE to resubmit estimates of capital to expense shifts based on the new instructions to determine if further modification of the rules is necessary.

Because of a reduced need for data from smaller companies, the Commission proposed to create a much less detailed system of accounts for companies with annual gross operating revenues of less than $100 million. Most small companies believed that the proposal did not adequately address the problems of the small telephone companies. They expressed concern over the level of detail that may be imposed on them by various forces within the industry other than the Commission. Other parties, mostly state commissions, stated our revenue threshhold was too high and should be reduced so that more companies will be required to maintain greater detail. The Commission saw no need to establish a lower threshold as a national standard. The Commission, noted, however, that many small companies maintain more detailed systems because of state imposed requirements or because they see it themselves as being more advantageous for settlements purposes. The Commission said it expects that many of the changes intended to reduce the burden of larger carriers will also benefit the smaller carriers and that it expects impositions by the states would not be unreasonable or unduly burdensome for smaller companies.

In the Further Notice two alternatives for full USOA implementation were proposed, flash-cut and phase-in. The flash-cut approach requires complete and instantaneous conversion to the new accounting system. The phase-in approach permits implementation of the new accounting system over time, on a systematic basis. Most of the respondents favored the flash-cut approach and stated that at least 36 months after release of the final order would be required for the implementation of the Further Notice proposal. The flash-cut approach was supported as the only viable alternative because of interrelated accounting systems, the interdependencies between accounts, the need to conform separations and the need to have all exchange carriers participating in industry pooling arrangements reporting all costs and revenues in a uniform manner. The commenters' time estimates for flash-cut implementation did not, however, take into account the modifications of the Further Notice that are incorporated into the final rule. In consideration of these concerns the Commission concluded that a flash-cut change provides the least burdensome transition and decided that the new system should be adopted in its entirety on January 1, 1988.

In its Report and Order, the FCC concluded that Parts 31 and 33 would be deleted and part 32 would be incorporated under Title 47 of the Code of Federal Regulations.

The rules contained in the Report and Order were analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose modified requirements of burden upon the public. Implementation of any new or modified requirement of burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

The Commission ordered that, under the authority contained in sections 4(i), 4(j) and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 220, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies (47 CFR Part 31) and Part 33, Uniform System of Accounts for Class C Telephone Companies (47 CFR Part 33) would be deleted January 1, 1988. It further ordered that, under the authority contained in section 4(i), 4(j) and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 220, New Part 32, Uniform System of Accounts for Telephone Companies would be incorporated as Part 32 under Title 47 of the Code of Federal Regulations effective January 1, 1988. It further ordered, that the Secretary should pursuant to section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), cause the Report and Order to be served on each State Commission. It further ordered, that AT&T, GTE and the Regional Bell Holding Companies should submit, to the Chief, Common Carrier Bureau, revised estimates of captitalization to expense shifts resulting from the new instructions included in Part 32, 180 days after release of the Report and Order.

Federal Communications Commission.
William J. Tricarico
Secretary.
[FR Doc. 86-14948 Filed 7-7-86; 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, D.C. 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. 202-010390-011.

Title: United States Atlantic and Gulf/Ecuador Freight Association.

Parties:

Coordinated Caribbean Transport, Inc.

Ecuadorian Line, Inc.

Lykes Bros. Steamship, Inc.

Transporters Navieros Equatorianos

Synopsis: The proposed amendment would decrease the amount of the required security deposit from $50,000 to $25,000. The parties have requested a shortened review period.

Agreement No.: 224-010968.

Title: Port of Baltimore Terminal Agreement.

Parties:

Maryland Port Administration (MPA)

Hapag-Lloyd A/G Atlantic Division (Hapag-Lloyd)

Synopsis: The proposed agreement and lease would permit MPA to lease to Hapag-Lloyd 8.45 acres at Dundalk Marine Terminal. The term of the agreement and lease shall be for a term of three years, with no renewal provisions. Hapag-Lloyd will receive an annual tonnage discount based on the achievement of a guaranteed level of cargo through the terminal.

By Order of the Federal Maritime Commission

Dated: July 2, 1986.
Joseph C. Polking,
Secretary.
[FR Doc. 86-15312 Filed 7-7-86; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Jay Jay Forwarding Service, Inc., et al.

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 510.

License Number: 125.

Name: Jay Jay Forwarding Service, Inc.

Address: 165 Milk Street, Boston, MA 02109.

Date revoked: June 19, 1986.

Reason: Surrendered license voluntarily.

License Number: 2920.

Name: Jay Christopher Lyons dba Jay C. Lyons.

Address: 2472 E. Main St., #8, Bridgeport, CT 06610.

Date revoked: June 20, 1986.

Reason: Requested revocation voluntarily.

Robert G. Drew,
Director, Bureau of Tariffs.
[FR Doc. 86-15313 Filed 7-7-86; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; Oceangate Forwarding Inc.

Notice is hereby given that the following person has filed an application for license as ocean freight forwarder with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR 510.

Persons knowing of any reason why the following person should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Oceangate Forwarding Inc., 11222 La Cienega Blvd., Suite 740, Inglewood, CA 90304. Officers: Soo B. Kang, President, Young S. Chang, Vice President.

Dated: July 2, 1986.
Tony P. Kominoth,
Assistant Secretary.
[FR Doc. 86-15314 Filed 7-7-86; 8:45am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Itasca Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under §225.23(a)(2) of (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) or 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.

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 leiu 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 25, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Itasca Bancorp, Inc.*, Itasca, Illinois; to acquire B.I.P., Inc., Bloomingdale, Illinois, and thereby engage in providing data processing services to its principals pursuant to §225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-15239 File 7-7-86; 8:45 am]

BILLING CODE 6210-01-M

West Mass 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 July 28, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *West Mass Bankshares, Inc.*, Greenfield, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of United Savings Bank, Conway, Massachusetts.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Union Corporation*, Charlotte, North Carolina; to acquire 100 percent of the voting shares of Georgia State Bancshares, Inc., Atlanta, Georgia, and thereby indirectly acquire Georgia State Bank, Atlanta, Georgia.

In connection with this application, First Union Corporation of Georgia, Atlanta, Georgia, a subsidiary of First Union Corporation, will merge with Georgia State Bancshares, Inc., Atlanta, Georgia.

2. *United Carolina Banchares Corporation*, Whiteville, North Carolina; to acquire 100 percent of the voting shares of Bank of Greer, Greer, South Carolina. Comments on this application must be received not later than July 30, 1986.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Queensborough Company*, Louisville, Georgia; to acquire 100 percent of the voting shares of Bank of Wadley, Wadley, Georgia. Comments on this application must be received not later than July 30, 1986.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Continental Illinois Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of The First National Bank of Western Springs, Western Springs, Illinois. Comments on this application must be received not later than July 30, 1986.

2. *Villa Grove Bancshares, Inc.*, Villa Grove, Illinois; to acquire 50.48 percent of the voting shares of First Villa Grove Bancorp, Inc., Villa Grove, Illinois, and thereby indirectly acquire First National Bank of Villa Grove.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bancshares of Urbana, Inc.*, Urbana, Missouri; to become a bank holding company by acquiring 80 percent or more of the voting shares of the Bank of Urbana, Urbana, Missouri.

Board of Governors of the Federal Reserve System, July 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-15240 Filed 7-7-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-1062—Shin-Etsu Chemical Co., Ltd.'s proposed acquisition of voting securities of The Dow Chemical Company.	May 30, 1986.
(2) 86-1063—Shin-Etsu Chemical Co., Ltd.'s proposed acquisition of voting securities of Hemlock Semiconductor Corporation, (Corning Glass Works, UPE).	Do
(3) 86-1100—Foote, Cone & Belding Communications, Inc.'s proposed acquisition of voting securities LKP International, Ltd., (Stanley H. Katz, UPE) and Stanley H. Katz's proposed acquisition of voting securities of Foote, Cone & Belding Communications, Inc.	Do
(4) 86-1127—The Windsor Funds, Inc.'s proposed acquisition of voting securities of Gemini Fund, Inc.	Do
(5) 86-1138—American Can Company's proposed acquisition of voting securities of nine subsidiaries, (RCM General, UPE).	Do
(6) 86-1155—Texas Eastern Corporation's proposed acquisition of assets of CFHC-2 Texas Inc., (The Cadillac Fairview Corporation, UPE).	Do
(7) 86-1156—The Cadillac Fairview Corporation's proposed acquisition of assets of HCC Dev, Inc., (Texas Eastern Corporation, UPE).	Do
(8) 86-1157—Texas Eastern Corporation's proposed acquisition of assets of The HCV-I Venture.	Do
(9) 86-1158—Texas Eastern Corporation's proposed acquisition of assets of The HCV-V Venture.	Do
(10) 86-1160—Integrated Resources, Inc.'s proposed acquisition of voting securities of New Providence Capitol, Lic., (Providence International Limited, UPE).	Do
(11) 86-1167—Textron, Inc.'s proposed acquisition of assets of Aetna Finance Co. and Computer and Leasing Corp.	Do
(12) 86-1107—Henry Crown & Company's proposed acquisition of assets of Garden City Envelope Co. and Garden City Envelope Co. of Michigan, (W.R. Holdings, Inc., UPE).	June 2, 1986.
(13) 86-1121—"The 1964 Simmons Trust's" proposed acquisition of voting securities of LLC Corp.	Do
(14) 86-1122—LLC Corp.'s proposed acquisition of voting securities of The Amalgamated Sugar Company, ("The 1964 Simmons Trust", UPE).	Do
(15) 86-1123—LLC Corporation's proposed acquisition of voting securities of GAF Corporation.	Do
(16) 86-1124—LLC Corporation's proposed acquisition of voting securities of Sea-Land Corporation.	Do
(17) 86-1164—West Point-Pepperell, Inc.'s proposed acquisition of voting securities of Annedeen Corporation and Halifax County Hosiery Mills, Inc., (Donald G. and Wendy H. Linden, UPE).	Do

Transaction	Waiting period terminated effective
(18) 86-1169—International Paper Company's proposed acquisition of voting securities of HSCM-5 Inc. and Sylvachem Corporation, (Hanson Trust PLC, UPE).	June 3, 1986.
(19) 86-1177—Poughkeepsie Savings Bank FSB's proposed acquisition of assets of Freedom Mortgage Company, (Freedom Savings and Loan Association, UPE).	Do
(20) 86-1093—London International Group plc's proposed acquisition of voting securities of Wedgwood plc.	June 4, 1986.
(21) 86-1139—Holiday Corporation's proposed acquisition of assets of Holiday Inn Crowne Plaza Hotel in White Plains, NY, (VMS National Hotel Partners, UPE).	Do
(22) 86-1165—The Rymer Company's proposed acquisition of assets of Old Salt Seafood Company.	Do
(23) 86-1179—Burlington Industries, Inc.'s proposed acquisition of voting securities of C.H. Masland & Sons.	Do
(24) 86-1194—Burlington Industries, Inc.'s proposed acquisition of voting securities of C.H. Masland & Sons.	Do
(25) 86-1098—The Greyhound Corporation's proposed acquisition of voting securities of Aeroplex Stores, Inc., (Zale Corporation, UPE).	June 5, 1986.
(26) 86-1117—Pay'n Save Inc.'s proposed acquisition of voting securities of The Bi-Mart Company, (Trump Capital Corporation, UPE).	Do
(27) 86-1166—Berwind Corporation's proposed acquisition of voting securities of Nobel Electronics, Inc., (Nobel Industrier Sverige AB, UPE).	Do
(28) 86-1188—International Thomson Organisation Limited's proposed acquisition of voting securities of Cordura Corporation.	Do
(29) 86-1189—International Thomson Organisation Limited's proposed acquisition of voting securities of Cordura Corporation.	Do
(30) 86-1190—International Thomson Organisation Limited's proposed acquisition of voting securities of Cordura Corporation.	Do
(31) 86-1131—The Edward W. Scripps Trust's proposed acquisition of voting securities of 6 newspaper publishing companies, (John P. Scripps Trust, UPE).	June 6, 1986.
(32) 86-1132—John P. Scripps Trust's proposed acquisition of voting securities of Edward W. Scripps Trust.	Do
(33) 86-1137—Jamie Securities Co.'s proposed acquisition of voting securities of Kaiser Aluminum & Chemical Corporation.	Do
(34) 86-0993—Morton Thiokol, Inc.'s proposed acquisition of assets of Chesebrough-Ponds, Inc.	June 9, 1986.
(35) 86-1141—Seibe plc's proposed acquisition of voting securities of APV Holdings PLC.	Do
(36) 86-1150—The Henley Group, Inc.'s proposed acquisition of voting securities of IMED Corporation, (Warner-Lambert Company, UPE).	June 10, 1986.
(37) 86-1154—Louisiana Land and Exploration Company's proposed acquisition of voting securities of Inexco Oil Company.	Do
(38) 86-1170—Texaco Inc.'s proposed acquisition of assets of Tosco Corporation.	Do
(39) 86-1200—Trus Joist Corporation's proposed acquisition of voting securities of Norco Windows, Inc..	Do
(40) 86-1206—Temple-Inland, Inc.'s proposed acquisition of assets of Owens-Illinois, Inc. and voting securities of Sabine River & Northern Railroad.	Do
(41) 86-1227—Marley plc's proposed acquisition of voting securities of General Shale Products Corporation.	Do
(42) 86-1228—Marley plc's proposed acquisition of voting securities of General Shale Products Corporation.	Do
(43) 86-1097—Libbey-Owens-Ford's proposed acquisition of voting securities of Sterer Engineering and Manufacturing Company, (Bernard F. Scherer, UPE).	June 11, 1986.
(44) 86-1118—Tinicum Incorporated's, (Derald H. Ruttenberg, UPE) proposed acquisition of assets of Exxon Corporation.	Do
(45) 86-1120—Hawley Group Limited's proposed acquisition of voting securities of Pritchard Services Groups, Inc.	Do
(46) 86-1125—International Broadcasting Corporation's proposed acquisition of voting securities of Ice Capades, Inc. and Harlem Globetrotters, Inc., (John W. Kluge, UPE).	Do
(47) 86-1151—The Travelers Corporation's proposed acquisition of voting securities of Whittaker Health Services, Inc., (Whittaker Corporation, UPE).	Do
(48) 86-1171—Boise Cascade Corporation's proposed acquisition of the Southern Mills Assets, (Hanson Trust P.L.C., UPE).	Do
(49) 86-1226—Trafalger House Public Limited Company's proposed acquisition of voting securities of John Brown, P.L.C..	Do
(50) 86-1028—Franklin L. Haney, Franklin L. Haney Company's proposed acquisition of voting securities of Northeast Oklahoma Bottling Company, Inc. and Coca-Cola Bottling Company of the Ozarks, Inc., (James L. and Marilyn Sue Ratcliff, UPE's).	June 12, 1986.
(51) 86-1029—Franklin L. Haney, Franklin L. Haney Company's proposed acquisition of voting securities of Northeast Oklahoma Bottling Company, Inc. and Coca-Cola Bottling Company of the Ozarks, Inc., (E.J. and Peggy J. Browder, UPE's).	Do
(52) 86-1145—Wickes Companies, Inc.'s proposed acquisition of assets of Orchard Supply Hardware Division, Home Centers West Group and voting securities of Ole's, Inc., (W. R. Grace & Co., UPE).	Do
(53) 86-1173—The May Department Stores Co.'s proposed acquisition of voting securities of Gimbels Monroeville, Inc., South Hills Village, Inc., Gimbels Beaver Valley Inc., Gimbel Mellon Square, (B.A.T. Industries, p.l.c., UPE).	Do
(54) 86-1175—Walgreen Co., Inc.'s proposed acquisition of assets of Medi Mart Durg Store Company, (The Stop & Shop Companies, Inc., UPE).	Do
(55) 86-1176—Rohm and Haas Company's proposed acquisition of voting securities of Supelco, Inc.	Do
(56) 86-1189—James M. Fail's proposed acquisition of voting securities of Associated Companies, Inc..	Do
(57) 86-1201—Tom Brown, Inc.'s proposed acquisition of assets of Snell Oil Company, (Royal Dutch Petroleum Co., UPE).	Do
(58) 86-1214—Delta Air Lines, Inc.'s proposed acquisition of voting securities of Atlantic Southeast Airlines, Inc..	Do
(59) 86-1217—Pacific Lighting Corporation's proposed acquisition of voting securities of Thrifty Corporation.	Do
(60) 86-1218—Pacific Lighting Corporation's proposed acquisition of voting securities of Thrifty Corporation.	Do
(61) 86-1219—Pacific Lighting Corporation's proposed acquisition of voting securities of Thrifty Corporation.	Do
(62) 86-1220—Pacific Lighting Corporation's proposed acquisition of voting securities of Thrifty Corporation.	Do
(63) 86-1221—Thrifty Corporation's proposed acquisition of voting securities of Pacific Lighting Corporation.	Do
(64) 86-1245—Leonard H. Strauss' proposed acquisition of voting securities of Pacific Lighting Corporation.	Do
(65) 86-1152—The Rio Tinto-Zinc Corporation's proposed acquisition of voting securities of Celanese Specialty Resins, Inc. and Celanese Water Soluble Polymers, Inc., (Celanese Corporation, UPE).	June 13, 1986.
(66) 86-1181—FMC Corporation's proposed acquisition of voting securities of Link-Belt Construction Equipment Company and Sumitomo Heavy Industries, Inc.'s proposed acquisition of voting securities of Link-Belt Construction Equipment Company.	Do
(67) 86-1196—Eaton Corporation's proposed acquisition of voting securities of Consolidated Controls Corporation and assets of Condec Corporation, (William F. Farley, UPE).	Do
(68) 86-1197—Eaton Corporation's proposed acquisition of voting securities of Controls Company of America, (The Singer Company, UPE).	Do
(69) 86-1234—Elders IXL Limited's proposed acquisition of voting securities of Rudolf Wolff Futures, Inc., (Noranda, Inc., UPE).	Do
(70) 86-1239—RSI Corporation's proposed acquisition of assets of Stevecoknit, Inc., (J.P. Stevens & Co., Inc., UPE).	Do
(71) 86-1261—Tengelman Warenhandlesgesellschaft's proposed acquisition of voting securities of Shopwell, Inc.	Do
(72) 86-1263—Tengelman Warenhandelsgesellschaft's proposed acquisition of voting securities of Shopwell, Inc.	Do

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office; Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-15273 Filed 7-7-86; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunications Standards; General Aspects of Group 4 Facsimile Apparatus

AGENCY: Information Resources Management Service, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunication Standard (FED-STD) proposed for adoption: FED-STD 1064, Telecommunications: General Aspects of Group 4 Facsimile Apparatus.

DATE: Comments are due by October 6, 1986.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Green, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System NCS as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Requests for copies of the Proposed Federal standard should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Dated: May 23, 1986.

Francis A. McDonough,

Deputy Commissioner for Federal Information Resources Management.

[FR Doc. 86–15258 Filed 7–7–86; 8:45 am]

BILLING CODE 6820-25-M

Federal Telecommunication Standards; High-Speed 25-Position Interface

AGENCY: Information Resources Management Service, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunication Standard (FED–STD) proposed for adoption: FED–STD 1032 "Telecommunications: High Speed 25–Position Interface for Data Terminal Equipment and Data Circuit-Terminating Equipment".

DATE: Comments are due by October 6, 1986.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Green, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Requests for copies of Proposed Federal Standard 1032 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

Dated: May 23, 1986.

Francis A. McDonough,

Deputy Commissioner for Federal Information Resources Management.

[FR Doc. 86–15259 Filed 7–7–86; 8:45 am]

BILLING CODE 6820-25-M

Instructions for Establishing and Justifying Use of Federal Supply Schedule Contracting

The following instructions will be furnished to contracting personnel in the Federal Supply Service, GSA. These directives will be used as guidance for establishing and justifying the use of Federal Supply Schedules:

Justifying Use of Federal Supply Schedule Contracting

Methods of schedule contracting. The same model(s) shall not be on both a Single Award Schedule and Multiple Award Schedule, nor will the same model(s) be on different Special Item Numbers (SIN's) within a Multiple Award Schedule, nor will the same model be on a contract with more than one supplier.

a. *Single award*—Used when the characteristics of the item can adequately be defined in a Commercial Item Description (CID), specification or item description. Contracting is by sealed bids or negotiation.

b. *Multiple award*—Used when there are no prescribed standards or specifications and it is to the Government's advantage to provide effective utilization of industry production and distribution facilities and selectiveness from among similar commercial items. This method of schedule contracting provides for awards to more than one supplier for similar, but not identical items.

c. *Determining proper schedule contracting method*—FAR 6.401 states that contracting officers shall exercise good judgment in selecting the method of contracting that best meets the needs of the Government, and document the reasons if sealed bidding is not appropriate. Sealed bids shall be used if the conditions set forth in 6.401 are present.

