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Tuesday
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Presidential Documents

Title 3—

The President

Proclamation 5542 of October 8, 1986

American Liver Foundation National Liver Awareness Month, 1986

By the President of the United States of America

A Proclamation

Liver diseases claim 50,000 lives in the United States each year and are the fourth leading cause of death of Americans between the ages of 15 and 65. There are more than 100 liver disorders. Some of these are progressively debilitating and often fatal. Liver diseases strike infants, children, adolescents, and adults, regardless of sex, race, or economic status. Unfortunately, people with liver disease suffer not only physically from the disease, but also emotionally from the unjust stigma placed on them by the common, but mistaken, notion that liver disease is caused only by alcoholism.

Through the American Liver Foundation, a network of volunteers, families, researchers, and health care professionals throughout the United States has dedicated itself to funding and increasing research to find the causes, treatments, cures, and ways to prevent these devastating diseases. The American Liver Foundation, the only national organization to focus on all types of liver disease, is committed to promoting the health of all Americans by increasing public awareness of all conditions that can lead to liver disease and by supporting and enhancing the quality of life for those individuals and their families who must cope with a liver disease.

The Congress, by Senate Joint Resolution 202, has designated the month of October 1986 as "American Liver Foundation National Liver Awareness Month" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1986 as American Liver Foundation National Liver Awareness Month. I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to learn more about the liver, to support appropriate efforts to discover the causes and cures of all types of liver disease, and to aid those who suffer from the crushing physical, psychological, and financial burden of a liver disease.

IN WITNESS WHEREOF, I have hereunto set my hand this eight day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23210
Filed 10-9-86; 12:06 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5543 of October 8, 1986

National Down Syndrome Month, 1986

By the President of the United States of America

A Proclamation

Down Syndrome is the most common genetic birth defect associated with mental handicap. Approximately one in 800 babies is born with Down Syndrome.

Over the last decade, Americans have become more aware of the accomplishments and the potential of developmentally disabled people, particularly those with Down Syndrome, thanks to the efforts of concerned physicians, teachers, and parents' groups such as the National Down Syndrome Congress and the National Down Syndrome Society.

As a result, we have programs to educate new parents of babies with Down Syndrome, special education classes within mainstreamed programs in schools, vocational training for competitive employment in the work force, and preparation for young adults with Down Syndrome for independent living in the community.

Paralleling these improvements in educational opportunities are advances in medical treatment that are enhancing the outlook for those born with this condition. In addition, the public is showing increased acceptance of people with Down Syndrome. We must continue our efforts to dispel myths about Down Syndrome and the degree to which it is disabling.

Because we live, regrettably, in an age when some people no longer value every human life regardless of condition, we must be vigilant in recalling that "all men are created equal" and that people with Down Syndrome have the same rights to "Life, Liberty and the pursuit of Happiness" that we all do. We have a duty to see that they receive all the help they need, before birth, in the nursery, and throughout life. Our heritage as Americans bids us do no less.

The Congress, by Senate Joint Resolution 321, has designated the month of October 1986 as "National Down Syndrome Month" and authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of October 1986 as National Down Syndrome Month. I invite all concerned citizens, agencies, and organizations to unite during October with appropriate observances and activities directed toward assisting affected individuals and their families to enjoy to the fullest the blessings of life.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23211
Filed 10-9-86; 12:07 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5544 of October 8, 1986

National Spina Bifida Month, 1986

By the President of the United States of America

A Proclamation

Spina bifida strikes one to two of every one thousand babies born in the United States. It is the most common crippler of newborns. When this disease occurs, the baby's spinal cord forms abnormally and the arches of the vertebrae, the bones that surround the cord, fail to develop. The spinal cord or its protective tissue may be displaced outside the spinal canal. Nerves supplying the legs, bladder, and bowel are incompletely developed or damaged.

The nerve damage resulting from this disease can have devastating consequences, including muscle paralysis, loss of sensation in the skin, and spine and limb deformities. Most babies with spina bifida also develop hydrocephalus—a potentially dangerous buildup of fluid pressure within the brain.

But thanks to important advances in neurosurgery and antibiotic therapy, a baby born with spina bifida today has between an 80 and 95 percent chance for survival. And the development of new surgical and bracing procedures and devices to compensate for lost function have made it possible for patients to lead more active and normal lives.

Research now under way in the Nation's scientific laboratories is aimed at improving our understanding the cause of this disease and developing methods to prevent it. Much of this work is being done by scientists supported by the Federal government's National Institute of Neurological and Communicative Disorders and Stroke and the National Institute of Child Health and Human Development. Voluntary agencies like the Spina Bifida Association of America, the National Easter Seal Society, and the March of Dimes Birth Defects Foundation also promote vital research and provide essential services and encouragement to families. In the work of these agencies, and that of the researchers and clinicians they sponsor, lies the hope that we will one day conquer spina bifida.

To enhance public awareness of the problem of spina bifida, the Congress, by Senate Joint Resolution 368, has designated the month of October 1986 as "National Spina Bifida Month" 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 the month of October 1986 as National Spina Bifida Month, and I call upon the people of the United States to observe this month with appropriate observances and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of Oct., 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 eleventh.

Ronald Reagan

[FR Doc. 86-23212
Filed 10-9-86; 12:08 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5545 of October 8, 1986

National Job Skills Week, 1986

By the President of the United States of America

A Proclamation

The economy of the United States, in the midst of one of the longest sustained periods of growth since World War II, is creating a record number of new jobs. More Americans are at work now than ever before. Technological advances in all areas of American industry are contributing not only to the growth in the number of jobs, but to sustained growth in productivity. The dynamic changes occurring in our own marketplace as well as in the global economy will place an even greater emphasis on the development of new job skills.

One of America's greatest competitive assets is the high quality and productivity of its work force. It is appropriate, therefore, that Americans have come to understand the changes that are underway in the workplace and the demands these developments are generating for new skills. In order to focus national attention on the role of job training efforts in maintaining a competitive work force, the Congress adopted House Joint Resolution 721 designating the week of October 12 through October 18, 1986, as "National Job Skills Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 12 through October 18, 1986, as National Job Skills Week, and I urge all Americans and interested groups to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23213
Filed 10-9-86; 12:09 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5546 of October 8, 1986

National School Lunch Week, 1986

By the President of the United States of America

A Proclamation

Since 1946, the National School Lunch Program has made it possible for our Nation's children to enjoy nutritious, well-balanced, low-cost lunches. Now in its 40th year, this Program stands as a remarkable example of a successful partnership between Federal and State governments and local communities to make food and technical assistance available in an effort to provide a more nutritious diet for students.

The National School Lunch Program demonstrates our commitment to the promotion of the health and well-being of our youth. Under its auspices, more than 23 million lunches are served daily in nearly 90,000 schools throughout our country. The success of this effort is largely due to resourceful and creative food service managers and staff working in cooperation with government personnel, parents, teachers, and members of civic groups.

By joint resolution approved October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as "National School Lunch Week" and authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 12, 1986, as National School Lunch Week, and I call upon all Americans to give special and deserved recognition to those people at the State and local level who, through their dedicated and innovative efforts, have made it possible to have a successful school lunch program.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23214
Filed 10-9-86; 12:10 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5547 of October 9, 1986

Leif Erikson Day, 1986

By the President of the United States of America

A Proclamation

Millions of people in the United States trace their origins to the Nordic countries. Their ancestors came here in search of new land, new opportunity, and the ability to work and prosper in this land of freedom and justice. Courage and an adventurous spirit brought them here; strength and determination have brought success to a great many. Those characteristics well describe Leif Erikson, the first Nordic we know to have visited North America.

Leif Erikson was sent by King Olav in the year 1000 to convert the Nordic settlers of southern Greenland to Christianity; he also sailed much farther west and came upon a new land. "Leif the Lucky," as he was known, described North America for his countrymen, and kindled the enthusiasm that brought other European explorers, missionaries, settlers, and adventurers to North America in the years to follow. Today, the cultures of Denmark, Finland, Iceland, Norway, and Sweden are intertwined with the American culture and are an important part of our national heritage. The Nordic people have added their traditions of courage and adventure to our national characteristics, giving us pride in the knowledge that the spirit of Leif Erikson still lives among all Americans.

In honor of Leif Erikson and the heritage of America's Nordic people, the Congress, by a joint resolution approved on September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), has authorized the President to proclaim October 9 of each year as "Leif Erikson Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate October 9, 1986, as Leif Erikson Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on that day. I also invite the people of the United States to honor Leif Erikson and our Nordic-American heritage by holding appropriate exercises and ceremonies in suitable places throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23229
Filed 10-9-86; 2:13 p m]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 198
Tuesday, October 14, 1986

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ASW-31; Amdt. 39-5422]

Airworthiness Directives; McDonnell Douglas Helicopter Co. Model 369 Helicopters and Military Models YOH-6A and OH-6A Certificated for Civil Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) which presently requires deactivation of the rotor brake system and repetitive inspections of the tail rotor (T/R) drive shaft forward flexible coupling or installation of a coupling failsafe device on McDonnell Douglas Helicopter Company (MDHC) Model 369D helicopters. This new AD requires installation of a failsafe device on forward and aft flexible couplings and is applicable to additional models of MDHC Model 369 series helicopters and corresponding military models. This action is prompted by two recent reports of T/R drive shaft aft coupling failures. This new AD makes installation of the failsafe device mandatory on both forward and aft flexible couplings and prescribes preflight and postflight checks to detect primary coupling failure. These actions are needed to prevent potential failure of the drive shaft system which could result in loss of T/R control.

EFFECTIVE DATE: October 24, 1986.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: The applicable service information notices may be obtained from McDonnell Douglas Helicopter Company, Centinela Avenue and Teale Street, Culver City, California 90230.

A copy of each applicable service information notice is contained in the Rules Docket located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur F. Wells, Regulations Program Management, Aircraft Certification Division, FAA, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-5123.

SUPPLEMENTARY INFORMATION: In September 1981, following a series of failures of the forward flexible coupling in the tail rotor drive system of MDHC Model 369D helicopters, the FAA issued Amendment 39-4186 (46 FR 40868), AD 81-17-20, as amended by Amendment 39-4221 (46 FR 46566), AD 81-17-20R1, to require (1) deactivation of the rotor brake system and repetitive inspections of the forward flexible coupling, or (2) fitting the forward coupling with a failsafe device. Investigations have now disclosed that this inspection is inadequate to intercept impending failure of this forward coupling. Two instances of failure of the aft flexible coupling in the tail rotor drive system occurred recently. One of these failures resulted in a fatal accident.

Therefore, the FAA finds it necessary to supersede AD 81-17-02R1 with an AD that requires both fore and aft flexible couplings on all models of these helicopters to be modified to incorporate a failsafe device.

Since this condition is likely to develop on other helicopters of the same type design, an AD is being issued which requires installation of failsafe devices on both fore and aft tail rotor drive system flexible couplings in certain McDonnell Douglas Helicopter Company Model 369 helicopters including military Models YOH-6A and OH-6A certificated for civil operations.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable 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 considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas Helicopter Company (Hughes Helicopters, Inc.): Applies to Model 369, 369A, 369D, 369E, 369H, 369HE, 369HM, and 369HS helicopters, including military Models YOH-6A and OH-6A, certificated in any category, equipped with tail rotor drive shaft flexible couplings, Part Number (P/N) 369A5501 or 369H92564.

Compliance required as indicated unless already accomplished.

To prevent failure of the tail rotor (T/R) drive shaft system and subsequent loss of T/R control, accomplish the following:

(a) Within 100 hours' time in service after the effective date of this AD, install aft coupling failsafe device (P/N's 369D25530

bolt and 369D25531 socket) in accordance with Part I of the applicable Service Information Notices (SIN) DN–143, HN–206, or EN–31, each dated August 26, 1986. Installation of the failsafe device on military Models YOH–6A or OH–6A helicopters in civil use shall be accomplished in accoordance with Part I of SIN HN–206.

Note.—The failsafe device required by paragraph (a) will be installed before delivery on all applicable Model 369E helicopters, Serial Number 0135E, and subsequent.

(b) Within 100 hours' time in service after the effective date of this AD, install forward coupling failsafe device (P/N's 369D25530 bolt and 369D25531 socket) in accordance with Part I of SIN DN–95, dated August 7, 1981, or Part III, HN–173, dated November 2, 1981, as applicable. Installation of the coupling failsafe device on military Models YOH–6A or OH–6A helicopters shall be accomplished in accordance with Part III of SIN HN–173.

(c) For all helicopters with tail rotor driveshaft flexible coupling failsafe devices installed, the T/R drive shaft forward and aft flexible couplings shall be checked as follows:

(1) *At Each Preflight Check:* Check for T/R backlash or looseness by rocking the T/R back and forth in its plane of rotation. The blade should not move in excess of 0.75 inch (1.93cm) at the blade tip without rotation of the main rotor blades.

(2) *At Each Aircraft/Engine Shutdown:* If thumping or rapping is heard from the T/R drive train during final revolutions of the T/R, check the T/R to assure that the T/R blade does not move in excess of 0.75 inch (1.93cm) at the blade tip without rotation of main rotor blades.

(d) The checks required by this AD may be performed by the pilot and must be recorded in accordance with FAR § 91.173.

(e) If during the checks required by paragraph (c), the tail rotor blade tip movement exceeds the specified limits, prior to further flight, inspect and replace, as necessary, either or both fore and aft tail rotor drive shaft couplings.

(f) Rotorcraft may be ferried in accordance with the provisions of FAR §§ 21.197 and 21.199 to a base where the modifications and inspections of paragraphs (a) and (b) of this AD can be accomplished.

(g) An alternate method of compliance which provides an equivalent level of safety may be approved by the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

The procedure shall be done in accordance with applicable parts of MDHC SIN's DN–143, HN–206, EN–31, all dated August 26, 1986; HUGHES SIN DN–95, dated August 7, 1981; HUGHES SIN HN–173, dated November 2, 1981. The incorporation by reference of these documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Helicopter Company, Centinela Avenue and Teal Street, Culver City, California 90230. These documents may be examined at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76101, the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California, or the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

This amendment supersedes Amendment 39–4186 (46 FR 40868), AD 81–17–02, as amended by Amendment 39–4221 (46 FR 46566), AD 81–17–02R1.

This amendment becomes effective October 24, 1986.

Issued in Fort Worth, Texas, on September 10, 1986.

R.G. Knight,

Acting Director, Southwest Region.

[FR Doc 86–23145 Filed 10–10–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–42–AD; Amdt. 39–5441]

Airworthiness Directives; Piper Model PA–44–180T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA–44–180T airplanes. It requires replacement of the ammeters with shunted ammeter kits which will eliminate full electrical power passing through the ammeter gauges. This AD is prompted by reports of heat damaged ammeters and smoke in the cockpit caused by shorting ammeter terminal posts. A shorted condition at the ammeter could result in complete electrical failure, and/or fire, or smoke in the cockpit. This action will assure proper operation of the airplane's electrical system and eliminate the smoke generating conditions at the airplane's ammeter electrical connections.

EFFECTIVE DATE: October 17, 1986.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Piper Aircraft Corporation Service Bulletin (S/B) No. 847, dated August 28, 1986, and Ammeter Replacement Kit, Piper Part No. 765–302 may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (305) 567–4361. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Bill Trammell, ACE–130A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: There have been reports of heat damaged ammeters and loosening and shorting of the ammeter terminal posts in certain Piper Model PA–44–180T airplanes which resulted in smoke in the cockpit and unscheduled/emergency landings. Piper previously issued S/B No. 811A which substituted a shunted ammeter replacement kit for the direct reading ammeter on the Model PA–28, –32 and –34 airplanes, and was the subject of AD 86–17–01. Since that time it has been determined that a similar problem exists on the PA–44–180T airplanes. As a result of this determination Piper subsequently issued S/B No. 847 applicable to the PA–44–180T airplanes which requires replacement of the ammeters with shunted ammeter kits. These kits eliminate full electrical power passing through the ammeter gauges. On all airplanes affected by S/B 811A and 847 in the past five year period, 41 occurrences have been reported with 26 in the last two years.

Since a condition still exists which could result in complete electrical failure or fire or smoke in the cockpit, an AD is being issued requiring compliance with Piper S/B No. 847 on all Piper Aircraft Corporation Model PA–44–180T airplanes. The applicability of this amendment includes serial numbers of airplanes not modified as production airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impractical 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 this condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). 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 under the caption "ADDRESSES" at the location identified.

Lists of Subjects in 14 CFR 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Piper Aircraft Corporation: Applies to Model PA–44–180T (Serial Numbers 44–8107001 through 44–8207020) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent smoke in the cockpit and possibly complete electrical failure resulting from shorting of ammeter terminal posts, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, replace both ammeters with Ammeter Replacement Kits, Piper Part No. 765–302, in accordance with the instructions contained in Piper Service Bulletin No. 847, dated August 28, 1986.

(b) Airplanes may be flown in accordance with FAR § 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance if used, must be approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corp., 2926 Piper Drive, Vero Beach, Florida 32960; or the FAA, Rules Docket, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 17, 1986.

Issued in Kansas City, Missouri, on October 2, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc 86–23146 Filed 10–10–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket Number 86–ANE–31; Amdt. 39–5374]

Airworthiness Directives; Avco Lycoming T5508D Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires visual inspection for wear of the first stage turbine disk and shaft mating surfaces, fluorescent penetrant inspection for cracks of the first stage turbine disk, and replacement of the disk to shaft retaining bolts, on a one time basis for the first turbine rotor assembly installed in Avco Lycoming T5508D turboshaft engines. The AD is needed to prevent uncontained first stage turbine disk failure.

DATES: Effective October 10, 1986. Compliance Schedule—As prescribed in the body of the AD. Comments for inclusion in the docket must be received on or before December 10, 1986. Incorporation by Reference—Approved by the Director of the Federal Register as of October 10, 1986.

ADDRESSES: Comments on the amendment may be mailed in duplicate to:

Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 86–ANE–31, 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–31".

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 service bulletin (SB) may be obtained from Avco Lycoming, 550 Main Street, Stratford, Connecticut 06497. A copy of the SB is contained in Rules Docket Number 86–ANE–31, 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: Chris Gavriel, 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) 273–7084.

SUPPLEMENTARY INFORMATION: The FAA has determined that there have been two ruptures of the first stage turbines disk in T5508D turboshaft engines, installed on single engine powered helicopters. Both disk ruptures occurred at less than 200 feet above ground level, during external load engagement. The first disk rupture resulted in two fatalities, while the second resulted in severe injuries to the crew, and in both ruptures the aircraft were a total loss.

Investigation of the first rupture concluded that the primary cause of engine failure was the first stage turbine disk, but it was inconclusive in regards to the cause of the disk rupture because insufficient parts were recovered to make a finding. Investigation of the second rupture revealed residue of thread lubricant in the bolt holes of the compressor shaft. Application of such lubricant on these bolts in prohibited, in accordance with the overhaul and maintenance manuals. The presence of thread lubricant could have resulted in an excessive load on the bolts at the required torque level, causing yielding of the bolts and subsequent relaxation of the clamping force between the disk and the shaft. Loss of clamping force between the mating parts can lead to excessive wear on the mating surfaces causing an unacceptable reduction in disk fatigue life. It was also determined that there is sufficient evidence that other engines of the same type may have been assembled with disk to flange retaining bolts treated with thread lubricant. A one time inspection, in accordance with Avco Lycoming SB 5508–0031, Revision 1, is therefore needed to assure that the bolts are free of thread lubricant, and that the disk and shaft mating faces are not worn. Since it cannot readily be determined if the bolts have traces of thread lubricant or have yielded, a one time replacement of the bolts is necessary.

This AD also requires reporting of the inspection results to the FAA. Those findings will be evaluated to determine if they are consistent with the past experience upon which the AD is founded, or whether further inspections or other action is needed. Information collection requirements contained in the amendment to § 39.13 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued

which requires a one time inspection of the first turbine rotor assembly for evidence of thread lubricant and wear. The AD also requires a one time replacement of the disk to shaft retaining bolts.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days. Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this 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. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available for examination in the Rules Docket at the address given above. A report summarizing each FAA public contact, concerned with the substance of this AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowlege receipt of their comments submitted in response to this amendment must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 86-ANE-31". The postcard will be dated/time stamped and returned to the commenter.

Conclusion

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

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

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

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

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Avco Lycoming: Applies to Avco Lycoming model T5508D turboshaft engines. Compliance is required as indicated, unless already accomplished. To prevent failure of the first stage turbine disk that can cause an uncontained engine failure, accomplish the following:

(a) Visual and fluorescent penetrant inspect the first turbine rotor assembly, Part Number (P/N) 2-120-030-43 within the next 50 hours time in service after the effective date of this AD, in accordance with the Accomplishment Instructions contained in Avco Lycoming Service Bulletin (SB) 5508-0031, Revision 1, dated August 19, 1986, or FAA approved equivalent.

(b) Remove and replace with new parts, bolts P/N 2-100-079-05 and their associated locking plates P/N 2-100-078-01, when accomplishing the inspections of Paragraph (a) above, in accordance with the Accomplishment Instructions contained in Avco Lycoming SB 5508-0031, Revision 1, dated August 19, 1986, or FAA approved equivalent.

(c) Remove from service and replace with a serviceable part, prior to further flight, all first turbine disks that exhibit fretting on the disk to shaft mating face and/or a crack indication during inspection.

(d) Report the following information in writing for each inspection 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) Disk part number and serial number
(4) Disk total time and cycles
(5) Disk time and cycles since last installation
(6) Breakaway up torque for bolts, P/N 2-100-079-05
(7) Any evidence of oil leakage and/or fire in the Number 2 bearing area
(8) Disk disposition (crack indication or, no crack indication, fretting or, no fretting, thread marks inside the boltholes or not)

Note.—For the purpose of this AD fretting is defined as metal removal below the original machined surface that is exemplified by a pitting pattern

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can 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, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, may adjust the compliance times specified in this AD.

Avco Lycoming SB 5508-0031, Revision 1, dated August 19, 1986, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Avco Lycoming, 550 Main Street, Stratford, Connecticut 06497. This document also may be examined at the Office of the Regional Counsel, Rules Docket Number 86-ANE-31, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86-ANE-31, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on October 10, 1986.

Issued in Burlington, Massachusetts, on September 12, 1986.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86-23144 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Rel. No. 34-23677; File No. S7-5-86]

Depository Shipment Control List Transfer Instructions; Definition of Item

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of Rule Amendments.