(1) The following criteria shall be used to determine which items may be candidates to be procured on a Single Award:

(a) Technology must be relatively stable;

(b) A common specification or purchase description can be used, which would satisfy a significant portion of the Government requirement;

(c) Adequate supplier competition must be available against the common standard; and

(d) A reasonable expectation that small business participation in the procurement can be achieved;

(e) Prospective sales volume must be sufficient to attract full and open competition;

(f) A clear cost advantage over other contracting methods can be reasonably anticipated.

(2) The following criteria shall be used in determining whether an item can be most advantageously supplied through Multiple Award contracts:

(a) Impractical to describe with Commercial Item Description, Purchase Description or Federal Specification for a Single Award;

(b) Specific technical requirements are unknown;

(c) Agency needs can be satisified among several functionally similar products with significant variances in prices and features;

(d) Technology is changing rapidly;

(e) Items are sold in substantial quantities to the general public; and

(f) Items are in substantial and general use by the majority of executive agencies.

d. *Procedures.* Contracting personnel shall periodically examine specific product lines that are being utilized. The following steps shall be taken when considering a change in the method of schedule contracting:

(1) Refine existing multiple awards as much as possible. This refinement can take the form of more narrowly defining

Special Item Numbers (SINs), restructuring the schedule, establishing matrices, color banding, and/or multi-year procurement.

(2) After the refinement action, it may be concluded that further action is not needed or desirable. If the decision has been made to proceed in identifying potential items for a method of contracting change, the criteria in paragraphs (3) and (4) shall be used. Priority for developing appropriate purchase descriptions should be given to items reflecting the highest dollar volume, the potential ease of development, and greatest expected benefits including overall lower costs to the Government.

(3) A notice shall be placed in the Federal Register and the Commerce Business Daily (CBD) when a method of contracting change is contemplated. An original and three (3) copies of the notice to appear in the Federal Register shall be sent to ATRAI, GS Building, Room 3015. The notice shall be typed double spaced, dated and signed. Thirty days shall be allowed for comment. The CBD notice shall be sent to the Commerce Business Daily, 433 West Van Buren Street, Room 1304, Chicago, Illinois 60607. The notice shall identify the items involved, and will request industry and agency comments to include consideration of the potential impact on small business concerns.

(4) As a result of input received from the notices described above, a technical analysis will be performed in coordination with agency users and industry suppliers to the maximum extent feasible. After the technical staff has developed a draft description, a notice shall be placed in the Federal Register and the Commerce Business Daily making the draft available for customer and agency comment. Also, a copy of the draft description(s) will be provided to current contractors, the related trade association(s) and agency contact points. User panels will be extensively employed to provide an exchange of information and to participate in the development of draft technical descriptions. Issuance of technical descriptions in final form should be supported by adequate documentation of the coordination process.

(5) Contracting offices shall document on GSA Form 1649 the results of efforts expended to identify method of contracting changes and the actions taken. For each candidate, the GSA Form 1649 shall indicate the estimated annual sales, as well as the estimated annual savings over the previous contracting period. This documentation shall also be made in the Acquisition Plan (AP). The AP should specifically state the particular actions taken since issuance of previous solicitations.

(6) After the above process has been successfully completed, appropriate solicitations can be issued using regular procurement procedures. Whenever feasible and appropriate, test procurements should be made to ensure that Government agency needs will be met with quality products at lowest total cost. User panels should be employed to assist in bid sample evaluations.

(7) When method of contracting changes occur, the action shall be re-evaluated after the first year, and thereafter as appropriate, to determine if the anticipated benefits to the Government have been realized. The impact on small businesses shall also be reviewed and evaluated.

e. *Competitive nature of Multiple Award Federal Supply Schedule.* Consistent with the Competition in Contracting Act, Public Law 98–369, multiple awards are competitive in that:

(1) Participation in the program has been open to all responsible sources; and

(2) Orders and contracts under such programs result in the lowest overall cost alternative to meet the needs of the United States.

Dollar Criteria for Establishing/ Continuing a Schedule

a. Except as provided in paragraph b below, Federal Supply Schedules shall not be established or retained unless sales are anticipated to exceed the following thresholds:

(1) National Scope Multiple Award Schedule—$1,000,000.

(2) National Scope Single Award Schedule—500,000.

(3) Regional Service Schedules—250,000.

b. In the event that the contracting office believes that a schedule should be established or retained, even though the anticipated sales will not exceed the above thresholds, a GSA Form 1649 providing a justification shall be submitted to the Procurement Management Division (FCP) requesting approval to establish or retain the schedule.

Retention Criteria

a. A special item number (SIN) shall not be retained in a future multiple award schedule when the anticipated purchases of the SIN will be less than $25,000 for a one year period. A contract shall not be awarded under a multiple award schedule when the anticipated annual purchases under the contract will be less than $25,000. An item should not be retained in future schedule when anticipated purchases of the item will be less than $2,000 for a one year period. For the purpose of this retention criteria, an item is defined as the following:

(1) A product on a multiple award schedule; or

(2) An NSN or SIN on a single award schedule.

b. This policy does not apply to:

(1) Service contracts;

(2) Contracts for a part or accessory for a basic item;

(3) Contracts for a component of a unit assembly;

(4) In the event that the contracting officer believes that it would be advantageous for the Government to contract for an item(s) that does not meet the above criteria, a GSA Form 1649 providing a justification shall be submitted to FCP requesting approval to contract for the item.

c. In addition to removing a SIN or NSN item from a schedule because expected demand is less than reflected in paragraph a above, an item also may be removed because it is:

(1) No longer manufactured commercially;

(2) Commercially obsolete;

(3) Transferred to another schedule;

(4) Provided through another method of supply;

(5) Not procured for other reasons, e.g., unsafe, special license required, etc., or

(6) The item or similar item is available from stock.

For further information contact Walter L. Eckbreth, Director, Procurement Management Division (FCP), Washington, DC 20406. This address can also be used for submission of comments.

Dated: June 25, 1986.

Walter L. Eckbreth,

Director, Procurement Management Division.

[FR Doc. 86–15256 Filed 7–7–86; 8:45 am]

BILLING CODE 6820–24–M

Federal Telecommunication Standards; Coding and Modulation Requirements

AGENCY: Information Resources Management Service, General Services Administration.

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of a Federal Telecommunications Standard, Federal Standard (FED–STD) 1005A, entitled "Telecommunications: Coding and Modulation Requirements for 2,400 Bit/second Modems". This standard is

approved by the General Services Administration and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, Office of Technology and Standards, National Communications System (NCS), Washington, DC 20305–2010, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the computer-communication interface.

2. On October 4, 1984, a notice was published in the **Federal Register** (49 FR 39232) that a proposed Federal Standard entitled "Telecommunications: Coding and Modulation Requirements for 2,400 Bit/second Modems" was being proposed for Federal use.

3. The justification package as approved by the Director for National Security Telecommunications, National Security Council (NSC), was forwarded by the NSC with a recommendation for adoption of the standard. This data is a part of the public record and is available for inspection and copying at the Office of Technology and Standards, National Communications System, Washington, DC 20305–2010

4. The approved standard contains 4 sections: section 1 describes the scope, section 2 contains the requirements, section 3 gives the effective date (180 days after the date that the General Services Administration approves the standard), and section 4 describes the change procedure. Section 1 is provided as an attachment to this notice.

5. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies will be for sale, after publication, at the GSA Specifications Unit (WFSIS), Room 6039, 7th and D Streets, SW., Washington, DC 20407; telephone (202) 472–2205.

Dated: June 2, 1986.

Frank J. Carr,

Commissioner, Information Resources Management Service.

FED–STD 1005A

1. *Scope*

1.1 *Description.* This standard establishes coding and modulation requirements for 2,400 bit/s modems owned or leased by the Federal Government for use over analog transmission channels other than those derived from high-frequency radio facilities. It is based upon techniques described in CCITT Recommendations V.22 bis, V.26, and V.26 bis

1.2 *Purpose.* This standard is to facilitate interoperability between telecommunications facilities and systems of the Federal government.

1.3 *Application.* This standard shall be used by all Federal agencies in the design and procurement of 2,400 bit/s modems for use with switched or dedicated nominal 4 kHz channels with the following exception. Secure (i.e. encrypted) voice terminals conforming to North Atlantic Treaty Organization (NATO) Standardization Agreement 4291 may deviate from the requirements of this standard.

[FR Doc. 86–15257 Filed 7–7–86; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

President's Committee on Mental Retardation; Meeting

Agency Holding the Meeting: President's Committee on Mental Retardation—Steering Committee.

Time and Date: July 17, 1986 Thursday, Steering Committee 12:00–5:00 P.M. July 18, 1986 Friday, Steering Committee 9:00 A.M.–5:00 P.M.

Place: Children's Hospital, 8001 Frost Street, San Diego, California 92123.

Status: Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

Matters to be Considered: Reports by members of the Steering Committee of the President's Committee on Mental Retardation (PCMR) will be given. The Steering Committee plans to discuss critical issues concerning prevention, family and community services, full citizenship, public awareness and other issues relevant to the PCMR's goals.

The PCMR: (1) Acts in an advisory capacity to the President and the Secretary of the Department of Health and Human Services on matters relating to programs and services for persons who are mentally retarded; and (2) is responsible for evaluating the adequacy of current practices in programs for the retarded, and reviewing legislative proposals that affect the mentally retarded.

Contact Person for More Information: Susan Gleeson, R.N., M.S.N., 330 Independence Ave., SW. Room 4725—North, Washington, DC 20201, (202) 245–7635.

Dated: July 1, 1986.

Susan Gleeson,

Executive Director, PCMR.

[FR Doc. 86–15298 Filed 7–7–86; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Guidance on Coal Lease Transfer Financial Data Requirements

AGENCY: Bureau of Land Management.

ACTION: Notice of final guidelines.

SUMMARY: By this notice the Bureau of Land Management responds to comments solicited by **Federal Register** notice of June 15, 1984 (49 FR 24805), and publishes in final form guidance to field offices on the types of financial and other information that should be required from those seeking approval for acquisition of Federal coal leases by transfer from another party. This guidance was approved by the Secretary of the Interior as part of the revisions to the Federal coal management program when he made decisions on the type and procedural content of the program on February 21, 1986. This information will be used by the Bureau to assist in evaluating coal tracts being considered for lease offering and in determining whether bids received for those coal leases constitute fair market value.

DATE: This guidance becomes effective upon publication.

FOR FURTHER INFORMATION CONTACT: Carole Smith, (202) 343–4774.

SUPPLEMENTARY INFORMATION:

General Information:

A total of 17 commenters responded to the request for public comment when draft guidance on this topic was published in the **Federal Register** on June 15, 1984, and when the guidance was published for comment as part of the draft supplement to the environmental impact statement on the Federal coal management program in February 1985. The guidance published here directly corresponds to that appearing in the final supplement to the Federal coal management program environmental impact statement, published in October 1985. This guidance elicited no specific comments. It was approved as part of the Secretary's decisions on revisions to the Federal coal management program, made on February 21, 1986.

The commenters represented 15 companies in the energy industry, one industry trade association, and one public utility group. No commenter completely endorsed the proposed guidance; all expressed objections to varying degrees.

General comments fell into the following categories: (1) Concerns about the type of guidance; (2) the degree of applicability of lease transfer data to determining the value of coal lease tracts being offered for competitive sale; (3) general concerns about the reporting requirements; (4) concerns about who should submit the financial information and when it should be submitted; and (5) concerns about the protection given proprietary data.

Type of guidance—Six commenters argued that new regulations were not necessary. This guidance is intended to implement the existing regulation at 43 CFR 3453.2–2(f), which requires submission of financial data about lease transfers. The existing regulation, however, does not provide an explanation of what information is specifically required. This guidance is intended to provide that explanation.

Applicability of transfer data—There were four commenters on this topic. The commenters pointed out the differences between lease transfers and competitive sales might make the financial data obtained from lease transfer transactions of limited or even no use in determining competitive coal lease tract value.

The Bureau understands this point and agrees that transfers are not *per se* equivalent to lease sales. Care must be used in applying lease transfer data to methods for evaluating competitive lease tract values. Nevertheless, as the Commission on Fair Market Value Policy for Federal Coal Leasing pointed out, there is usually a shortage of comparable sales data; lease transfer data are often the only data available. These data must then be used in tract evaluation. The guidance published below reflects this point.

Reporting requirements—Nine commenters stated concerns on this topic. Four believed that the information required exceeded the Department's authority. Two stated that the reporting requirements should not require lengthy evaluations by the negotiating parties and that no information should have to be developed. One requested that the level of detail and the degree of accuracy of the information should be more fully described.

Two commenters believed that the Department was legally entitled to financial information only if an overriding royalty was being created by the transfer. The Department does not agree with this position. The Mineral Leasing Act of 1920, as amended, states that no mineral lease can be assigned or sublet without the consent of the Secretary of the Interior. Prior to July 1979 the Secretary approved or withheld approval on coal lease transfers based on qualifications of the prospective transferee to hold the lease, acreage limitations, and the like. The July 1979 coal management regulations inserted the financial data requirements for lease transfers as a way of acquiring data about Federal coal lease transactions. The research done in connection with the July 1979 regulations found nothing illegal about the financial data requirements. Because financial data acquired from lease transfer transactions may be useful in fair market value analyses, the Department will retain the requirement.

The Bureau agrees that no data should be created or developed in reporting the financial details of transfer transactions. The reporting entity should report the data asked for in as much detail as possible without having to develop or create new data. This position is reflected in the final guidance to the field offices.

With respect to the level of detail and degree of accuracy of the information, the reporting entity should give the information in as much detail as possible, together with a statement about the degree of confidence in the data, where estimates are involved. If one-line answers to questions accurately convey all the information, then these answers are sufficient. Where a great deal of "hard" information is available and where the reporting entity has a high degree of confidence in the data, all of it should be reported. Because the details of transfers vary considerably, not all data will be applicable or available for all lease transfers.

Finally, with respect to general reporting requirements, one commenter asked whether the reporting requirements applied to partial transfers and subleases as well as total transfers or merely applied to total transfers only. The reporting requirements apply to all lease transfer actions—total and partial transfers and subleases.

Who should submit and when submitted—Three commenters objected to the prospective transferee's having to submit the financial information, and two believed that the information should be submitted after the transfer is completed.

As the commenters pointed out, some of the information is known only to the transferor prior to transfer. Therefore, the final guidance has been modified to require this information of the transferor, or the transferee, whichever has it. The Department retains its position that the information should be provided prior to approval of the lease transfer. The financial data required under 43 CFR 3453.2–2(f) has heretofore been submitted prior to approval, and there is no other way to assure getting the information.

Protection of proprietary data—Sixteen of the 17 comenters expressed concerns about the last paragraph of the proposed guidance. This paragraph stated that any information considered proprietary by the submitter should be labelled as such and that information determined proprietary by the authorized officer will be protected from disclosure under the Freedom of Information Act (FOIA). The commenters believed that the submitter, not the authorized officer, should judge the propriety of releasing the information and that the submitter ought to be allowed to seek a court-ordered protective order to prevent release of the information.

Nothing in the last paragraph of the proposed guidance was intended to circumvent the Department's regulations on proprietary data at 43 CFR Part 2, Subpart B, or the submitter's rights under 43 CFR Part 2, Subpart D. Briefly, the FOIA allows the Federal Government to withhold certain classes of information submitted to it from public disclosure, in this case class four: "trade secrets and commercial or financial information obtained from a person and privileged or confidential." The courts have ruled that commercial or financial information is confidential if disclosure is likely to (1) impair the Government's ability to obtain necessary information in the future and/or (2) cause substantial harm to the competitive position of the person from whom the information is obtained.

The Bureau has in the past given careful consideration to submitters' judgments of what they consider to be proprietary data. The Bureau has in the past and will continue to notify submitters when information that they have labelled as "proprietary" has been requested. The submitter may justify the reason that the information should be withheld.

The Bureau would then only release the information if, in its estimation, release would not jeopardize the competitive position of the submitter. The submitter would be informed prior to release of the information so that it could pursue judicial remedies, if it wished.

The Bureau has followed these procedures with FOIA requests many times before and will continue to release only information which would not jeopardize a company's competitive position. The last paragraph has been expanded in the final guidance to explain the handling of proprietary information.

SUPPLEMENTARY INFORMATION: The proposed guidance was not clear that the information presented was to be used by the reviewing field personnel in asking for financial lease transfer data from transferors or transferees. It is anticipated that for leases nearing or in production, coal quality and quantity data (section B), and mining information (section D), will be available from field office records or mining permit applications filed with the appropriate regulatory authority. Information available without requesting it from the transferor would be filled in by the reviewing officials in the field, and only that information not available from sources outside of the transferor would be requested.

As four commenters pointed out, the coal quantity and quality data in section B are not as such financial data. The quantity and quality of the coal, however, affect the price paid for acquiring all or part interest in a coal lease, and so the Bureau believes that it is appropriate to ask for these data if not readily available from other sources. If only estimates of these data are available, that fact should be indicated.

Section C, Description of Transaction, drew by far the most comments of any section. Ten commenters interpreted the phrase "other-owned reserves" in C.(1)(b) and C.(2)(b) to mean non-Federal reserves not associated with the lease transfer. Seven commenters objected to attempting to break out cost of various adjustments, subsection C.3., from the total consideration paid, subsection C.1.

As used in the proposed guidance, the phrase "other owned reserves" was intended to refer to transactions involving not just Federal but also State and fee coal leases contiguous to the Federal leases and being transferred in the same transaction. It was not intended to refer to State or private transfer transactions unrelated to the Federal transfer. The final guidance has been modified to clarify this phrase.

With respect to costs of adjustments, several commenters pointed out that frequently a coal lease will sell in the secondary market for a fixed amount with no specific breakout of adjustments. When is the case, applying specific dollar amounts to such things as drilling, environmental studies, permits, and surface owner arrangements would be arbitrary. Further, in some cases, the leaseholds hae not experienced permitting or environmental study costs so that any costs provided for these activities would be estimates, subject to entrepreneurial judgment.

The Bureau understands and agrees with these points. There is no intent to create new information. If information on the total consideration paid is all that is available, then that is all that should be reported. If the transaction involves both Federal and private leases, and these costs can be prorated, they should be. If the transaction involves Federal and non-Federal leases, then this fact should be clearly stated.

These points are made in the final guidance.

One commenter requested clarification of the meaning of the question concerning how diligence was negotiated, if at all. Another commenter overlooked the section on factors affecting negotiation. One other commenter requested that the section on negotiation factors be expanded.

This section has been clarified in the final guidance to describe factors which might affect the transaction price (pre-1976 or post-1976 diligence, relationship of transferor/transferee, etc.) or create a compulsion to bargain (i.e., section 3 of the Federal Coal Leasing Amendments Act of 1976). The question on diligence has been clarified.

The final guidance follows below.

Subject: Coal Lease Transfer Data Requirements

The coal management regulations at 43 CFR 3453.2–2(f) require that all coal lease transfer documents contain a description of the consideration or value paid or promised for the transfer. The regulation does not specify what the description entails. Because the financial details of coal lease transfer transactions may be useful in both presale and postsale evaluations of competitive Federal coal lease tracts, this memorandum provides general guidance on the types of financial and related data to be sought.

The information below falls into four categories. Only category C, Description of the Transaction, directly involves financial data. The other categories will affect the acquisition cost to some degree and are thus legitimately included as part of the description of the consideration paid. Of course, not all items will apply in all cases; therefore, discretion should be used in requiring data of transferors or transferees.

Several general points should be made about this information. First, any data which can be obtained from sources other than the transferor or transferee should be obtained from those sources. Acres in the lease and total acres held by the prospective lessee should be available from the automated coal leasing data system. Mining information (category D) and resource data (category B) may be available from resource recovery and protection plans or mining permit applications, if production on the lease is occurring or will occur soon.

Second, no data should be created or developed in reporting the transfer details. Nevertheless, the reporting entity should report the data requested in as much detail as possible with as many qualifying statements as necessary to describe the degree of confidence in the data and the estimated accuracy of the data.

Third, these requirements cover all lease transfer actions described under 43 CFR Subpart 3453, including partial transfers and subleases. For partial assignments, data concerning only the portion of the Federal leasehold affected should be reported, if that is possible. Otherwise, information on the entire leasehold should be submitted.

Fourth, the information may be obtained from either the transferor or the transferee, whichever organization has it. The transferor may be in a better position than the transferee to provide information on, for instance, coal quantity and quality and on mining costs and methods.

Finally, the lists below may be used as a checklist, with the information requested filled in next to the item or on a separate sheet, if the descriptions or qualifications are lengthy. Not all items will apply to all transactions, and discretion should be used in determining the applicability of data requested to individual coal lease transfer transactions.

Information Required for Coal Lease Transfers

A. General Information

1. Lease serial number.
2. Legal description—township, range, section, subdivision.
3. Acres in lease.
4. Estimated number of coal acres.
5. Name, address, and phone number of (circle one): transferee/partial transferee/sublessee.
6. Total current acreage of transferree's Federal coal leases.