SUMMARY: The Securities and Exchange Commission is adopting rule amendments designed to enhance confidence in and increase the efficiency of the National System for the Clearance and Settlement of Securities Transactions. The amendments alter the definition of the term "item" as it relates to transfer instructions on depository shipment control lists ("SCLs"). Under the amendment definition, each line on a depository SCL is a separate item.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Sandra Sciole or Jerry Greiner at (202) 272-2775, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C 20549.

SUPPLEMENTARY INFORMATION:

On February 10 1986, the Securities and Exchange Commission ("Commission") proposed for comment amendments to Rule 14Ad-1 under the Securities Exchange Act of 1934 ("Act") that would define as an item each line on a depository shipment control list ("SCL").[1] The Commission received 18 comment letters, [2] a majority of which supported the amendments. Several commenters suggested modifications, urged the Commission to clarify the intended effect of the proposed amendments on transfer processing, or opposed the amendments as unnecessary in light of their experience in completing depository transfer submissions. As discussed below, the Commission is adopting the amendments as modified to account for certain of these comments.[3] To facilitate transfer agent compliance with the amendments, this release outlines certain operational aspects associated with processing depository SCLs.

I. Background

In 1977, the Commission adopted Rules 17Ad-1 through 17Ad-7 under the Act ("turnaround rules"), [4] designed to protect investors and persons facilitating transactions on behalf of investors and to contribute to the establishment of the National System for the Clearance and Settlement of Securities Transactions ("National System"). Rule 17Ad-2, in particular, seeks to ensure that registered transfer agents perform their functions in a prompt and accurate manner by requiring them, among other things, to turnaround 90% of the routine items they receive for transfer within three business days. An item is the basic unit for which turnaround times and other requirements are prescribed. An item was defined initially as the certificates of a single issue of securities presented under one ticket, or, if there is no ticket (as is often the case with mail items from individuals), presented at one time by one presentor.[5]

Transfer agents often receive submissions from depositories that contain many lines of individual transfer instructions concerning the same securities issue. These depository submissions generally are referred to as SCLs and are submitted to transfer agents on paper, magnetic tape, or via computer-to-computer transmission. SCLs contain either deposit or withdrawal instructions, but never both.

Generally, deposit SCLs contain instructions to the transfer agent to transfer record ownership of securities from depository participants or their customers to the depository. For example, one line of a deposit SCL could reflect 10 accompanying certificates registered in the names of different customers of a depository participant, all of which are to be transferred to the depository's nominee.[6] Because deposit SCLs must be accompanied by all certificates that are to be transferred into the depository's nominee name, depositories submit deposit SCLs on paper, rather than magnetic tapes or computer transmissions.

The second type of SCL is a withdrawal-by-transfer (or "withdrawal" SCL), by which registered ownership of securities is transferred from the depository to depository participants, their individual customers, or other entities. Each line of a withdrawal SCL generally consists of one individual transfer instruction.[7] For example, one line might provide that 200 shares of IBM registered in a depository's nominee are to be transferred to John A. Smith. Withdrawal SCLs are submitted on paper, magnetic tape, or via computer transmission. Withdrawal SCLs may be accompanied by one or more certificates, or may instruct the transfer agent to cancel certificates or reduce balance positions it maintains for the depository under a transfer agent custodian ("TAC") arrangement.[8]

Transfer agents and depository participants at the 1984 Securities Processing Roundtable discussed the need for a review of the Commission's interpretation of the term "item."[9] Since at least 1980, that interpretation treated each SCL as a single routine item.[10] Some transfer agents advised the staff that the average number of lines on certain SCLs has doubled in recent years, with no additional credit given transfer agents for turnaround compliance. Furthermore, they noted that the percentage of depository requests for transfer has increased in relation to all requests for transfer, and that perhaps undue weight is being given to non-depository items solely as a result of the definition of the term "item." Finally, they noted that transfer agents in danger of failing to meet their 90% turnaround requirement [11] could be

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[1] Securities Exchange Act Release No. 22883 (February 10, 1986), 51 FR 5721 (February 18, 1986) ("Proposal Release").

[2] Comments were received from: American Bankers Association; American Transtech; Bank of America; First National Bank of Boston; Bank of New York; Bankers Trust Company; Continental Stock Transfer & Trust Company; Depository Trust Company ("DTC"); First National Bank of Chicago; Manufacturers Hanover Trust Company; Merrill Lynch, Pierce, Fenner & Smith, Inc.; Morgan Guaranty Trust Company of New York; Municipal Securities Rulemaking Board; Pacific Gas and Electric Company; Southeastern Securities Transfer Association; South Carolina National Bank; Sovran Bank; and Stock Transfer Association.

[3] In accordance with section 17A(d)(3)(A)(i) of the Act, the Commission consulted with, and requested the views of, the federal bank regulatory agencies.

[4] 17 CFR 240.17Ad-1 through 17Ad-7. *See* Securities Exchange Act Relase No. 13638, 42 FR 32404 (June 24, 1977) ("Turnaround Release").

[5] Turnaround Release, *supra* note 4, 42 FR at 32405.

[6] Commenters have suggested that deposit SCLs generally can contain up to 44 lines, but occasionally may contain more.

[7] Although withdrawal SCLs submitted on paper are often confined to 20 lines, the Commission understands that tape or computer transmission for withdrawal SCLs many contain hundreds or even thousands of lines.

[8] Under a TAC program, the transfer agent safekeeps one or more "balance" certificates reflecting the depository's securities position in a particular issue. In that way, the depository can reduce the number of certificates held in its vault and participant withdrawals-by-transfer can be automated and expedited.

[9] *See* Division of Market Regulation, *Report of the 1984 Securities Processing Roundtable*, May 31, 1984, at 32-33.

[10] *See* Securities Exchange Act Release No. 17111 (September 2, 1980), 45 FR 59840 (September 11, 1980).

[11] *See* Rule 17Ad-2, which requires that certain registered transfer agents turnaround within three

Continued

tempted to put aside depository SCLs and instead focus attention on transferring non-depository items, which generally contain fewer transfer instructions.

II. The Adopted Amendments

As adopted today, the amendments to Rule 17Ad–1 provide a new definition of the term "item" for deposit and withdrawal SCLs,[12] and retain the current definition of the term "item" for non-SCL presentments.[13] The amendments define a deposit SCL as a list of transfer instructions accompanying certificates to be cancelled and reissued in a registered clearing agency's nominee name. A withdrawal SCL is defined as a list of transfer instructions directing (1) cancellation of depository nominee-name certificates and reissuance in other names or, (2) the reduction of the depository's position balance maintained by the transfer agent for the depository under a transfer agent custodian program. Under the amended definition, each line on an SCL is counted as a separate item.

The Commission received comments from self-regulatory organizations (including a registered depository), registered broker-dealers, and a cross-section of the transfer agent industry, including bank and non-bank transfer agents, issuer transfer agents, and transfer agent associations. The majority of commenters supported adoption of the proposed amendments. A number of commenters, however, suggested modifications to the proposed amendments or opposed the amendments for specific reasons. Those comments are discussed below.

A. National System Concerns

Nine commenters believed that the National System goals of efficiency and immobilization would be furthered by the proposed amendments to the "item" definition.[14] Six commenters also stated that the amended definition and resulting new method of calculating turnaround would measure more accurately a transfer agent's performance and would provide more equitable credit to transfer agents in light of the increased volume of depository transfer work.[15]

Two commenters suggested that the amendments may be unnecessary because they currently process most depository SCL presentments quickly, usually within one day. The Commission recognizes that most transfer agents process depository SCLs promptly and accurately. The proposed amendments, however, are intended to encompass all transfer agents that handle depository SCLs, and the Commission believes the amendments should increase, in the aggregate, transfer agent speed and accuracy in SCL processing. These two commenters also suggested that the Commission should make the amended definition of "item" optional at the transfer agent's choice. The Commission believes that optional use of the Rule amendments would not address adequately the need to assure prompt turnaround of depository transfer presentments, because transfer agents could choose to delay processing SCL presentments in favor of simpler items presented for transfer.

The Commission believes that transfer agents, especially those that handle depository-eligible securities issues, play a crucial role in the National System.[16] Transfer agents provide the link through which securities certificates can be immobilized at depositories and thereafter delivered and received via quick and efficient depository book entries. Similarly, transfer agents process certificate withdrawals-by-transfer from the depository to market professionals and individual investors. Prompt and accurate transfer agent performance is necessary to prevent operational confusion and financial loss that can result from inaccurate or delay transfer.

In recent years, use of National System facilities has grown dramatically. Market professionals and individual investors have increased their use of securities depositories for transaction processing and safekeeping of corporate equity and debt securities. At the same time, securities depositories have greatly expanded the number and types of securities issues eligible for depository services. As a result, municipal securities and new securities products are now processed in the National System. The efficiency and cost-savings that result from transaction processing in the National System have led SROs to mandate National System use by market professionals.[17] For those reasons, the Commission believes it is necessary for transfer agents to have the incentives that are provided by the rule amendments to process depository SCLs as promptly and accurately as possible.[18]

B. Recordkeeping Requirements

The Commission's recordkeeping rules generally require registered transfer agents to maintain current records that show the day on which each routine and non-routine item is received and when those items are made available to presentors.[19] Transfer agents also must maintain records demonstrating the number of routine items received during each month and the number of routine items that were turned around within three business days versus those that were not. Transfer agents also must record, as of the end of each month, in one-day increments, all routine items aged more than four business days. For non-routine items, transfer agents must track the number of items received during the month that were turned around and the number of items in the transfer agent's possession at the end of each month.

In the Proposal Release, the Commission solicited comment on the degree to which the amendments might affect transfer agent recordkeeping requirements. The majority of commenters indicated that the amendments would create modest increased recordkeeping costs for affected transfer agents.[20] Those commenters believed that their recordkeeping systems could be modified easily by continuing to track an entire SCL, and not each SCL line, for purposes of determining when the SCL

business days 90% of the routine items they receive for transfer each month.

[12] 17 CFR 240.17Ad–1(a)(1) (ii), (iii).

[13] 17 CFR 240.17Ad–1(a)(1)(i).

[14] *See* Section 17A of the Act in which Congress directed the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions.

[15] The Commission understands that for many transfer agents, depository SCLs constitute the majority of their transfer work. SCL volume has increased in recent years due to: (1) increased immobilization of depository-eligible securities issues; (2) increased transaction volumes for those securities; (3) large increases in the number and types of securities issues eligible for depository immobilization; and (4) self-regulatory organization ("SRO") initiatives that require the use of depositories for municipal securities processing and institutional transactions settlement. *See, e.g.*, Municipal Securities Rulemaking Board Rules G–12, and G–15 and New York Stock Exchange ("NYSE") Rule 387.

[16] The Commission recently adopted amendments requiring low-volume transfer agents, previously exempt from a 3-day turnaround standard, to turnaround routine items within 5 days if they perform transfer functions for any depository-eligible issue. *See* Securities Exchange Act Release No. 21375 (October 5, 1984), 49 FR 40573 (October 15, 1984).

[17] *See* note 15, *supra*.

[18] The Commission urges depositories and transfer agents to cooperate to establish uniform standards for SCL submissions and to make maximum use of efficient, automated SCL presentments.

[19] *See* Rule 17Ad–6(a).

[20] *See* comments of Sovran Bank, Morgan Guaranty, STA, ABA and Bank of New York.

items were received and made available and merely multiply the number of SCL lines for turnaround calculations. Those commenters stated that the benefits of the amendments outweighed any increased costs.

Three commenters, however, stated that the amendments would increase their recordkeeping costs significantly. Two of these commenters understood the amendments to require a separate log ticket or entry for each line on an SCL.[21] Although a separate log ticket or entry for each SCL line would be one method of tracking SCLs, several commenters suggested that transfer agents also could track each SCL under one entry or ticket, provided the number of SCL lines is used for turnaround calculation. The Commission endorses this method of recordkeeping for SCLs. Because SCLs are accompanied by an index enablng transfer agents to identify easily the number of lines on the SCL, the commenters noted that this method of recordkeeping would avoid the more costly method of maintaining separate tickets for each SCL line.

As discussed above, Rule 17Ad-6(a) requires transfer agents to keep records that: (1) show when an item is received and made available; (2) indicate the number of routine and nonroutine items received each month; and (3) document turnaround performance on all routine items received each month. The Commission believes that, under the amendments to Rule 17Ad-1, transfer agents may satisfy the recordkeeping requirements of Rule 17Ad-6 in two ways. First, transfer agents may log each line on an SCL as a separate item. Each SCL line also would count as an item received during the month, and each routine SCL line item would be reflected in turnaround calculations.

Alternatively, transfer agents may elect to track an SCL under one ticket provided that all items on the SCL are made available on the same day. Under this method, all items on the SCL would be received on the same day and all items made available at the same time.[22] Transfer agents would be required to use the total number of lines contained on the SCL to calculate the number of items received during the month and to calculate turnaround performance for that month. To document these calculations, the Commission believes it is sufficient if transfer agents retain a copy of all SCL index sheets to supplement the log required by Rule 17Ad-6(a).

C. Non-routine and routine items on the same SCL

The Commission's current interpretation of Rule 17Ad–1 provides that an SCL must be treated as a single routine item, even if the SCL contains one or more non-routine items.[23] Under that interpretation, if a transfer agent cannot turnaround an SCL in three days due to difficulties created by a non-routine transfer, the transfer agent must count the SCL as a single item which the transfer agent failed to turnaround in the required three-day turnaround period.

Several commenters noted that, under the proposed amendments, the inclusion of a non-routine item on an SCL might result in either of two undesirable consequences.[24] First, transfer agents that track an entire SCL on one log ticket or entry for recordkeeping purposes might incur significant expense in closing out that log ticket and reopening several log tickets, tracking the routine and non-routine items separately. Alternatively, transfer agents that continue to track the entire SCL on one log ticket and do not succeed in turning around all routine and non-routine items on that SCL within the three-day period would be considered to have failed to meet turnaround on the total number of routine items on the SCL. Transfer agents suggest that such a result would be unfair and an inaccurate method of measuring their performance.[25]

The Commission believes transfer agents should treat mixed SCLs as routine items and has revised the proposed amendments to clarify the treatment of mixed SCLs. Under these amendments, the transfer agent may choose to retain the non-routine transfer instructions for transfer, but should treat each line on a mixed SCL as a routine item. The Commission understands that many transfer agents would prefer to treat mixed SCLs as multiple routine items and do not expect this method of calculating turnaround to affect their turnaround performance negatively.

Alternatively, transfer agents may elect to return to the depository any non-routine transfer instructions on a mixed SCL and should treat each line on the SCL that reflects a retained transfer instruction as a routine item.[26] Under

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[21] *See* comments of Bankers Trust, Continental Stock Transfer and Trust Company, and Bank of Boston. Transfer agents assign "tickets" to transfer presentments for recordkeeping and internal control purposes.

[22] The Commission understands that most transfer agents currently make available at the same time all transferable items contained in an SCL.

[23] *See* Securities Exchange Act Release No. 17111, 45 FR at 59842. Rule 17Ad–1(i) defines routine item by specifying when an item is not routine: "(i) An item is "routine" if it does not (1) require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates; (2) include a certificate as to which the transfer agent has received notice of a stop order, adverse claim or any other restriction on transfer; (3) require any additional certificates, documentation, instructions, assignment, guarantees, endorsements, explanations or opinions of counsel before transfer may be effected; (4) require review of supporting documentation other than assignments, endorsements or stock powers, certified corporate resolutions, signature or other common and ordinary guarantees or appropriate tax or tax waivers ["legal items"]; (5) involve a transfer in connection with a reorganization, tender offer, exchange, redemption or liquidation; (6) include a warrant, right or convertible security presented for transfer of record ownership within five business days before any day upon which exercise or conversion privileges lapse or change; (7) include a warrant, right or convertible security presented for exercise or conversion; (8) includes a security of an issue which within the previous 15 business days was offered to the public, pursuant to a registration statement effective under the Securities Act of 1933, in an offering not of a continuing nature."

[24] The Commission understands that approximately 5% to 10% of deposit SCLs may contain both routine and non-routine items. The non-routine items typically are items requiring legal review of documentation or securities subject to stop transfer instructions. *See* note 23 *supra*. Non-routine items do not generally appear on withdrawal SCLs.

[25] Because of these concerns, some commenters suggested that if an SCL contains routine and non-routine transfer instructions, all lines on the SCL should be considered non-routine. They noted that under accepted industry practice, non-routine instructions should not be included with routine instructions, on an SCL, but should be presented separately. Counting all lines on the SCL as non-routine would therefore serve to encourage depositories to screen carefully all SCLs to ensure that no non-routine instructions are included.

The Commission does not agree with that suggestion. Relaxing turnaround standards with respect to routine items would adversely affect National System goals and participants. Moreover, although depository presentors should screen carefully all SCLs to ensure that non-routine instructions are presented separately from routine instructions, the Commission recognizes that depositories cannot always detect non-routine instructions before submitting them to the transfer agent. For example, depositories would not be aware that a certificate is subject to a stop transfer notice and would therefore be considered non-routing by the transfer agent.

[26] The Commission has interpreted Rules 17Ad–1 and 17Ad–2 to allow transfer agents to return to a depository presentor any non-routine instructions on a mixed SCL while continuing to process all routine SCL instructions. Under that procedure, the transfer agent must notify the depository and return such non-routine instructions with an explanation of their return. The transfer agent would transfer and make available to the depository all routine transfers. The depository would then present transferable non-routine instructions separately to the transfer agent and return to participants items which cannot be transferred for, among other reasons, lack of sufficient documentation. *See* Securities Exchange Act Release No. 17111, 45 FR at 59845. Transfer agents also must maintain appropriate documentation under Rule 17Ad–6 and must indicate on the SCL records which instructions have been returned to the depository.

this alternative, those returned non-routine transfer instructions would then be presented separately to the transfer agent by the depository.[27] The Commission understands that some transfer agents and depository presentors may prefer this alternative procedure. Transfer agents also would continue to return to depository presentors any transfer instructions that cannot be effected for failure to comply with state law and industry standards for securities transfers.[28] Under this alternative, the Commission believes transfer agents should include with returned non-routine transfer instructions a copy of the SCL indicating those instructions that have been returned versus those instructions that have been retained for transfer. That procedure should facilitate depository and transfer agent recordkeeping and reconciliation of securities transfers. Accordingly, the Commission has incorporated that procedure in the Rule amendments.

The Commission believes these procedures strike an appropriate balance between the interests of transfer agents and depositories. The procedures should provide an incentive to depository presentors to present separately routine and non-routine transfers. If a non-routine item is mixed with a routine SCL, the transfer agent will have the flexibility to treat the item as routine and effect transfer or return the item to the depository. If returned, the depository could present the item separately or return it to its participant with a rejection form explaining the reasons for return.

D. Broker-Originated Window Tickets

In the Proposal Release, the Commission invited comment on whether the turnaround treatment of broker-originated window tickets ("BOWTs") should be changed and whether the Commission should continue to maintain uniform treatment of BOWTs regardless of whether they include depository presentments.[29] The majority of commenters believed that the treatment of BOWTs should remain unchanged. Those commenters indicated that most BOWTs contain only one or two assignments and should be counted as a single item. Several commenters also noted that a change in BOWT treatment would necessitate internal changes and increase costs without producing material benefits. One commenter, however, believed that BOWTs should be given multiple-item treatment for turnaround purposes.[30]

The Commission believes that BOWTs should continue to count as single items regardless of deliverer. Unlike SCLs, BOWTs generally do not contain more that a few assignments. Moreover, processing delays on BOWTs do not pose the same disruptive effects as delays on SCL processing because SCLs contain significantly more transfer instructions, affecting multiple depository participants. The Commission believes that the absence of index sheets on BOWTs and the lack of automated presentment methods support continued treatment of BOWTs as single items. The Commission also believes that continued single-item treatment of BOWTs will provide incentives to depositories and their participants to use efficient depository SCL presentments and to automate those presentments when possible.

E. Effect on Small Transfer Agents

As noted in the Proposal Release, multiple-item treatment of depository SCLs for turnaround purposes might change a transfer agent's status under Rule 17Ad–4(b), which provides exemptions to certain transfer agents [31] from the three-day turnaround standard and from Rule 17Ad–3 and certain provisions of Rule 17Ad–6.[32] The Commission invited commenters to address the effects of the proposed amendments on exempt transfer agents.

Five commenters addressed the potential loss of exempt status for transfer agents that handle depository SCLs. All of those commenters believed that all transfer agents that handle depository SCLs should be subject to uniform treatment. They further urged that uniform turnaround standards for transfer agents that handle any depository-eligible issues in the National System would be beneficial to the National System. They indicated that, to the extent the stricter requirements would result in increased costs for those transfer agents, the increase in costs would be outweighed by the benefits of stricter turnaround standards for National System transfer agents handling SCLs and elimination of any incentives for transfer agents to delay SCL processing in favor of single-transfer-instruction items.

The Commission generally agrees with those commenters and believes any loss of exempt status for small transfer agents affected by these amendments is equitable and justified. As indicated above, multiple-item treatment of depository SCLs reflects more accurately the actual work transfer agents must perform in SCL processing. Under the amendments, a transfer agent that processes an SCL containing 10 transfer instruction lines would be treated much the same as a transfer agent that processes 10 individual mail items, as opposed to current disparate treatment that would treat those transfer agents as having transferred 1 item and 10 items, respectively. In addition to more equitable treatment among transfer agents, the Commission believes the amendments should improve transfer agent processing in the National System. The amendments, as indicated, remove incentives to delay SCL processing. The Commission believes that even small transfer agents that handle depository SCLs play an important role in National System processing and that the aggregate disruptions that result from poor transfer agent performance in National System issues justify increased performance standards for those transfer agents.

F. Effective Date

Several commenters indicated that they would need several months lead

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[27] Because the depositing participant would likely have given value for the security, and the depository would have credited the participant for the security, the Commission believes depositories will have incentives to present those returned instructions on a separate SCL either on the same day or on the next day.

[28] State commercial law and industry standards, such as the Rules of the Stock Transfer Association, set forth detailed requirements concerning securities transfers. Non-transferable instructions typically are returned to presentors with a standard reject form that explains the rejection.

[29] Transfer items presented by brokers or banks directly to the transfer agent are called presentments and typically are presented in BOWT format. The Commission understands that only DTC routinely presents SCLs to transfer agents and that other depository presentments generally are in BOWT format. The Commission urges the other depositories to develop and utilize standardized SCL formatting.