B. Coal Quantity and Quality (describe level of confidence)

1. Avg. BT/lb.

2. Percent sulfur by seam.
3. Percent ash by seam.
4. Percent moisture by seam.
5. Percent fixed carbon by seam.
6. Percent volatile matter by seam.
7. Recoverable reserves (millions of tons).[1]
8. Minable reserves.[1]
9. Coal reserve base.
10. Weighted average coal thickness (by seam).
11. Average overburden (ft) by seam.
12. Weighted average interburden (ft) by seam.

C. Description of Transaction

1. Total consideration paid.
(a) Were non-Federal reserves involved in the transfer?
(1) If so, consideration paid for Federal reserves only, if known. Otherwise, consideration paid for transfer.
(b) Were only Federal reserves involved in the transfer?
(1) Consideration paid for the Federal reserves.
2. Adjustments.
(a) Have environmental studies been conducted on the leasehold?
(1) If yes, cost of studies.
Were these studies conducted in house or contracted out?
(2) If no, was the cost of environmental studies factored into the consideration paid?
Was it a major consideration?
(b) Has drilling been completed on leasehold?
(1) If so, drilling costs.
(2) If not, to what extent did drilling costs affect the consideration paid?
(c) Status of permits applied for and obtained.
(1) If process complete, total cost of obtaining permits.
(2) If permits are needed, how were permitting costs figured into the transaction price?
(d) Overriding royalties, stated as percent of gross sales value (describe payment method).
(e) Surface owner fees (describe payment method).
(f) Production payments (describe payment methods).
(g) Any other type of payment, such as net profit share (describe payment methods).
4. Factors affecting negotiations.
(a) Was this an arms length negotiation or were the parties involved organizationally or familially related?
(b) Did the diligence term in the lease affect the transaction price? If so, did the diligence requirement increase or reduce the transaction price?
(c) Is the lease subject to section 3 of the FCLA? If so, did this restriction affect the transaction price?

D. Mining Information (If available)

1. Production data.
(a) Specify whether production is from surface or underground mining.
1. Part of an existing mining operation.
2. Part of a proposed mining operation, or
3. A stand-alone operation.
(b) Indicate estimated production rate per year or estimated future production rate and date of commencement of mining operation.
(c) Indicate whether the production rate in (b) above is from an existing operation or a propose operation of which the lease is a part or from a stand-alone operation.
2. Mining data.
(a) Describe proposed or likely mining sequence.
(b) For surface mine describe:
1. Depth of box cut (if applicable) and
2. Average stripping ratio.
(c) For underground mine describe roof conditions.
(d) Describe any processing required to market the coal.
3. Transportation.
(a) Will coal be used on or offsite?
(b) Describe type of transportation to be used, if any.
4. Surface Control.
(a) Acres of private.
(b) Acres of State.
(c) Acres of Federal.

Any information considered to be proprietary by the submitter should be clearly labelled as such. The authorized officer shall treat such data in accordance with 43 CFR Part 2, Subpart B, and 43 CFR Part 2, Subpart D, and shall insure that no data are released which might jeopardize a company's competitive position.

David C. O'Neal,

Acting Director.

July 1, 1986.

[FR Doc. 86-15271 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-84-M

[1] Calculated according to the definitions at 43 CFR 3480.0-5.

[OR120-6310-02; GP6-279]

Coos Bay District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR. Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Monday, July 28, 1986, beginning at 9:00 a.m. The meeting will begin in the conference room of the Coos Bay District Office, 333 South Fourth Street, Coos Bay, Ore., and continue as a field trip from the office to the proposed Dean Creek wildlife area and BLM's Loon Lake recreation site.

Agenda

The agenda for the meeting will include:

1. Updates on old business items including; The Coos Bay District Road Management Plan, The management of the New River Area of Critical Environmental Concern, the Spotted Owl Management Area near Roman Nose and the potential land exchange with International Paper Co.
2. Discussion of future assignments for the council's consideration.
3. Discussion of council committee formation and assignments.
4. The plans for the Dean Creek Wildlife Area.
5. The conflict between shrinking federal recreation budgets and the increased interest in outdoor recreation on the part of the public.
6. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the council from 10:00 a.m. to 10:30 a.m. on Monday, July 28, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Monday, July 21, 1986 (Telephone 503-269-5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420. Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: June 25, 1986.

David W. Taylor,

Associate District Manager.

[FR Doc. 86-15046 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-33-M

Notice of Realty Action; Noncompetitive Sale of Public Lands in Lander County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Lander County, Nevada.

SUMMARY: A certain parcel of public land in Lander County, Nevada will be offered for sale directly to the County of Lander.

The following described land has been examined, and appears to be suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than fair market value.

Mount Diablo Meridian, Nevada

T. 25 N., R. 42 E.,
Sec. 18, S½SW¼SW¼NE¼,N½NW¼N W¼SE¼N½S½NW¼NW¼SE¼.

The area described contains 12.5 acres.

Upon publication of this notice in the **Federal Register**, the land described will be segregated from all forms of appropriation under the public land laws, including the mining laws. This segregation shall terminate upon issuance of patent, upon publication in the **Federal Register** of a notice of termination of segregation, or 270 days from the date of publication of this notice, whichever occurs first.

The proposed sale is in conformance with land use planning in the Shoshone-Eureka Resource Area. No conflicts with State or local plans are present. The land is not manageable by the Bureau, is currently used to dispose of pesticide containers by Lander County, and its greatest potential is for speculative agriculture use.

The parcel will be offered directly to Lander County, without competition. Acceptance of the direct sale offer will constitute an application for conveyance of those mineral estates having no known mineral values. Lander County will be required to pay a $50 nonreturnable filing fee for conveyance of the available mineral interests. Failure to submit the purchase money and the aforementioned $50 nonreturnable filing fee within the timeframe specified by the Authorized Officer shall result in cancellation of the sale.

No mineral locations or leases of record encumber the subject land.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. All minerals other than those having no known mineral values, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at the Battle Mountain District Office.

Grazing rights will not be significantly affected by this sale.

DATE: Under no circumstances will this parcel be sold sooner than 60 days after publication of this notice in the **Federal Register**. Interested parties may submit comments for a period of 45 days from the date of publication of this notice.

ADDRESSES: Comments should be sent to: District Manager, Bureau of Land Management, Battle Mountain District, N. 2n and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

Any adverse comments will be evaluated by the State Director who may uphold, modify or vacate this notice.

The BLM may accept or reject any and all offers, or withdraw any land or interest therein from sale if, in the opinion of the Authorized Officer, the consummation of the sale would not serve the public interest or would be inconsistent with applicable law or regulation.

Detailed information concerning this sale is available for review at the Battle Mountain District Office.

Michael C. Mitchel,

Acting District Manager, Battle Mountain District.

[FR Doc. 86-15261 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-HC-M

Realty Action, Recreation and Public Purpose Sale, Public Land in Lincoln County, WY

Correction

In FR Doc. 86-13939 appearing on page 22869 in the issue of Monday, June 23, 1986, in the first column, under the heading, "6th Principal Meridian, Wyoming", the first line is corrected to read:

"T. 26, N., R. 119 W."

BILLING CODE 1505-01-M

Bureau of Reclamation

Diamond Fork Power System and Irrigation and Drainage System, Bonneville Unit, Central Utah Project, Utah; Notice of Intent To Prepare a Combined Supplement to the Final and Draft Environmental Statements

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Reclamation, Department of the Interior, intends to prepare a combined Draft Supplement to the Final Environmental Statement (DSFES) for the Diamond Fork Power System and a Draft Environmental Statement (DES) for the Irrigation and Drainage System. Both those systems are part of the Bonneville Unit, Central Utah Project, Utah, and will be evaluated in a combined document because their operations are interrelated. The Diamond Fork FES (FES INT 84-30) was filed with the Environmental Protection Agency, October 4, 1984. However, since that time, conditions have changed so that the recommended plan evaluated in the FES is no longer practical and is being down-sized to more effectively meet current power marketing conditions. A Notice of Intent to prepare an Environmental Impact Statement for the Irrigation and Drainage System was published in the **Federal Register** Volume 49, Number 74, April 16, 1984. Additional public involvement since that time has resulted in changes to the alternatives presented in the initial Notice of Intent.

Both systems are authorized for construction as part of the Bonneville Unit under the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 105). An FES (INT FES 73-42) for the entire Bonneville Unit was filed in 1973. That statement was programmatic in nature, constituting full NEPA compliance only for the primary water supply collection features—The Strawberry Aqueduct and Collection System. That FES committed the Bureau of Reclamation to prepare separate environmental statements for the remaining systems of the Bonneville Unit.

The Bonneville Unit, currently under construction (about 30 percent complete, based on expenditures), will develop water in the Unita Basin for local use and transfer water westward to the Bonneville Basin for irrigation and municipal and industrial purposes. Some hydroelectric power would be produced. Part of the unit's water supply would be developed in the Bonneville Basin.

The recommended plan presented in the Diamond Fork FES has been down-sized due to a lack of interest in non-Federal financing. The smaller scale development still would have the capability of conveying the full project transbasin diversion to the Bonneville Basin and would include Syar Tunnel, Monks Hollow Dam, and the Diamond Fork Pipeline as major features. New features being considered are Fifth Water Aqueduct and Last Chance Powerplant. Facilities deleted from the plan include Syar Dam and Powerplant, Corona Aqueduct, Sixth Water Dam and Powerplant, and Dyne Aqueduct. Monks Hollow Powerplant nd Diamond Fork Powerplant on the Diamond Fork Pipeline would be part of the plan but

would require non-Federal financing. The reduced plan could provide about 70 megawatts of installed generating capacity compared to the 166.2 megawatts considered in the FES. Up to 32 megawatts of this capacity would be required to meet pumping requirements of the Bonneville Unit. Non-Federal financing would be required for the remaining power. The supplement will evaluate the environmental impacts associated with the down-sized development as compared to those evaluated in the Diamond Fork FES.

The Irrigation and Drainage System would provide supplemental and full service irrigation water to Utah, Juab, Millard, Sanpete, Sevier, and Piute Counties in central Utah. The system also would provide a small amount of municipal and industrial water for central Utah communities. Water would be stored in Utah Lake, Mona Reservoir (with replacement of the existing dam), and other existing reservoirs. Facilities under consideration include a dike on Utah Lake, tunnels, canals, pipelines, and pumping plants. Three major alternatives are being evaluated for the combined NEPA document.

The first alterantive would include Goshen Bay Dike on Utah Lake, Mona Reservoir, Wasatch Aqueduct, Mona-Nephi Canal, Nephi-Sevier Canal, and other canals and pumpting facilities to distribute project water. A substantial amount of the proposed water supply would be developed from evaporation savings obtained by diking Utah Lake's Goshen Bay. The lake could be operated at a slightly lower level.

The second alternative would not include the Goshen Bay Dike or the Wasatch Aqueduct. Instead of constructing the aqueduct, the existing Strawberry High Line Canal would be enlarged and used on a space available basis. Evaporation savings from Utah Lake would be achieved by holding the water level at the lowest practical evaluation rather than from diking Goshen Bay.

The third alterantive would include the Wasatch Aqueduct but not Goshen Bay Dike. The main water supply would be obtained by acquisition of surplus water rights in Utah Lake. Water elevations in Utah Lake would be only minimally affected by project operation.

The same Diamond Fork Power System features would be required for each alternative but the size and operation of some features would vary from alternative to alternative.

The draft supplement which also will discuss an alternative of no further Federal action, is scheduled to be circulated for public review during the fall of 1987. Anyone interested in this project and/or combined NEPA document should direct inquires to Mr. Larry Fluharty, Bureau of Reclamation, P.O. Box 1338, Provo, Utah 84603, telephone (801) 379–1000.

Dated: July 1, 1986.

Joseph B. Marcotte, Jr.,

Acting Commissioner.

[FR Doc. 86–15286 Filed 7–7–86; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Hawaiian Islands National Wildlife Refuge, HI; Availability of Final Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of a Final Master Plan-Environmental Impact Statement for the Hawaiian Islands National Wildlife Refuge.

FOR FURTHER INFORMATION CONTACT: Dick Wass, Refuge Manager, Hawaiian Islands National Wildlife Refuge, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, HI 96850, (808) 546–5608.

SUPPLEMENTARY INFORMATION: Proposed in the Final Master Plan/Environmental Impact Statement (EIS) is a management plan for the Hawaiian Islands National Wildlife Refuge. The plan places primary emphasis on protecting and enhancing refuge wildlife resources, particularly threatened and endangered species. The plan also accommodates limited forms of public use such as wildlife interpretation and environmental education. Additionally the plan supports various compatible public and economic uses throughout the Northwestern Hawaiian Islands archipelago (e.g. commercial fishing outside the refuge boundary). Five alternatives were considered, each composed of different mixes of conservation and public use strategies. The proposed action is a hybrid that would optimally satisfy all refuge objectives.

It is the opinion of the U.S. Fish and Wildlife Service, following a January 10, 1985, internal consultation under Section 7 of the Endangered Species Act of 1973, that adoption and implementation of any of the alternatives considered would promote conservation of the six species of endangered or threatened wildlife addressed in this document. Furthermore, the National Marine Fisheries Service (NMFS) conducted a separate biological consultation under Section 7 of the Endangered Species Act (NMFS shares responsibility for the management of threatened green sea turtle and endangered Hawaiian monk seal populations with the U.S. Fish and Wildlife Service) and has concluded that the final master plan Preferred Alternative, which includes modifications recommended by NMFS, is not likely to jeopardize the continued existence of the Hawaiian monk seal or the Hawaiian green sea turtle.

A limited number of copies of the EIS may be obtained by contacting:

Refuge Manager, Hawaiian Islands National Wildlife Refuge, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, HI 96850, (808) 546–5608

Copies are also available for inspection at the following locations:

Hamilton Library, University of Hawaii, 2550 The Mall, Honolulu, HI 96822

Legislative Reference Bureau Library, State Capitol Building, 415 South Beretania, Honolulu, HI 96813

Hawaii State Library, 478 South King Street, Honolulu, HI 96813

Kailua Library, 239 Kuulei Road, Kailua, HI 96734

Kaneohe Regional Library, 45–829 Kam Highway, Kaneohe, HI 96744

Pearl City Regional Library, 1138 Waimano Home Road, Pearl City, HI 96782

Kauai Regional Library, 4344 Hardy, Lihue, HI 96766

Hawaii Regional Library, P.O. Box 647, Hilo, HI 96721–0647

Kailua-Kona Library, 75–138 Hualalai Road, Kailua-Kona, HI 96740

Molokai Regional Library, P.O. Box 395, Kaunakakai, HI 96748

Maui Regional Library, P.O. Box 8, Wailuku, HI 96793

Colorado State University Library, Fort Collins, CO 80523

Dated: July 1, 1986.

Joseph R. Blum,

Acting Regional Director.

[FR Doc. 86–15145 Filed 7–7–86; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 28, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior,

Washington, DC 20243. Written comments should be submitted by July 23, 1986.

Patrick Andrus,

Acting Chief of Registration, National Register.

ALASKA

Anchorage Division

Anchorage, Fourth Avenue Theatre (AHRS Site No. ANC-284) 630 W. 4th Ave. (10/051/82)

Fairbanks Division

Fairbanks, Clay Street Cemetery (AHRS Site No. FAI-164), 7th Ave. and Riverside Dr. 10/26/82)

Sitka, Division

Sitka, Russian Bishop's House, Lincoln and Monastery Sts. (05/25/63)

ALASKA

Anchorage Borough

Anchorage, *David, Leopold, House*, 605 W. Second Ave.
Anchorage, *Kimball's Store*, 500 and 504 W. Fifth Ave.

Bristol Bay Borough

Dillingham, *Pilgrim 100B Aircraft*, Dillingham Municipal Airport

CALIFORNIA

Orange County

Newport Beach, *Bank of Balboa—Bank of America*, 611 E. Balboa Blvd.

Sonoma County

Sonoma, *Buena Vista Vineyards—Buena Vista Viticultural Society*, 18000 Old Winery Rd.

IDAHO

Kootenai County

Harrison Vicinity, *Lower Carlin Bay School II (Kootenai County Rural Schools TR)*, N side of Carlin Creek Rd. E of ID 97

MAINE

Hancock County

Seal Harbor, *St. Jude's Episcopal Church*, SR 3

MASSACHUSETTS

Berkshire County

Richmond, *Nichols-Sterner House*, Swamp Rd.

Suffolk County

Boston, *Filene's Department Store*, 426 Washington St.
Boston, *Locke—Ober Restaurant*, 3—4 Winter Pl.
Boston, *Second Brazer Building*, 25—29 State St.

MINNESOTA

Big Stone County

Odessa, *Odessa Jail*, Main and Second Sts.

Kandiyohi County

Willmar Vicinity, *Endreson, Lars and Guri, House*, Off CR 5

Renville County

Fairfax, *Minneapolis and St. Louis Depot*, Park St. and Second Ave. S
Sacred Heart Vicinity, *Rudi, Lars, House*, CR15

MONTANA

Hill County

Havre, *Carnegie Public Library*, 447 Fourth Ave.

Lewis and Clark County

Helena, *Helena South-Central Historic District*, Roughly bounded by Broadway, S. Davis St., city limits, and S. Warren St.

NEBRASKA

Lancaster County

Lincoln, *First State Bank of Bethany*, 1551 N. Cotner Blvd.
Lincoln, *Municipal Lighting and Waterworks Plant*, 2901 A St.

NEVADA

Douglas County

Minden, *Douglas County Courthouse (Architecture of Frederick J. DeLonchamps TR)*, 1616 Eighth St.
Minden, *Farmers Bank of Carson Valley (Architecture of Frederick J. DeLonchamps TR)*, 1597 Esmeralda Ave.
Minden, *Minden Butter Manufacturing Company (Architecture of Frederick J. DeLonchamps TR)*, 1617 Water St.
Minden, *Minden Inn (Architecture of Frederick J. DeLonchamps TR)*, 1594 Esmeralda Ave.
Minden, *Minden Wool Warehouse (Architecture of Frederick J. DeLonchamps TR)*, 1615 Railroad Ave.

Washoe County

Reno, *Bell Telephone of Nevada (Architecture of Frederick J. DeLonchamps TR)*, 100 N. Center
Reno, *Reno Main Post Office (Architecture of Frederick J. DeLonchamps TR)*, 50 S. Virginia
Reno, *Reno National Bank—First Interstate Bank (Architecture of Frederick J. DeLonchamps TR)*, 204 N. Virginia St.
Reno, *Riverside Hotel (Architecture of Frederick J. DeLonchamps TR)*, 17 S. Virginia St.
Reno, *Vachina Apartments—California Apartments (Architecture of Frederick J. DeLonchamps TR)*, 45 California Ave.
Reno, *Washoe County Courthouse (Architecture of Frederick J. DeLonchamps TR)*, 117 S. Virginia St.

NEW JERSEY

Atlantic County

Atlantic City, *Church of the Ascension*, 1601 Pacific Ave.

Burlington County

Moorestown, *Morrestown Friends School & Meetinghouse*, Main St. at Chester Ave.

North Carolina

Madison County

Hot Springs, *Dorland Memorial Presbyterian Church*, Bridge St. at Meadow La.

Warren County

Vaughan Vicinity, *Browne, Mary Ann*, On SR 1530

North Dakota

Ramsey County

Devils Lake, *Locke Block*, 405 Fifth St.

Ohio

Butler County

Hamilton, *Catholic High School*, 533 Dayton. St.

Summit County

Akron, *Akron Jewish Center*, 220 S. Balch St.

South Carolina

Hampton County

Crocketville Vicinity, *Cohasset* 1 mile N. of Crocketville on US 601

Horry County

Conway Vicinity, *Atlantic Coast Line Railroad Depot (Conway MRA)*, N side of U.S. across Lake Kingston from Conway
Conway, *Ambrose, H.W., House (Conway MRA)*, 1503 Elm St.
Conway, *Beaty—Little House (Conway MRA)*, 507 Main St.
Conway, *Beaty—Spivey House (Conway MRA)*, 428 Kingston St.
Conway, *Burroughs, Arthur M., House (Conway MRA)*, 500 Lakeside Dr.
Conway, *Conway Methodist Church, 1898 and 1910 Sanctuaries (Conway MRA)*, Fifth Ave.
Conway, *Holliday, J.W., Jr., House (Conway MRA)*, 701 Laurel St.
Conway, *Kingston Presbyterion Church Cemetery (Conway MRA)*, 800 Third Ave.
Conway, *Quattlebaum, C.P. House (Conway MRA)*, 219 Kingston St.
Conway, *Quattlebaum, C.P., Office (Conway MRA)*, 903 Third Ave.
Conway, *Quattlebaum, Paul, House (Conway MRA)*, 225 Kingston St.
Conway, *Waccamaw River Warehouse Historic District (Conway MRA)*, Roughly bounded by Second Ave., Waccamaw River, Main and Laurel Sts.
Conway, *Winborne, W.H., House (Conway MRA)*, 1300 Sixth Ave

Richland County

Columbia, *Benedict College Historic District*, Roughly bounded by Laurel, Oak, Taylor and Harden Sts. on Benedict College Campus

[FR Doc. 86-15298 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region

Preservation Commission will be held at 7:30 p.m., CST, on August 6, 1986, at the Jefferson Parish East Bank Council Chamber, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 92-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—User Fee Program
—Special Management Area Design/ Louisiana Coastal Management Program/Bartaria Unit
—Prairie Production/Bayou Boeuf Status
—Cooperative Agreements
—Design Projects

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, U.S. Customs House, 423 Canal Street, Room 206, New Orleans, Louisiana 70130, telephone 504/589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: June 25, 1986.