[30] *See* comment of Bank of America.

[31] Rule 17Ad–4(b) sets forth the conditions under which a registered transfer agent may become "exempt" from the three-day turnaround performance standard and certain recordkeeping rules. To qualify as "exempt" a transfer agent, among other things, must receive fewer than 500 items for transfer and fewer than 500 items for processing during the preceding six months. Rule 17Ad-2(e) sets forth a five-day turnaround standard for "exempt" transfer agents that handle depository-eligible items, including SCLs.

[32] Rule 17Ad-3 prohibits transfer agents that fail to comply with turnaround requirements, under certain circumstances, from taking on any new transfer agent business. Rule 17Ad-6 requires transfer agents to maintain certain records. In addition, those transfer agents losing their "exempt" status under Rule 17Ad-4(b) also may be required to meet stricter time frames for posting information to the issuer's master securityholder file in connection with purchases, sales of transfer under Rule 17Ad-10(a) and unless otherwise exempt under Rule 17Ad-13(d), may be required to obtain an annual report on the transfer agent's system of accounting control.

time to make internal changes necessary to comply with the Rule 17A–1 amendments. The Commission has determined to set the effective date of the amendments at January 1, 1987. The amendments will be mandatory at the time. The Commission also has determined to allow transfer agents voluntarily to follow these Rule 17Ad–1 amendments at any time after the date of this release and before the mandatory effective date.

III. Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. § 604, as amended by the Regulatory Flexibility Act ("RFA"), regarding the amendments to Rule 17Ad–1. The Analysis notes that the amendments to Rule 17Ad–1 are part of the Commission's review of transfer agent turnaround standards. The Analysis notes that the Rule 17Ad–1 amendments affect registered transfer agents that handle SCLs presented for transfer by registered securities depositories. The Commission states in the Analysis its belief that affected transfer agents will be able to implement the amendments through inexpensive recordkeeping and system modifications. In areas where commenters suggested alternatives to the amendments to accommodate their systems or to ease any recordkeeping burdens, the Commission has, where consistent with the purposes of the Rule, modified the amendments to provide those alternatives.

The Commission, in the Analysis, also notes that the amendments could affect the "exempt" status of certain small entity transfer agents that handle depository SCLs. Although some registered transfer agents could lose "exempt" status as a result of the amendments, the Commission believes the increased performance standards, as opposed to design standards which are not imposed, for such transfer agents are equitable and justified by the demands of the National System. The Anaylsis also notes that many such transfer agents would continue to be eligible for exemptions from the Rule 17Ad–13 accountant's report requirement. [33]

The Commission recognizes its obligation to formulate compliance and reporting requirements that take into account the economic impact on small entity transfer agents. The RFA directs the Commission to consider significant alternatives to the amendments that would establish the stated objectives of applicable statutes and minimize any significant economic impact on small entity transfer agents. As discussed in the Analysis, the Commission considered the alternatives set forth in the RFA in developing the amendments. The Commission also modified the amendments to provide alternatives to affected transfer agents. Accordingly, the Commission believes that any costs that may be incurred by small entity transfer agents because of the amendments are far outweighed by the benefits that will accrue to the securities industry from the more efficient and effective operation of the National System. As noted above, commenters also believed that the benefits to the National System that would result from the amendments outweigh any costs that might be incurred by transfer agents. [34]

A copy of the Analysis can be obtained by contacting Jerry Greiner, Attorney, (202) 272–2066, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549.

IV. Competitive Considerations

The Commission, pursuant to section 23(a)(2) of the Act, has considered whether the rule amendments will impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission believes the rule amendments will not impose any burden on competition and finds that any potential burden resulting from the rule amendments would be necessary or appropriate in furtherance of the purposes of the Act and, in particular, Section 17A of the Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Statutory Basis and Text of the Amendments

The Commission is amending Chapter II of title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation.

Authority: Sec. 23, 48 Stat. 901 as amended, 15 U.S.C. § 78. * * * § 240.17Ad–1 is also authorized under sections 2, 17, 17A and 23(a); 48 Stat. 841 as amended, 48 Stat. 897, as amended, 89 Stat. 137, 141, and 48 Stat. 901 (15 U.S.C. 78b, 78q, 78q–1, 78w) * * *

2. Section 240.17Ad–1 is amended by revising paragraph (a) as follows:

§ 240.17Ad–1 Definitions.

* * * * *

(a)(1) The term "item" means:

(i) A certificate or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presentor) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities;

(ii) Each line on a "deposit shipment control list" or a "withdrawal shipment control list" submitted by a registered clearing agency; or

(iii) In the case of an outside registrar, each certificate to be countersigned.

(2) If a "deposit shipment control list" or "withdrawal shipment control list" contains both routine and non-routine transfer instructions, a registered transfer agent shall at its option:

(i) Retain all transfer instructions listed on the shipment control list and treat each line on the shipment control list as a routine item; or

(ii) Return promptly to the registered clearing agency a shipment control list line containing non-routine transfer instructions (together with a copy of the shipment control list, an explanation for the return instructions and all routine transfer instructions reflected on the same line) and treat each line on the shipment control list that reflects retained transfer instructions as a routine item.

(3) A "deposit shipment control list" means a list of transfer instructions that accompanies certificates to be cancelled and reissued in the nominee name of a registered clearing agency.

(4) A "withdrawal shipment control list" means a list of instructions (either in paper or electronic medium) that:

(i) Directs issuance of certificates in the names of persons or entities other than the registered clearing agency; and

(ii) Accompanies certificates to be cancelled which are registered in the nominee name of a registered clearing agency, or directs the transfer agent to reduce certificate or position balances maintained by the transfer agent on behalf of a registered clearing agency under that clearing agency's transfer agent custody program

* * * * *

[33] Rule 17Ad–13 requires certain registered transfer agents to file annually an independent accountant's report concerning the transfer agent's system of internal accounting control and related procedures for the transfer of record ownership and the safeguarding of related securities and funds.

[34] *See, e.g.*, comments of STA and ABA.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

Dated: October 2, 1986.

[FR Doc. 86-23089 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. 84-48]

Schedules of Controlled Substances; Scheduling of 3,4-Methylenedioxymethamphetamine (MDMA) Into Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule placing the drug 3,4-methylenedioxymethamphetamine (MDMA) into Schedule I of the Controlled Substances Act (CSA). MDMA will be classified as a hallucinogenic controlled substance. This action was initiated following the Drug Enforcement Administration's (DEA) review of the abuse and illicit trafficking of MDMA. The Assistant Secretary for Health, Department of Health and Human Services (DHHS), supported DEA's position that the substance be placed into Schedule I of the CSA. The effect of this rule is to impose the criminal sanctions and regulatory controls of Schedule I on the manufacture, distribution and possession of MDMA.

DATE: The effective date of this order is November 13, 1986.

SUPPLEMENTARY INFORMATION: On March 13, 1984, the Administrator of the Drug Enforcement Administration submitted information relevant to the abuse potential and illicit trafficking of 3,4-methylenedioxymethamphetamine (MDMA) to the Assistant Secretary for Health, Department of Health and Human Services. Briefly, the information documented that 3,4-methylenedioxymethamphetamine, trafficked on the street as MDMA or "Ecstasy": (1) Is an analog of the Schedule I controlled substance, 3,4-methylenedioxyamphetamine (MDA), (2) has no legitimate medical use or manufacturer in the United States, (3) has been clandestinely synthesized and encountered in the illicit drug traffic, (4) produces stimulant and psychotomimetic effects in humans similar to those produced by MDA, and (5) has been associated with medical emergencies as reported by the Drug Abuse Warning Network (DAWN).

In accordance with the provisions of 21 U.S.C. 811(b), the DEA Administrator requested a scientific and medical evaluation of the relevant information and a scheduling recommendation for 3,4-methylenedioxymethamphetamine from the Assistant Secretary for Health. On June 6, 1984, the Administrator of the Drug Enforcement Administration received a letter from the Assistant Secretary for Health, acting on behalf of the Secretary of the Department of Health and Human Services, stating that 3,4-methylenedioxymethamphetamine (MDMA) has a high potential for abuse and presents a significant risk to the public health, and recommending that it should be placed into Schedule I of the Controlled Substances Act.

On July 27, 1984, the Administrator of the Drug Enforcement Administration, based upon a review of investigations by the Drug Enforcement Administration and relying on the scientific and medical evaluation and the recommendation of the Secretary of Health and Human Services in accordance with 21 U.S.C. 811(c), issued a Notice of Proposed Rulemaking to amend § 1308.11 of Title 21 of the Code of Federal Regulations by placing MDMA in Schedule I as a hallucinogenic controlled substance. 49 FR 30210. MDMA was not, at that time, a controlled substance.

The Notice of Proposed Rulemaking allowed sixty days for interested parties to submit comments, objections or requests for a hearing.

Sixteen comments were received in response to the notice, seven of which requested a hearing.

These comments and requests for hearing came from a variety of physicians, counselors, instructors and others in medical or health care related professions, as well as from former subjects of experimental studies involving the use and effects of MDMA.

All of the persons or entities that submitted comments and/or requests for hearing opposed the proposed placement of the substance into Schedule I. DEA was urged by many to delay this proposed action until after additional research could be completed. Most felt that preliminary usage and studies had shown MDMA to have enormous potential value as an adjunct to psychotherapy, as an analgesic and in the treatment of problems of drug addiction.

Most of the writers vigorously objected to one of DEA's stated bases for the proposed scheduling, that being the finding that MDMA had no currently accepted medical use in treatment in the United States. Some of the responding physicians and psychiatrists reported having used it in their practices with what they felt were positive results. Many disputed the Agency's concept of "currently accepted medical use."

Several stated that the highly restrictive scheduling which was contemplated would effectively end presently ongoing research and scientific experimentation. Some felt that the costs involved in obtaining an Investigational New Drug permit from the Food and Drug Administration to conduct human research with a Schedule I drug would be prohibitive to any individual researcher. Another stated that it would be unrealistic to believe that any pharmaceutical company would develop the drug.

Several felt that DEA did not have sufficient information regarding the present and potential uses of this drug and urged that the proposed scheduling action be delayed until DEA had the opportunity to consider additional studies and reports of experimentation and research.

A few of the writers questioned the finding of high abuse potential as a basis for placement into Schedule I. While most of them acknowledged that there is some evidence of unsupervised use of MDMA, they felt the reported instances of abuse were not sufficient in number to warrant the conclusion that it is a substance with a high potential for abuse. Others stated that a potential for abuse had not led DEA to place certain other substances into Schedule I. A few believed that there may be some confusion of this substance with another which is known to be abused, MDA, and that the differences between the two should be closely examined. A number of the writers were not opposed to the placement of MDMA into one of the schedules under the CSA, but believed that Schedule I was not the appropriate schedule.

On November 13, 1984, the Deputy Administrator of DEA referred the matter to the Agency's Administrative Law Judge, Francis L. Young, to conduct a hearing for the purpose of receiving factual evidence and expert opinion regarding the proposed scheduling of MDMA. Judge Young was directed to report to the Administrator of DEA his findings and recommended conclusions on the appropriate scheduling action to be taken with respect to MDMA and on the question of whether a drug which has potential for abuse but no currently accepted medical use in treatment can lawfully be placed in any schedule other than Schedule I. The proceeding was

conducted "on the record after opportunity for a hearing" as required by 21 U.S.C. 811(a) and in accordance with the Administrative Procedures Act. 5 U.S.C. 556 and 557.

The authority and criteria for classifying substances into schedules under the Controlled Substances Act is found in 21 U.S.C. 811. This section of the Act sets forth the standards by which the Attorney General and the Secretary of the Department of Health and Human Services are to evaluate substances for control, decontrol or rescheduling. The Secretary of DHHS is charged with making scientific and medical evaluations, including scientific evidence of a substance's pharmacological effects, the state of current scientific knowledge regarding the drug or other substance, what risk there is to the public health, the psychic or physiological dependence liability of the drug, and whether the substance is an immediate precursor of a substance already controlled under the Act. The Attorney General must consider those items presented by the Secretary, and in addition must consider the actual or relative potential for abuse of the substance, the history and current pattern of abuse, and the scope, duration and significance of abuse. MDMA was not a controlled substance. It had not been approved for marketing in the United States by the Food and Drug Administration.

Following prehearing procedures, there remained five parties, including the Agency, participating in the hearing process. The participants were the Agency staff; George Greer, M.D., Lester Grinspoon, M.D., Thomas B. Roberts, Ph.D. and James Bakalar; McNeilab, Inc. and Hoffmann-LaRoche, Inc.; Lyn B. Ehrnstein, Esq.; and David E. Joranson.

Five hearing sessions, compromising nine hearing days, beginning on February 1, 1985, and culminating on November 1, 1985, were conducted before the Administrative Law Judge; the testimony of 33 witnesses was heard and 95 exhibits were received into evidence.

At a preliminary prehearing conference on February 1, 1985, the Administrative Law Judge determined that one of the issues identified presented a purely legal question which might be decided without the need of any evidence and in advance of the other issues in the case. The issue was:

> Assuming that a substance has a potential for abuse and has no currently accepted medical use in treatment in the United States, can the substance be placed in any schedule other than Schedule I?

After studying briefs submitted by the participants, the judge issued a recommended decision on that issue, dated June 1, 1985. He recommended, first, that the language of the Act was such that a substance with a potential for abuse less than a "high" potential, and having no currently accepted medical use in treatment, cannot be placed in *any* of the five schedules. Alternatively, the judge recommended that such a substance should be placed in either Schedule III, IV or V, depending upon its degree of potential for abuse. In a letter to the Administrative Law Judge, dated October 7, 1985, the Administrator advised that he had decided not to issue a final agency ruling on that initial ruling until he had received the entire record at the conclusion of the case.

During the course of the hearing, on July 1, 1985, in an independent action by the Administrator of DEA, MDMA was placed into Schedule I of the CSA pursuant to the emergency scheduling provisions of 21 U.S.C. 811(h)(1), following a determination by the Administrator that this action was necessary to avoid an imminent hazard to the public safety. 50 FR 23118.

On May 22, 1986, the judge issued his Opinion and Recommendations regarding the scheduling of MDMA. The judge recommended that MDMA be placed in Schedule III of the CSA. He reached this conclusion after finding that MDMA has a currently accepted medical use in treatment in the United States, that MDMA does not lack accepted safety for use under medical supervision, and that it has less than a high potential for abuse.

Concerning the issue of "accepted medical use", the judge refused to accept the Agency's argument that if a drug or other substance being considered for scheduling is not approved for marketing in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301, *et seq.*, then it has no "accepted medical use." He concluded that "accepted medical use" is determined by what is actually going on within the health care community. Using this standard, the judge found that, based on the testimony of a relatively small group of psychiatrists and psychotherapists who have used MDMA in treatment of humans and found it to have certain desirable effects, MDMA had an accepted medical use in treatment in the United States. With regard to the issue of "accepted safety for use", the judge concluded that MDMA does not lack accepted safety for use because the same group of psychiatrists and psychotherapists mentioned above have administered MDMA to willing subjects in uncontrolled, nonresearch studies and would not have done so if such a procedure was unsafe. Finally, with regard to the issue of abuse potential, the judge found that the Agency did not meet its burden in establishing that MDMA has a high potential for abuse.

On June 11, 13 and 24, 1986, respectively, David Joranson, counsel for DEA, and two counsel for Hoffman-LaRoche, Inc. filed exceptions to the Opinion and Recommendations of the Administrative Law Judge. In reply, Grinspoon, Greer, et al. filed a Response to the exceptions on June 27, 1986, and also moved to strike portions of the Government's exceptions alleging the Government's use of the term "bias" with respect to the Administrative Law Judge's opinion was prejudicial. Additionally, they filed a motion for the opportunity for oral presentation to the Administrator. On July 24, 1986, the Administrative Law Judge certified and transmitted the record to the Administrator of DEA. The record included the Opinion and Recommendations of the Administrative Law Judge, the findings of fact and conclusions of law proposed by all parties, the exceptions filed by the parties, the response to those exceptions and motions filed by Grinspoon, Greer, et al., all of the exhibits and affidavits, and all of the transcripts of the hearing sessions.

On August 11, 1986, the Administrator granted the motion to strike portions of the Government exceptions, filed by Grinspoon, Greer, et al., and ordered the Government to refile its exceptions without use of the term "bias" with respect to the Administrative Law Judge's opinion. The Administrator also denied the motion for the opportunity for oral presentation to him filed by Grinspoon, Greer, et al. On August 21, 1986, the Government refiled its exceptions.

The Administrator has carefully reviewed the entire record in this matter and hereby issues this final rule as prescribed by 21 CFR 1316.67. The Administrator declines to accept the recommendations of the Administrative Law Judge and finds that there is substantial evidence in the record to support the decision that MDMA be placed in Schedule I as a hallucinogenic controlled substance. The Administrator finds, consistent with his decision that:

1. A new drug application (NDA) must be approved by the Food and Drug Administration prior to the marketing of a new drug in the United States. The NDA generally consists of data collected during the pre-clinical and

investigational new drug (IND) processes. The data in the NDA must include toxicity studies, carcinogenic studies in animals, reproductive studies in animals, side effects in humans, and sufficient results from controlled studies to show that the drug is safe and effective in humans for the therapeutic purpose advanced by the sponsor. New drug applications have been required prior to marketing since 1938.

2. Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355) outlines the new drug application process. The statute provides at section 505(a) that, "No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an approval of an application filed pursuant to subsection (b) of this section is effective with respect to such drug." The statute further provides that a person filing an application for a new drug must include "full reports of investigations which have been made to show whether such drug is effective in use." (Section 505(b)).

3. Section 505(i) of the Federal Food, Drug and Cosmetic Act allows the Secretary of the Department of Health and Human Services to exempt from the application of the requirements of approval of an NDA prior to marketing "drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs." The section goes further to delineate certain requirements which must be met by these experts.

4. Before an unmarketed new drug may be tested on humans, an investigational new drug exemption (IND) must be applied for and approved by the Food and Drug Administration. This approval is required for both pharmaceutical companies who ultimately intend to market the drug and physicians or researchers who are interested in using the drug solely as a research tool. These IND requirements are necessary to comply with provisions of the Federal Food, Drug and Cosmetic Act, its implementing regulations, and the basic ethical principles regarding the conduct of research in human subjects. These standards were established as a result of the Nuremberg trials in the Nuremberg Code, and later reiterated in the Helsinki Agreement of 1975.

5. In order for an IND to be initially approved by the Food and Drug Administration, the sponsor must provide information regarding the composition, source and manufacturing safeguards of the substance; animal toxicity studies showing that the substance will not produce irreversible damage at the doses used, and that there will be no unreasonable hazard in initiating studies in humans; a detailed research protocol of the proposed clinical investigation, information regarding the training and experiences of the investigators; and an agreement to notify the FDA if any adverse effects arise during animal or human tests.

6. On June 29, 1982, the Food and Drug Administration (FDA) published in the **Federal Register** "Proposed Recommendations to the Drug Enforcement Administration Regarding the Scheduling Status of Marihuana and its Components and Notice of Public Hearing" (47 FR 28141) in which the Commissioner of Food and Drugs stated:

> FDA interprets the term "accepted medical use" to mean lawfully marketed under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, *et seq.* . . . A drug may be marketed lawfully under the Federal Food, Drug, and Cosmetic Act after approval of a new drug application (NDA) for that drug. There are, theoretically other ways in which a drug could be marketed legally. The drug could satisfy either the requirements for exemption from the definition of "new drug" in 21 U.S.C. 321(p) or the requirements for a "grandfather clause" from the new drug approval provision. (47 FR 28150)

The Commissioner of FDA continued at page 28151 by saying:

> The mechanism set up by Congress for lawful marketing of a new drug requires submission of an NDA to FDA and FDA approval of that application before marketing. Before FDA can approve an NDA, however, the drug sponsor must submit data from an extensive battery of experimental testing on both animals and humans to establish the drug's safety and effectiveness for its proposed uses. In addition, the sponsor must submit data and manufacturing controls, demonstrating that standards of identity, strength, quality, and purity will be met.

and concludes by saying:

> Thus, the lack of an approved NDA for a drug substance leads FDA to find that a substance lacks an "accepted medical use in treatment" for two reasons. First, if use of the drug is unlawful whenever interstate commerce is involved, medical use of the drug cannot be classified as accepted. Second, in the absence of the data necessary for approval of an NDA, the agency has no basis for concluding that medical use of the drug in treatment can be considered acceptable by medical standards.

7. In March 1984, there was no reference in the files of the Food and Drug Administration to the substance 3,4-methylenedioxymethamphetamine (MDMA); there were no investigational new drug applications or approvals; there were no new drug applications or approvals; and there was no indication that any sponsor had informed FDA that such submission would be forthcoming. It was also determined at that time that MDMA was not a grandfathered drug and that it had not been approved for over-the-counter use.

8. On June 6, 1984, the Acting Assistant Secretary for Health sent a letter to the Administrator of DEA which stated that a scientific and medical evaluation of MDMA had been completed. He further recommended that MDMA be placed in Schedule I of the CSA. Attached to the letter was an "Evaluation of the DEA Recommendation to Control MDMA in Schedule I of the CSA." In this evaluation, the Acting Assistant Secretary for Health stated that he concurred with DEA's recommendation of Schedule I for MDMA. The evaluation included a list of the findings required to be made for Schedule I substances, which included the finding that the drug has no currently accepted medical use in treatment in the United States. The evaluation of the Acting Assistant Secretary for Health stated that he concurred with this finding.

9. The phrase "currently accepted medical use in treatment in the United States" as used in 21 U.S.C. 812, means that the Federal Food and Drug Administration has determined that a drug or other substance can be lawfully marketed in the United States.

10. Since it has been determined that MDMA may not be lawfully marketed in the United States, the Administrator finds that MDMA has no currently accepted medical use in treatment in the United States.

11. The Food and Drug Administration evaluates the safety of a substance throughout the investigational new drug (IND) process, and as part of the new drug application (NDA) approval status.

12. The sponsor of an IND is responsible for supplying FDA with the results of preclinical (animal) studies which show that there will be no unreasonable hazards in initiating studies in humans with the drug. At a minimum, these initial studies must include a pharmacological profile of the drug, acute toxicity studies in several species, and short-term toxicity studies ranging from two weeks to three months.