Eldon G. Reyer,

Acting Regional Director, Southwest Region.

[FR Doc. 86-15299 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use in Conducting Competitive Analysis

The Commission has received a request from the law firm of Arnold & Porter on behalf of its client, Occidental Chemical Corporation (Occidental), for permission for its firm and Dr. Robert Willig of Princeton University to use the 1981 to 1984 and, when available 1985 ICC Waybill Sample to conduct certain competitive analyses for a proceeding before the Federal Trade Commission. This proceeding will address the competitive consequences of Occidental's acquisition of Diamond Shamrock's chlorine/caustic soda plants. The companies have agreed to the proposed acquisition and are awaiting FTC clearance.

The Waybill Sample will be used to help identify the relevant antitrust geographic market for products manufactured by both firms. Those firms include chlorine, caustic soda, and caustic potash. These geographic market analyses involve identifying degree to which producers of a product in one region (e.g., chlorine) are able to supply customers in other regions. In part, this can be ascertained by observing existing rail shipment patterns. Arnold & Porter is requesting permission to access the Waybill Samples for 1981 to 1985 because analyses of antitrust markets must consider changes in shipment patterns over time. They also state that they need to access the complete Waybill Sample for these years because it is impossible to identify the location of supply in advance. This means that restricting the sample to a subset of railroads may cause important sources of supply to go unidentified.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275-7003.

Noreta R. McGee,

Secretary.

[FR Doc. 86-15276 Filed 7-7-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; Alaska Pulp Co.

In accordance with Department policy, 28 CFR 50.7, Notice is hereby given that on June 20, 1986, a proposed Consent Decree in *United States* v. *Alaska Pulp Company*, Action No. A86-331CIV, was lodged with the United States Court for the District of Alaska. The proposed Consent Decree concerns the prevention of discharges of pollutants into navigable waters of the United States in excess of limits set forth in a National Pollutant Discharge Elimination System ("NPDES") permit and in violation of the Clean Water Act. The proposed Consent Decree requires Alaska Pulp to pay a civil penalty of $78,000, establishes a schedule for construction of treatment facilities to bring Alaska Pulp into compliance with its NPDES permit, sets forth certain interim effluent limitations and enjoins further violations of the Clean Water Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Alaska Pulp Company*, D.J. Ref. 90-5-1-1-595B.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Alaska, 701 "C" Street, Anchorage, Alaska 99513 and at the Region 10 Office of the Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101. Copies of the Consent Decree also may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the

proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.50 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-15262 Filed 7-7-86; 8:45 am]

BILLING CODE 4401-10-M

Technical Correction to Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act; George P. Bissell Co.

On April 10, 1986, a Notice was published in the **Federal Register** regarding the lodging of a proposed Consent Decree in *United States* v. *George P. Bissell Company, et al.*, Civil Action No. Y-83-3745 (D. Md). The notice stated that the United States had filed a complaint and amended complaints against seventeen defendants including an individual, David Moore, and Board of County Commissioners of Cecil County, Maryland. This was in error because David Moore and Board of County Commissioners of Cecil County, Maryland were not sued by the United States and the State of Maryland but rather were Third Party Defendants to the suit. The Consent Decree was signed and entered on May 19, 1986, by the United States District Court. This technical correction has been published at the request of counsel for Cecil County, Maryland.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-15263 Filed 7-7-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor (DOL), in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping Reporting Requirements Under Review

The DOL, Employment Standards Administration, is requesting an extension of OMB approved recordkeeping/reporting requirements cleared under OMB Number 1215-0072, Office of Federal Contract Compliance Programs (OFCCP) Recordkeeping and Reports Requirements. There are two Paperwork Reduction Act requests being submitted to OMB, one contains Supply and Service (nonconstruction), the other contains Construction regulatory requirements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission in which they are interested.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone (202) 523-6331. Comments and questions about these items should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Jimmy Mason, Telephone (202) 395-6880, Office of the Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

The OFCCP can provide copies only of those parts of the Federal Contract Compliance Manual (FCCM) to the public which contain actual recordkeeping/reporting requirements. These include: Letter No. 1, pp. 2-64 thru 2-66; Form CC-257, p. 4-16; and Form CC-41, p. 4C-7. Should a member of the public wish to obtain a copy of the complete FCCM, they are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Extension

Employment Standards Adminstration

OFCCP recordkeeping/reporting: Supply and Service

1215-0072

Biennially (in response to scheduled compliance reviews; generally less than once every two years)

Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

3,487 respondents; 17,396,685 hours

Programs administered by the Office of Federal Contract Compliance programs require certain government contractors to develop, update, and maintain Affirmative Action Programs, and to provide information to OFCCP when compliance reviews are conducted. All recordkeeping and reporting relates to these activities.

OFCCP Recordkeeping/Reporting: Construction

1215-0072

Monthly; Quarterly; Other (for compliance reviews)

Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

34,827 respondents; 5,204,461 hours; 2 forms.

Programs administered by the Office of Federal Contract Compliance Program require Federal and Federally-assisted construction contractors to report on employment utilization, develop and maintain documentation on 16 Affirmative Action steps and to provide information when compliance reviews are conducted. All recordkeeping and reporting burdens relate to these activities.

Signed at Washington, DC, this 2nd day of July, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-15341 Filed 7-7-86; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

The State submitted by letter dated December 19, 1984, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to the State standard that is comparable to the Federal standard, 29 CFR 1910.106, Flammable and Combustible Liquids, as originally published in the **Federal Register** (37 FR 22458) on October 19, 1972, as part of Subpart H, Hazardous Materials. The State's response to the original Federal standard, Subpart H, was published in the **Federal Register** (40 FR 57805) on December 12, 1975. The Oregon Flammable and Combustible Liquids standard is contained in OAR Chapter 437–123–04 through 437–123–300. The amendment was adopted and became effective on December 3, 1984, pursuant to OAR 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under the Oregon WCD Administrative Order, Safety 18–1984. The Administrative Order adopted changes to correct references, and to renumber the standard in the format required by Oregon Administrative Rules. A public meeting was not held prior to adoption, but the State mailed the proposed Amendment of Rules to affected employers on October 24, 1984, pursuant to OAR 436–90–505.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standard is substantially identical to the comparable Federal standard and accordingly is approved. It has been determined that the State standard is at least as effective as the comparable Federal standard. It has also been determined that the differences between the State and Federal standard are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 8, 1986.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Seattle, Washington, this 14th day of May 1986.

Richard L. Beeston,

Acting Regional Administrator.

[FR Doc. 86–15213 Filed 7–7–86; 8:45 am]

BILLING CODE 4510–26–M

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

The State submitted by letter dated December 19, 1984, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to the State standard that is comparable to the Federal standard, 29 CFR 1910.110, Storage and Handling of Liquified Petroleum Gases, as originally published in the **Federal Register** (37 FR 22458) on October 19, 1972, as part of Subpart H, Hazardous Materials. The State's response to the original Federal standard, Subpart H, was published in the **Federal Register** (40 FR 57805) on December 12, 1975. The Oregon Storage and Handling of Liquified Petroleum Gases standard is contained in OAR Chapter 437–125–01 through 437–125–445. The amendment was adopted on November 30, 1984, and became effective on December 1, 1984, pursuant to OAR 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under the Oregon WCD Administrative Order, 17–1984. The Administrative Order adopted changes to correct references, and to renumber the standard in the format required by Oregon administrative Rules. A public meeting was not held prior to adoption, but the State mailed the proposed Amendment of Rules to affected

employers on October 24, 1984, pursuant to OAR 436–90–505.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standard is substantially identical to the comparable Federal standard and accordingly is approved. It has been determined that the State standard is at least as effective as the comparable Federal standard. It has also been determined that the differences between the State and Federal standard are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 8, 1986.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 15th day of May 1986.

Richard L. Beeston,

Acting Regional Administrator.

[FR Doc. 86–15214 Filed 7–7–86; 8:45 am]

BILLING CODE 4510–26–M

Virgin Islands Standards; Approval

1. Background. Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter) called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953–4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On September 11, 1973, notice was published in the **Federal Register** (38 FR 24896) of the approval of the Virgin Islands plan and adoption of Subpart S to Part 1952 containing the decision.

The Virgin Islands plan provides for the adoption of Federal standards as Virgin Islands standards by reference. The authority to adopt such standards is contained in Title 3, section 940, of the Virgin Islands Code.

In response to Federal standards changes, the State has submitted supplements, and incorporated as part of the plan, State certification documenting promulgation of State standards comparable to Coke Oven Emissions Standard: Conforming Deletions, 29 CFR 1910.1029, as published in the **Federal Register** (50 FR 37352) dated September 13, 1985; and Occupational Exposure to Ethylene Oxide: Labeling Requirements, 29 CFR 1910.1047, as published in the **Federal Register** (50 FR 4149) dated October 11, 1985.

These standards which are contained in the Virgin Islands Rules and Regulations 24 V.I.R.R. 36(b)1 were promulgated by resolution adopted by the Virgin Islands Department of Labor on February 14, 1986 pursuant to Title 24, Virgin Islands Code, section 36(b).

In response to Federal standards changes, the State has submitted supplements, and incorporated as part of the plan, State certification documenting promulgation of State standards comparable to Flammable and Combustible Liquids (Corrections), 29 CFR 1910.106, as published in the **Federal Register** (50 FR 36902) dated September 11, 1985; Hazard Communication: Interim Final Rule and Corrections, 29 CFR 1910.1200, as published in the **Federal Register** (50 FR 48750) dated November 27, 1985; Occupational Exposure to Cotton Dust, 29 CFR 1910.1043, as published in the **Federal Register** (50 FR 51120) dated December 13, 1985; and Educational and Scientific Diving—Guidelines, 29 CFR Part 1910, Subpart T, as published in the **Federal Register** (50 FR 1046), dated January 9, 1985.

These standards which are contained in the Virgin Islands Rules and Regulations 24 V.I.R.R. 36(b)1 were promulgated by resolution adopted by the Virgin Islands Department of Labor on April 10, 1986 pursuant to Title 24, Virgin Islands Code, section 36(b).

In response to Federal standards changes, the State has submitted supplements, and incorporated as part of the plan, State certification documenting promulgation of State standards comparable to Occupational Exposure to Ethylene Oxide: Change in Effective Date and Approval of Information Collection Requirements, 29 CFR 1910.1047, as published in the **Federal Register** (50 FR 9801) dated March 12, 1985.

This standard which is contained in the Virgin Islands Rules and Regulations 24 V.I.R.R. 36(b)1 was promulgated by resolution adopted by the Virgin Islands Department of Labor on July 24, 1985 pursuant to Title 24, Virgin Islands Code, section 36(b).

2. Decision. Having reviewed the Virgin Islands Regulations providing for the adoption of Federal standards by reference, it has been determined that Virgin Islands Regulations are identical to Federal standards and accordingly should be approved.

3. Location of supplement for inspection and copying. A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Region II, 1515 Broadway, Room 3445, New York, New York 10036; Directorate of Federal-State Operations, Room 3476, 200 Constitution Avenue, NW., Washington, DC 20210; Department of Labor, Government of the Virgin Islands, Dronigans Gade, Charlotte Amalie, St. Thomas, V.I. 00801, and at Hospital Street Christiansted, St. Croix, V.I. 00820.

4. Public participation. Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virgin Islands plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were

promulgated in accordance with Federal Law meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State Law and further participation would be unnecessary.

The decision is effective July 8, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608; (29 U.S.C. 667)).

Signed at New York City, New York, this twenty third day of May, 1986.

Byron R. Chadwick,

Acting Regional Administrator.

[FR Doc. 86-15215 Filed 7-7-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

July 1, 1986.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on August 7-8, 1986.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on August 7, 1986, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on August 7, 1986, will be as follows:

Committee Meetings

(Open to the Public)

8:30 a.m.-9:30 a.m.
Coffee for Council Members—Room 526

9:30 a.m.-10:30 a.m.
Committee Meetings—Policy Discussion
Education Programs—Room M-14
Fellowship Programs—Room 315
General Programs—Room 415
Research Programs—Room 316-2
State Programs—Room M-07 East

10:30 a.m. until Adjournment
(Closed to the Public for the reasons stated above)—Consideration of specific applications

(Open to the Public)

Policy Discussion

3:00 p.m.-3:30 p.m.
Challenge Grants—Room 430
Preservation Grants—Room M-07 West

3:30 p.m. until Adjournment
(Closed to the Public for the reasons stated above)—Consideration of specific applications

The morning session on August 8, 1986, will convene at 9:00 a.m., in the 1st Floor Council Room, M-09, and will be open to the public. The agenda for the morning session will be as follows:

(Coffee for Staff and Council members attending meeting will be served from 8:30 a.m.—9:00 a.m.)
Minutes of the Previous Meeting
Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Application Report and Matching Report
E. Status of Fiscal Year 1986 Funds
F. Status of Fiscal Year 1987 Appropriation Request
G. Representation of NEH by Council Members
H. Uses of Promotional Funds for Grant Activities
I. National Capital Arts and Cultural Affairs Program Report
J. Committee Reports on Policy and General Matters
1. Education Programs
2. Fellowship Programs
3. Preservations Grants
4. Research Programs
5. General Programs
6. State Programs
7. Challenge Grants
k. Emergency Grants and Actions Departing from Council Recommendation—Approvals

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86-15282 Filed 7-7-86; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

DATE: July 28-29, 1986.

Time: 9:00 a.m. to 5:00 p.m.

Room: 430.

Program: This meeting will review Challenge Grants applications from Large Museums and Historical Organizations, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1986.

The proposed 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. Because the proposed meeting will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(b) of section 552 of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the

Humanities, Washington, DC 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86–15330 Filed 7–7–86; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Structures and Materials Engineering; Meeting Cancellation

The Advisory Committee for Structures and Materials Engineering was scheduled to meet in Washington, DC on July 14 and 15, 1986. This meeting has now been postponed until this fall.

The announcement of the original meeting appeared in the **Federal Register** on June 27, 1986 (51 FR 23483).

M. Rebecca Winkler,

Committee Management Officer.

July 2, 1986.

[FR Doc. 86–15327 Filed 7–7–86; 8:45 am]

BILLING CODE 7555–01–M

Committee on Equal Opportunities in Science and Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering.

Dates: Wednesday, Thursday, and Friday, July 23, 24, and 25, 1986.

Time: Wednesday: 1:00p.m.–5:00 p.m., Thursday: 9:00 a.m.–5:00 p.m., Friday: 9:00 a.m.–12:00 p.m.

Place: Rm. 540, NSF

Type of meeting: Open

Contact person: Dr. Elvira Doman, Executive Secretary, National Science Foundation, Room 332–B, 1800 G Street NW, Washington, DC 20550, Telephone: 202/357–7975

Purpose of committee: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for minorities, women and disabled persons in science and engineering, and the impact of science and engineering on them.

Summary of Minutes: May be obtained from the contact person at the above address.

Agenda: The Committee will consider mechanisms to increase participation of minorities, women and disabled persons in Foundation programs, research projects, and all NSF advisory committees. It will also advise the Director on how to modify NSF policies and procedures relating to minority, women, and disabled persons as well as internal distribution of funds to implement this program.

M. Rebecca Winkler,

Committee Management Officer.

July 1, 1986.

[FR Doc. 86–15326 Filed 7–7–86; 8:45 am]

BILLING CODE 7555–01–M

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection with will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 3578–9421.

OMB Desk Officer: Carlos Tellez, (202) 395–7340.

Title: Survey of Graduate Science and Engineering Students and Postdoctorates.

Affected Public: Colleges and Universities.

Number of Responses: 8,700 responses: total of 12,120 hours.

Abstract: This survey is the only source of national statistics on graduate students and postdoctorate support in graduate science/engineering programs. Data are used by Federal agencies, State Education Boards, professional societies, and institutions of higher education in monitoring science and engineering educational progress and in planning to meet future science and engineering needs.

Dated: July 2, 1986.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 86–15326 Filed 7–7–86; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on I&E Programs; Meeting Postponement

The **Federal Register** published on July 1, 1986 (51 FR 23863) contained notice of a meeting of the ACRS Subcommittee on I&E Programs to be held on Wednesday, July 16, 1986, 8:30 a.m., Room 1046, 1717 H Street NW., Washington, DC. This meeting has been postponed and rescheduled for August 14, 1986 and will be held in the 5th Floor Hearing Room, East West Towers—West Building, 4350 East West Highway, Bethesda, MD.

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 allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (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: July 2, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–15317 Filed 7–7–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Scram Systems Reliability; Meeting

The ACRS Subcommittee on Scram Systems Reliability will hold a meeting on July 31, 1986, Room 1046, 1717 H Street, NW., Washington, D.C.

To the extent practical the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss proprietary information.

The agenda for subject meeting shall be as follows:

Thursday, July 31, 1986–8:30 A.M. until the conclusion of business

The Subcommittee will discuss the status of the ATWS Rule implementation effort.

Oral statements may be presented by members of the public with 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 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 allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (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: July 2, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-15318 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Westinghouse Reactor Plants; Meeting

The ACRS Subcommittee on Westinghouse Reactor Plants will hold a meeting on July 30, 1986, Room 1046, 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:

Wednesday, July 30, 1986—1:00 p.m. until the conslusion of business.

The Subcommittee will continue discussion and comment on NRC Staff actions taken with respect to the SONGS-1 water hammer/loss of AC power event. This will be a follow-up Subcommittee meeting to the February 12, 1986 meeting on the same subject.

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 allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (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: July 1, 1986.

Morton W. Linbarkin,

Assistant Executive Director for Project Review

[FR Doc. 86-15319 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237/249]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of documents, pursuant to 10 CFR 20.305, to Commonwealth Edison Company (CECo) (the licensee) approving the use of a mobile low-level radioactive waste volume reduction system at Dresden Nuclear Power Station, Unit Nos. 2 and 3, located at the licensee's site in Grundy County, Illinois.

Environmental Assessment

Identification of Proposed Action: The proposed action would grant approval, pursuant to 10 CFR 20.305, for CECo to dispose of low-level radioactive waste by use of a Mobile Volume Reduction System (MVRS) designed and built by Aerojet Energy Conversion Company. The MVRS is to be operated such that its use will not significantly change the offsite doses to the public.

The Need for the Proposed Action: Dresden Station, like other nuclear generating statons, generates low-level radioactive waste: coveralls, rags, resins, etc. This material needs to be packaged and disposed of by burial at approved sites to protect public health and safety. Since most of the material is organic in composition, the MVRS will be used to incinerate the waste and produce ash whose volume is much less than that of the original waste. This will considerably reduce the amount of burial space needed at the sites to dispose of the same curie content of low-level waste.

Environmental Impacts of the Proposed Action: The use of the MVRS will only be allowed under operating conditions which limit releases of airborne radioactivity. These releases will be controlled by Technical Specification limits placed on the two release points of the MVRS. The highest annual dose to the total body and any organ of the maximally exposed individual is estimated to be less than 0.1 mrem from exposure to radioactive effluents from the incinertion. This annual dose estimate is a small fraction of ALARA design objectives set forth in Appendix I to 10 CFR Part 50. The annual dose to the population within 50 miles of Dresden from exposure to radioactive effluents from the incinerator is estimated to be less than 0.1 person-rem. This annual population dose estimate is also a small fraction of the total annual population dose resulting from present operation of Dresden Units 2 and 3 (i.e., 160 person-rem). The dose to the maximally exposed individual is estimated to be a small fraction of the annual exposure to natural background radiation, which is about 105 mrems for the state of Illinois. Disposal of the solid low-level radiactive waste generated by the MVRS will be done as specified in 10 CFR Part 20 and applicable provisions of 10 CFR Part 61. Consequently, the radiological releases including those from the proposed use of the MVRS will not be significantly greater than present station releases. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the use of the MVRS.

With regard to potential nonradiological impacts, the proposed use of the MVRS involves equipment and features located entirely within the restricted areas as defined in 10 CFR Part 20. The proposed MVRS use does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed MVRS use.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement dated November 1973 for the Dresden Nuclear Power Station, Unit Nos. 2 and 3.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's

request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed use of the MVRS.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letters dated November 7, 1984 and January 3, 1985. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Bethesda, Maryland, this 1st day of July 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1 Division of BWR Licensing.

[FR Doc. 86-15322 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Order Confirming Licensee Commitments on Emergency Response Capability

I

Connecticut Yankee Atomic Power Company (CYAPCo) is the holder of Facility Operating License No. DPR-61 which authorizes the operation of the Haddam Neck Plant at steady-state power levels not in excess of 1825 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Middlesex County, Connecticut.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include operational safety, siting and design, and emergency preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities, including training.