13. A substance is not deemed "safe" by the Food and Drug Administration unless FDA, after a review of scientific data submitted during the IND process, has determined that the substance can be given to humans without irreversible harm.

14. No scientific data was supplied to the Food and Drug Administration which would demonstrate the safety of MDMA, and a review of the scientific literature led an FDA official who

evaluates the safety and efficacy of drugs to conclude that the literature does not support the safety of MDMA for use under medical supervision.

15. On June 29, 1982, the Food and Drug Administration (FDA) published in the **Federal Register** "Proposed Recommendations to the Drug Enforcement Administration Regarding the Scheduling Status of Marihuana and Its Components and Notice of a Public Hearing" (47 FR 28141) in which the Commissioner of Food and Drugs stated:

> The Federal Food, Drug and Cosmetic Act provides that FDA approve an NDA upon scientific evidence that the drug has been shown to be safe and effective for its proposed uses. See 21 U.S.C. 355(d). Because no drug is ever completely safe in the absolute sense, FDA considers "safe" to mean (in the context of a human drug) that the therapeutic benefits to be derived from the drug outweigh its known and potential risks under the conditions of use in labeling . . .
>
> Another factor considered by FDA in assessing the drug's safety is the proposed labeling which is approved at the time of approval for marketing. A drug might be considered safe for some proposed uses but not others. Only those proposed uses where the benefit/risk ratio is favorable will be included in the indications section of the drug's labeling. . .
>
> But it is only upon approval for marketing, when there has been an institutional decision based upon scientific judgement by the regulatory agency charged with the responsibility of evaluating the safety and efficacy of new drugs, that a drug becomes "accepted" as safe under medical supervision. (47 FR 28152)

16. There is no legitimate commercial manufacturer of MDMA in the United States. Further, the MDMA which has been used by psychiatrists is not labeled with safety or therapeutic considerations.

17. The phrase "accepted safety for use . . . under medical supervision" as used in 21 U.S.C. 812(b) means that a drug has been evaluated for safety by the Food and Drug Administration and approved for marketing in the United States.

18. Accordingly, the Administrator finds that since MDMA has not been evaluated for safety by the Food and Drug Administration, and has not been approved for marketing in the United States, it does not possess "accepted safety for use . . . under medical supervision."

19. MDMA, or 3,4-methylenedioxymethamphetamine, belongs to a class of compounds which can be termed phenethylamines or, narrowly defined, phenylisopropylamines or amphetamines.

20. MDA, or 3,4-methylenedioxyamphetamine, amphetamine and methamphetamine are also phenylisopropylamines.

21. MDA, or 3,4-methylenedioxyamphetamine, is formed by the addition of a methylenedioxy group to amphetamine.

22. MDMA is formed by the addition of a methylenedioxy group to methamphetamine.

23. The addition of a methylenedioxy group to the aromatic nucleus of amphetamines produces compounds with psychotomimetic activity.

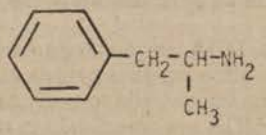
24. Psychotomimetic is a term used to describe a large class of compounds which change or modify a person's mood or mental state. The terms psychotomimetic and hallucinogenic are commonly used interchangeably.

25. MDMA is the N-methyl analog of MDA. This means that MDMA differs structurally from MDA the same way that methamphetamine differs from amphetamine, by the addition of an N-methyl group.

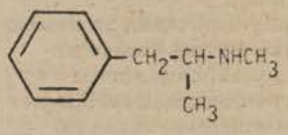
26. N-methylation of MDA yields MDMA which retains the psychotomimetic properties of MDA.

27. N-methylation of amphetamine yields methamphetamine which retains the central nervous system activity of amphetamine.

28. The difference in structure between amphetamine and methamphetamine is illustrated by the following diagram:

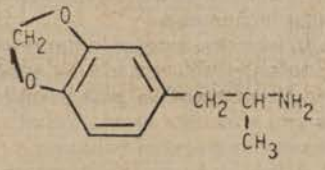


amphetamine

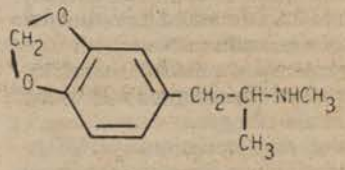


methamphetamine

29. The difference in structure between MDA and MDMA is illustrated by the following diagram:



MDA



MDMA

30. MDMA produces pharmacological effects in common with both central nervous system stimulants like amphetamine, and hallucinogens like MDA in animals.

31. MDA and MDMA both produce central nervous system stimulation as measured by increased locomotor activity in mice.

32. Tests conducted by Braun, Shulgin and Braun show that at an oral dose of 20 mg./kg. in mice, MDA produced a significant increase in locomotor activity. At the same dose, MDMA produced approximately three times the motor activity of MDA during the first three hours after application. They concluded that MDA, MDMA and N-ethyl MDA caused the greatest stimulation and that this is consistent with results of tests in mice of amphetamine compounds with no ring substitution (e.g., amphetamine and methamphetamine). Braun, Shulgin and Braun further conclude that "compounds which cause a sharp increase in motor activity in animals generally prove to have a pronounced central nervous system effect in man."

33. A study conducted by Intox Laboratories reported significantly reduced body weights at 7 and 14 days following initiation of MDMA dosing in rats.

34. The Intox Laboratory study also reported that rats who had been administered MDMA showed hyperactivity, excitability, aggressive behavior and stereotypic behavior.

35. Studies conducted by Dr. Harris at the Medical College of Virginia compared the locomotor activity in mice using d-amphetamine and MDMA. Dr. Harris found that MDMA produces slightly less central nervous system stimulation than amphetamine at peak activity which is 1½ hours after administration. However, at 5–15 minutes and 2–3 hours after administration, the maximum stimulating effect of MDMA is substantially greater than that produced by d-amphetamine.

36. MDA and MDMA produce similar centrally mediated analgesic effects in mice as determined by the hot-plate test, the tail-flick test and the stretch test. The tail-flick test and hot-plate test showed that MDMA produces an increased analgesic effect over that produced by MDA.

37. MDA and MDMA both produce an increase in body temperature when administered to rabbits at similar potencies. Hyperthermia in rabbits is reported to be a measure of central nervous system activity. Dr. Shulgin notes that there is a reasonably good parallel between the hyperthermia response in rabbits and some of the effects of LSD, and that these parallel quite closely the psychopharmacological potency in humans. He believes that it is probably the best animal test at present for estimating psychotomimetic potency.

38. Both MDA and MDMA are potent releasers of serotonin or 5-hydroxytryptamine, a neurotransmitter which has a widely accepted role in the activity of hallucinogens.

39. In mice, dogs and monkeys, MDA and MDMA produce the same spectrum of pharmacological effects when observed during toxicity studies. These effects include hyperactivity, excitability, emesis, apprehension or fright, aggressive behavior, bizarre body attitudes, apparent hallucinations, dyspnea and hyperpnea. Motor activity effects include convulsions, muscular rigidity and tremors and the autonomic activity includes mydriasis, piloerection, salivation and vascular flushing. These effects are part of what is described as the classical pharmacological response of the dog to intravenous mescaline.

40. The lethality of a compound is reported as an LD_{50}, which is the dose of a drug which will kill 50% of the animals treated with that dose.

41. The LD_{50}'s for mescaline, MDA and MDMA were determined by intravenous or intraperitoneal administration in five species of animals. MDMA had LD_{50}'s between 2 and 6 times less than those of mescaline and between 1.5 and 3 times more than MDA. This means that MDMA is more lethal than mescaline but less lethal than MDA.

42. Intraperitoneal LD_{50}'s for MDA and MDMA were determined in mice by Dr. Davis. The LD_{50}'s of MDMA and MDA were substantially the same with the LD_{50} for MDA equalling 90.0 mg./kg. and the LD_{50} for MDMA equalling 106.5 mg./kg. Dr. Hardman found the LD_{50} of MDA to be 92 mg./kg. Davis also found that both MDA and MDMA showed the amphetamine-like property of increased lethality under aggregated housing conditions compared to isolated housing conditions.

43. In the study conducted by Intox Laboratories the oral LD_{50} for MDMA in rats was estimated to be approximately 325 mg./kg. No oral value was reported for MDA, but based on the data from Intox Laboratories, Dr. Hardman estimated it to be approximately 150 mg./kg.

44. MDMA, MDA, amphetamine and methamphetamine produce neurotoxic effects when administered to animals. MDMA and MDA are neurotoxic in rats at doses which are very low compared to the neurotoxic doses of amphetamine and methamphetamine.

45. MDMA and MDA both produce long term reduction in serotonin levels and serotonin uptake sites in the rat brain. These neurochemical depletions are due to the destruction of serotonin nerve terminals as determined by visual staining techniques.

46. In humans, serotonin nerve terminals are believed to play a major role in mood, emotion, pain perception, sleep and affect the regulation of aggressive and sexual behavior.

47. Although single injections of MDMA may be slightly less neurotoxic than MDA, MDMA, used chronically, appears to be more neurotoxic than MDA.

48. The neurotoxicity of amphetamine and methamphetamine has been determined in rats, guinea pigs and monkeys.

49. MDMA and MDA may produce the same neurotoxic effects to serotonergic nerves in humans.

50. Drug discrimination studies in animals allow one to determine if a particular dose of a test substance produces effects which are recognized as the same as those produced by a particular dose of another substance. It is believed that the effects recognized by the animals in these studies are central nervous system effects and hence this paradigm is very useful in characterizing centrally acting compounds.

51. If a test drug in animal drug discrimination studies elicits similar responses to a standard drug, both the test drug and the standard drug are assumed to have similar abuse potential if the reinforcing properties and adverse effects of the standard and test drugs are similar.

52. In drug discrimination paradigms, complete generalization indicates that the test compound is similar enough for the animal to recognize it as the training drug by responding on the appropriate drug lever at least 80% of the time. No generalization indicates that the test compound is unlike the training compound so that a low number of responses will be made on the drug lever. Partial generalization indicates that there may be pharmacological effects common to both test and training drug, but that some doses of the test and training drug are similar and that, at the tested doses, another type of pharmacological effect may predominate.

53. MDMA shares discriminative stimulus properties in common with amphetamine and MDA in drug discrimination studies in rats.

54. In a drug discrimination test described by Dr. Glennon, rats trained to recognize amphetamine also recognized MDA and MDMA. MDMA was slightly more potent than MDA in being recognized as amphetamine. Other compounds which generalized to the amphetamine stimulus included methamphetamine, cocaine and para-methoxyamphetamine.

55. Rats trained to recognize MDA recognized MDMA in drug discrimination studies conducted by Dr. Glennon.

56. MDA completely generalized (83% correct response) in rats trained to recognize 4-methyl-2,5-dimethoxyamphetamine (DOM), a substance with known hallucinogenic properties, but only within a very narrow dosage range.

57. MDMA showed partial generalization (52% correct response) in rats trained to recognize DOM, at a specific dose.

58. A standard abuse liability test for assessing the reinforcing properties of a drug is the substitution procedure. It is the most common and reliable method for determining whether a drug will be self-administered. In this procedure, new drugs are tested to determine whether or not they will maintain the responding of animals trained to press a lever for intravenous delivery of a known drug reinforcer.

59. In tests conducted with rhesus monkeys and baboons trained to self-administer cocaine, the monkeys and baboons continued to self-administer

when MDMA was substituted for cocaine.

60. Of three baboons that self-administered MDMA, two exhibited unusual behavior. One appeared to track nonexistent objects, and another exhibited aggressive behavior. Levels of self-administration in all three baboons tested were in the same range as those of MDA and slightly less than those of cocaine, amphetamine and phencyclidine.

61. Drs. Shulgin and Nichols first reported that MDMA produces psychotomimetic effects in man in 1976. These effects are described as intoxication, altered state of consciousness and sympathomimetic stimulation.

62. The racemic mixture of MDMA, which is a combination of both optical isomers, is the drug which is clandestinely produced, found in the illicit traffic and used by psychiatrists.

63. In a 1978 publication, Dr. Shulgin reported that racemic MDMA produced a high level of intoxication in man at doses of 100-160 mg. Color enhancement as well as physical symptoms of mydriasis and jaw clenching were noted. MDMA was described as maintaining the same potency as MDA but exhibiting subtle differences in the qualitative nature of the intoxication.

64. In a 1980 publication, Dr. Shulgin and others describe MDA and MDMA as having both stimulant and psychotomimetic properties in humans. Racemic MDA and MDMA were administered orally to five volunteers at doses up to 160 mg. The effective dose of MDA was 60-120 mg., while that of MDMA was 100-160 mg. Dr. Shulgin and others noted a drive increasing effect, a change in expression and an apparent increase in the acoustic, visual and tactile sensory perceptions, as well as a tension-decreasing, mood-lightening effect in the human subjects. Mydriasis and sympathomimetic stimulation were noted during the entire period. The effects of MDA and MDMA were apparent beginning 30 minutes after ingestion and continuing for approximately four hours, except that a noted increase in motor activity lasted several more hours. Shulgin concluded that the "psychopharmacological profiles of MDA and MDMA are very similar."

65. The Haight-Ashbury Free Medical Clinic in San Francisco treats approximately three to four clients per month who seek help for problems arising from the use of MDMA, MMDA or MDA. Individuals seen at the clinic have taken up to 15 doses of MDMA in one day, likely to be 50 to 150 mg. each. The use of higher doses produces rapid pulse and heartbeat, severe anxiety, paranoia, fear, insomnia, psychological craving for the drug and depression.

66. Dr. Siegel, in his interviews with 171 individuals who claim to have used MDMA in the Los Angeles, California area, reports that effects of MDMA at low doses approximate those of low doses of mescaline, and that effects reported for higher doses of MDMA (200 mg.) produce effects similar to those of LSD. The high dose effects include hallucinations, either visual, tactile, olfactory or auditory.

67. Low to moderate doses of MDMA have been given to individuals by psychiatrists. Some of these psychiatrists claimed that the MDMA administered was made by them under the supervision of Dr. Shulgin in his laboratory in California.

68. MDMA has been reported, by the psychiatrists administering to themselves and others, and by other individuals to produce the following physical effects: jaw clenching, anorexia, insomnia, flight of ideas, increased heart and pulse rate, mydriasis, nystagmus, blurred vision, enhanced deep tendon reflexes, fatigue after use, ataxia, nausea, vomitting, headache and shakiness.

69. Psychological effects reported for low to moderate doses of MDMA include euphoria, sense of well-being, increases in physical and emotional energy, focus on the here and now, impaired judgment, heightened sensual awareness, anxiety, brief short-term memory loss, distortion in depth perception, brief hallucination, visual illusion, nervousness, mild depression, mental fatigue, confusion and altered state of consciousness.

70. MDMA was first identified by a DEA laboratory in 1972. Between 1972 and April 1985, DEA laboratories identified 41 exhibits of MDMA consisting of over 60,000 dosage units.

71. Since its temporary placement into Schedule I on July 1, 1985, MDMA has been identified in at least 14 exhibits submitted to DEA laboratories from Texas alone. These 14 exhibits contained over 35,000 dosage units of MDMA.

72. MDMA is available in tablets, capsules and powders with recent analyses indicating approximately 110 mg. of racemic MDMA per dosage unit. MDMA has been encountered in many sections of the United States and other countries.

73. Since 1978, non-Federal forensic laboratories have reported over 41 exhibits of MDMA to DEA.

74. Pharm Chem Laboratories and Toxicology Testing Service are laboratories which provide confidential analysis of drug samples voluntarily submitted to them. Their data provides information on the availability of street drugs and trends in drug abuse patterns.

75. Between 1973 and 1983, Pharm Chem Laboratories reported MDA and MDMA in the same category. The total number of submissions of MDA/MDMA between 1973 and 1983 was 610, ranging from 21 in 1974 to 88 in 1978.

76. Pharm Chem reported 20 submissions of MDMA between May 1983 and May 1984, when it discontinued its testing service.

77. Toxicology Testing Service reported 19 submissions of MDMA between April 1984 and March 1985.

78. In its investigation of the clandestine manufacture of controlled substances, DEA has encountered five laboratories producing or possessing the necessary chemicals to produce MDMA. Each laboratory had produced or had the capability of producing kilogram (10,000 dosage units) quantities of MDMA. Impurities found in the MDMA analyzed by forensic laboratories indicate that MDMA is produced in clandestine laboratories.

79. A DEA investigation conducted in June 1984 of a suspected cocaine distributor resulted in information concerning the widespread availability of "Ecstasy," or MDMA, in the Dallas, Texas area.

80. "Ecstasy," or MDMA, with a claimed origination of California, was being distributed in the Dallas area in 100 tablet bottles by organized groups. The tablets were found to contain approximately 110 mg. of MDMA.

81. Street prices for MDMA in 1985 were found to be $750 for 1,000 doses in Austin, Texas; $12.50 per dose in Boulder, Colorado; $70 per gram in New York; $85 per gram in California, and $10–$20 per dose in New Hampshire.

82. Dr. Inaba from the Haight-Ashbury Clinic in San Francisco reports medically unsupervised use of MDMA in San Francisco by the gay male population, young professionals and individuals with a history of hallucinogenic drug use.

83. Dr. Siegel of UCLA estimates that the street distribution of MDMA has risen from 10,000 dosage units in 1976 to 30,000 dosage units per month in 1985.

84. Students at the University of Texas in Austin indicate that MDMA is easily available on campus at about $5 to $20 per tablet.

85. Dr. Ingrasci, a psychiatrist who has himself used MDMA on patients, has interviewed over 500 individuals who have used MDMA over the past seven to eight years. More than half of these individuals had used MDMA in a non-

therapeutically motivated setting for curiosity or recreation.

86. Dr. Joseph J. Downing, a practicing psychiatrist in San Francisco, California, conducted a pilot study in 1984 into the effects in healthy humans of a single exposure to MDMA. The 21 subjects in Dr. Downing's MDMA study had all used MDMA previously. One had used MDMA 15 times, one 10 times, and one only once. The mean frequency of use of the 21 subjects was once every 2.2 months.

87. Dr. Lester Grinspoon reports that MDMA is being taken by a growing number of people, particularly students and young professionals in a casual and recreational manner.

88. Dr. George Greer, a practicing psychiatrist in Santa Fe, New Mexico, has used MDMA as an adjunct to psychotherapy in clinical work. He reported that one of his subjects, after taking the unusually high dosage of 350 mg. of MDMA, reported visual hallucinations, illusions, hearing impairment, brief memory loss and distortion in depth perception.

89. Between 1977 and 1981, the Drug Abuse Warning Network (DAWN) reported eight emergency room episodes associated with the use of MDMA.

90. MDMA is reported to have been associated with two overdose deaths. One death occurred in Seattle, Washington in 1979, and one in Santa Monica, California.

91. The Assistant Secretary of Health, Department of Health and Human Services, in his scientific and medical evaluation of MDMA, concluded that MDMA has a high potential for abuse.

92. Therefore, the Administrator finds that MDMA has a high potential for abuse.

Discussion

The phrase "currently accepted medical use in treatment in the United States" is found in 21 U.S.C. 812(b). It is one of the three findings required for placement of a substance into one of the five Schedules of the Controlled Substances Act. Whereas placement of a drug or other substance into Schedules II through V requires a finding that the substance has a currently accepted medical use in treatment in the United States, placement of a substance into Schedule I requires a finding that the substance "has no currently accepted medical use in treatment in the United States." 21 U.S.C. 812(b)(1)(B). The Controlled Substances Act does not define this term.

The Administrator concludes that the term "currently accepted medical use in treatment in the United States" means that the drug or other substance is lawfully marketed in the United States pursuant to the Federal Food, Drug and Cosmetic Act of 1938 (FDCA), 21 U.S.C. 355. The FDCA establishes procedures regarding approval of drugs for marketing in the United States, and an exemption for investigational use of approved drugs prior to marketing. These procedures require that FDA must approve a new drug as being safe and effective before it may be introduced into interstate commerce in the United States.

If a substance is not marketed in interstate commerce in the United States, it is not manufactured by the pharmaceutical manufacturers who are licensed by the FDA to produce the vast array of medications currently available in this country; it is not distributed by pharmaceutical wholesalers licensed to sell pharmaceuticals, it is not stocked in retail pharmacies, hospitals and other medical facilities which daily dispense drugs to patients; and it cannot be prescribed by the hundreds of thousands of physicians and other practitioners who are authorized by their licenses and registrations to prescribe pharmaceuticals, including controlled substances, in the course of their professional practices. Such a substance cannot be said to have a "currently accepted medical use in *treatment* in the United States." (Emphasis added)

The complex system of approval for marketing and conditions for use of non-approved drugs for investigational purposes is designed to protect the health of the humans to whom the drug is to be given. A drug must be shown to be safe and effective before any manufacturer can market it in this country. Approval of a substance makes it "acceptable" and available for medical use. Any other meaning of "currently accepted medical use in treatment in the United States", other than approval for marketing by the Food and Drug Administration, would make the NDA process a sham and would require pure conjecture on the part of the Secretary and the Administrator in determining if a substance had an "accepted medical use." This interpretation is also consistent with that of the Uniform Controlled Substances Act, which has been adopted by almost all of the 50 states.

The Administrative Law Judge, in recommending that the Administrator find that MDMA has an accepted medical use in treatment, urged that the Administrator look at "what is actually going on within the health care community" in order to make this determination. The Administrator cannot accept this recommendation. The Administrator cannot, consistent with his responsibility to protect the American public from the abuse and misuse of dangerous drugs, declare legitimate a substance which has not been found safe and effective under the procedures required by the FDCA. He cannot find that a drug, which is not available through commercial, legitimate channels to the medical community, has an "accepted medical use in treatment in the United States." The fact that a handful of physicians are of the opinion that a substance may have therapeutic value is not an acceptable alternative to the thorough clinical and preclinical evaluation which precedes the approval of an NDA.

Another finding required to be made by the Administrator for placement of a substance in Schedule I is that "there is a lack of accepted safety for use of the drug or other substance under medical supervision." The same rationale discussed with regard to "accepted medical use" applies to "accepted safety for use . . . under medical supervision."

MDMA has not been approved for marketing in the United States by the Food and Drug Administration. MDMA has not been approved for investigational use by the Food and Drug Administration. No studies have been submitted to the Food and Drug Administration which would demonstrate the safety of MDMA with reliable scientific data. There is no basis upon which to conclude that MDMA has "accepted safety for use . . . under medical supervision."

Instead of relying on scientific data, or the opinion of the Food and Drug Administration, the Administrative Law Judge chose to rely upon the "world of health care practitioners" to determine "accepted safety for use." He chose to disregard scientific, controlled studies conducted by scientific researchers which have shown MDMA to be neurotoxic when administered to rats, and instead substituted the anecdotal judgments of a handful of physicians who observed the behavior of human animals under the influence of MDMA.

A drug's safety for use in humans, both at the investigational stage and at the marketing approval stage, can only be established through controlled scientific studies which are submitted to and evaluated by the FDA. These determinations are given great weight by the Administrator in evaluating scientific and medical matters.

For placement of a substance in Schedule I, the Administrator is also required to find that "the drug or other substance has a high potential for abuse."

The available scientific data clearly show that MDMA produces physical and psychological effects in common with central nervous system stimulants like amphetamine, and with known hallucinogens or psychotomimetics like MDA in both animals and humans. The chemical structure of MDMA is very closely related to MDA and to methamphetamine. Its pharmacological properties are almost identical to those of MDA. In preliminary studies, MDMA has been shown to be neurotoxic in animals, just as MDA has been shown to be neurotoxic. In the studies conducted specifically to determine abuse liability, MDMA has been shown to have an abuse liability similar to stimulants such as cocaine and amphetamine, both substances with an established high potential for abuse. MDMA is a substance which is clandestinely produced and trafficked on the street in the United States, and is taken for its pleasurable effects.

Animal and human studies which completely characterize the pharmacology, safety and efficacy of MDMA are not available.

The Administrator finds that the Agency sustained its burden that MDMA has a high potential for abuse. It has a similar chemical structure and pharmacological properties nearly identical to substances already found to have a high potential for abuse. It is clandestinely manufactured, trafficked, and actually abused. Its lack of established safety and potential neurotoxicity make it a serious risk to the public health and safety.

Because the Administrator has found that MDMA has no accepted medical use in treatment and has a high potential for abuse, it is unnecessary to address the issue of "whether a drug which has potential for abuse but no currently accepted medical use in treatment can lawfully be placed in any schedule other than Schedule I."

In reaching the conclusion that MDMA should be placed in Schedule I of the Controlled Substances Act, the Administrator has also considered the following information. In 1983, the World Health Organization recommended that MDMA be placed in Schedule I of the Convention on Psychotropic Substances (CPS), 1971, and the United Nations Commission on Narcotic Drugs subsequently placed MDMA in Schedule I.

In addition, MDMA is controlled in Schedule H of the Canadian Food and Drug Act, along with MDA and LSD. Reports of clandestine manufacture and distribution of MDMA continues in Canada. The Federal Republic of Germany has also reported the clandestine manufacture and distribution of MDMA.

The Administrator has read with interest the comments from various parties in the record concerning what effect placement of MDMA into Schedule I would have on legitimate research into the substance.

The Controlled Substances Act contains specific provisions for research with Schedule I substances. The registration provisions are found in 21 U.S.C. 823(f). The major difference in the regulatory requirements imposed upon researchers handling Schedule I controlled substances and those conducting research with Schedule II, III, IV and V controlled substances is the registration requirements which require review of a protocol by the Secretary of the Department of Health and Human Services.

The information required to be contained in this protocol is outlined with specificity in 21 CFR 1301.33. The protocol requirements also make reference to the investigational new drug (IND) procedures. They provide a mechanism for researchers wishing to conduct clinical (human) investigations with controlled substances in Schedule I.

All researchers utilizing controlled substances must be registered by the Drug Enforcement Administration. All researchers must keep records, and all researchers must maintain the controlled substances in a "securely locked, substantially constructed cabinet." The records required to be kept by researchers in Schedule I are not substantially different from the records required to be kept by a researcher or dispenser of Schedule II, III, IV or V controlled substances.

A review of the above regulations demonstrates that those who wish to conduct research with MDMA have available avenues by which to pursue such research.

Placement of a substance into Schedule I and designating it as a hallucinogenic imposes certain regulatory requirements on those handling the substance. Since MDMA has been a Schedule I controlled substance since July 1, 1985, the requirements imposed by the CSA and implementing regulations continue as follows:

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports MDMA, or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* MDMA must be manufactured, distributed and stored in accordance with §§ 1301.71 through 1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of MDMA must comply with the requirements of §§ 1302.03 through 1302.05, 1302.7 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* All persons required to obtain quotas for MDMA shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Every registrant required to keep records and who possesses any quantity of MDMA shall take an inventory pursuant to 1304.11 through1304.19 of Title 21 of the Code of Federal Regulations of all stocks of this substance on hand.

6. *Records.* All registrants required to keep records pursuant to 1304.21–1301.27 of Title 21 of the Code of Federal Regulations shall do so regarding MDMA.

7. *Reports.* All registrants required to submit reports pursuant to §§ 1304.37 through 1304.41 of Title 21 of the Code of Federal Regulations shall do so regarding MDMA.

8. *Order Forms.* All registrants involved in distribution of MDMA shall comply with the order form requirements of §§ 1305.01 through 1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and Exportation.* All importation and exportation of MDMA shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* Any activity with respect to MDMA not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act continues to be unlawful. The criminal penalties are those of a Schedule I hallucinogenic.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of MDMA into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be

considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the control of a substance with no currently approved medical use or manufacture in the United States.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to provisions of the Administrative Procedures Act, 5 U.S.C. 556 and 557, and as such have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice, 28 CFR 0.100(b), the Administrator hereby orders that Part 1308, Title 21, Code of Federal Regulations, be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES [AMENDED]

1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.11 is amended by redesignating the existing paragraphs (d)(7) through (d)(24) as (d)(8) through (d)(25) and adding a new paragraph (d)(7) as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(7) 3,4-methylenedioxymethamphetamine (MDMA). . . . 7405

* * * * *

3. Section 1308.11 is amended by removing paragraph (g)(1) and redesignating the existing paragraphs (g)(2) through (g)(12) as (g)(1) through (g)(11).

* * * * *

Dated: October 8, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–23080 Filed 10–10–86; 8:45 am]

BILLING CODE 4410–09–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51–3

Application of Priorities in Assignment of Commodities

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule; correction.

SUMMARY: This notice corrects the final rule in FR Doc. 86–22048 appearing on page 34598 in the issue of September 30, 1986. On page 34601, third column, § 51–3.3(c), line 12, insert the word "has" after the word "Committee".

FOR FURTHER INFORMATION CONTACT: Mr. C.W. Fletcher, Executive Director, (202) 557–1145.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–23118 Filed 10–10–86; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 51186–5186]

Taking and Importing of Marine Mammals

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce announces the prohibition of the further take of porpoise in the U.S. tuna fishery in the eastern tropical Pacific Ocean beginning at 0001 hours local time, October 21, 1986, to ensure that the aggregate porpoise mortality quota is not exceeded. The NOAA Assistant Administrator for Fisheries has determined that the 20,500 porpoise quota established by the Marine Mammal Protection Act (MMPA) will be reached on that date.

DATES: Prohibition on the take of porpoise by U.S.-flag tuna purse seine vessels is effective at 0001 hours local time, October 21, 1986, until 0001 hours local time, January 1, 1987. Comments on this notice will be received until October 29, 1986.

ADDRESSES: Comments may be mailed to Robert B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, F/M4/NMFS, 1825 Connecticut Avenue, NW., Washington, DC 20235. Observer retention requests should be made to E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Director, NMFS, Southwest Region at (213) 514–6196. Requests for future observer placement should be made to the Tuna/Porpoise Management Branch at (619) 293–6540.

SUPPLEMENTARY INFORMATION: The MMPA, as amended in 1984, extended the general permit issued to the American Tunaboat Association in 1980 which limited to 20,500 porpoise the number that may be killed incidentally in U.S. tuna purse seining operations during any year.

The NMFS estimates, based on reports from onboard observers and using the method published in the **Federal Register** on May 4, 1977, that the number of porpoise killed incidentally in the U.S. tuna purse seine fishery will reach the quota by the effective date. Regulations governing the taking of marine mammals incidental to commercial fishing operations (50 CFR 216.24) require that all tuna fishing associated with porpoise cease seven days after the publication of this notice. Therefore, beginning at 0001 hours local time, October 21, 1986, U.S.-flag purse seine vessels are prohibited from setting nets around porpoise. Restrictions on the catching, possessing and landing (50 CFR 216.24(a)(4)) and importing (50 CFR 216.24(e)(9)) of yellowfin and bigeye tuna which were published on September 16, 1986 (51 FR 32786), become effective on the day porpoise fishing is prohibited. The porpoise fishing prohibition will remain in effect until 0001 hours local time January 1, 1987 when the next year's porpoise quota becomes available. Import restrictions remain in effect until 0001 hours, July 1, 1987.

Vessels at sea with observers placed by the NMFS or the Inter-American Tropical Tuna Commission must return the observer directly to an approved port at no cost to the government, unless the vessel managing owner or other authorized agent requests in writing that the observer remain onboard for the remainder of the trip to verify that the vessel does not set its net around porpoise after this closure is effective (see Addresses). Approved ports for returning observers include any U.S. port and the following foreign ports: Mazatlan, Mexico; Acapulco, Mexico; Puntarenas, Costa Rica; and Balboa, Republic of Panama. All observers

remaining onboard will function as NMFS officials collecting data and observing the fishing operations. Observers' records and statements will be used to determine compliance with the porpoise fishing prohibition.

Vessels at sea without an observer are subject to the yellowfin and bigeye tuna restrictions as well as the prohibition on porpoise fishing. These vessels may contact the Tuna/Porpoise Management Branch (see Information Contact) to arrange to place an observer on board or to have fish wells containing yellowfin or bigeye tuna sealed at a port designated by NMFS.

Other Matters

This action is taken under the authority of Chapter 50 Code of Federal Regulations § 216.24 and is in compliance with Executive Order 12291.

Dated: October 3, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-22819 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 198
Tuesday, October 14, 1986

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-ANM-11]

Proposed Establishment of Rifle, CO, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish 700 foot and 1,200 foot transition areas at Rifle, Colorado. These areas are necessary to provide controlled airspace for aircraft executing a new instrument approach procedure at Garfield County Airport.

DATE: Comments must be received on or before November 3, 1986.

ADDRESS: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-11, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-533, Federal Aviation Administration, Docket No. 86-ANM-11, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ANM-11". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace around the Garfield County Airport. The areas will be shown on aeronautical charts enabling pilots to circumnavigate the areas or otherwise comply with instrument flight rules during instrument flight conditions.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed 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, when promulgated, 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 71

Aviation Safety, Transition Areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) 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.

§71.181 [Amended]

2. Section 71.181 is amended as follows:

Rifle, Colorado (New)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Garfield County Airport (lat. 39°31'34"N. long. 107°43'23"W.); and within 5 miles each side of the 273° bearing (260 mag) from the Garfield County Airport extending from the 8-mile radius to 21 miles east of the airport., and that airspace extending upward from 1,200 feet above the surface beginning at lat. 39°44'00"N, long. 107°54'00W; to lat. 39°44'00"N, long. 106°57'00"W; to lat. 39°24'00"N, long. 106°57°00"W; to lat. 39°24'00"N, long. 107°54'00"W; to the point of beginning excluding that airspace overlying the Aspen, Eagle, and Meeker, Colorado, transition areas.

Issued in Seattle, Washington, on October 2, 1986.

William E. O'Neill,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 23148 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ACE-03]

Proposed Alteration of Transition Area; Spencer, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Spencer, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Spencer, Iowa, Municipal Airport, utilizing the Spencer VOR as a navigational aid.

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

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telepbone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Spencer, Iowa. To enhance airport usage, an additional instrument approach procedure to tbe Spencer, Iowa, Municipal Airport is being established utilizing the Spencer VOR as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Spencer, Iowa, at and above 700 feet above ground level within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B, dated January 2, 1986.

The FAA has determined that this proposed 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, when promulgated, 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 71

Aviation Safety, Transition Areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Spencer, IA

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Spencer, Iowa, Municipal Airport (Lat. 43°09'45"N., Long. 95°11'30"W) and within 4 miles each side of the Spencer VOR 314° radial, extending from the 6.5 mile radius zone to 8.5 miles northwest of the VOR; within 4 miles each side of the Spencer VOR 122° radial, extending from the 6.5 mile radius zone to 8.5 miles southeast of the VOR; within 3.75 miles each side of the Spencer VOR 122° radial, extending from the 6.5 mile radius zone to 12.5 miles southeast of the Spencer VOR; excluding that portion that overlies the Milford, Iowa, transition area.

Issued in Kansas City, Missouri, on September 30, 1986.

T.R. Beckloff,

Manager, Air Traffic Division, Central Region.

[FR Doc. 86-23147 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 660

[Docket No. 85N-0184]

Limulus Amebocyte Lysate; Reduction of Samples for Testing

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations in the additional standards for Limulus Amebocyte Lysate (LAL) by reducing the number of containers for potency and quality tests and the number of

samples submitted to FDA for testing. FDA is proposing the reduction in the testing requirements because adequate data are now available to demonstrate that the proposed requirements provide the same assurances of acceptable product suitability as the current regulatory requirements. The proposed amendments would result in an economic benefit for manufacturers of LAL because fewer final containers would be utilized for testing the product.

DATE: Written comments by December 15, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Center for Drugs and Biologics (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8049.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 1980 (45 FR 32296), FDA published additional standards under 21 CFR Part 660 for the manufacture of LAL. LAL is prepared from the circulating blood cells (amebocytes) of the horseshoe crab (*Limulus polyphemus*). It is a licensed biological product used as a reagent for in vitro testing to detect bacterial endotoxins (pyrogens) in certain human and animal parenteral drugs, biological products, and medical devices.

In the preamble to the 1980 final additional standards for LAL, FDA responded to comments received on the proposed rule. Included in the comments was one suggestion to reduce the minimum number of vials (20) required under § 660.102 for performing the potency test for LAL (item number 2 of the 1980 final rule). A similar comment suggested that a smaller sample size be required under § 660.103(f) for performing the test for quality (item number 19 of the 1980 final rule). FDA rejected the comments at that time because it concluded that at least 20 vials of test lysate were necessary for performing the tests to ensure that the procedures were statistically valid for estimating vial-to-vial variability of the test lysate. In 1980, there were only a few licensed manufacturers of LAL and the available data concerning potency and quality were insufficient for FDA to reduce the sample size for testing (required since the product was first licensed in 1977) while maintaining confidence that the tests were statistically valid. However, after several years of accumulating data related to LAL, FDA has reviewed the data and has now reconsidered the comments concerning test sample size requirements in the LAL additional standards. FDA now believes that there are adequate data to demonstrate that the required potency and quality of LAL can be assured if the sample size for testing under §§ 660.102 and 660.103(f) is reduced from a minimum of 20 vials to 8 vials. A summary of the data on which FDA has based this conclusion is on file at the Dockets Management Branch (address above).

Therefore, FDA is proposing to amend §§ 660.102 and 660.103(f) to reduce the number of samples for testing potency and quality, respectively, from the currently required minimum of 20 vials from each filling to 8 vials from each filling. Consistently, FDA is also proposing to amend § 660.105(a)(1) to reduce the currently required number of vials of lysate submitted to FDA for testing from 28 vials to the number used in the potency test under § 660.102. FDA advises that § 660.102 permits the sample size to be increased to 28 vials if the potency test result is invalid when tested with a smaller sample size. Therefore, under this proposed rule, FDA expects that the number of samples submitted to FDA under § 660.105(a)(1) would routinely be eight vials, although the number of samples submitted could be greater if a manufacturer uses more than eight vials to obtain a valid potency test. FDA must have the same number of vials for testing that a manufacturer used for its testing in order to duplicate the test procedures and results, and to facilitate release of the product.

The agency has determined under 21 CFR 25.24(c)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposed rule would reduce the number of samples that each of the six currently licensed manufacturers are required to test and submit to FDA for agency testing and official release of each lot of LAL, resulting in reduced costs. Therefore, the agency concludes that the rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Interested persons may, on or before December 15, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 660

Biologics; Labeling.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 660 be amended as follows:

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

1. The authority citation for 21 CFR Part 660 is revised to read as follows:

Authority: Secs. 215, 315, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

2. By revising the fourth sentence in the introductory paragraph of § 660.102 to read as follows:

§ 660.102 Potency test.

* * * A minimum of 8 vials and a maximum of 28 vials from each filling or, if freeze-dried, from each drying chamber run representing all parts of the chamber load, shall be tested in parallel with an equal number of tests from one or more vials of the U.S. Reference Lysate. * * *

* * * * *

3. By revising § 660.103(f)(1) to read as follows:

§ 660.103 General requirements.

* * * * *

(f) * * *

(1) Samples from each of 8 final containers from each filling or, if freeze-dried, from each filling in each drying chamber run representing all parts of the chamber load, shall be used.

* * * * *

4. By revising § 660.105(a)(1) to read as follows:

§ 660.105 Samples and protocols; official release.

(a) * * *

(1) *Samples.* Not fewer than the number of vials of lysate used for the potency test in § 660.102, two of which

shall be complete market packages, packaged for distribution and including all ancillary reagents and materials.

* * * * *

Dated: September 23, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-23075 Filed 10-10-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3190

Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections by Non-Federal Employees

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would establish administrative procedures for programs for the inspection of Federally supervised oil and gas leases by other than Federal employees. These procedures are designed to implement certain provisions of the Federal Oil and Gas Royalty Management Act of 1982. While the proposed rulemaking would ultimately establish a framework for all such programs, the specific procedures proposed in this document apply only to delegation of authority to States under section 205 of the Act.

DATE: Comments should be submitted by December 15, 1986. Comments received or postmarked after the above date may not be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Susan Pepperney, (202) 653-2200

or

Robert C. Bruce, (202) 343-8735

SUPPLEMENTARY INFORMATION: This proposed rulemaking would establish a new Part 3190 in group 3100 which would implement the authority contained in the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) relating to programs for the inspection of Federally supervised oil and gas leases by other than Federal employees. The purpose of the inspection program that would be authorized by this proposed rulemaking is to determine whether there is compliance with the requirements of the mineral leasing laws and the Federal Oil and Gas Royalty Management Act. The Act provides three means which the Secretary of the Interior can use to authorize non-Federal employees to inspect Federally supervised oil and gas leases.

Section 202 of the Federal Oil and Gas Royalty Management Act authorizes the Secretary of the Interior to enter into cooperative agreements with States and Indian tribes for the purpose of sharing oil and gas royalty management information, and of carrying out inspection, investigation and enforcement activities, including those activities authorized by section 108 of the Act. The Secretary may not enter into cooperative agreements with a State involving Indian lands without permission of the affected Indian tribe or allottee.

Section 205 of the Federal Oil and Gas Royalty Management Act permits the Secretary of the Interior to delegate all or part of the authority and responsibilities under the Act to conduct inspections and investigations to States requesting such authority. The Act contains no authorization for delegation of Secretarial authority to Indian tribes. This delegation of authority may apply to all Federal lands and Indian lands within a State. However, the Secretary may not undertake a delegation of authority involving Indian lands without the express permission of the involved Indian tribe or allottee.

Section 301 of the Federal Oil and Gas Royalty Management Act authorizes the Secretary of the Interior to enter into contracts with non-Federal inspectors and other persons as are deemed necessary to carry out the functions of the Secretary under the Act.

It is the policy of the Department of the Interior to implement section 205 of the Federal Oil and Gas Royalty Management Act first and, then, to follow with the implementation of sections 202 and 301 as they are needed. Therefore, this proposed rulemaking would provide procedures for the delegation of authority, with future rulemakings adding provisions for cooperative agreements and contracts to Part 3190.

Due to different interests, proposals and subsequent delegated authorities among the States, the proposed and final rulemakings are intended to provide a basic framework for the program and are, therefore, general in nature. Delegations of authority will not be put into effect until they have been published in the **Federal Register** in their proposed form for public comment and, when finalized, will again be published in the **Federal Register**. These delegations will provide details relating to the Federal and State responsibilities for inspections and other activities covered by a delegation of authority. As delegations of authority are finalized, they will be listed in Part 3190.

The development of this proposed rulemaking was facilitated by a series of meetings between the Bureau of Land Management and representatives of States which have significant Federal and Indian onshore oil and gas operations. The meetings were held to assist the Bureau of Land Management in determining the depth of State interest in such a program, to advise States of the various provisions of the regulations that were being considered for implementation of the program, and to address specific standards that would be used in accomplishing delegations of inspection authority. In considering this proposed rulemaking, States should be aware that the continuation of any delegation made under any regulations promulgated as a result of this rulemaking process will be conditioned upon the availability of the funds for compensation to a State participating in the program.

The principal authors of this proposed rulemaking are Susan Pepperney and Gilbert Lockwood, Division of Inspection and Enforcement, and Stephen Spector, Division of Fluid Mineral Operations, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it 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 rulemaking will not have a significant economic effect on the States involved because they will be reimbursed for costs incurred as required by the Federal Oil and Gas Royalty Management Act of 1982.

This proposed rulemaking will not have a major impact on Federal and

Indian lessees. Much of the information required by State regulatory agencies from a lessee or operator is essentially a duplicate of that presently required by the United States. In addition, under the existing system, a lessee or operator is often required to comply with two sets of operating regulations and is subject to twice the regulatory presence. The reduction in duplication of effort by State and Federal governments resulting from this proposed rulemaking should result in less burdensome conditions for a lessee or operator.

The information collection requirements contained in 43 CFR Part 3190 do not require approval of the Office of Management and Budget under 44 U.S.C. 3501 because there are fewer than 10 respondents annually. Of the 29 States eligible to participate in the delegation of authority or cooperative agreement programs authorized by this part, only two States have expressed interest in a delegation of authority and only one State has expressed interest in a cooperative agreement. The Bureau of Land Management currently has non-funded cooperative agreements with three Indian tribes and has received indications of interest from three additional tribes. Therefore, it is anticipated that participants in any of the programs authorized by this part will be less than 10 annually.

List of Subjects in 43 CFR Part 3190

Administrative practice and procedure, Government contracts, Indian lands—mineral resources, Intergovernmental relations, Mineral royalties, Oil and gas production, Public lands—mineral resources, Reporting and recordkeeping requirements.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 18, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399) and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), it is proposed to amend Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations by adding a new part 3190 as set forth below:

PART 3190—DELEGATION OF AUTHORITY, COOPERATIVE AGREEMENTS AND CONTRACTS FOR OIL AND GAS INSPECTION

Subpart 3190—Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections; General

Sec.