III

Connecticut Yankee Atomic Power Company responded to Generic Letter 82-33 by letter dated April 15, 1983. By letter dated August 11, November 28, December 20, 1983, and April 9, 1984, CYAPCo made commitments to complete the basic requirements.

The licensee's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements.

The NRC staff reviewed CYAPCo's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. As a result of these negotiations, CYAPCo modified certain dates by letters dated August 11, November 28, December 20, 1983, and April 9, 1984. An order was subsequently issued on June 12, 1984 confirming the licensee's commitments. Since the original order was issued, CYAPCo has provided additional implementation schedules for all remaining items as required by the June 12, 1984 Order. By letters dated February 28, 1986 and May 13, 1986 CYAPCo proposed implementation schedules for both the safety parameter display system and the detailed control room design review. The NRC staff finds that the proposed implementation dates are reasonable and achievable for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of its emergency response capability. The purpose of this order is to formalize the requirements to take actions with respect to the safety parameter display system and the detailed control room design review in accordance with the licensee's proposed schedules. The attached table summarizing CYAPCo's schedular commitments or status, including requirements imposed by earlier orders, was developed by the NRC staff from the Generic Letter and the information provided by CYAPCo.

In view of the foregoing, I have determined that the implementation of CYAPCo commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Part 50, it is hereby ordered, effective immediately, that the CYAPCo shall:

Implement the specific items described in the attachment to this ORDER in the manner described in CYAPCo's submittals noted in Section III herein no later than the dates in the attachment.

Extensions of time for completing these items may be granted by the Director, Division of PWR Licensing-B, for good cause shown.

V

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy shall also be sent to the Assistant General Counsel for Enforcement at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether CYAPCo should comply with the requirements set forth in section IV of this Order.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 2nd day of July, 1986.

Attachment:

CYAPCo Commitments on Requirements Specified in Supplement 1 to NUREG-0737

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

HADDAM NECK PLANT LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC.	Complete May 13, 1986.
	1b. SPDS fully operational and operators trained	March 25, 1988.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete Feb. 28, 1986.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Feb. 25, 1988.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	Complete Feb. 29, 1984.
	3b. Implement (installation or upgrade) requirements	Complete July 17, 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Complete Sept. 1, 1983.
	4b. Implement the upgraded EOPs	Sept. 1, 1986.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Complete.[1]
	5b. Operational Support Center fully functional	Complete.[1]
	5c. Emergency Operations Facility fully functional [2]	Complete.[1]

[1] Except for any additional changes that may be required as a result of other items in this Order.
[2] Relief for backup EOF granted by letter from D. Eisenhut to W. Counsil dated June 4, 1984.

[FR Doc. 86-15320 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-SC; Source Material License No. STA 583]

Kerr-McGee Chemical Corp. (Kress Creek Decontamination); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following Panel members to serve as the Atomic Safety and Licensing Appeal Board for this show cause proceeding: Christine N. Kohl, Chairman, Dr. Reginald L. Gotchy, Howard A. Wilber.

Dated: July 1, 1986.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 86-15323 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co. (Monticello Nuclear Generating Plant); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License No. DPR-22 which authorizes operation of the Monticello Nuclear Generating Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility is a boiling water reactor at the licensee's site located in Wright County, Minnesota.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised section 50.48 and Appendix R became effective on February 17, 1981. Section III.G of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

III

By letter dated April 5, 1983 and supplemented on February 21, 1986, the licensee requested an exemption from the requirements of section III.G.3 to the extent that it requires the installation of a fixed fire suppression system in the control room. In support of this request the licensee notes the existing fire protection features, the fact that the control room is continuously manned and the potentially adverse impact on equipment and personnel occupancy of an inadvertent initiation of a fixed suppression system.

By letter dated February 21, 1986, the licensee provided information relevant to the "special circumstances" finding required by revised 10 CFR 50.12(a) (see 50 FR 50764). According to the licensee, granting of this exemption as defined in section 50.12(a)(2)(iv) would result in benefit to the public health and safety that compensates for any decrease in safety that may result from granting this exemption. The control room contains sensitive electrical components necessary for the control of the plant under normal and design basis accident conditions and introduction of water, Halon or CO_2 by inadvertent initiation will adversely impact the operation of these electrical components. This can lead to spurious actuations of or loss of plant equipment to respond when called upon. The introduction of water, Halon or CO_2 due to inadvertent activation would also reduce the effectiveness of the operators in responding to an accident or during normal operation.

The licensee states that the decrease to the public health and safety which would result from the granting of the exemption is insignificant for the following reasons:

- The control room is continuously manned in accordance with the plant technical specifications.
- There is only a light combustible loading in the room.
- Transient combustible loadings are controlled by administrative procedures.
- Portable carbon dioxide and Halon fire extinguishers are located in the control room and a manual hose station is immediately available outside the entrance.
- Isolation dampers are provided in the ventilation ducts to maintain habitability.
- The design of the control panels is such that metal barriers are installed between the required safe shutdown system functions in the control room.

• Ten ionization detectors exist to provide early detection of possible fires.

• An alternate shutdown system is being installed during the 1986 refueling outage to permit the shutdown of the plant independent of any control room equipment.

Therefore, the licensee concludes the net effect of this exemption is a benefit to the public health and safety that compensates for any decrease in safety that may result from the granting of this exemption request. The staff concludes that "special circumstances" exist for the licensee's requested exemption in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of Appendix R to 10 CFR Part 50. (See 10 CFR 50.12(a)(2)(iv).)

The intent of section III.G is to require an acceptable level of fire safety to assure the maintenance of safe shutdown capability. Because the control room is continuously manned and has alternate shutdown capability that is physically and electrically independent of the control room, there is reasonable assurance that a fire would be promptly extinguished. Therefore, the installation of a fixed fire suppression system will not significantly increase the level of fire protection in the control room and the exemption requested by the licensee should be granted.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a), that (1) the exemption as described in section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and (2) special circumstances are present for this exemption in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR 50. Therefore, the Commission hereby grants the exemption request identified in section III above.

Pursuant to 10 CFR 50.32 the Commission has determined that the granting of this exemption will not result in any significant environmental impact (51 FR 19911, June 3, 1986).

The Safety Evaluation dated June 19, 1986, related to this action and the above referenced submittals by the licensee are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Environmental Conservatory Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

A copy of the Safety Evaluation may be obtained upon written request to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 19th day of June 1986.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Acting Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-15321 Filed 7-7-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23380; File No. SR-PHILADEP-86-03]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing of Proposed Rule Change Establishing Bearer Municipal Bond Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on May 28, 1986, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. The Commission is publishing this notice to solicit comment. The proposal would establish Philadep's Bearer Municipal Bond Program (the "BMBP") and an accompanying fee schedule. The proposal would make certain bearer municipal bonds eligible for deposit at Philadep and would establish procedures for their custody and book-entry processing. The program would govern such services as deposits of certificates, book-entry settlement of trades, interest collection and payment, call and maturity processing and withdrawals.

I. Description of the Proposal

Under the proposal, only Participants who sign a Municipal Bearer Participant's agreement would be permitted to participate in the BMBP. A participant would deposit and withdraw eligible securities by submitting appropriate instructions and securities to Philadep's Municipal Bearer Bond Window or other locations specified in the procedures. Participants would receive daily reports regarding account activity and closing positions.

The BMBP would provide participants with a number of important secondary services. First, Philadep would provide coupon clipping, income collection and payment services. Philadep participants would receive coupon interest payments for deposited bearer municipal bonds on payable date. Second, Philadep would provide full and partial call processing services when Reorganization Notices are distributed to participants. Philadep would submit to the paying agent all appropriate deposited securities subject to the call for payment for the account of participants. Third, Philadep would process maturing bonds. Philadep would surrender maturing bonds to the paying agent for collection and would pay participants on maturity date, or in some cases when the funds are collected by Philadep.

BMBP services would be made available to Philadep participants through Philadep's membership in, and custodial arrangements with, the Federal Reserve Bank of Philadelphia (the "Fed"). Under the agreement between Philadep and the Fed, the Fed would perform most certificate handling services for the BMBP program.

Philadep's proposal also includes a fee schedule for BMBP services. The fees include account charges, book-entry charges, custody, deposit and withdrawal fees.

II. Philadep's Rationale for the Proposal

Philadep believes that the BMBP, which is the substance underlying the proposal, will provide its participants efficient cost-effective services with respect to custody, income collection, call processing, maturity processing and book-entry settlement services for eligible bearer municipal bonds. Philadep states that benefits to be derived from participation in the BMBP include reduced participant clearing costs, centralized safekeeping facilities for bearer issues, book-entry settlement of trades, reduction in risk associated with physical deliveries and centralized income collection services. Philadep also believes that the agreements between Philadep participants and Philadep, and the agreement between the Fed and Philadep are consistent with Section 17A of the Act in that they will assure the safeguarding of securities and funds which are in Philadep's custody or control.

III. Request for Comments

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 change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons may submit written comments about the proposal by filing six copies of their comments with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposal 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. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at Philadep's principal office. All comments should refer to the file number in the caption above and should be submitted by July 29, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 30, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15337 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23387; File No. SR-NASD-86-15]

Self-Regulatory Organization; Notice and Immediate Effectiveness of Proposed Change Relating to Amendment to Section I, Part V of Schedule D, of Article XVI of the National Association of Securities Dealers, Inc.'s By-Laws

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 23, 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 Organization's Statement of the Terms of Substance of the Proposed Rule Change

The following is the full text of a proposed amendment to Section I, Part V of Schedule D of Article XVI of the National Association of Securities Dealers, Inc.'s ("NASD") By-Laws. (New language is italicized).

I. Minor Modifications in Charges

In order to compensate for minor variations in annual net income, the Board of Governors may increase or decrease the total charges in this Schedule by 10% from the base charges as adopted on August 28, 1979 upon filing such change with the Commission pursuant to section 19(b)(3) of the Act.

In order to facilitate the development of new information services and uses under appropriate terms and conditions, arrangements of limited duration, geography and/or scope may be entered into with Broker/Dealers, Vendors and other persons which may modify or dispense with some or all of the charges contained in this Part or the terms and conditions contained in standard agreements. The arrangements contemplated will permit the testing and pilot operation of proposed new information services and uses to evaluate their impact on and to develop the technical, cost and market research information necessary to formulate permanent changes, terms and conditions for filing with and approval of by the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide flexibility in permitting new services and uses of information proposed by Broker/Dealers, Vendors and other persons to operate on an experimental or pilot basis during a period of limited duration. The pilot test operations contemplated under this proposed rule change will permit the conduct of temporary experimental projects with Broker/Dealers, Vendors and other persons without having to utilize standard forms of agreement applicable to different services during the pilot, develop applicable charges prior to gaining experience with respect to the proposed service or applying existing charges to such new services or uses of information. An example of the type of new service for which this proposed rule change could be utilized is an automated voice response system for delivery of quotation information to Broker/Dealer customers or Vendor subscribers. Currently two charges exist for application to such a system, those being the standard Level 1 fee of $8.75 per month per terminal device or the non-professional fee of $6.00 per month per customer receiving the information. The development of automated voice systems provides the opportunity to evaluate alternatives to per terminal or per subscriber charges through the experience to be gained through pilot operations. The foregoing example is illustrative of only one area of development in a rapidly changing technical environment which will require flexibility to evaluate and develop appropriate charges, terms and conditions based upon the actual pilot operations of new systems.

This proposed rule change is believed to be fully consistent with section 15(A)(b)(5) of the Act which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposal will allow modification or waiver of established charges which were not designed to apply to a particular new information use or service.

The proposed rule change is also believed to be consistent with section 11A(a)(1) of the Act because the flexibility provided under the rule proposal will significantly facilitate the development and use of new data processing and communications techniques thereby creating the opportunity for more efficient and effective market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the rule proposal will impose no burden on competition. Moreover the flexibility provided will prevent the process of

permanent fee development and approval from delaying the introduction of new information services and uses on a pilot basis.

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 in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Exchange Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of this rule change, the Commission may summarily abrogate such rule 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 purpose of the Exchange Act.

IV. Solicitation of 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, DC 20549. Copies of the submission, 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. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 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 be refer to the file number in the caption above and should be submitted by July 29, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 1, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15334 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, Securities and Exchange Commission copy available from: Office of Consumer Affairs and Information Services, Washington, DC 20549.

Extension

Rule 15a-4—File No. 270-7.

Rule 15b1-4—File No. 270-9.

Rule 15b1-2—File No. 270-12.

Rule 15b6-1(a); Form BDW—File No. 270-17.

Rule 17Ad-6—File No. 270-291.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted the following rules/forms for OMB approval for continued use:

Rule 15a-4—permits a natural person member of a securities exchange who terminates his association with a registered broker-dealer to continue to do business on the exchange while the Commission reviews his application for registration as a broker-dealer if the exchange files a statement indicating that there do not appear to be grounds for disapproving the application.

Rule 15b1-4—requires the filing of a statement with the Commission by a qualified fiduciary who succeeds to the business of a registered broker-dealer.

Rule 15b1-2—requires the filing of certain financial statements when a broker or dealer registers with the Commission.

Rule 15b6-1(a); Form BDW—requires the filing of a Form BDW when a registered broker or dealer proposes to withdraw its registration.

Rule 17Ad-6—requires registered transfer agents to maintain certain records necessary to permit the appropriate regulatory agency to examine registered transfer agents for compliance with applicable Commission rules.

Submit comments to OMB Desk Officer: Sheri Fox (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Shirley E. Hollis,

Acting Secretary.

June 30, 1986.

[FR Doc. 86-15333 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23381; File No. SR-PSDTC-86-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Securities Depository Trust Company

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 12, 1986, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that would amend Article XI of PSDTC's By-Laws. The Commission is publishing this notice to solicit public comment on the proposal.

The proposal would amend Article XI by deleting provisions for a separate participants fund for bearer bond activity. In 1983, PSDTC offered the Midwest Securities Trust Company's ("MSTC") municipal bearer bond service. At that time, PSDTC established a separate participants fund for PSDTC users of that program. Although PSDTC now offers its own bearer bond program, the separate participants fund contribution formula related to the MSTC bearer bond program, along with other provisions in Article XI concerning the separate participants fund were never deleted from the By-Laws. PSDTC currently calculates each participant's required fund contribution on the basis of the participant's total depository activity, including bearer bond activity. The current participants fund formula required a deposit of 1% of a participant's daily average settlement activity, with certain minimum and maximum amounts.

PSDTC believes that the current level of participants fund contributions is adequate to protect it against potential financial risks including those risks incidental to the processing of municipal securities in bearer form. PSDTC also believes that the proposed rule change is consistent with the provisions of section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of reasonable charges among PSDTC participants.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549 and at PSDTC's principal office.

To assist the Commission in determining whether to approve the

proposal or to institute disapproval proceedings, the Commission invites public comment on the proposal. Comments should refer to file No. SR-PSDTC-86-04. Please file six copies of comments with the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549 by July 29, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 30, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15335 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23389; File No. SR-PSE-86-11]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 20, 1986, The Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with The Securities and Exchange Commission ("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 Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE filed its Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialist Posts ("Pilot Program") with the Commission on May 4, 1981. The Pilot Program was amended in 1982 and 1985 when the criteria for the evaluation of specialist performance was modified. The Pilot Program is currently scheduled to terminate on June 30, 1986. To permit the PSE to properly evaluate the latest revisions in the specialist evaluation criteria that were approved by the SEC in February, 1986 (SR-PSE-85-34), The Board of Governors of the PSE has voted to request that the Pilot Program be extended through the third and fourth quarters of 1986, until December 31, 1986, so as to allow for a proper evaluation of these changes in The Specialist Evaluation System.

II. Self-Regulatory Organization's Statement of the Purpose, of, and Statutory Basis for, the Proposed Rule 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 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 Purpose of, and Statutory Basis for the Proposed Rule Change

The Pilot Program was initially filed with the Commission on May 4, 1981, and approved for a period of one year on May 27, 1981. The term of the Pilot Program was subsequently extended several times by the Commission. In 1982, and 1985, the Pilot Program was amended. It is currently scheduled to terminate on June 30, 1986.

In 1985 (SR-PSE-85-34), the PSE submitted certain modifications to the criteria utilized in the Specialist Evaluation Criteria. These changes were approved by the SEC in February, 1986, and were instituted in the second quarter of 1986. The PSE now wishes to extend the term of the Pilot Program through the third and fourth quarters of 1986, until December 31, 1986, in order to continue to evaluate the adjustments in the Specialist Evaluation System.

The PSE believes that the proposed rule change is consistent with section 6(b) of the Act in general, and in particular Section 6(b)(5).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

To permit the Pilot Program to remain in effect without interruption. The PSE has requested that this filing be approved on an accelerated basis, effective July 1, 1986.

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.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that it will provide the Exchange with the additional time necessary to complete its review of proposed amendments to the Pilot Program and to submit appropriate filings to the Commission, while permitting the Pilot Program to remain in effect without interruption.

IV. Solicitation of 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, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and say person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 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 by July 29, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referred above be, and thereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 1, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15336 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 15178; (812-6398)]

Prudential-Bache IncomeVertible Plus Fund, Inc., et al; Deferred Compensation Plan Application

June 27, 1986.

Notice is hereby given that Prudential-Bache IncomeVertible Plus Fund, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and Prudential-Bache Securities Inc. ("Prudential/Bache", collectively with Fund, "Applicants"), One Seaport Plaza, New York, NY 10020, filed an application on May 29, 1986, requesting an order, pursuant to section 6(c) of the Act, exempting Applicants' proposed Deferred Director's Fee Agreement ("Agreement" to the extent necessary, from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, to permit certain joint transactions relating to the Agreement. Applicants also request that such order extend to other existing and future open-end investment companies for which Prudential-Bache serves either as administrator, manager, distributor or principal underwriter (collectively with the Fund, "Prudential-Bache Funds"), and whose board of directors adopts a deferred director's fee arrangement substantially similar to the Agreement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

According to the application, at least 40% of the board of directors of each Prudential-Bache Fund is comprised of individuals who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("Disinterested Directors"). These Disinterested Directors receive fees for serving as a director, plus reimbursement for travel and incidental expenses. A Disinterested Director may also receive additional fees for serving on committees or as Chairman of the Board. Applicants state further that the amounts paid by each Prudential-Bache Fund to its Disinterested Directors range from $4,000-$10,000 annually, and that such amounts are relatively insignificant in comparison to the total assets of such Prudential/Bache Fund.

Under the proposed Agreement, each Disinterested Director will be allowed to elect to defer receipt of all or any portion of director's fees which otherwise would become payable for services performed after the date of such election. The election shall continue in effect for each subsequent calendar year, unless terminated by notice in writing prior to January of that year. Applicants state that when a Disinterested Director's fees have been deferred, no shares of the Fund will be purchased for such director's account with such amounts nor will any special fund or separate account be established for such deferred fees. Applicants further state that amounts deferred under the Agreement will accrue interest daily at a rate equivalent to the rate for 90-day U.S. Treasury Bills determined each calendar quarter on a prospective basis.

According to the application, the Agreement provides that deferred director's fees will become payable in cash, upon termination of the director's service in such capacity. Payments will be made in a lump sum or in such number of annual installments as shall be determined by the Fund in its sole discretion. In the event of an electing Disinterested Director's death, amounts payable under the Agreement will thereafter be payable to such director's designated beneficiary. In all other events, the director's right to receive payments will be non-transferable.

Applicants state that the purpose of the Agreement is to permit its Distinterested Directors to elect to defer receipt of their fees in order to avoid diminution or loss of social security benefits to which such directors may otherwise be entitled, to enable such directors to defer payment of income taxes on such fees, and for other reasons. Applicants believe that the availability of the Agreement will enhance their ability to continue to attract and retain directors of high caliber and that similar results would inure to any other Prudential-Bache Fund that adopts a similar deferred fee arrangement.

Applicants represent that deferral of director's fees in accordance with the Agreement will have a negligible effect on the Fund's assets, liabilities, and net income per share. Applicants state that the Agreement will not obligate the Fund to retain a director in such capacity, and will not obligate the Fund to pay any (or any particular level of) director's fees to any director.

Applicants contend that the Agreement possesses none of the characteristics of "senior securities" that led to the adoption of restrictions pertaining to such securities, that the restriction on transferability or negotiability of the deferred fees will have no adverse affects of the Fund's shareholders, and that the deferral of fees under the agreement should be viewed as being issued not for services, but in return for the Fund not being required to pay such fees on a current basis. Thus, Applicants request exemptions from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, to the extent necessary, to permit implementation of the Agreement.

Similarly, Applicants assert that the Agreement does not involve joint transactions between an Applicant and its Disinterested Directors within the meaning of section 17(d) of the Act and Rule 17d-1 thereunder. In this respect, Applicants argue that the Agreement does not possess the profit-sharing characteristics required for a joint transaction as contemplated by the Act. To the extent that the agreement may be deemed to involve joint transactions between the Fund and its Disinterested Directors, Applicants submit that the participation in the Agreement by the Fund will not be on a basis that is less advantageous than that of any other participant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 22, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15338 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 15180; (File No. 812-6226)]

Prudential-Bache Unit Trusts, et al.; Application for Order Permitting Reinsurance by Affiliate and Settlement of Claims Arising Therefrom

June 27, 1986.