Subpart 3191—Delegation of Authority

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 18, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399) and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

Subpart 3190—Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections; General

§ 3190.0–1 Purpose.

The purpose of the part is to provide procedures for approval, implementation and administration of delegations of authority, cooperative agreements and contracts for inspection, enforcement and investigative activities related to oil and gas operations on Federal and Indian lands under the provisions of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C 1701 et seq.).

§ 3190.0–3 Authority.

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

§ 3190.0–4 Objective.

The objective of this part is to assure that delegations of authority, cooperative agreements and contracts as provided for under the Federal Oil and Gas Royalty Management Act are carried out in accordance with the provisions of the Act and this title.

§ 3190.0–5 Definitions.

As used in this part, the term:

(a) "Inspection" means the examination of oil and gas lease sites, records or motor vehicle documentation by an authorized representative of the Secretary of the Interior to determine if there is compliance with applicable regulations, orders and the mineral leasing laws.

(b) "Investigation" means any inquiry into any action by or on behalf of a lessee or operator of a Federal or Indian lease, or transporter of oil from such lease.

(c) "Contractor" means any individual, corporation, association, partnership, consortium or joint venture who has contracted to carry out activities under this part.

§ 3190.0–7 Cross references.

(a) 25 CFR 211.18; 212.24; 213.34.

(b) 30 CFR Part 229.

(c) 43 CFR Part 3160.

§ 3190.1 Proprietary data.

With regard to any data or information obtained by a State, Indian tribe or individual, whether under a delegation of authority, cooperative agreement or contract, the following applies:

(a) Proprietary data shall be made available to a State or Indian tribe pursuant to a cooperative agreement under the provisions of 30 U.S.C. 1732 if such State or Indian tribe:

(1) Consents in writing to restrict the dissemination of such information to such persons directly involved in an investigation under 30 U.S.C. 1732;

(2) Agrees in writing to accept liability for wrongful disclosure;

(3) In the case of a State, the State demonstrates that such information is essential to the conduct of an investigation or to litigation under 30 U.S.C 1732; and

(4) In the case of an Indian tribe, the tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives

sovereign immunity by express consent for wrongful disclosure.

(b) Any person or State that obtains proprietary data pursuant to a delegation of authority, cooperative agreement or contract under this part is subject to the same provisions of law with respect to the disclosure of such information as would apply to any officer or employee of the United States.

§ 3190.2 Recordkeeping, funding and audit.

§ 3190.2-1 Recordkeeping.

(a) Records and accounts relating to activities under delegations of authority, cooperative agreements or contracts shall be identified in the delegation, cooperative agreement or contract.

(b) All records and other materials relating to a delegation of authority, cooperative agreement or contract shall be maintained by the State, Indian Tribe or contractor for a period of 6 years from the date they are generated or such other period as may be specified in the delegation, cooperative agreement or contract.

§ 3190.2-2 Funding.

(a) States and Tribes shall provide adequate funding for administration and execution of activities carried out under a delegation or cooperative agreement.

(b) Reimbursement for allowable costs incurred by a State, Indian tribe or contractor as a result of activities carried out under a delegation of authority, cooperative agreement or contract shall be as negotiated, with the following limitations;

(1) Up to 100 percent for a delegation of authority; or

(2) Up to 50 percent for a cooperative agreement.

(c) Funding shall be subject to the availability of funds.

(d) States, Indian tribes or contractors shall maintain financial records relating to the funds received and expended under a delegation of authority, cooperative agreement or contract as specified in the delegation of authority, cooperative agreement or contract.

(e) Reimbursement shall be at least quarterly and only shall be made upon submission of an invoice or request for reimbursement to the authorized officer.

§ 3190.2-3 Audit.

States, Indian tribes and contractors shall comply with generally accepted accounting principles and audit requirements established by the Department of the Interior and Bureau of Land Management in maintaining financial records relating to the funds received and expended under a delegation of authority, cooperative agreement or contract.

§ 3190.3 Sharing of civil penalties.

Fifty percent of any civil penalty collected by the United States as a result of activities carried out by a State under a delegation of authority or a State or Indian tribe under a cooperative agreement shall be payable to that State or Indian tribe upon receipt by the United States. Such amount shall be deducted from compensation due to the State or Indian tribe by the United States under the delegation of authority or cooperative agreement.

Subpart 3191—Delegation of Authority

§ 3191.1 Petition for delegation.

§ 3191.1-1 Petition.

The Governor or other authorized official of any eligible State may request in writing that the Director delegate all or part of his/her authority and responsibility for inspection, enforcement and investigation on oil and gas leases on Federal lands within the State and on Indian lands within the State where the affected Indian tribe or Indian allottee has given written permission for such inspection, enforcement and investigation. Requests by a State for delegation of other activities may be granted by the Director with the approval of the Secretary.

§ 3191.1-2 Eligibility.

Any State with producing oil or gas leases on Federal or Indian lands may request a delegation of authority.

§ 3191.1-3 Action upon petition.

Upon request for a delegation of authority, the Director shall determine if:

(a) The State has proposed an acceptable plan for carrying out the delegated activities and will provide adequate resources to achieve the purposes of 30 U.S.C. 1735. This plan shall, at a minimum:

(1) Identify specific authorities and responsibilities for which the State is requesting a delegation of authority and whether it is applicable to Federal lands only or includes Indian lands;

(2) Provide evidence of written permission of the affected Indian tribe(s) or allottee(s) for such lands;

(3) Include specifics for carrying out the delegated activities;

(4) Indicate the inspector resources for carrying out the delegated activities and documentation of inspector qualifications;

(5) Describe the proposed record keeping for funding purposes;

(6) Detail the frequency and method of payment; and

(7) Include copies of any non-Federal forms that are to be used.

(b) The State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Department of the Interior in accordance with the provisions of 30 U.S.C. 1735.

(c) The delegation will be carried out in coordination with activities retained by the Bureau so that such delegation will not create an unreasonable burden on any lessee.

§ 3191.1-4 Public hearing on petition.

Prior to the granting of any delegation of authority, the notice of proposed delegation shall be published in the **Federal Register**. The **Federal Register** notice shall provide an opportunity for a public hearing in the affected State.

§ 3191.2 Terms of delegation.

(a) Delegations shall be continuing, contingent upon available funding, providing that there is an annual finding by the Director that the provisions of the delegation and the mineral leasing laws are still being carried out and that the requirements of § 3191.1-3 (a), (b) and (c) of this title are still in effect.

(b) Authority delegated to a State under this subpart shall not be redelegated.

(c) The State regulatory authority shall maintain sufficient, qualified, personnel to comply with the terms and purpose of the delegation.

(d) Inspection identification cards shall be issued by the authorized officer to all certified State inspectors for the purpose of identifying the bearer as an authorized representative of the Secretary. Identification cards remain the property of the United States.

(e) The delegation shall provide for coordination with designated offices of the Bureau of Land Management, the Minerals Management Service, and, where appropriate, the Bureau of Indian Affairs.

(f) The delegation shall provide for annual program review.

(g) The delegation shall provide for annual budget and program reporting in conjunction with the Federal Budget process.

(h) The Director reserves the right to make inspections on Federal and Indian leases inspected by a State under this subpart for the purpose of evaluating the manner in which the delegation is being carried out.

(i) The Director reserves the right to act independently to carry out his/her responsibilities under the law.

§ 3191.3 Termination and reinstatement.

§ 3191.3–1 Termination.

(a) The delegation may be terminated by mutual written consent at any time.

(b) The Director may revoke a delegation if it is determined that the State has failed to meet the minimum standards for complying with the delegated authority.

(c) Prior to any action to revoke a delegation, the Director shall notify the State in writing of the deficiencies in the program leading to such revocation.

(d) Upon notification of intent to revoke a delegation, the State shall have 30 days to respond with a plan to correct the cited deficiencies. If the Director determines that the plan of correction is acceptable, the Director shall then approve the plan and specify the timeframe within which the cited corrections shall be corrected.

(e) In the event the Director makes a determination to revoke a delegation of authority, the State shall be provided an opportunity for a hearing prior to final action.

§ 3191.3–2 Reinstatement.

Terminated delegations of authority may be reinstated as set out below:

(a) For a delegation terminated by mutual consent under § 3191.3–1(a) of this title, the State shall apply for reinstatement by filing a petition with the Director, who shall determine whether such reinstatement should be granted.

(b) For a delegation of authority revoked by the Director, the State shall file a petition requesting reinstatement. In applying for reinstatement, the State shall provide written evidence that it has remedied all defects for which the delegation was revoked and that it is fully capable of resuming the activities carried out under the delegation. Upon receipt of the petition, the following actions shall be taken:

(1) The authorized officer, after review of the petition, may recommend approval of the reinstatement but shall provide proof that the deficiencies have been corrected and that the State is fully capable of carrying out the delegation.

(2) The Director shall review the petition and the recommendation of the authorized officer and may approve the reinstatement of a delegation upon a determination that the findings of the authorized officer are acceptable.

§ 3191.4 Standards of delegation.

(a) The Director shall establish minimum standards to be used by a State in carrying out activities established in the delegation.

(b) The delegation shall identify functions, if any, that are to be carried out jointly.

(c) A delegation shall be made in accordance with the requirements of this section.

(d) Copies of delegations shall be on file in the Washington Office of the Bureau and shall be available for public inspection.

§ 3191.5 Delegation for Indian lands.

§ 3191.5–1 Indian lands included in delegation.

(a) No activity under a delegation made under this subpart may be carried out on Indian lands without the written permission of the affected Indian tribe or allottee.

(b) A State requesting a delegation involving Indian lands shall provide, as evidence of permission, a written agreement signed by an appropriate official(s) of the Indian tribe for tribal lands, or by the individual allottee(s) or their representative(s) for allotted lands. The agreement shall at a minimum specify the type and extent of activities to be carried out by the State under the agreement, and provisions for State access to carry out the specified activities.

(c) Delegations covering Indian lands shall be separate from delegations covering Federal lands.

§ 3191.5–2 Indian lands withdrawn from delegation.

(a) When an Indian tribe or allottee withdraws permission for a State to conduct inspection and related activities on its lands, the Indian tribe or allottee shall provide written notice of its withdrawal of permission to the State.

(b) Immediately upon receipt of a notice of withdrawal of permission, the State shall provide written notification of said notice to the authorized officer, who immediately shall take all necessary action to provide for inspection and enforcement activities on the affected Indian lands.

(c) No later than 120 days after receipt of a notice of withdrawal of permission draw from an Indian tribe or allottee, the delegation on the lands covered by the notice shall terminate.

(d) Upon termination of a delegation covering Indian lands, appropriate changes in funding shall be made by the authorized officer.

James E. Cason,

Acting Assistant Secretary of the Interior.

August 28, 1986.

[FR Doc. 86–23081 Filed 10–10–86; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60224–6024]

Regulations Governing the Taking and Importing of Marine Mammals

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to a 1984 amendment to the Marine Mammal Protection Act, the NMFS proposed on August 13, 1986, to amend the marine mammal regulations regarding the importation of yellowfin tuna caught with purse seines in the eastern tropical Pacific Ocean. The NMFS invited the general public and affected industry to submit comments on the proposal on or before October 14, 1986. This comment period is being extended for an additional thirty days (See DATE).

DATE: Comments on the proposed rule must be postmarked on or before November 14, 1986.

ADDRESS: Comments should be addressed to Robert B. Brumsted, Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, (Marine Resources Management Specialist, NMFS), 202/673–5351.

SUPPLEMENTARY INFORMATION: The NMFS published proposed regulations in the **Federal Register** on August 13, 1986 (51 FR 28963–28968) to amend the marine mammal regulations regarding the importation of yellowfin tuna caught with purse seines in the eastern tropical Pacific Ocean. This proposed rule was in response to a 1984 amendment to the Marine Mammal Protection Act (16 U.S.C. 1361–1407). The comment period is being extended an additional thirty days to ensure adequate time for all interested parties, particularly affected nations, and those organizations and individuals not in the United States, to respond to the rulemaking.

Classification: The classification statements made in the proposed rule (51 FR 28963, August 13, 1986) apply also to this notice.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine Mammals,

Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: October 7, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-23114 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 611

[Docket No. 60985-6185]

Foreign Fishing

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes the 1987 foreign fee schedule for foreign vessels fishing in the fishery conservation zone (FCZ). Under this fee schedule, owners or operators of foreign vessels would pay $184 per fishing permit application and 20.26 percent of the FY 1986 Magnuson Fishery Conservation and Management Act (Magnuson Act) costs. Vessels of certain fishing nations meeting the criteria of Pub. L. 99-272 would be required to pay an additional incremental amount of 73.35 percent of the base fees. Comments are requested on this fee schedule. This action will comply with section 204(b)(10) of the Magnuson Act.

DATE: Comments must be received on or before November 13, 1986.

ADDRESS: Send comments to: Fees, Permits and Regulations Division, F/M12, National Marine Fisheries Service, Washington, DC 20235. Mark envelopes "Foreign Fees."

Copies of the draft regulatory impact review (RIR) and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 202-673-5315.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of foreign fishing permit application and poundage fees for fishing during 1987 by foreign vessels in the FCZ. The new schedule would target collections of about $41.064 million, from foreign fishing in 1987 with an additional amount of $29.984 million in collections possible under provisions of Pub. L. 99-272. These amounts are determined as described below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this propsal. The Department of State agrees with its publication for public comments. No fees are proposed for joint ventures in this action.

NOAA is again publishing the proposed 1987 fee schedule as a single unit containing both foreign poundage and permit application fees. Readers are advised, however, that the final fees may be published separately should there be delays in adopting either final poundage or final permit application fees.

Background

Subparagraph 204(b)(10)(B) of the Magnuson Act requires the Secretry of Commerce to impose fees on the owners or operators of foreign fishing vessels for which permits are issued "at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of [the Magnuson] Act during . . . fiscal year [1986] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during [1985] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1985]." (16 U.S.C. 1824(b)(10)(B)).

However, if the Secretary of Commerce, in consultation with the Secretary of State, finds a fishing nation to be "harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary", or "failing to take sufficient action to benefit the conservation and development of United States fisheries", subparagraph 204(b)(10)(C) applies. Subparagraph 204(b)(10)(C) requires the Secretary to impose fees for that nation which bear to the ratio of the fish harvested by foreign vessels in the FCZ to the aggregate quantity of fish harvested by both foreign and domestic vessels in the FCZ only. Removing the quantity of U.S. harvested fish caught in the territorial waters from the formula increases the ratio and thereby the fees that the nation must pay.

Fees have been collected for foreign fishing since 1977 under annual schedules set forth at 50 CFR 611.22. Fees collected under these schedules were $7.1 million in 1977, $8.8 million in 1978, $10.8 million in 1979, $16.7 million in 1980, $24.1 million in 1981, $33.4 million in 1982, $41.3 million in 1983, $42.9 million in 1984 and $41.5 million in 1985. Collections have not been completed for 1986, but less than $49.7 million is anticipated. Foreign fees are assessed for poundage of fish harvested and for processing foreign fishing applications. Poundage fees were assessed at a rate of 3.5 percent of the ex-vessel value of a species until 1980. Fees were increased in 1981 by amendment of the Magnuson Act, Pub. L. 96-561, to recover at least the foreign share of the Federal cost of carryingf out the purposes of the Magnuson Act. In proposing the fee schedule for 1983, NOAA established but did not exercise authority to collect fees in excess of the amounts specified as the foreign share above (47 FR 51336, November 12, 1982).

In 1986, Pub. L. 99-272 amended section 204(b)(10) of the Magnuson Act to require that higher fees be paid by certain foreign nations. On September 4, 1986, NOAA revised the 1986 fee schedule effective October 1, 1986, at 51 FR 32089, to require that any foreign nation found to be harvesting anadromous species of U.S. origin at unacceptable levels or to be failing to take sufficient action to benefit the conservation and development of U.S. fisheries pay for the last quarter of calendar year 1986 an incremental amount of 76.5 percent of the poundage fees to the general fund of the U.S. Treasury in addition to the scheduled fees.

The foreign fee target proposed for 1987 is $41.064 million, less than the $49.7 million foreign fee collection target in 1986. The incremental amount proposed for 1987 is 73.35 percent of the poundage fee collection target. The foreign fee target amount is determined by applying the ratio of the foreign catch in the FCZ to the total catch in the FCZ and territorial waters, 20.26 percent, against the total Magnuson Act costs for fiscal year (FY) 1986, $202.705 million. The ratio of foreign catch to the total catch in the FCZ, 35.05 percent, governs the incremental amount. The ratio of the poundage fee collection target to the estimated value of the 1987 foreign harvest of all species (as discussed later) determines the rate at which fees are assessed by species.

Species fee rates were varied in the fee schedules from 1981 through 1984 to reflect certain fisheries management considerations. After reviewing the effectiveness of such variable rates in promoting reductions in the foreign incidental harvest of species important to U.S. fishermen and increases in the foreign harvest of species of lower value to U.S. and foreign fishermen, NOAA decided to discontinue their use in 1985. The decision to apply a uniform species fee rate was also applied in the 1986 fee schedule and governs the proposed species fee rates for 1987 as well. Therefore, the species fees proposed in this schedule and listed in the table of the regulatory text at § 611.22 are a uniform percentage of exvessel value.

FY 1986 Costs for Purposes of the Magnuson Act

The Federal Government's costs of carrying out provisions of the Magnuson Act in FY 1986 were calculated by using the general estimating techniques that were used to estimate costs for fee schedules since 1982 (see 46 FR 55729, Nov. 12, 1981). Some improvements were included in estimates for the 1986 fee schedule (50 FR 41533, Oct. 11, 1985). The improvements were prompted by discussions with General Accounting Office (GAO) auditors following a review of the NMFS fee setting process, and are continued in the estimates for the 1987 schedule.

All NMFS units submit documentation of the planned use of their funding allocations. The documents are "operations plans," which include a narrative description of activities and the amounts budgeted for labor, travel, contracts, etc. Operations plans are analyzed to identify the costs of performing functions directed toward provisions of the Magnuson Act, without regard to legislative authorizations for certain activities predating the Magnuson Act. NOAA's policy is to calculate the full direct and indirect costs, not incremental costs, for performing services for others (NOAA Budget Handbook, Chapter 2, Section 3). Documentation of NMFS's determination of Magnuson Act costs is available at the above address. The documentation specifies, by unit, the amount of each operations plan considered to contribute to carrying out provisions of the Magnuson Act (Magnuson Act costs) and includes appropriate Magnuson Act costs of grants (and associated overhead costs) and reimbursable work, inter-NOAA transfers of funds, underutilized species development, marine recreational fisheries programs, and salmon research.

Using this process, the total FY 1986 NMFS cost was determined to be $79.095 million. The NMFS FY 1986 costs are one percent above its actual revised FY 1985 costs of $78.445 million. Other NOAA and Department of Commerce Magnuson Act costs are $10.851 million or 7.9 percent below FY 1985 costs. The FY 1986 cost data for establishing the 1987 fee target are shown in Table 1, together with comparative data from FY 1984 and FY 1985 for all Federal agencies incurring Magnuson Act costs.

The Department of State (DOS) estimates its FY 1986 costs at $299,600, the same level as in FY 1985.

The Coast Guard's costs for fisheries enforcement activities in FY 1986 were determined using the same methods as in FY 1985. The NMFS asked the Coast Guard to include indirect program support costs and these costs are included as part of its FY 1986 Magnuson Act costs. The Coast Guard's FY 1986 costs of $112.459 million are down 15 percent from actual Coast Guard costs in FY 1985.

The estimated total cost for carrying out the provisions of the Magnuson Act in FY 1986 is $202.705 million. This total is proposed to be adopted for the calculation of the foreign fishing fee target in 1987.

TABLE 1.—DETERMINATION OF FISCAL YEAR 1986 AGENCY COSTS FOR PURPOSES OF THE MAGNUSON ACT AND COMPARISONS WITH FISCAL YEARS 1984 AND 1985 COSTS

[thousand dollars]

Department/agency/line office	FY84 cost	FY85 diff	FY85 cost (1)	FY86 diff	FY86 cost	FY86 +(−) %
DOC-Support Total	169	8	177	0	177	0.00
DOC-NOAA-ADMIN	186	98	284	20	304	7.04
DOC-NOAA-NESDIS	264	12	276	11	287	3.99
DOC-NOAA-RASCS	375	(185)	190	(15)	175	(7.89)
DOC-NOAA-Sea Grant	493	270	763	(30)	733	(3.93)
DOC-NOAA-Ships	10,183	(90)	10,093	(918)	9,175	(9.10)
Total	11,501	105	11,606	(932)	10,674	(8.03)
DOC-NMFS-HDQS	14,510	797	15,307	263	15,570	1.72
DOC-NMFS-F/NEC	11,858	(128)	11,730	233	11,963	1.99
DOC-NMFS-F/SEC	9,454	2,724	12,178	661	12,839	5.43
DOC-NMFS-F/SWC	5,375	786	6,161	(188)	5,973	(3.05)
DOC-NMFS-F/NWC	10,905	7,150	18,055	167	18,222	0.92
DOC-NMFS-F/NER	3,267	1,503	4,770	378	5,148	7.92
DOC-NMFS-F/SER	2,495	714	3,209	(159)	3,050	(4.95)
DOC-NMFS-F/SWR (2)	1,926	648	2,574	(370)	2,204	(14.37)
DOC-NMFS-F/NWR	2,154	363	2,517	(198)	2,319	(7.87)
DOC-NMFS-F/AKR	1,384	560	1,944	(137)	1,807	(7.05)
Total	63,328	15,117	78,445	650	79,095	0.83
DOC-All Agency Total	74,998	15,230	90,228	(282)	89,946	(0.31)
DOS-OES/OFA Total	280	20	300	0	300	0.00
DOT-CG (3) Total	94,762	37,552	132,314	(19,855)	112,459	(15.01)
Grand Total	170,040	52,802	222,842	(20,137)	202,705	(9.04)

(1) FY85 grand total revised (figure previously reported at 50 FR 41535 was $222,812K).
(2) Southwest region's greater than ten percent reduction in FY86 costs attributable mainly to decreases in Magnuson Act costs related to law enforcement CYOP and to grants.
(3) Coast Guard's greater than ten percent reduction in FY86 costs attributable to decreases in funds available for law enforcement. Coast Guard further notes that its accounting system indicates $77,040K of the $112,459K above more accurately approximates the FY86 actual cost for foreign enforcement than foreign costs calculated by the ratios of foreign catch to total catch.