Notice is hereby given that the Prudential-Bache Unit Trusts consisting of Insured Tax-Exempt Series, Insured MultiState Tax-Exempt Series, Insured Selected Term Tax-Exempt Series (the "Trust", each series of which a "series"), Prudential-Bache Securities Inc. ("Sponsor"), and Prudential Reinsurance Comany ("PruRe") (the Trust, Sponsor and PruRe collectively, "Applicants"), each at 100 Gold Street, New York, NY 10292, filed an application on October 12, 1985, and amendments thereto on January 22 and April 7, 1986, requesting a Commission order pursuant to section 6(c), 17(b) and 17(d) of the Act and Rule 17d-1 thereunder on behalf of themselves and other affiliates of Sponser ("Affiliated Reinsurers") to the extent necessary to allow existing and future similar series of the Trust to purchase the insurance coverage described herein and to accept full settlements arising from claims made upon such insurance and to allow the Trustee of the Trust to make (and deduct as a trust expense) premium payments for such insurance. All interested persons are referred to the application on file with the Commission for for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable sections and rules.

Applicants represent the Trust is registered under the Act as a unit investment trust ("UIt"). Applicants state that Sponsor, in response to market pressures, and in order to be able to compete in the UIT area, desires to offer UITs whose portfolios would be totally or partially insured ("Portfolio Insurance") as to the payment of principal and interest. Portfolio Insurance will be obtained from Financial Guaranty Insurance Company ("Financial Guaranty") by each Series, guaranteeing the scheduled payment of principal and interest on some or all Securities while in the portfolio of such Series. The Sponsor undertakes not to direct the Trustee to settle any claim under Porfolio Insurance for less than full payment without obtaining an exemptive order from the Commission. According to the application, while Portfolio Insurance obtained by a Series applies only while insured Securities are retained in such Series, pursuant to an irrevocable commitment by Financial Guaranty or other insurer ("Insurer"), the Trustee upon the sale of an insured Security from a Series will, in certain circumstances, insure the scheduled payment of principal and interest on such Security regardless of the identify of the holder thereof (i.e., for so long as such security is outstanding) ("Permanent Insurance") upon the payment of a single predetermined insurance premium from the proceeds of the sale of such Security.

The application states that the premiums on any policy of Portfolio Insurance obtained by a Series will be paid annually by such Series directly to the Insurer and, by virtue of Financial Guaranty's or other Insurers' reinsurance arrangements, indirectly to PruRe or to other Affiliated Reinsurers. The application also states that the premiums on each policy of Permanent Insurance will be paid by a Series out of proceeds of the sale of the Security for which such Permanent Insurance was obtained and, as premiums for Permanent Insurance will only be paid if it increases the net sale price, they will never reduce the assets of a Series. As with Portfolio Insurance, the premiums for Permanent Insurance are paid directly to an Insurer and indirectly to PruRe or other Affiliated Reinsurers.

Further, according to the application, after consideration by Sponsor of premium rates and amount of coverage obtainable, ratings from national insurance rating organizations, the level of service provided by and reputation of an insurer, Sponsor selected Financial Guaranty. Financial Guaranty is reinsured by PruRe, whose insurance obligation with respect to the Trust is limited to approximately 1.5%. of the total Financial Guaranty Insurance (Sponsor reserves the right to use a different Insurer, who may or may not be reinsured by PruRe or other Affiliated Reinsurers, if, after considering the foregoing factors, such change would be in the best interests of the Trust.) Applicants agree to seek further Commission staff approval if PruRe's reinsurance participation of Financial Guaranty, or any other Insurer which the Sponsor, in its business judgement may hereafter select, will exceed 10%.

Applicants represent that the proposed insurance would involve the payment by the Trust to Financial Guaranty of rates determined by Financial Guaranty. Applicants further represent that neither the Trust nor Sponsor will have any role in setting such rates. Further, PruRe or any other Affiliated Reinsurers will not have any direct role in premiums charged UITs, including the Trust, with respect to the cost of insurance policies offered to various other sponsors by Financial Guaranty. Applicants acknowledge that, as a reinsurer, PruRe and other Affiliated Reinsurers will have some say as to the general level of rates with respect to profitability of the venture as opposed to perceived liability exposure.

According to Applicants, the premium rates for each issue of bonds protected by the policy obtained by the Trust are fixed by the terms of such insurance. In addition, Applicants state that the Portfolio Insurance will be non-cancellable and will remain in force as long as the Trust exists, the Insurer is in business, and the bonds continue to be held by the Trust. Further, Applicants state that the Permanent Insurance will also be non-cancellable and will remain in force as long as the Trust exists, the Insurance is in business and the bonds insured thereby remain outstanding. Applicants also state that the Trust will pay premium rates to Financial Guaranty that are comparable to rates paid by other UITS for the same or similar coverage and that the Trust has been offered coverage similar to that offered other UITs by Financial Guaranty. Applicants represent that PruRe was not, nor will any other Affiliated Reinsurer be, established solely for the purpose of effecting the proposed transaction.

According to the application, PruRe is an affiliated person of the Sponsor by virtue of section 2(a)(3)(C) of the Act, and therefore PruRe is an affiliated person of an affiliated person of the Trust for purposes of sections 17(a) and 17(d) of the Act and Rule 17d-1 thereunder. Applicants request for an exemption from section 17(a) of the Act to the extent that the reinsuring by PruRe and any other affiliates of the Sponsor who may in the future act as reinsurers of the obligations of an Insurer, might be deemed to be the sale of property to such Series of the Trust, as principal. Applicants also request an exemption from Section 17(a) of the Act to the extent that the indirect acquisition by PruRe and any other affiliates of the Sponsor who may in the future act as reinsurers of an Insurer's obligations under such policies, might be deemed the purchase of securities from a Series of the Trust. To the extent that the reinsurance of Portfolio Insurance or Permanent Insurance might be considered to involve a joint transaction prohibited by section 17(d) of the Act and Rule 17d-1 thereunder, Applicants also request an order pursuant to Rule 17d-1 to permit PruRe to reinsure

Portfolio Insurance and Permanent Insurance for a Series of the Trust. Applicants also request an order pursuant to section 6(c) of the Act for exemption from the provisions of section 26(a)(2)(C) thereof to permit the premiums on any policy of Portfolio Insurance obtained by a Series of the Trust to be paid and charged as an expense of such Series.

Applicants submit that the order requested herein is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Further, Applicants submit that the proposed transaction is reasonable and fair, does not involve overreaching on the part of any person concerned and is consistent with the policies of the Trust. Applicants also submit that no party will be disadvantaged by the Trust purchasing insurance from Financial Guaranty or from any other Insurer reinsured by PruRe or other Affiliated Reinsurers.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 22, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15339 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC 15181; File No. 812-6288]

Westpac Banking Corporation; Application Pursuant to Section 6(c) for Exemption From All Provisions of the Act

June 27, 1986.

Notice is hereby given that Westpac Banking Corporation, an Australian bank ("Applicant"), G.P.O. Box 1, Sydney, New South Wales 2001, Australia, filed an application on January 24, 1986, and an amendment thereto on June 12, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act in connection with Applicant's sale of its equity securities in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for its relevant provisions.

According to the application, Applicant is the largest commercial bank in Australia in terms of assets, deposits and profits, and is one of the largest banks in the world. Applicant states that as of September 30, 1985, it had 1,473 branches and agencies in Australia, 223 branches and agencies in New Zealand and 75 other points of representation in more than a dozen countries. Applicant states that it has in the United States a federal branch in New York City and limited federal branches in Chicago, San Francisco, and Los Angeles, each licensed by the Comptroller of the Currency, and a representative office in Houston. Applicant states that as of September 30, 1985, Applicant had on an unconsolidated basis, over $2.1 billion in assets in the United States.

Applicant represents that it is engaged primarily in the business of receiving time and demand deposits and making loans. According to the application, on a consolidated basis, approximately 65% of Applicant's assets are represented by commercial loans and approximately 58% of its liabilities are deposits. Further, Applicant states that during its last fiscal year, income from loans accounted for approximately 85% of Applicant's total revenue, and interest paid on deposits represented approximately 66% of Applicant's total expenses. Applicant and its affiliated companies offer an extensive range of corporate, personal and international banking services, and also provide travel, investment management, insurance, custodian and other fiduciary services.

Applicant states that it is subject to extensive regulation in Australia under the Australian Banking Act of 1959, which provides for the protection of depositors through supervision and examination of Australian banks and regulation of, among other things, the banks' statutory reserve deposits, foreign currency and exchange transactions, loan policies, and interest rates.

Applicant also states that, as a foreign bank having federal branches in the United States, it is subject to the supervision, examination and extensive regulation of the Comptroller of the Currency and the Federal Reserve Board ("FRB") under the International Banking Act of 1978 ("IBA") and regulations adopted pursuant to the IBA.

In order to obtain a license to conduct business through a federal branch, Applicant states, a foreign bank must submit to the Comptroller of the Currency comprehensive application documents, including a detailed financial table on its capital structure, a description of its home country banking regulatory system, a description of projected future business operations, and other information to demonstrate that the bank will serve the convenience and needs of the community.

The application states the Comptroller of the Currency conducts an independent investigation of the responsibility and reputation of the applicant foreign bank and considers its financial and managerial resources and future prospects. The investigation generally includes obtaining reference letters from the foreign bank's home country regulators, as well as clearances from the FRB and banking authorities in the state where the proposed branch will be located. After approval of an application, the Comptroller of the Currency maintains supervisory powers over federal branches. Applicant states that the IBA provides for operations of a foreign bank at a federal branch to be conducted with the same rights and privileges as a national bank at the same location, and that the foreign federal branch is subject to all the same duties, restrictions, penalties, liabilities, conditions and limitations that would apply to a national bank under the National Bank Act with three exceptions: (1) A federal branch is examined at least once annually by the Comptroller of the Currency, whereas national banks are subject to two annual examinations, (2) restrictions, such as lending limits, are based on the worldwide capital and surplus of the foreign bank, not just the capital of domestic branches, and (3) a federal branch is not required to become a member bank of the Federal Reserve System.

Applicant states that the IBA subjects it to most of the provisions of the Bank Holding Company Act. Under that act Applicant is required to file annual reports to the FRB as well as a confidential report of its operations. Applicant states it is subject to the FRB's general powers of supervision and examination, and that its nonbanking activities are generally restricted to the

same extent as domestic bank holding companies.

Applicant proposes to offer and sell in the United States, in a firm commitment underwritten offering ("Public Offering"), American Depositary Shares ("Shares"), which will be evidenced by American Depositary Receipts ("ADRs") that will, pursuant to a ratio to be determined, represent shares of Applicant's common stock. Applicant represents that the Public Offering of its Shares will be registered under the Securities Act of 1933 ("Securities Act"), and in connection with the Public Offering, the ADRs representing Applicant's Shares will be registered under the Securities Exchange Act of 1934 ("Exchange Act"), and either traded in NASDAQ or listed on the New York Stock Exchange. According to the application, following the Public Offering, Applicant, as a foreign issuer, will file reports with the Commission under the Exchange Act.

Applicant undertakes that it will not make the Public Offering unless, at the time of the Public Offering, Applicant is supervised and examined by governmental authorities in Australia having supervision over banks in Australia and by state of federal authorities in the United States having supervision over banks in the United States. Applicant further represents that it has no present intention to curtail its banking operations in the United States so that it would cease to be regulated as a bank in the United States.

Applicant represents that it will (1) appoint the Depository issuing the ADRs or a corporation with an office in New York City engaged in providing corporate services for lawyers as agent to accept service of process in any action, suit or proceeding with respect to Applicant's offer and sale of Shares and instituted in any state or federal court in New York City by the holder of any Shares, and (2) expressly submit to the jurisdiction of New York State and United States federal courts sitting in the City of New York for the purpose of any such suit, action or proceeding. Applicant represents that it will comply with these two under takings until such time as there are no holders in the United States of Applicant's equity securities issued in reliance upon any Commission order pursuant to its application. Such undertaking will also continue if Applicant ceases to be regulated as a bank in the United States. Applicant further represents that no such appointment of agent for service of process or submission to jurisdiction will affect the right of any holder of Shares to bring suit in any court which will have jurisdiction over Applicant by virtue of the offer and sale of the Shares or otherwise. However, Applicant states that the agent for service of process will not be a trustee for the holders of the Shares or have any responsibilities or duties to act for such holders as would a trustee.

Applicant states that it may, from time to time in the future, offer and sell other equity securities in the United States. Applicant represents that no such securities will be offered or sold unless: (a) The offering of such securities is registered under the Securities Act, or (b) in the opinion of U.S. counsel for Applicant an exemption from registration under the Securities Act is available with respect to such offer and sale, or (c) the staff of the Commission states that it would not recommend that the Commission take any action under the Securities Act if such securities are not registered. Applicant further represents that no such securities will be offered or sold unless, at that time, Applicant is supervised and examined by governmental authorities in Australia having supervision over banks in Australia and by state or federal authorities in the United States having supervision over banks in the United States.

Applicant undertakes that any future offering of its equity securities in the United States will be made on the basis of disclosure documents that are appropriate and customary for such offering, whether made pursuant to a registration statement under the Securities Act or an exemption therefrom. Applicant also represents that, in connection with any future offering of its equity securities in the United States, Applicant will appoint an agent to accept service of process in any suit, action or proceeding with respect to Applicant's offer and sale of such securities and instituted in any state or federal court in New York City by the holder of such securities and will expressly submit to the jurisdiction of any such court for the purpose of any such suit, action or proceeding. Applicant's appointment of an agent for service of process and consent to jurisdiction will be complied with notwithstanding that Applicant ceases to be regulated as a bank in the United States, and will continue until such time as there are no holders in the United States of Applicant's securities issued in reliance upon any Commission order pursuant to its application. Applicant consents to any Commission order being expressly conditioned on its compliance with the undertakings contained in the application.

In order to resolve any uncertainties as to Applicant's status under the Act, Applicant seeks an order pursuant to section 6(c) of the Act for exemption from all provisions of the Act. Applicant submits that granting the exemption is both necessary and appropriate in the public interest. Applicant states that the exemption will advance the policies underlying the IBA, which seeks competitive equality between U.S. banks and foreign banks with respect to their U.S. transactions. Applicant further contends that it will facilitate domestic investment by U.S. investors in a major foreign issuer, subject to the protections afforded by the Securities Act and the Exchange Act, and will advance the goals of opening the U.S. capital markets to foreign entities and encouraging the free flow of capital among nations. Applicant also states that an exemption will enable U.S. citizens to purchase Applicant's shares in the United States, rather than purchasing the shares elsewhere, and thus the shareholder will not lose the protections afforded by U.S. securities laws. In addition, Applicant asserts the exemption will increase investment opportunities, especially for small individual investors, reduce transaction costs, reduce custodial problems, increase the amount of information concerning the Applicant than would be available if its shares were not issued and listed in the United States, and will reduce the risks due to variation in exchange rates and the possible imposition of capital controls or illiquidity upon resale of Applicant's securities.

Applicant states that the exemption is consistent with the protection of investors because all U.S. investors in Applicant's Shares will be afforded the protections of the Securities Act and of the Exchange Act as fully as they would had they invested in any other foreign issuer selling its securities in the United States market. Applicant states that since it is extensively regulated by banking authorities in Australia, the United States and elsewhere, the exemption is consistent with the protection of investors under the same rationale that led Congress to exempt U.S. banks from regulation under the Act. Commercial banking operations are not, Applicant states, likely to lead to the abuses against which the Act was directed, such as excessive management and brokerage fees, investments in companies in which the investment company management had a personal interest, or other forms of self-dealing. Further, the extensive regulation and supervision of banks assists in preventing any abuses. Applicant states

that its operations, overseen by Australian banking authorities, United States banking authorities, and by those of more than a dozen other countries share the common purposes of safety and soundness of banking operations.

Applicant concludes that as a bank supervised and examined by domestic Australian banking authorities, with extensive operations in the United States, it has the key attributes of an entity which meets the definition of a "bank" under section 2(a)(5)(C) of the Act, and therefore should be exempted from the provisions of the Act for the same reasons that a section 2(a)(5)(C) bank is excepted from the definition of an investment company under section 3(c)(3) of the Act. Applicant states that the purpose of the exception for banks in section 3(c)(3) of the Act was intended to apply to banks, such as Applicant, for whom investment in securities is an ancillary activity to its fundamental business objectives.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 21, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-15340 Filed 7-7-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending June 27, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44123

Parties: Delta Air Lines, Inc.

Date Filed: June 26, 1986.

Subject: Application of Delta Air Lines, Inc. pursuant to Section 408 of the Act requests an exemption in connection with its proposed acquisition of approximately 20 percent of the common stock of Comair, Inc.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-15231 Filed 7-7-86; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB June 13, 1986–June 27, 1986

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation, during the period June 13, 1986–June 27, 1986, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 426-1887, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from June 13, 1986–June 27, 1986.

DOT No.: 2736
OMB No.: New
By: United States Coast Guard
Title: Reports of Marpol 73-78 Discharge Violations; Applications for Equivalents, Exemptions and Alternatives; and, Voluntary Reports of Pollution Sightings
Form(s): Not Applicable
Frequency: On occasion
Respondents: Ship operators
Need/Use: This information collection requirement is needed and used to: (1) determine corrective actions needed to prevent, minimize, or mitigate the impact of the oil or hazardous chemical pollution on public health, welfare or environment; (2) evaluate the proposed alternative, exemption or equivalent request to determine its effectiveness in protection from pollution; and (3) fulfill the U.S. obligation to the treaty and to allow Coast Guard time to react to the incidents of spills and to notify other Caribbean countries who might be threatened.

DOT No.: 2757
OMB No.: 2125-0030
By: Federal Highway Administration
Title: Outdoor Advertising and Junkyard Report
Form(s): FHWA-1424
Frequency: Annually
Respondents: State Highway Agencies
Need/Use: For the FHWA to administer and monitor the control of outdoor advertising and junkyards as implemented by the States and mandated by the U.S. Congress.

DOT No.: 2758
OMB No.: 2130-0008
By: Federal Railroad Administration

Title: Railroad Power Brake and Drawbars (Air Brake Inspection and Test Certification)
Form(s): None
Frequency: Recordkeeping
Respondents: Railroads
Need/Use: The information is used by the engineer and road crew to verify that the initial air brake test has been performed in a satisfactory manner.

DOT No.: 2759
OMB No.: New
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 544, Insurer Reporting Requirements—Motor Vehicle Theft Law Enforcement Act of 1984
Form(s): None
Frequency: Annually
Respondents:
Need/Use: Insurance companies and rental/leasing companies are required to provide information to NHTSA on comprehensive insurance premiums which address motor vehicle theft.

DOT No.: 2760
OMB No.: 2127–0042
By: National Highway Traffic Safety Administration
Title: 49 CFR Part 576, Record Retention
Form(s): None
Frequency: Recordkeeping
Respondents: Motor vehicle manufacturers
Need/Use: This regulation requires manufacturers to retain one copy of complaints, reports, and other records of malfunctions that may be related to motor vehicle safety. These records may be used to investigate possible defects and noncompliance.

DOT No.: 2761
OMB No.: 2115–0551
By: United States Coast Guard
Title: Vessel Reporting Requirements
Form(s): N/A
Frequency: On occasion
Respondents: Owner, charterer, managing operator or agent of a vessel of the United States
Need/Use: This information collection requirement is needed to increase the likelihood of timely assistance being available to vessels in distress, especially those unable to communicate their distresses to the vessel's owner or others who could help. The Coast Guard uses this information to determine if the vessel reported on is in distress, and if so, to take action to assist.

DOT No.: 2762
OMB No.: 2132–0008
By: Urban Mass Transportation Administration
Title: Section 15 Reporting System
Form(s): UMTA 2710 Series
Frequency: Annually
Respondents: State and local governments-businesses or other for profit organizations.
Need/Use: Section 15 of the Urban Mass Transportation Act of 1964, as amended, mandates a uniform system of accounts and records and a reporting system for mass transit operators to enable the operators to compare performance with peers and to assist local, state, and Federal government and the general public in setting policy and in making investment decisions.

DOT No.: 2763
OMB No.: 2120–0003
By: Federal Aviation Administration
Title: Malfunction or Defect Report
Form(s): FAA Form 8010–4
Frequency: On occasion
Respondents: Air taxi operators, repair stations
Need/Use: Collection of this information permits the FAA to evaluate its certification standards, maintenance programs, and regulatory requirements since their effectiveness is reflected in the number of equipment failures or the lack thereof. It is also the basis for issuance of Airworthiness Directives designed to prevent unsafe conditions and accidents.