Ratios of the 1985 Foreign Catch to Total Catch

Principles applied since enactment of Pub. L. 96–561 for estimating the ratio of the foreign catch to the total catch in the FCZ and territorial waters are employed for the 1985 ratio. The 1985 catch data are the most current official data now available for the year preceding preparation of this fee schedule. Readers interested in more details should refer to the discussion on the statistics for setting fees contained in 50 FR 41533.

In determining the ratio of the foreign catch to the total catch in the FCZ and territorial waters, the U.S. catch in international waters and freshwater and U.S. catch of tunas is subtracted from the total U.S. reported commercial catch to obtain the U.S. commercial catch in the FCZ and territorial waters (which include internal marine waters). The resulting commercial catch is corrected to international standards by adding the weight of mollusk shells. The total U.S. catch in the FCZ and the territorial waters is obtained by adding the preliminary recreational catch in the FCZ from "Fisheries of the United States." The ratio for the 1987 fee schedule is 20.26 percent. Table 2(A) lists the 1985 data used for this ratio.

In addition to the above, subparagraph 204(b)(10)(C) requires that a higher level of fees be established for each fiscal year for nations found to be harvesting anadromous species of U.S. origin at levels unacceptable to the Secretary or not taking actions to benefit the conservation and development of United States fisheries. That level is determined by the ratio of the foreign catch to the total catch in the FCZ only. Table 2(B) shows the 1985 catches in the FCZ and appropriate adjustments of the tuna and mollusk catches. The ratio of catches so determined shows that 35.05 percent of the 1985 catch in the FCZ was taken by foreign vessels. That ratio was 39.7 percent in the prior year. Nations falling

under one or both of the above criteria ("high fee nations") in calendar year 1987 will pay against 35.05 percent of total Magnuson Act costs or pay an incremental amount equal to 73.35 percent of their poundage fees in addition to the poundage fees for their catches in 1987.

TABLE 2.—ESTIMATE RATIOS OF FOREIGN CATCH TO TOTAL CATCH, 1985

	Metric tons
(A) Including Territorial waters:	
U.S. commercial catch [1]	3,948,197
Exclusions:	
International waters	229,512
Tuna (0–200 miles)	14,753
Freshwater (incl. G. Lakes alewives)	66,040
U.S. commercial catch less exclusions	3,637,892
Additions:	
Correction for mollusks [3]	767,053
Recreational catch [4]	176,708
Total U.S. catch	4,581,653
Foreign catch [5]	1,163,930
Total catch	5,745,583
Ratio including territorial waters	20.26
(B) Excluding territorial waters:	
U.S. commercial catch [1]	3,948,197
Exclusions:	
International waters	229,512
Tuna (3–200 miles)	14,417
All catch inside 3 miles [2]	2,052,268
U.S. commercial catch less exclusions	1,652,000
Additions:	
Correction for mollusks [3]	413,656
Recreational catch [4]	91,200
Total U.S. catch	2,156,856
Foreign catch [5]	1,163,930
Total catch	3,320,786
Ratio excluding territorial waters	35.05

[1] This figure and all following figures for U.S. commercial catch from pages 8–11 of "Fisheries of the United States, 1985" (calculated in pounds and converted to metric tons). Figures may not add due to rounding.
[2] Except for Texas and west coast of Florida, where boundary line is nine nautical miles from shore. Also excludes any waters beyond three nautical miles from shore considered to be internal (E.G. areas of Puget Sound).
[3] Addition of mollusk shells (U.S. statistics for internal use include only edible meat weight, whereas international standard includes shell weights).
[4] Based on 1984 data for Atlantic, Gulf and Pacific; 1981 data for Western Pacific; 1979 data for Caribbean. Includes catch types A and B1 and assumes average weight of B1 is similar to A.
[5] From page 22, "Fisheries of the United States, 1985."

The 1987 Foreign Fishing Fee Collection Target

Section 204(b)(10)(B) of the Magnuson Act requires that foreign fishing vessel owners or operators pay at least the amount calculated from the ratio of the foreign catch to the total catch in the FCZ and territorial waters. Therefore, the fees will be based on a target of at least 20.26 percent of the total Magnuson Act costs ($202.705 million calculated in Table 1) in 1987. That target is $41.064 million as shown below.

Fee target (1987) = ($202.705 million) × (0.2025782) = $41.064 million.

If all nations in 1987 were found to be "high fee" nations, $71.048 million would be the total fees to be collected. A similar calculation uses the ratio of the catches in the FCZ, 35.05 percent, to calculate that amount.

High fee amount (1987) = ($202.705) × (0.3504983) = $71.048 million.

Approximately $184,000 is expected to be received for 1987 permit application fees (see below). The application fees are subtracted from $41.064 million to arrive at the amount to be collected for the foreign catch by poundage fees, $40.880 million or $70.864 million under the "high fees." The 1987 proposed poundage fee target is $8.620 million lower than the $49.5 million target in 1986, and the "high fee" amount is $17.436 million less than the "high fee" target for the last quarter of 1986. These changes reflect the reductions in the Coast Guard's FY 1986 costs and the overall reduction in total FY 1986 Magnuson Act costs. They also reflect the reductions in the respective ratios of catches used in the calculations for 1986 and 1987.

Permit Application Fees

NOAA determines foreign fishing permit application fees annually by estimating the costs of processing an application during that fee year (45 FR 82267, December 15, 1980). The estimated costs used to develop the proposed 1987 permit application fee are shown in Table 3.

TABLE 3.—ESTIMATED COSTS ASSOCIATED WITH PROCESSING 1987 FOREIGN FISHING PERMIT APPLICATIONS

Department/category	Dollars
DOC—Computer	20,000
DOC—Printing (applications/permits)	200
DOC—Printing (Federal Register)	10,920
DOC—Salaries/benefits	116,394
DOC—Total	147,514
DOS—Computer	3,500
DOS—Duplicating/mailing	1,300
DOS—Salaries/benefits	30,000
DOS—Travel	1,200
DOS—Total	36,000
Grand total	183,514

The total estimated cost of processing each permit application in 1987 is $184. The total cost is apportioned to each application by estimating that 1,000 applications will be received in 1987 and then rounding the average unit cost to $184 per application. Foreign applicants would pay the $184 but no surcharge for each application in 1987 (see below). Applicants for 1987 permits should pay this amount at the time of making application pending a final rule. NOAA will bill for any additional permit application fees or credit to future fees any differences in the amounts paid if the final permit application fee is different from the fee proposed. The increase in the permit application fee from $167 per application in 1986 results from nearly equal costs for processing permit applications in 1986 and in 1987, but a slight reduction in the anticipated number of applications expected to be processed in 1987.

Proposed Species Fees

NOAA collects the major portion of the foreign fees through tonnage fees for fish caught by foreign vessels. These are called the poundage fees. The fee per ton for a species is based on an estimate of "exvessel value" of that species, that is, the value to fishermen on delivering the catch to the first buyer. The Japan Fisheries Association (JFA) litigated the 1984 fee schedule on the grounds that some species fees selected for that schedule did not take into account relevant value considerations or were in error. In settling that suit NOAA agreed to work more closely with Japan (and with other nations) to determine exvessel values appropriate for the fee schedule.

On June 11, 1986, the Deputy Assistant Administrator for Fisheries Resource Management requested information on current foreign exvessel values from representatives of foreign nations fishing in the FCZ. A list of exvessel values for setting fees in 1987 was prepared using some new information furnished by respondents and data held by NMFS. The list was provided to the foreign representatives prior to the publication of this proposal for their information. This action by NOAA met its commitment to work closely with Japan (and other nations) as part of the settlement of the JFA's suit on the 1984 foreign fees.

Methods used to determine appropriate exvessel values for the 1987 fee schedule are similar to the methods adopted in the 1985 schedule and also used in 1986. NOAA continues to hold the view that prices paid to U.S. joint venture fishermen are perhaps different from the values of fish to foreign fishing companies for the reasons stated in the 1985 fee schedule, see response to Comment 3.b at 50 FR 460 (January 4, 1985). Joint venture prices for different species in a fishery complex may be useful, in some instances, for establishing the relative values of the fish species which make up that complex or when other information is not available. The methods used for establishing 1987 exvessel values in the main depend on foreign price information and other data held by NMFS. In a few cases, joint venture prices were used to establish an absolute value when other information was unavailable. However, joint venture prices are first adjusted if approporiate to include consideration of the fees

which would be paid for the foreign harvest. Values by fishery were determined as follows; Table 4 lists the proposed exvessel values and comparisons with values adopted in the 1986 schedule.

TABLE 4.—COMPARISON OF 1986 FINAL AND 1987 PROPOSED EXVESSEL VALUES PER METRIC TON

Species	Fishery	1986 final exvessel value (dollars)	1987 proposed exvessel value (dollars)	1987 (dollars) increase/ decrease	1987 (percent) increase/ decrease
Alaska pollock	BSA/GOA	122	172	50	40.98
Atka mackerel	BSA/GOA	184	237	53	28.80
Pacific cod	BSA/GOA	286	287	1	0.35
Flatfish	BSA/GOA	156	183	27	(17.31)
Pacific ocean perch	BSA/GOA	399	391	(8)	(2.01)
Other Rockfish	BSA/GOA	462	651	189	40.91
Pacific squid	BSA/GOA	224	140	(84)	(37.50)
Other species	BSA/GOA	151	213	62	41.06
Sablefish	BSA	384	419	35	9.11
Snails	BSA	256	256	0	0.00
Sablefish	GOA	730	796	66	9.04
Jack mackerel	WOC	510	510	0	0.00
Flatfish	WOC	607	651	44	7.25
Pacific ocean perch	WOC	549	604	55	10.02
Other rockfish	WOC	589	686	97	16.47
Sablefish	WOC	576	810	234	40.63
Pacific whiting	WOC	122	122	0	0.00
Other species	WOC	582	725	143	24.57
Butterfish	NWA	618	618	0	0.00
Red hake	NWA	369	369	0	0.00
Silver hake	NWA	393	393	0	0.00
River herring	NWA	139	139	0	0.00
Atlantic mackerel	NWA	139	139	0	0.00
Squid, illex	NWA	390	390	0	0.00
Squid, loligo	NWA	633	662	29	4.58
Other species	NWA	268	268	0	0.00
Atlantic sharks	ABS	423	423	0	0.00
Pacific billfish	PBS	1,985	1,985	0	0.00
Dolphin fish	PBS	5,515	5,515	0	0.00
Striped marlin	PBS	1,854	1,854	0	0.00
Pacific sharks	PBS	1,103	1,103	0	0.00
Pacific swordfish	PBS	2,337	2,337	0	0.00
Wahoo	PBS	2,206	2,206	0	0.00
Seamount groundfish	SMT	397	397	0	0.00
Coral (dollars per kilogram)	WPC	206	206	0	0.00

The Alaska Groundfish Fisheries

Representatives of Korean fishing interests provided average exvessel values by species by month for Alaska groundfish landed in Korean ports. The JFA provided data on fresh and frozen fish landings for the Kushiro Wholesale Market. The information used covered the period April 1985 through March 1986. Additionally, Japanese market information contained in the Foreign Fishery Information Release, appended to the NMFS Market News Report, was used to establish the exvessel value of Alaskan pollock. Alaska pollock was used as the index of Alaska groundfish prices. The frozen pollock surimi block prices on the Tokyo Central Wholesale Market (TCWM) were reduced to exvessel values under the assumptions concerning product recovery, profit, and value added described in NOAA's proposed fee schedule for 1985 (49 FR 40615, October 17, 1984). Prices of frozen surimi blocks for the period April 1985 through March 1986 were considered. The prices were reasonably steady at $0.75 to $0.80 per pound until June when the prices begin climbing rapidly while fluctuating slightly above and below the general trend. Prices rose to about $1.20 to $1.12 per pound by the end of the period. The yen to dollar relation was said to be the cause of this increase. However, a comparison with increases in the exvessel values of fresh pollock landed at the Kushiro Wholesale Market (up by about 70 percent during the year) bears out that, at least in Japanese markets, pressure resulting from current or future reductions in supplies appears to be driving the cost of the pollock resource as well as several other ground-fish species upward. Although a surimi block price of up to $1.30 per pond could be supported by the data, a conservative index price of $1.12 per pound for frozen surimi block is selected in order to smooth out fluctuations but follow the general trend. Based on this surimi price an exvessel value of $172/mt is proposed.

Exvessel values for all the Alaska groundfish species were derived from the ratios of frozen block prices on the Kushiro market to a theoretical frozen Alaska pollock block price in that market. These ratios were multiplied by the exvessel value estimated for pollock to determine exvessel values for each species. The resulting species values were adopted for the fee schedule after being compared with the data provided by Korea which were within 18 percent of the resulting values, except for the "other rockfish" and "other groundfish" catagories which were significantly lower and for Pacific squid which was somewhat higher than the resulting values. The adopted exvessel values are listed in Table 4. In selecting a flatfish price, NOAA reviewed estimated catch summary data compiled by the Foreign Fishing Observer program of the Northwest and Alaska Fisheries Center to determine species composition of the 1985 flatfish category. The adopted exvessel value for flatfish of $183/mt represents a weighted price based on the 1985 composition and species price ratios to pollock, where available.

The Pacific Groundfish Fishery

Data on current exvessel or frozen block values of Pacific whiting in foreign markets are sparse, because markets for whiting are mainly in eastern Europe and prices are State controlled. NOAA therefore proposes to continue the exvessel value of $122/mt from 1986 into 1987 to obtain public comments and additional data.

The exvessel values proposed for the other species taken in the Pacific groundfish foreign trawl fisheries under the incidental catch provisions of the Pacific Groundfish Fishery Management Plan are domestic prices and taken from the Pacific Fishery Management Council's preliminary Port Group Report: Commercial Groundfish, estimated prices per pound for 1986 for all areas. Exvessel values for all groundfish are increased significantly over last year's values; the jack mackerel value is the same as in 1986. Use of domestic pricing does not significantly affect this foreign fishery because incidental catch constitutes less than 0.05 percent of the Pacific whiting catch. The selected exvessel values for these incidental species are shown in Table 4.

Northwest Atlantic Ocean Fisheries

Loligo squid harvested by U.S. vessels are competitive in price with the foreign harvest of these species in the Atlantic. Therefore, the exvessel *Loligo* squid value proposed in this fee schedule considers adjusted joint venture prices as well as current average exvessel values for U.S. landings. The value proposed is $662/mt, see Table 4. NOAA has no firm information on *Illex* squid and no information on butterfish. It therefore proposes for comment the exvessel values of $390/mt for *Illex* squid and $618/mt for the incidental

catch of butterfish which were adopted last year.

NOAA has reviewed confidential economic data received on the Atlantic mackerel fisheries and concluded that the exvessel value of $139/mt adopted in 1986 is also appropriate for use in the 1987 fee schedule.

The exvessel values proposed for red and silver hakes, and other species are the same as the values used in 1986 because NOAA has no information to support any changes in 1987. Since herring is competitive with mackerel, an exvessel value for river herring of $139/mt is also adopted. Proposed 1987 values for the Northwest Atlantic Ocean fisheries are shown in Table 4.

Western Pacific Fisheries

NOAA has not received any information to cause a revision of the exvessel values adopted in the final schedule for 1986. Therefore, NOAA proposes that the same values be used in 1987 (see Table 4).

Summary of Proposed 1987 Species Fees

The species fee per ton is calculated by multiplying the ratio of the poundage fee collection target to the estimated total exvessel value of the foreign catch in 1987 to determine the poundage fee assessment rate and then multiplying that rate by the exvessel value of that species. The total value of the foreign catch is calculated by multiplying the exvessel value proposed for each species by the projected catch of that species in 1987. Catch projections were provided by NMFS Regional Offices based on current understandings of the TALFFs which may be available in 1987. The total value of the 1987 foreign catch is the sum of the values of the catches of all species. Table 5 shows the data used for these calculations and lists the entire set of proposed 1987 species fees. The ratio of the poundage fee collection target ($40.880 million) to be estimated total exvessel value of the 1987 foreign catch ($84.126 million) results in a 1987 poundage fee assessment rate of 48.59 percent of the exvessel values in 1987.

TABLE 5.—ESTIMATED 1987 FOREIGN CATCH/VALUE WITH RECOVERED COSTS OF $40,880,000

Species	Fishery	Proposed exvessel value (dollars)	Estimated foreign catch (metric tons)	Estimated foreign catch value (dollars)	Proposed species fee (dollars)	Recovered costs (dollars)
Alaska pollock	BSA/GOA	172	218,022	37,499,784	8358	18,222,549
Atka mackerel	BSA/GOA	237	1	237	115.17	115
Pacific cod	BSA/GOA	287	45,583	13,082,321	139.46	6,357,190
Flat fish	BSA/GOA	183	50,543	9,249,369	88.93	4,494,615
Pacific Ocean perch	BSA/GOA	391	23	8,993	190.00	4,370
Other rockfish	BSA/GOA	651	13	8,463	316.35	4,112
Pacific squid	BSA/GOA	140	483	67,620	68.03	32,859
Other species	BSA/GOA	213	1,912	407,256	103.50	197,901
Sablefish	BSA	419	95	39,805	203.61	19,343
Snails	BSA	256	0	0	124.40	0
Sablefish	GOA	796	0	0	386.81	0
Jack mackerel	WOC	510	1,500	765,000	247.83	371,742
Flatfish	WOC	651	50	32,550	316.35	15,817
Pacific Ocean perch	WOC	604	31	18,724	293.51	9,099
Other rockfish	WOC	686	369	253,134	333.35	123,007
Sablefish	WOC	810	86	69,660	393.81	33,850
Pacific whiting	WOC	122	60,000	7,320,000	59.28	3,557,062
Other species	WOC	725	250	181,250	352.30	88,076
Butterfish	NWA	618	330	203,940	300.31	99,102
Red hake	NWA	369	5,500	2,029,500	179.31	986,210
Silver hake	NWA	393	13,400	5,266,200	190.97	2,559,044
River herring	NWA	139	200	27,800	67.55	13,509
Atlantic mackerel	NWA	139	25,000	3,475,000	67.55	1,688,633
Squid, illex	NWA	390	2,000	780,000	189.52	379,031
Squid, loligo	NWA	662	3,500	2,317,000	321.69	1,125,917
Other species	NWA	268	2,000	536,000	130.23	260,462
Atlantic sharks	ABS	423	1,150	486,450	205.55	236,384
Pacific billfish	PBS	1,985	0	0	964.59	0
Dolphin fish	PBS	5,515	0	0	2,679.94	0
Striped marlin	PBS	1,854	0	0	900.93	0
Pacific sharks	PBS	1,103	0	0	535.99	0
Pacific swordfish	PBS	2,337	0	)	1,135.64	0
Wahoo	PBS	2,206	0	0	1,071.96	0
Seamount groundfish	SMT	397	0	0	192.92	0
Coral (dollars per kilogram)	WPC	206	0	0	100.10	0
Totals			432,041	84,126,056		40,880,000

The proposed 1987 poundage fee assessment rate is greater than the 1986 final rate of 35.6 percent, and represents a 36.49 percent increase in the rate from 1986 to 1987. The increase is due to the sharp decrease in the foreign harvest estimated in 1987 which is only slightly offset by the decrease in the Magnuson Act costs and the two percent reduction in the harvest ratio in 1985. The average exvessel value in 1986 was $138/mt; the 1987 average is $195/mt. This increase in the average exvessel value shows an effect of the large reduction in the estimated harvest of Alaska pollock. The "higher fee" assessment rate as determined by this rule would be 84.24 percent of the total exvessel value of the foreign catch ($70.864 million/$84.126 million). The Magnuson Act (at 16 U.S.C. 1824(b)(10)(F)(ii)) requires that additional fees collected as a result of the "higher fee" criteria be deposited in the general fund of the U.S. Treasury rather than the Fisheries Loan Fund. NOAA has elected to collect the additional fees as an incremental amount rather than publish a separate fee table based on fees assessed at 84.24 percent of exvessel values. In practice, NOAA will bill countries meeting one or both of the criteria at the lower fee rate, but add an incremental amount as a percentage of the total fee bill. The amount of 73.35 percent (or $29.984 million/$40.880 million x 100) of the lower fees for the tonnage caught will be added to bills for these countries and be identified as the amount to be paid to the general fund of the U.S. Treasury.

Consistent with the reasons given above, NOAA proposes to amend section 611.22 of the foreign fishing regulations by this action as required by the fee provisions of 16 U.S.C. 1824(b)(10).

Surcharge

The Assistant Administrator for Fisheries, NOAA, has determined that the Fishing Vessel and Gear Damage Compensation Fund established by the Fisherman's Protective Act (22 U.S.C. 1980(10)(f)) continues to be sufficiently capitalized to pay any claims in 1987. Capitalization of the fund is derived from a surcharge on the foreign fishing fees imposed under section 204(b)(10) of the Magnuson Act. NOAA proposes to maintain the surcharge at zero percent, effectively waiving the surcharge in 1987 as it has been since 1984. Therefore, no change is proposed by this notice for regulations governing this surcharge at 50 CFR 611.22(b). NOAA reserves the right to modify the surcharge at a later date if unanticipated claims occur.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the

proposed fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule if adopted will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The environmental impact of harvesting the TALFF is described for each fishery management plan, and no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 8, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Paragraphs § 611.22 (a), (b)(1), (c) and (d) are revised as follows:

(a) *Permit application fees.* Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $184 per vessel, plus the surcharge, if required under paragraph (d) of this section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA," must be sent to the Division Chief, Fees, Permits and Regulations Division, F/M12, National Marine Fisheries Service, Washington, D.C. 20235. The permit fee payment must be accompanied by a list of the vessels for which the payment is made.