DOT No.: 2764
OMB No.: New
By: United States Coast Guard
Title: Manufacturer and Dealer First Purchaser List Requirements
Form(s): N/A
Frequency: On occasion
Respondents: Manufacturers of recreational boats and associated equipment and dealers and distributors
Need/Use: This information collection requirement is needed and used by the manufacturers to notify first purchasers of any defect notification recalls. The manufacturers notify purchasers of these potentially affected products and make arrangements for inspection, repair or replacement of defective or noncomplying products.

DOT No.: 2765
OMB No.: New
By: United States Coast Guard
Title: Report of Advance Notice of Vessel Arrival and Departure, and Advance Notice of Vessel Arrival and Departure Waiver.
Form(s): Narrative
Frequency: On occasion
Respondents: Vessel operators
Need/Use: This information collection is needed by the Coast Guard Captain of the Port for Vessel traffic supervison; contingency planning for oil and hazardous substance spills, counterterrorism, and firefighting; and targeting certain types of Vessels for examination. Also, this collection provides a vehicle for certain types of vessels to request a waiver of the regulations.

DOT No.: 2766
OMB No.: 2127–0052
By: National Highway Traffic Safety Administration
Title: Brake Hose Manufacturing Identification Standard Number 106
Form(s): None
Frequency: On occasion
Respondents: Manufacturers
Need/Use: The purpose of this requirement is to ensure traceability should a noncompliance or safety related defect be discovered.

Issued in Washington, DC on June 27, 1986.

John E. Turner,

Director of Information Resource Management.

[FR Doc. 86–15230 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Air Tara Ltd.

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause: Order 86–6–43.

SUMMARY: DOT proposes to deny the following application:

Applicant: Air Tara Limited.

Application Date: December 5, 1985 Docket 43640.

Authority Sought: An initial foreign air carrier permit under section 402 of the Federal Aviation Act of 1958, as amended, to wet lease equipment to other companies to conduct operations between the United States and third countries.

Objection: All interested persons having objections to DOT's tentative findings and conclusions that this application should be denied, as described in the order cited above, shall, NOT LATER THAN July 28, 1986, file a statement of such objections with DOT (original and 12 copies) and mail copies to the applicant, all other parties to the proceeding, the Department of State, and the Ambassador of Ireland in Washington, D.C. A statement of objections must cite the docket number and include a summary of testimony, statistical data, or other such supporting evidence. Answers to objections may be filed NOT LATER THAN August 12, 1986.

If no objections are filed, an order will issue which will, subject to disapproval by the President, make final DOT's

tentative findings and conclusions and deny the application.

Address for objections: Docket 43640, Docket Section, C–55, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Allen Brown, Licensing Division, P–45, Office of Aviation Operations, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590; (202) 755–3805.

Dated: June 30, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–15232 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Tri-Cities Airport, Pasco, WA; Noise Exposure Map Notice Receipt of Noise Compatibility Program and Request for Review; Correction

On May 30, 1986, a notice was published in the **Federal Register** (Vol. 51, No. 104, Page 19649), in the last sentence of the date paragraph change the date December 12, 1986 to July 16, 1986

Issued in Washington, DC, on July 1, 1986.

Donald P. Byrne,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 86–15238 Filed 7–7–86; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Petitions for Exemption From the Vehicle Theft Prevention Standard; Isuzu Motors Ltd.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for exemption.

SUMMARY: Isuzu Motors Limited petitioned the agency for an exemption from the marking requirements of the vehicle theft prevention standard for the Isuzu Impulse passenger car line, pursuant to the provisions of section 605 of the Motor Vehicle Information and Cost Savings Act. The agency has determined that the antitheft device which the petitioner intends to install on that line as standard equipment is likely to be as effective in deterring and reducing vehicle thefts as would compliance with the parts marking requirements of the standard. Therefore, the agency grants the petition.

DATE: The exemption granted by this notice will become effective beginning with the 1987 model year.

SUPPLEMENTARY INFORMATION: On February 27, 1986, Isuzu Motors Limited (Isuzu) petitioned the agency for an exemption from the parts marking requirements of the vehicle theft prevention standard (49 CFR Part 541), pursuant to the requirements of 49 CFR Part 543, *Petitions for Exemption from the Vehicle Theft Prevention Standard.* On January 7, 1986 (51 FR 706), NHTSA had published an interim final rule establishing the Part 543 requirements to be followed by manufacturers in preparing and submitting petitions for exemption during model year 1987. In its petition, Isuzu requested an exemption for the Isuzu Impulse passenger car line. The agency reviewed the material submitted by Isuzu and concluded that Isuzu had met the requirements for petitions in Part 543.5, as of March 2, the date on which the Isuzu petition was received by the agency. Accordingly, the 120-day period for processing Isuzu's petition began on that date since, as provided by § 543.7, the processing of a petition begins when the petition is complete.

In its petition, Isuzu described an antitheft device that is activated by removing the key from the ignition, ensuring that the passenger door, hood and hatch gate are closed, and then locking the driver's door. These steps activate the starter interrupt function. They also arm an audible and visual alarm which is triggered by sensors in the doors, hatch gate, engine hood, and key cylinder switches.

The agency has determined that installation of Isuzu's device in the Impulse car line is likely to be as effective as that line's compliance with the parts marking requirements of Part 541 in deterring and reducing vehicle theft. This determination is based on the information submitted by Isuzu with its petition and on other available information. The agency believes that the device will provide the types of performance listed in § 543.6(a)(2), i.e., promote activation, attract attention to unauthorized entries, prevent defeating or circumventing of the device by unauthorized persons, prevent operation of the vehicle by unauthorized entrants, and ensure the reliability and durability of the device.

As required by section 605(b) of the statute and Part 543.6(b), the agency also finds that Isuzu has provided viable reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information provided by Isuzu on its device. The agency noted the very similar methods of encouraging activation and preventing defeat in the Isuzu and Nissan antitheft devices. In the preamble to the January 7, 1986 interim final rule , NHTSA discussed its Preliminary Regulatory Evaluation analysis of National Crime Information Center theft data for the Nissan 280ZX/300ZX car lines. These data show that the theft rate for the 1984 Nissan 300ZX cars, which were equipped with the standard equipment antitheft device, is approximately 50 percent less than that of the 1983 280ZX models which lacked the antitheft device. Whether Isuzu's standard equipment antitheft device will reduce and deter theft to the same extent is not known at this time. However, NHTSA believes the similarity between the Isuzu and Nissan devices indicates that the Isuzu device also will be effective in accomplishing this goal.

Isuzu stated in its petition that its antitheft device was recently offered as optional equipment on the MY 1986 Isuzu Turbo Impulse line; however, no theft data are currently available on this small-scale production model.

As an aside, the agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs makes it difficult in this first year of the theft legislation's implementation to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly requires such a comparison, which the agency has made on the basis of the limited data available.

For the reasons stated above, the agency grants Isuzu's petition for exemption from the parts marking requirements of Part 541 for the Impulse car line based on substantial evidence that this standard equipment antitheft device is likely to be as effective in reducing and deterring theft of this line as compliance with Part 541 would be. This exemption will become effective beginning with the 1987 model year.

NHTSA notes that if Isuzu wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(c) provides that an exemption granted under Part 543 applies only to vehicles which are equipped with the antitheft device on which the exemption of the line including those vehicles was based. Further, § 543.9(b)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing

from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(b)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change in the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if Isuzu contemplates making any changes whose effects might be so characterized, it consult with the agency before undertaking to prepare and submit a modification petition.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50).

Issued on: July 1, 1986.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 86-15226 Filed 7-2-86; 10:18 am]

BILLING CODE 4910-59-M

Petitions for Exemption From the Vehicle Theft Prevention Standard; Nissan Research & Development, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of Petition for Exemption.

SUMMARY: Nissan Research & Development, Inc. petitioned the agency for an exemption from the marking requirements of the vehicle theft prevention standard for the Maxima and 300ZX passenger car lines for model year 1987, pursuant to the provisions of section 605 of the Motor Vehicle Information and Cost Savings Act. The agency has determined that the antitheft device which the petitioner intends to install on these lines as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts marking requirements of the standard. Therefore, the agency grants the petition.

DATE: The exemption granted by this notice will become effective beginning with the 1987 model year.

SUPPLEMENTARY INFORMATION: On November 22, 1985, Nissan Research & Development, Inc. (Nissan) petitioned the agency for an exemption from the parts making requirements of the vehicle theft prevention standard (49 CFR Part 541), pursuant to section 605 of the Motor Vehicle Information and Cost Savings Act. On January 7, 1986 (51 FR 706), NHTSA published an interim final rule establishing requirements to be followed by manufacturers in preparing and submitting petitions for exemption during model year 1987 (49 CFR Part 543). Nissan submitted supplemental information in a letter dated March 3, 1986, to meet the requirements for petitions in Part 543, and requested an exemption for the Maxima and 300ZX car lines. The agency reviewed the material submitted by Nissan with its letters and concluded that Nissan had met the requirements for petitions in Part 543.5, as of March 5, the date on which the last Nissan letter was received by the agency. Accordingly, the 120-day period for processing Nissan's petition began on that date since, as provided by § 543.7, the processing of a petition does not begin until the petition is complete.

In its petition, Nissan described an antitheft device that is activated by removing the key from the ignition, ensuring that the passenger doors, hood, and trunk/hatch are locked, and then locking the driver's door with a key. These steps activate the starter interrupt function. They also arm an audible and visual alarm which is triggered by sensors in the doors, hood, trunk/hatch, and key cylinders. The same antitheft device would be installed in both car lines. This antitheft device is the same one that was installed as standard equipment on the 1984 Nissan 300ZX line.

The agency has determined that installation of Nissan's device in the Maxima and 300ZX car lines is likely to be as effective as these lines' compliance with the parts marking requirements of Part 541 in reducing and deterring vehicle theft. This determination is based on the information submitted by Nissan with its petition and on other available information. The agency believes that the device will provide the types of performance listed in § 543.6(a)(2), i.e., promote activation, attract attention to unauthorized entries, prevent defeating or circumventing of the device by unauthorized persons, prevent operation of the vehicle by unauthorized entrants, and ensure the reliability and durability of the device.

As required by section 605(b) of the statute and Part 543.6(b), the agency also finds that Nissan has provided viable reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on Nissan's discussion of the National Crime Information Center (NCIC) theft data and this agency's discussion of the Preliminary Regulatory Evaluation analysis of that data in the interim final rule on Part 543, published on January 7, 1986. The NCIC data showed a decrease in thefts of approximately 50 percent between the MY 1983 Nissan 280ZX, which was not sold with an antitheft device, and the MY 1984 Nissan 300ZX, which was sold with the standard equipment antitheft device described in this petition. The agency noted the initial success of the Nissan antitheft device in the interim final rule published on January 7, 1986.

As an aside, the agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs makes it difficult in this first year of the theft legislation's implementation to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly requires such a comparison, which the agency has made on the basis of the limited data available.

For the reasons stated above, the agency grants Nissan's petition for exemption from the parts marking requirements of Part 541 for the Maxima and 300ZX car lines based on substantial evidence that this standard equipment antitheft device is likely to be as effective in reducing and deterring theft of this line as compliance with Part 541 would be. This exemption will become effective beginning with the 1987 model year.

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(c) provides that an exemption granted under Part 543 applies only to vehicles which are equipped with the antitheft device on which the exemption of the line including those vehicles was based. Further, § 543.9(b)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden which § 543.9(b)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change in the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if Nissan contemplates making any changes whose effects might be so characterized, it consult with the agancy before undertaking to prepare and submit a modification petition.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on July 1, 1986.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 86-15227 Filed 7-2-86; 9:39am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on July 29, and July 30, 1986 of the following debt management advisory committee: Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on July 29 and the preparation of a written report to the Secretary of the Treasury on July 30, 1986.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meeting also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such others matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: June 27, 1986.

Charles O. Sethness,

Assistant Secretary (Domestic Finance).

[FR Doc. 86-15244 Filed 7-7-86; 8:45 am]

BILLING CODE 4872-25-M

Internal Revenue Service

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

July 1, 1986.

As Acting Chief Counsel of the Internal Revenue Service, under the authority delegated to me by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Jean Owens, Deputy Chief Counsel;

2. D. Edward Wilson, Jr., Deputy General Counsel;

3. Peter K. Scott, Associate Chief Counsel (Technical);

4. David L. Jordan, Regional Counsel, Southwest Region;

5. William F. Long, Jr., Director, General Legal Services Division;

6. J. Richard Murphy, Jr., District Counsel, San Francisco, California.

This publication is required by section 4314(c)(4) of 5 United States Code.

Jean Owens,

Acting Chief Counsel.

[FR Doc. 86-15241 Filed 7-7-86; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. USIA is requesting approval of forms used to evaluate the effectiveness of certificates it issues which attest to the international educational and cultural character of audiovisual materials that are distributed abroad.

DATE: Comments must be received by July 18, 1986. If you intend to comment but cannot prepare comments before the deadline, please advise the OMB Reviewer and the Agency Clearance Officer promptly.

Copies

Copies of the request for clearance (SF-83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, John Davenport, U.S. Information Agency, M/ASP-Room 623, 301-4th Street, SW., Washington, DC 20547, telephone (202) 485-7505. And OMB Review: Bruce McConnell, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-3785.

SUPPLEMENTARY INFORMATION: Titles: "Exported Material"—Form Number IAP-102; "Imported Material"—Form Number IAP 102a.

Abstract

USIA issues certificates attesting to the international educational and cultural character of audio visual material for distribution abroad pursuant to Pub. L. 89-634. The certificates are intended to reduce impediments to the international

movement of these materials by eliminating or reducing customs charges, tariffs and other barriers. The Agency needs information regarding the effectiveness of the certificates so that it can take appropriate steps as necessary. Further, the European Economic Community has proposed bilateral duty free exchange of videotapes and recordings. The information obtained in the survey will facilitate formulation of the appropriate U.S. response.

Dated: July 1, 1986.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 86-15284 Filed 7-7-86; 8:45 am]

BILLING CODE 8230-01-M

UNITED STATES SENTENCING COMMISSION

Hearing

July 2, 1986

AGENCY: United States Sentencing Commission.

ACTION: Notice of Hearing.

SUMMARY: This notice announces that a hearing on the topic of Sentencing Options is scheduled by the U.S. Sentencing Commission for Tuesday, July 15, 1986.

Date: July 15, 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, NW., Washington, DC 20004.

FOR 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, mandatory sentencing guidelines. The July 15, 1986 hearing, the Commission's fourth, will focus on the sanctions—in addition to incarceration—that are available for the individual convicted of a federal crime. Witnesses will testify on the use of fines, restitution, community services, house arrest, electronic monitoring, intensive probation and other options.

Written statement on this topic may be submitted to the U.S. Sentencing Commission, 1331 Pennsylvania Avenue, NW., Suite 1400, Washington, DC 20004. 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. 86-15279 Filed 7-7-86; 8:45 am]

BILLING CODE 2210-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: June 30, 1986.

By direction of the Administrator:

David A. Cox,

Associated Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits.
2. Application for Dependency and Indemnity Compensation or Death Pension by a Surviving Spouse or Child (Including Accrued Benefits and Death Compensation, Where Applicable).
3. VA Form 21-534.
4. On occasion.
5. Individuals or households.
6. 162,720 responses.
7. 203,400 hours.
8. Not applicable.

[FR Doc. 86-15306 Filed 7-7-86; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Amendment of Systems Notice—Additions to Routine Uses

Notice is hereby given that the Veterans Administration is considering adding new routine use statements to the following systems of records:

55 VA 26—Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Home Loan Applicant Records-VA; (Privacy Act Issuances, 1984 Comp., Volume V, pages 734-736)

58 VA 21/22/28—"Compensation, Pension, Education and Rehabilitation Records-VA (Privacy Act Issuances, 1984 Comp., Volume V, as amended at 50 FR 26875 (June 28, 1985) and at 50 FR 31453 (August 2, 1985))

Pub. L. 98-369, 98 Stat. 1153, the Deficit Reduction Act of 1984, requires that this Agency report delinquent debts, which meet specific criteria, to the Treasury Department, Internal Revenue Service, for Federal income tax refund offset.

In order to participate in this program, this Agency must provide the full name, social security number, and any other information as is reasonably necessary to identify such debtor, to the Internal Revenue Service for each delinquent debt in order to initiate offset of an individual's Federal income tax refund.

To release this information from the two systems of records, the VA must add a new routine use statement to both systems. The new routine uses will permit the disclosure of identifying information to the Internal Revenue Service in order to make a claim against all or a portion of an individual's Federal income tax refund. The purpose of this disclosure is to assist the VA in the collection of Title 38, U.S.C. benefit overpayments, overdue indebtedness, and/or costs of services provided to an individual not entitled to such services.

The VA has determined that the release of this information for this purpose is a necessary and proper use of information in both systems of records, and that a specific routine use for the transfer of this information is appropriate.

ADDRESSES: Interested individuals are invited to submit written comments, suggestions or objections regarding this

proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received by August 7, 1986 will be considered. Written comments will be available for inspection only in the Veterans Services Unit, Room 132 of the above address, only between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until August 21, 1986.

FOR FURTHER INFORMATION CONTACT: Dan Osendorf, Chief, Fiscal Liaison/Debt Collection, Department of Veterans Benefits, Veterans Administration, (202) 389-3566.

If no public comment is received during the thirty day review period allowed for public comment, or unless otherwise published in the **Federal Register** by this Agency, the new routine use statements included herein will be effective August 7, 1986.

Dated: June 20, 1986.

Thomas K. Turnage,

Administrator.

Notice of Amendments of Systems of Records

1. In the system identified as 55 VA 26, "Loan Guaranty Home Loan, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA", as set forth in Private Act Issuances, 1984 Comp., Volume V, pages 734-736, the following routine use statement is added to read as follows:

55 VA 26

SYSTEM NAME:

Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

28. The name of a veteran, or other beneficiary, other information as is reasonably necessary to indentify such individual, and any other information concerning the individual's indebtedness by virtue of a person's participation in a benefits program administered by the VA, may be disclosed to the Treasury Department, Internal Revenue Service, for the collection of Title 38, U.S.C. benefit overpayments, overdue indebtedness, and/or costs of services provided to an individual not entitled to such services, by the withholding of all or a portion of the person's Federal income tax refund.

* * * * *

2. In the system identified as 58 VA 21/22/28, "Compensation, Pension, Education and Rehabilitation Records—VA", as set forth in Privacy Act Issuances, 1984 Comp., Volume V, pages 738-741 and amended at 50 FR 26875, June 28, 1985; and 50 FR 31453, August 2, 1985, the following routine use statement is added to read as follows:

55 VA 22/28

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

49. The name of a veteran, or other beneficiary, other information as is reasonably necessary to indentify such individual, and any other information concerning the individual's indebtedness by virtue of a person's participation in a benefits program administered by the VA, may be disclosed to the Treasury Department, Internal Revenue Service, for the collection of Title 38, U.S.C. benefit overpayments, overdue indebtedness, and/or costs of services provided to an individual not entitled to such services, by the withholding of all or a portion of the person's Federal income tax refund.

* * * * *

[FR Doc. 86-15308 Filed 7-7-86; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Health Systems Research and Development; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Scientific Review and Evaluation Board for Health Systems Research and Development will be held at the Veterans Administration Central Office, Room 760, 810 Vermont Avenue, NW, Washington, DC on July 22, 1986. The meeting will open at 8:30 a.m. and adjourn at 4 p.m. The purpose of the meeting will be to discuss future plans for the Service by the Assistant Chief Medical Director for Planning, Evaluation and Systems Development, and the role the Board will play in these directions. After discussion, the Board will be expected to make recommendations regarding the administration of the Divisions' research program.

The meeting will be open to the public to the seating capacity of the room. Members of the public may submit written statements or questions for consideration by the Committee to Mrs. Carolyn Smith, Program Analyst, Health Systems Research and Development Division, 810 Vermont Avenue, NW, Washington, DC, 20420, (phone: 202/389-5365) at least 5 days before the meeting. Such members of the public may be asked to clarify submitted material prior to its consideration by the Committee.

Dated: June 27, 1986.

By direction of the Administrator.

Dennis R. Boxx,

Acting ADA for Public and Consumer Affairs.

[FR Doc. 86-15307 Filed 7-7-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 130
Tuesday, July 8, 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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 9, 1986.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Methylene Chloride: Proposed Rule

The Commission will consider the draft **Federal Register** notice on Section 3(a) proposed rule to declare methylene chloride a hazardous substance.

FOR A RECORDED MESSAGE CONTAINING THE LASTEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, Telephone: (301) 492–6800.

Dated: July 2, 1986

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86–15332 Filed 7–2–86; 4:15 pm]

BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:37 p.m. on Friday, June 27, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Home State Bank, Rochester, Texas, Rochester, Texas, which was closed by the Banking Commissioner for the State of Texas on Friday, June 27, 1986; (2) accept the bid for the transaction submitted by Home State Bank, Rochester, Texas, a newly-chartered State nonmember bank; (3) approve the applications of Home State Bank, Rochester, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in The Home State Bank, Rochester, Texas, Rochester, Texas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors, having been advised that Union Deposit Bank, Union, Kentucky, had been closed by the Commissioner of Banking and Securities for the Commonwealth of Kentucky on Thursday, June 26, 1986, authorized the acceptance of the highest bid for an insured deposit transfer transaction which may be submitted in accordance with the "Instructions for Bidding," subject to receipt of necessary approvals from appropriate State and/or Federal regulatory authorities. [Accordingly, on Sunday, June 29, 1986: (1) The bid of The Central Trust Company, Boone County, Union, Kentucky, a newly-chartered State member bank, was accepted for the transfer of the insured and fully secured or preferred deposits of the closed Union Deposit Bank, Union, Kentucky; and (2) The Central Trust Company, Boone County, was designated as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank.]

At that same meeting, the Board of Directors also:

(A)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Commercial State Bank, Pocahontas, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Friday, June 27, 1986; (2) accepted the bid for the transaction submitted by Citizens State Bank, Pocahontas, Iowa, a newly-chartered State nonmember bank; (3) approved the applications of Citizens State Bank, Pocahontas, Iowa, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in Commercial State Bank, Pocahontas, Iowa, and for consent to establish the sole branch of Commercial State Bank as a branch of Citizens State Bank; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) approved the application of Bank of Honolulu, Honolulu, Hawaii, for consent to retire subordinated capital notes.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 5:03 p.m., and at 9:32 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Orange Coast Thrift and Loan Association, Los Alamitos, California, which was closed by the Superintendent of Banks for the State of California on Friday, June 27, 1986; (2) accepted the bid for the transaction submitted by Capitol Thrift and Loan Association, Napa, California, an FDIC-insured industrial loan company; (3) approved the application of Capitol Thrift and Loan Association, Napa, California, for consent to purchase certain assets of and assume the liability to pay deposits made in Orange Coast Thrift and Loan Association, Los Alamitos, California, and for consent to establish the sole office of Orange Coast Thrift and Loan Association as a branch of Capitol Thrift and Loan Association; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Director C.C.

Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 3, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-15440 Filed 7-3-86; 8:45 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

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 Monday, June 30, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to:

(A) consider the following applications for Federal deposit insurance:

1. InterFirst Bank Delaware, a proposed new bank to be located at 509 White Clay Center Drive, Newark, Delaware.
2. RepublicBank Delaware, a proposed new bank to be located at 501 White Clay Center Drive, Newark, Delaware.
3. Texas American Bank/U.S., a proposed new bank to be located at 507 White Clay Center Drive, Newark, Delaware.
4. Texas Commerce Banks, a proposed new bank to be located at 513 White Clay Center Drive, Newark, Delaware.

(B) consider a recommendation regarding the liquidation of assets by the Corporation as Receiver of Penn Square Bank, National Association, Oklahoma City, Oklahoma.

At that same meeting, the Board also discussed certain matters regarding the Corporations' assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: July 3, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-15441 Filed 7-3-86; 3:38 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, July 1, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding amendments to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which would delegate authority to: (1) The Board of Review to accept written agreements concerning enforcement actions, and (2) the Director of the Division of Bank Supervision, or his designee, to modify orders issued pursuant to section 8 of the Federal Deposit Insurance Act in connection with the Corporation's policy regarding capital forbearance.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

The Board further determined, by the same majority vote, that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. the same day, of a recommendation regarding the liquidation of assets acquired from Golden Pacific National Bank, New York (Manhattan), New York (Case No. 46,549-NR (Amendment)).

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: July 3, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-15442 Filed 7-3-86; 3:38 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at it closed meeting held at 2:30 p.m. on Tuesday, July 1, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C. C. Hope, Jr. (Appointive), concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of InterFirst Bank Delaware, a proposed new bank to be located at 509 White Clay Center Drive, Newark, Delaware, for Federal deposit insurance.

Application of RepublicBank Delaware, a proposed new bank to be located at 501 White Clay Center Drive, Newark, Delaware, for Federal deposit insurance.

Application of Texas American Bank/U.S., a proposed new bank to be located at 507 White Clay Center Drive, Newark, Delaware, for Federal deposit insurance.

Application of Texas Commerce Banks, a proposed new bank to be located at 513

White Clay Center Drive, Newark, Delaware, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 3, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-15443 Filed 7-3-86; 8:45 am]

BILLING CODE 6714-01-M

6

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 15, 1986.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: FY 1988 Budget.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Legislative and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,

Secretary.

[FR Doc. 86-15397 Filed 7-3-86; 11:29 am]

BILLING CODE 7035-01-M

7

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 10, 1986.

PLACE: Commission Hearing Room.

STATUS: OPEN Meeting.

MATTERS TO BE CONSIDERED: Consideration of scope of proceeding in Petition of United Parcel Service, Docket No. RM86-2.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 86-15415 Filed 7-3-86; 1:16 pm]

BILLING CODE 7715-01-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 7, 1986:

Open meetings will be held on Tuesday, July 8, 1986, at 1:30 p.m. and Wednesday, July 9, 1986, at 1:00 p.m., in Room 1C30.

Closed meetings will be held on Tuesday, July 8, 1986, following the 1:30 p.m. open meeting and on Thursday, July 10, 1986, at 11:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the open meeting scheduled for Tuesday, July 8, 1986, at 1:30 p.m., will be:

1. The Commission will consider whether to publish two releases: one announcing the adoption of various proposals which in effect would increase the total asset threshold for registration and reporting purposes under the Securities Exchange Act of 1934 from $3 million to $5 million; and the other seeking public comment about other criteria which might be used to govern entry into and exit from the Exchange Act registration and reporting system. For further information, please contact Karen O'Brien at (202) 272-2644.

2. Consideration of whether to issue releases: (1) Adopting amendments to Rule 3a12-8 under the Securities Exchange Act of 1934 ("the Act") that would exempt certain Japanese government securities from the provisions of the Act for purposes of marketing futures contracts on these securities in the United States; and (2) proposing amendments that would permit boards of trade which are not located in the country which issued the designated foreign government securities set forth in the Rule from trading and marketing in the U.S. futures contracts on such securities, so long as the other requirements of the rule are satisfied. For further information, please contact Sharon Lawson at (202) 272-3116.

3. Consideration of whether to adopt amendments to Rule 13e-4 and Regulations 14D and 14E providing that: (1) A tender offer must be open to all holders of the class of securities subject to the tender offer; (2) all security holders to whom a tender offer is made must be paid the highest consideration paid to any security holder; (3) a tender offer must remain open for ten business days upon announcement of an increase or decrease in the percentage of securities being sought or consideration offered by the offeror; and (4) withdrawal rights extend throughout the period of the offer and the elimination of additional withdrawal rights upon commencement of a competing bid. For further information, please contact Bradley D. Belt at (202) 272-3097.

The subject matter of the closed meeting scheduled for Tuesday, July 8, 1986, following the 1:30 p.m. open meeting, will be:

Formal order of investigation.
Report of investigation.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Dissolution of injunction.

The subject matter of the open meeting scheduled for Wednesday, July 9, 1986, at 1:00 p.m., will be:

The Commission will consider, among other things, the effects of program trading on stock market volatility, the expiration Friday phenomenon, modifications in market practice that might be able to reduce whatever volatility is associated with arbitrage transactions, and the costs and benefits of several techniques designed to reduce such volatility. For further information, please contact Ronald Schy at (202) 272-2400.

The subject matter of the closed meeting scheduled for Thursday, July 10, 1986, at 11:00 a.m., will be:

Report of investigation.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Douglas Michael at (202) 272-2467.

Shirley E. Hollis,

Acting Secretary.

July 1, 1986.

[FR Doc. 86-15331 Filed 7-2-86; 4:07 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
July 8, 1986

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 30

Federal Acquisition Regulation (FAR); Cost Accounting Standards; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 30

Federal Acquisition Regulation (FAR); Cost Accounting Standards

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 30.416–50(a)(3)(ii) which will delete the requirement to use state rates in discounting certain self-insured losses to present value.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 8, 1986. To be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 86–34 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Cost Accounting Standards (CAS) are being proposed for incorporation into the FAR under FAR Case 86–31. This proposal represents the first proposed revision to a standard originally promulgated by the Cost Accounting Standards Board. The revision being proposed in this notice will not be implemented until the revisions proposed under FAR Case 86–31 (51 FR 20238, June 3, 1986) are adopted in a final rule.

FAR 30.416–50(a)(3)(ii) provides that, in measuring certain self-insured losses, contractors are to discount these losses to present value where payments to the claimant will not take place for over a year after the loss occurs. If a state provides a discount rate for computing lump-sum settlements, the standard requires that the state rate be used for computing present value. Otherwise, the Pub. L. 92–41 Treasury rate is to be used. The proposed rule deletes the reference to state discount rates and requires use of the Treasury rate in all cases. The purpose of the proposed rule is to provide a more accurate valuation of the contractor's liability.

B. Regulatory Flexibility Act

The proposed revision to FAR 30.416–50(a)(3)(ii) will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the change covers Cost Accounting Standards from which small business concerns are exempt.

C. Paperwork Reduction Act

The proposed revision to FAR 30.416–50(a)(3)(ii) deletes the requirement to use state rates in discounting certain self-insured losses to present value. The rule does not change or otherwise affect the collection of information by Federal agencies from offerors, contractors, or members of the public.

List of Subjects in 48 CFR Part 30

Government procurement.

Dated: June 30, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

PART 30—COST ACCOUNTING STANDARDS

Therefore, it is proposed that 48 CFR Part 30 be amended as set forth below:

1. The authority citation for Part 30 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 30.416–50 is amended by revising paragraph (a)(3)(ii) to read as follows:

30.416-50 Techniques for application.

(a) * * *

(3) * * *

(ii) If a loss has been incurred and the amount of the liability to a claimant is fixed or reasonably certain, but actual payment of the liability will not take place for more than 1 year after the loss is incurred, the amount of the loss to be recognized currently shall be the present value of the future payments, determined by using a discount rate equal to the interest rate as determined by the Secretary of the Treasury pursuant to Pub. L. 92–41, 85 Stat. 97, in effect at the time the loss is recognized. Alternatively, where settlement will consist of a series of payments over an indefinite time period, as in workman's compensation, the contractor may follow a consistent policy of recognizing only the actual amounts paid in the period of payment.

* * * * *

[FR Doc. 86–15228 Filed 7–7–86; 8:45 am]

BILLING CODE 6820-61-M

Federal Register

Tuesday
July 8, 1986

Part III

Office of Management and Budget

Budget Rescissions and Deferrals; Notices

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totaling $46,424,273.

The details of these deferrals are contained in the attached report.

Ronald Reagan.

The White House,
June 24, 1986.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Department of Energy	
	Energy Programs	
D86-67	Fossil energy research and development.....	500
D86-68	Energy conservation.....	287
D86-69	Strategic petroleum reserve.....	637
	Department of Health and Human Services	
	Health Care Financing Administration	
D86-70	Program management.....	45,000
	Total, deferrals.....	46,424

SUMMARY OF SPECIAL MESSAGES
FOR FY 1986
(in thousands of dollars)

	Rescissions	Deferrals
Seventh special message:		
New items.....	---	46,424
Revisions to previous special messages.....	---	----
Effects of seventh special message.....	---	46,424
Amounts from previous special messages that are changed by this message (changes noted above).....	---	----
Subtotal, rescissions and deferrals.....	---	46,424
Amounts from previous special messages that are not changed by this message.....	10,126,892	24,720,727
Total amount proposed to date in all special messages.....	10,126,892	24,767,151

Deferral No: D86-67

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	P.L. 99-190 310,970,912
Bureau: Energy Programs	New budget authority..... $ 15,000,000 (P.L. 98-146)
Appropriation title and symbol: Fossil energy research and development 1/ 89X0213	Other budgetary resources 40,169,853
	Total budgetary resources 366,140,765
	Amount to be deferred: Part of year $ ____ Entire year 499,812.
OMB identification code: 89-0213-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds research and development activities in coal, petroleum and unconventional gas. The deferral represents recoveries of prior year obligations for projects and activities which have been completed or terminated. These funds cannot be effectively used this year and will be used to partially offset the 1987 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-27A) and rescission proposals in 1985 (R85-84 and R85-85). It is the subject of an unrelated deferral in 1986 (D86-6).

* Revised from previous report.

Deferral No: D86-68

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ 446,721,492 (P.L. 99-190)
Bureau: Energy Programs	Other budgetary resources 22,022,295
Appropriation title and symbol: Energy conservation 1/ 89X0215	Total budgetary resources 468,743,787
	Amount to be deferred: Part of year $ ____ Entire year 287,488
OMB identification code: 89-0215-0-1-272	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds a variety of energy research and development activities including buildings and community systems, industry, transportation, and multi-sector research. It also funds assistance to State and local governments for the weatherization of schools, hospitals, and low-income dwellings. The deferral represents recoveries of prior year obligations for projects and activities which have been completed or terminated. These funds cannot be effectively used this year and will be used to partially offset the 1987 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-30B) and a rescission proposal in 1985 (R85-87). It is the subject of an unrelated deferral in 1986 (D86-9A).

Deferral No: D86-69

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $112,364,742 (P.L. 99-190)
Bureau: Energy Programs	**Other budgetary resources** 302,841,056
Appropriation title and symbol: Strategic petroleum reserve 1/ 89X0218	**Total budgetary resources** 415,205,798
	Amount to be deferred: Part of year $ ____ Entire year 636,973
OMB identification code: 89-0218-0-1-274	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: Funds appropriated to this account are for the development, operation and management of the Strategic Petroleum Reserve (SPR). The deferral represents recoveries of prior year obligations for projects and activities which have been completed or terminated. These funds cannot be effectively used this year and will be used to partially offset the 1987 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

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1 This account was the subject of unrelated deferrals in 1985 (D85-42) and in 1986 (D86-37A).

Deferral No: D86-70

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ 89,533,000 (P.L. 99-178)
Bureau: Health Care Financing Administration	Other budgetary resources 1,241,665,648
Appropriation title and symbol: Program management 7560511	Total budgetary resources 1,331,198,648
	Amount to be deferred: Part of year ____ Entire year $ 45,000,000
OMB identification code: 75-0511-0-1-550	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [ ] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This account funds research, medicare contractors, State certification, and administrative costs. The Consolidated Omnibus Reconciliation Act of 1985 (COBRA) appropriated $105 million in FY 1986, $60 million more than the $45 million provided annually in FY 1983, 84, and 85 for Medicare contractor payment safeguard activities. At the time COBRA was originally drafted, action on the regular FY 1986 appropriations bill was not complete and the status of funding for this program was uncertain. Subsequently, $45 million was also provided through the appropriations process, but COBRA was not changed and was passed by the Congress after the regular appropriation bill. It appears that the two actions combined provided $45 million more than intended.

Congressional intent to provide only an additional $60 million is indicated by the Conference Report accompanying COBRA:

> The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) earmarked $45 million through FY85 for intensified review activities. This authorization is extended for three years through FY88. The $105 million under the Senate amendment represents an additional $60 million above this amount.

[FR Doc. 86-15414 Filed 7-7-86; 8:45 am]
BILLING CODE 3110-01-C

The additional $60 million represents a 30% increase over the payment safeguard resources available in FY86. It will take all of HCFA's managerial skill to effectively utilize this increase in the last two quarters of the year. HCFA could not effectively utilize the additional $45 million.

Estimated Program Effect: None

Outlay Effect: None

federal register

Tuesday,
July 8, 1986

Part IV

Department of Education

34 CFR Part 624

Institutional Aid Programs—General Provisions; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 624

Institutional Aid Programs—General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Institutional Aid Programs General Provisions regulations. The amendment is needed to reflect a policy decision concerning the duration and expected costs of a project. This change would allow greater flexibility in the Secretary's administration of the program.

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

ADDRESS: All comments concerning these proposed regulations should be addressed to Dr. Caroline J. Gillin, Director, Division of Institutional Development, L'Enfant Plaza Station, P.O. Box 23868, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Keyes, U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–3338.

SUPPLEMENTARY INFORMATION: The Institutional Aid Programs provide financial assistance to help eligible institutions of higher education to solve problems that threaten their ability to survive and to stabilize their management and fiscal operations so that they may achieve self-sufficiency. The programs are authorized by Title III of the Higher Education Act of 1965, as amended, and they include: the Strengthening Program, 34 CFR Part 625; the Special Needs Program, 34 CFR Part 626; the Challenge Grant Program, 34 CFR Part 627; and the Endowment Grant Program, 34 CFR Part 628.

Over the past four years of administering development grants under the Strengthening, Special Needs, and Challenge Grant Programs, the Secretary has exercised his best judgment regarding the duration of a project and the amount of the grant necessary to complete the project. For example, at the time of the initial application, a request from an institution for $587,000 over a five-year period to develop a learning resources laboratory was reduced to $450,000 over three years. In the final year of the grant, the institution is unable to finish developing the laboratory because the Department's best judgment about the appropriate grant duration and funding level has proven to be inaccurate.

In situations where the Department's best judgment has proven inaccurate, the Secretary currently has no authority to extend the approved project period of the original grant and to obligate additional funds to allow the grantee to complete the project. Therefore, the Secretary proposes to amend the Institutional Aid Programs regulations to establish provisions that will allow for extending a project period and obligating additional funds in certain limited situations. The Secretary wishes to make clear that he will not add resources in the event of cost overruns, revised plans, or material changes from the original application. This proposed rule will allow for a review of the documentation on the original reasons for a reduction for time period or funding. It will then permit the Secretary to extend time or add funds subject to the availability of appropriations only where other circumstances are unchanged and those original reasons for the Department's initial decision proved to be substantially incorrect. Since this program is being modified through the reauthorization of the Higher Education Act, this regulation will only apply for continuation grants awarded from Fiscal Year 1986 and/or Fiscal Year 1987 funds for nonrenewable development grants previously awarded. However, if the final regulation is not published in time for Fiscal Year 1986, it will only apply for Fiscal Year 1987.

Executive Order 12291

The proposed 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.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. While grants are awarded annually to 500 or so relatively small colleges and universities, the number to be affected by this proposed amendment is likely to be twenty or less annually.

Paperwork Reduction Act of 1980

The proposed regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern such requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 624

Colleges and universities, Education, Grant programs—education.

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 regulations.

Dated: July 7, 1986.

William J. Bennett,

Secretary of Education.

PART 624—INSTITUTIONAL AID PROGRAMS—GENERAL PROVISIONS

The Secretary proposes to amend Part 624 of Title 34 of the Code of Federal Regulations as follows:

1. The authority citation for Part 624 is revised to read as follows:

Authority: 20 U.S.C. 1051–1069c, unless otherwise noted.

2. In § 624.5, paragraph (a) is revised to read as follows:

§ 624.5 Regulations that apply to the Institutional Aid Programs.

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions) except for—

(1) 34 CFR 75.128(a)(2) and 75.129(a), in the case of applications under cooperative arrangements; and

(2) 34 CFR 75.261(e), in the case of a continuation grant awarded from Fiscal Year 1986 or 1987 funds for a non-renewable development grant previously awarded if—

(i) The conditions specified in 34 CFR 75.261 (a) through (d) and (f) are met;

(ii) The resulting cumulative obligation of Federal funds under the grant does not exceed the total amount requested by the grantee in the original application;

(iii) The extended grant period does not exceed either the statutory limit or the duration originally requested by the grantee; and

(iv) The original grant amount resulted from an initial judgment by the Department of Education concerning the grant amount needed for the project which subsequently proved to be incorrect.

[FR Doc. 86-15494 Filed 7-7-86; 9:22 am]

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LIST OF PUBLIC LAWS

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H.R. 4515/Pub. L. 99-349

Urgent Supplemental Appropriations Act, 1986. (July 2, 1986; 100 Stat. 710; 41 pages) Price: $1.50

H.J. Res. 297/Pub. L. 99-350

To designate the week beginning July 27, 1986, as "National Nuclear Medicine Week." (July 2, 1986; 100 Stat. 751; 1 page) Price: $1.00

H.J. Res. 429/Pub. L. 99-351

To designate July 2, 1986, as "National Literacy Day." (July 2, 1986; 100 Stat. 752; 2 pages) Price: $1.00

H.J. Res. 664/Pub. L. 99-352

To designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statute of Liberty. (July 2, 1986; 100 Stat. 754; 1 page) Price: $1.00

S.J. Res. 290/Pub. L. 99-353

To designate July 4, 1986, as "National Immigrants Day." (July 2, 1986; 100 Stat. 755; 1 page) Price: $1.00

S.J. Res. 365/Pub. L. 99-354

Welcoming the Afghan Alliance. (July 2, 1986; 100 Stat. 756; 2 pages) Price: $1.00

S.J. Res. 188/Pub. L. 99-355

To designate July 6, 1986, "National Air Traffic Control Day." (July 3, 1986; 100 Stat. 758; 2 pages) Price: $1.00

S.J. Res. 350/Pub. L. 99-356

To designate 1987 as the "National Year of the Americas." (July 3, 1986; 100 Stat. 760; 1 page) Price: $1.00