(b) *Poundage fees.*

(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

TABLE 1.—SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	300.31
2. Hake, red	179.31
3. Hake, silver	190.97
4. Herring, river	67.55
5. Mackerel, Atlantic	67.55
6. Other groundfish	130.23
7. Squid, *Illex*	189.52
8. Squid, *Loligo*	321.69
Atlantic and Gulf fisheries:	
9. Shark, Atlantic	205.55
10. Shrimp, royal red	[1]
Alaska fisheries:	
11. Pollock, Alaska	83.58
12. Cod, Pacific	139.46
13. Pacific ocean perch	190.00
14. Rockfish, other	316.35
15. Mackerel, Atka	115.17
16. Squid, Pacific	68.03
17. Flounders	88.93
18. Sablefish (Gulf of Alaska)	386.81
19. Sablefish (Bering Sea and Aleutian islands)	203.61
20. Groundfish, other	103.50
21. Snails	124.40
Pacific fisheries:	
22. Whiting, Pacific	59.28
23. Sablefish	393.61
24. Pacific ocean perch	293.51
25. Rockfish, other	333.35
26. Flounders	316.35
27. Mackerel, jack	247.83
28. Groundfish, other	352.30
Western Pacific fisheries:	
29. Coral [2]	100.10
30. Dolphin fish	2,679.94
31. Wahoo	1,071.98
32. Sharks	535.99
33. Marlin, striped	900.93
34. Billfish	964.59
35. Swordfish	1,135.64

[1] Reserved.
[2] Dollars per kilogram.

* * * * *

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(C) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(10)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1987 will be 73.35 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has waived the surcharge for 1987 fees.

* * * * *

[FR Doc. 86–23183 Filed 10–10–86; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 641

[Docket No. 60973–6173]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule; regulatory amendment.

SUMMARY: NOAA issues this proposed rule to amend the implementing regulations for the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) which set minimum mesh size requirements for fish traps. The current regulations set 1 x 2 inches as the minimum mesh size. This proposed rule would allow other minimum mesh sizes to be used as well, including 1.5 x 1.5-inch and 1.5-inch hexagonal. The intent of the proposed rule is to allow the industry to use the most advantageous of several commercially available mesh materials and to make the FMP rule with respect to minimum mesh size identical to that for the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (South Atlantic plan), thereby eliminating the difficulty encountered by South Florida fishermen in attempting to comply with different rules for waters bisected by two separate Council areas.

DATE: Comments on the proposed rule must be received on or before November 28, 1986.

ADDRESSES: Comments on this proposed rule and requests for copies of the supplemental regulatory impact review/initial regulatory flexibility analysis prepared for this rule should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan (813) 893–3722.

SUPPLEMENTARY INFORMATION: The FMP, which was approved by the Secretary of Commerce on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and which is implemented by regulations appearing at 50 CFR Part 641, contains a provision at § 641.24(b)(4) which sets a minimum mesh size of 1 x 2 inches and requires a minimum of four 2 x 2-inch escape windows in fish traps used for taking reef fish.

During 1986, the Gulf of Mexico Fishery Management Council (Council), at the request of fishing industry representatives reviewed the issue of mesh sizes and scientific information related to fish escapement from various mesh sizes. The fishing industry representatives requested the Council to consider amending § 641.24(b)(4), through the FMP framework procedure of section 8.3.1. 2(8)A of the FMP, to conform with § 646.22 of the implementing regulation for the South Atlantic plan, for the following reasons: (1) Fishermen had difficulty in complying with different rules in adjacent waters (e.g., on the Gulf and Atlantic sides of the Florida Keys), and (2) alternative minimum mesh sizes woud allow more advantageous mesh and trap materials to be used. For example, 1.5 x 1.5-inch wire mesh is constructed of longer-lasting, heavier gauge wire than 1 x 2-inch mesh, and does not require steel frames. Also use of 1.5 x 1.5-inch woven net mesh would allow traps to be collapsible.

Reviews of scientific information indicated that all the alternative minimum mesh sizes authorized under the South Atlantic plan allowed larger fish to escape that was possible through 1 x 2-inch mesh, thereby providing greater escapement of the smaller, unsaleable juvenile fishes. These alternative meshes would reduce or eliminate embolism mortality of the smaller fish by allowing them to escape from traps which are being pulled. The alternative meshes would also increase the opportunity for escapement from lost (or "ghost") traps. One Caribbean study indicated that 1 x 2-inch mesh retained 9.5 times the number of fish than retained by 1.5-inch hexagonal mesh.

Based on the scientific analyses and data and on testimony, the Council has acted to amend the regulation for mesh size to conform with that for the South Atlantic plan, but in doing so retained the requirement for the four 2 x 2-inch escape windows currently required by the FPM.

Classification

The Assistant Administrator for Fisheries, NOAA, has previously determined that the FMP is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law, as summarized in the preamble to the final rule implementing the FMP (49 FR 3948, October 9, 1984). Since the Assistant Administrator has previously determined that the indentical trap mesh size requirements in the implementing regulations for the South Atlantic plan are also consistent with such standards, provisions, and law (49 FR 33448, August 23, 1984), that determination suffices to cover this proposed rule as well.

It was also previously determined, on the basis of a regulatory impact review (RIR), that the rule implementing the FMP is not major under Executive Order 12291. The RIR and initial regulatory flexibility analysis also were summarized in the preamble to the final rule for the FMP. A draft supplemental RIR was prepared for this proposed rule and the Assistant Administrator has determined this is not major under E.O. 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the rule retains the existing requirement for a 1 x 2-inch mesh size and simply allows the use of other alternative mesh sizes, if the fishermen desire to change to those alternatives. The impacts which are beneficial are summarized in the suplemental intitial regulatory flexibility analysis which has been made part of the supplemental RIR.

The rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

This action does not significantly modify the Federal action for which an environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 24, 1983 (48 FR 38511).

The Council has previously determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management progam.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing.

Dated: October 8, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble 50 CFR Part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 641 continues to read as follows:

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

2. In § 641.24, paragraph (b)(4) is revised to read as follows:

§ 641.24 Gear limitations.

* * * * *

(b) * * *

(4) Fish traps must meet all the following mesh size requirements (based on centerline measurements between opposite wires or netting strands):

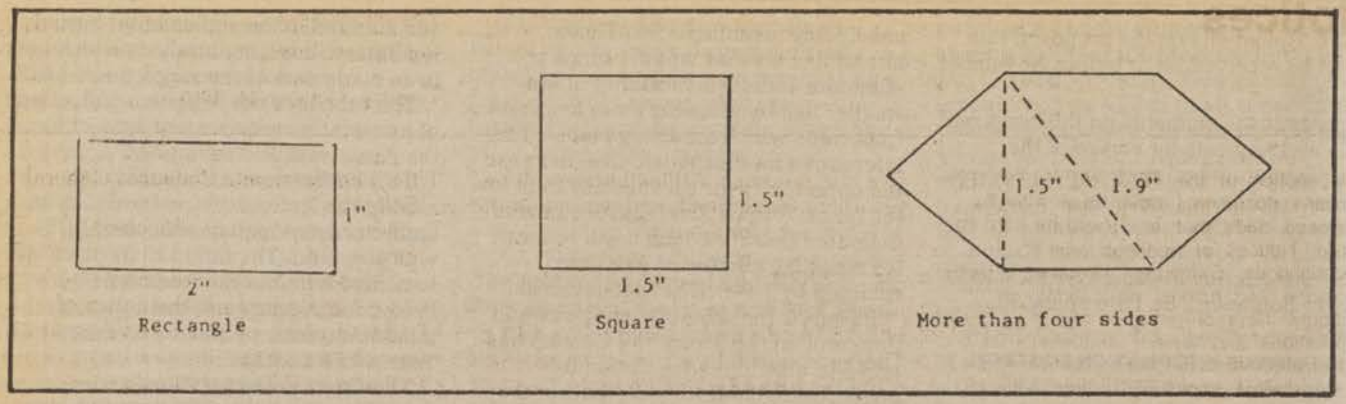
(i) A minimum of 2 square inches for each mesh;

(ii) One-inch minimum length of shortest side;

(iii) Minimum distance of 1 inch between parallel sides of rectangular openings, and 1.5 inches between parallel sides of mesh openings with more than four sides;

(iv) One and nine-tenths (1.9) inches minimum distance for diagonal measures of mesh (Figure 3); and,

(v) Each trap must have a least two escape windows on each of two sides (excluding the bottom) which are 2 x 2 inches or larger.



[FR Doc. 86-23143 Filed 10-10-86; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 650

Atlantic Sea Scallop Fishery

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

ACTION: Notice of Availability of a Secretarial Amendment to the Fishery Management Plan for the Atlantic Sea Scallop Fishery and request for comments.

SUMMARY: NOAA issues this notice that the Secretary of Commerce has submitted to the New England Fishery Management Council a Secretarial Amendment to the Fishery Management Plan for Atlantic Sea Scallops (FMP) and is requesting comments from the public. The Secretarial Amendment would continue the management measures established in the FMP, and thereby supersede Amendment 1. In addition, it would allow the Regional Director to grant exemptions from the sea scallop regulations for the conduct of research. Copies of the Secretarial Amendment may be obtained at the address below.

DATE: Comments on the Amendment should be submitted on or before December 19, 1986.

ADDRESSES: All comments should be sent to Richard H. Schaefer, Acting Regional Director, Northeast Region, NMFS, 14 Elm Street, Gloucester, MA 01930. Mark on the outside of the envelope, "Comments on the Sea Scallop Secretarial Amendment."

Copies of the Secretarial Amendment are available from Carol J. Kilbride, Northeast Region, NMFS, 2 State Fish Pier, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride, 617-281-3600 extension 331.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), section 304(c), provides authority for the Secretary of Commerce to prepare necessary amendments to FMPs. On May 28, 1986, the New England Fishery Management Council voted unanimously to request the Secretary to prepare a Secretarial Amendment to re-establish the management measures of the original FMP, and thereby supersede Amendment 1. In addition, the Council requested the Secretary to include a provision that would allow the Regional Director to grant exemptions from the regulations for the conduct of research beneficial to the sea scallop resource or fishery.

This Secretarial Amendment is necessary for regulating the harvest of the Atlantic sea scallop fishery. It is intended to provide adequate time for the Council to develop and analyze alternative measures that will meet the objectives of the FMP and be accepted by the industry.

Dated: October 8, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23113 Filed 10-10-86; 3:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 198
Tuesday, October 14, 1986

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Determination of the Market Stabilization Price for Sugar for Fiscal Year 1987

Correction

In FR Doc. 86–22244 appearing on page 35012 in the issue of Wednesday, October 1, 1986, make the following correction:

In the second column, in the second complete paragraph, fourth line, "21.87" should read "21.78".

BILLING CODE 1505-01-M

Forest Service

Proposed Draft Forest Plan and Draft Environmental Impact Statement, Sierra National Forest, Fresno, Madera, and Mariposa Counties, CA

The Sierra National Forest is sponsoring two public advisory hearings to provide an opportunity for oral comments to the Forest Service concerning the proposed Forest plan and environmental statement. Oral testimony may be given at the following formal hearing locations:

November 13—
Hacienda Resort and Convention Center, 2550 West Clinton Avenue (Off Hwy 99 at Clinton Exit), Fresno, CA
November 18—
Episcopal Camp and Conference Center, 43555 Hwy 41, Oakhurst, CA.

Both hearings will begin at 7 p.m. Individuals interested in speaking have the option of preregistering by contacting the Forest Supervisor's Office receptionist by mail or telephone or by preregistering at the hearings from 6:30 to 7 p.m.

Both oral and written testimony will be accepted. Speakers will be limited to five minutes each. All testimony will be recorded, transcribed, and entered in the public record for analysis.

Sign-in sheets will be used to document attendance. Speakers will also be required to fill out a 3×5 card with their name, address, and affiliation. These cards will be given to the hearing officer in the order in which they signed in (those who preregistered via the SO receptionist will go before those signing in at the hearing). Elected officials will be allowed to speak first. Shortly before the hearing begins, the timekeeper will collect the 3×5 cards, put them in order in which they will speak (which will include the names of individuals who preregistered with the SO receptionist) and give them to the hearing officer. No group presentations will be allowed, although a group could sign up consecutively. Signs, banners, posters, etc., will not be allowed in the meeting hall.

The timekeeper will use colored cards to indicate the amount of time the speaker has remaining. At the end of five minutes, a red card will be shown indicating that the alloted time is over.

A court reporter will record all oral testimony and transcribe it so it can be made a part of the official public comment record. Written comment will also be accepted and entered into the official comment record.

The hearing officer will call the hearing to order, and explain the procedures that will be followed.

For further information, contact James L. Boynton, Forest Supervisor, Sierra National Forest, 1130 O Street, Fresno, CA 93721. Telephone: (209) 487–5143.

Dated: October 7, 1986.

James L. Boynton,

Forest Supervisor.

[FR Doc. 86–23131 Filed 10–10–86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has sumbitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Economic Censuses General Schedule
Form number: Agency—NC–9923; OMB—NA
Type of request: New collection
Burden: 325,000 respondents; 75,000 reporting hours
Needs and uses: This Survey, to be conducted in FY88, will provide a standard basis for assigning Standard Industrial Classification codes of establishments engaged in all areas of economic activity.
Affected public: Business or other for-profit institutions, non-profit institutions, small businesses on organizations
Frequency: Quinquennially
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: October 8, 1986.

Edward Michals,

Department Clearance Officer, Information Management Division, Management.

[FR Doc. 86–23152 Filed 10–10–86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Microforges

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce 14th & Constitution Avenue NW., Washington, DC.

Docket number: 84–120. Applicant: Harvard University, Cambridge, MA 02138. Intended Use: See notice at 49 FR 13735. Advice submitted by: National Institutes of Health: June 1, 1984.

Docket number: 85–278. Applicant: University of Hawaii, Honolulu, HI 96822. Intended use: See notice at 50 FR 38563. Advice submitted by: National Institutes of Health: April 3, 1986.

Instrument: Microforge.

Manufacturer: Narishige Scientific Instrument Laboratory, Japan.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign instruments accurately shape and fire polish patch-clamp capillary tubes with orifice diameters to about 1.0 micrometer. The National Institutes of Health advises in its respectively cited memoranda that (1) this capability is pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–23156 Filed 10–10–86; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-010]

Carbon Steel Wire Rod From Brazil, Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumpting duty administrative review.

SUMMARY: In response to a request from Insular Wire Products Corporation, an importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on carbon steel wire rod from Brazil that was in effect prior to October 1, 1984. The review covers Companhia Siderurgica Fi-E1, one of the three known exporters of this merchandise to the United States, and the period October 1, 1983 through April 30, 1984. The review indicates the existence of dumping margins for Fi-E1 during the period.

In response to a request from the petitioners, the Department also initiated a review covering the other two known Brazilian exporters. The Department terminated its review of Companhia Siderurgica Belgo-Mineira and Companhia Siderurgica da Guanabara on April 18, 1986, the date the Department received the petitioners' withdrawal of their request for an administrative review.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value for shipments by Fi-E1.

On September 20, 1985, the Department published (50 FR 38150) the final results of a changed circumstances administrative review and the revocation of the order, effective October 1, 1984. Therefore, no cash deposits of eatimated antidumping duties are reguired on this merchandise exported on or after October 1, 1984.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 52110) an antidumping duty order on carbon steel wire rod from Brazil. We began the October 1, 1983 through April 30, 1984 review of the order under our old regulations. After the promulgation of our new regulations, the petitioners, Atlantic Steel Co., Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., and an importer, Insular Wire Products Corporation, requested that we complete the administrative review in accordance with § 353.53a(a) of the Commerce Regulations. The Department published in the **Federal Register** (50 FR 48825, November 27, 1985) a notice of initiation of antidumpting duty administrative review.

The Department terminated its review of Companhia Siderurgica Belgo-Mineira and Companhia Siderurgica da Guanabara on April 18, 1986, the date the Department received the petitioners' withdrawal of their request for an administrative review.

On September 20, 1985, the Department published (50 FR 38150) the final rsults of a changed circumstances administrative review of the order and the revocation of the order, effective October 1, 1984.

Scope of the Review

Imports covered by the review are shipments of Brazilian carbon steel wire rod. This merchandise is currently classifiable under item 607.1700 of the Tariff Schedules of the United States Annotated. The review covers one of the three known exporters of carbon steel wire rod from Brazil and the period October 1, 1983 through April 30, 1984.

United States Price

In calculating United States price the Department used the purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). The purchase price was based on the f.o.b. price to an unrelated purchaser in the United States. There were no packing costs. We made deductions for foreign inland freight and brokerage and handling charges, and added a tax paid in the home market but not collected on the exported merchandise. No adjustments were allowed for taxes levied on both home market and exported merchandise. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the home market price, as defined in section 773 of the Tariff Act. Sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The home market price was based on the c.&f. price to unrelated purchasers in the home market. We made adjustments for inland freight, differences in credit, and differences in commission paid to unrelated parties. We disallowed claims for selling expenses, because these claims were insufficiently substantiated. Appropriate adjustments for home market taxes were made to the United States price. There were no packing costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 11.31 precent exists for Fi–El for the period October 1, 1983 through April 30, 1984.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will

publish the final results of the administrative review, including the results of its analysis of issues raised in any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

On September 20, 1985, the Department published in the Fdederal Register (50 FR 38150) a notice of the final results of its changed circumstances administrative review of the antidumping duty order on carbon steel wire rod from Brazil and its revocation of the order, effective October 1, 1984. This administrative review covering the period October 1, 1983 through April 30, 1984 does not affect the revocation of the antidumping duty order. Therefore, we will instruct the Customs Service to continue to liquidate all entries of this merchandise exported on or after October 1, 1984 without regard to antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: October 7, 1986

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-23158 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-009]

Carbon Steel Wire Rod From Spain; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on carbon steel wire rod from Spain. The review covers the period February 24, 1984 through September 30, 1984 and seven programs.

As a result of the review, the Department has preliminarily determined the net subsidy to be 7.76 percent *ad valorem* for Forjas Alavesas, S.A., and 24.04 percent *ad valorem* for all other firms during the period of review. Interested parties are invited to comments on these preliminary results.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1984, the Department of Commerce ("the Department") published inthe **Federal Register** (49 FR 18089) a countervailing duty order on carbon steel wire rod from Spain. We began this review of the order under our old regulations. On October 1, 1985, after the promulgation of our new regulations, a Spanish exporter, Forjas Alavesas, S.A., requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of this order. We published the initiation of the administrative review on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"). We revoked the order effective October 1, 1984 (50 FR 37018, September 11, 1985).

Scope of Review

Imports covered by the review are shipments of Spanish carbon steel wire rod which includes coiled, semi-finished, hot-rolled carbon steel products of approximately round solid cross-section, not under 0.20 inch nor over 0.74 inch in diameter, no tempered or treated, not partly manufactured, and valued over 4 cents per pound. Such merchandise is currently classifiable under item 607.1700 of the Tariff Schedules of the United States Annotated.

The review covers the period February 24, 1984 through September 30, 1984 and seven programs: (1) A rebate of indirect taxes upon exportation under the DFE; (2) Operating capital loans; (3) Long-term loans; (4) Capital grants for pollution control, energy conservation and economic development; (5) Short-term Privileged Circuit Exporter Credit programs other than operating capital loans; (6) Research and development programs; and (7) Accelerated depreciation and reduction in taxes.

We received a response from Forjas Alavesas, S.A., but we did not receive responses from the Spanish government or from any other firm.

Analysis of Programs

(1) DFE

Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the Desgravacion Fiscal a la Exportacion ("the DFE"), rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of Part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

We requested information concerning the indirect tax incidence on physically incorporated inputs used to produce carbon steel wire rod to determine whether the DFE rebates allowable indirect taxes. However, we did not receive this information. Therefore, we consider the entire DFE rebate to provide a countervailable benefit.

On July 11, 1984, the Spanish government reduced the DFE rebate on steel products from 14.5 percent to 12.3 percent of the f.o.b. invoice price. To calculate the benefit for all firms other than Forjas Alavesas, the single firm responding to the questionnaire, we prorated these two rates according to the proportion of the review period that each rate was in effect. On this basis, we preliminarily determine the benefit to be 13.89 precent *ad valorem.*

Forjas Alavesas used imported as well as domestically produced billets as an input for making wire rod. The DFE rebate is paid only on the domestic value-added content of each shipment. In addition, the Spanish government deducts one percent of the DFE payment if the date of payment from customers is later than 90 days from the date of shipment. We verified the actual amount of DFE payments on wire rod received by Forjas Alavesas during the review period and allocated that amount over the total f.o.b. value of the merchandise exported by the company during the review period. Based on this information, we preliminarily determine that Forjas Alavesas received a

weighted-average benefit of 7.08 percent *ad valorem.*

(2) Long-Term Loans

The Spanish government directs banks to make long-term loans to companies in certain industries at rates or on terms inconsistent with commercial considerations. Such loans are provided for approximately ten years. Forjas Alavesas received long-term loans for pollution control and plant modernization that had outstanding balances during the review period.

To calculate the benefit from these loans, we used the loan methodology in the Subsidies Appendix attached to the notice of final affirmative countervailing duty determination and countervailing duty order on cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984). Forjas Alavesas did not obtain any comparable commercial loans in the years in which it received the non-commercial long-term loans. Therefore, we used as our long-term commercial benchmark the national average interest rate for long-term loans, as published by the Bank of Spain in its *Boletin Estadistico.* Because we were unable to obtain the national average rate of return on equity to calculate the weighted cost of capital, we used the long-term commercial benchmark rate as the discount rate.

Since these loans benefit a company's total production, we allocated the benefit over the company's total sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.43 percent *ad valorem* for Forjas Alavesas during the review period.

For all other firms, we are using the rate for long-term loans from the notice of final affirmative countervailing duty determination on oil country tubular goods (49 FR 47060, November 30, 1984), which is the highest contemporaneous rate from another Spanish case, as the best information available. On this basis, we preliminarily determine the benefit to be 5.75 percent *ad valorem.*

(3) Capital Grants

The Basque Regional Government in Spain provides grants under Law 11/1981 of November 18, 1981, which established the "Center for Energy and Mineral Conservation (CADEM)." These grants are provided to companies in the Basque region that purchase equipment for energy conservation. Orders 478, 627 and 628 established the requirements for obtaining benefits under CADEM. The Basque Regional Government in Spain also provides grants under Order 8/1983 to industries in the Basque region that install pollution control equipment in their plants.

These government grants are designed to cover a portion of total investment by firms in purchasing certain new energy conservation and pollution control equipment required by the Basque government.

Because we were unable to determine whether these grants were provided to more than one industry in the Basque region, and we know of only one company that received these benefits, we consider them to be countervailable.

The Regional Board of the Province of Alava, through Agreements of October 30, 1981 and November 7 and 23, 1981, provides grants to certain industries located in priority zones. Because these grants are available only in certain priority zones within the Province of Alava, we consider them to be countervailable.

Forjas Alavesas received grants under CADEM, Order 8/1983 of the Basque government, and the Regional Board of the Province of Alava during the review period.

To calculate the benefits we applied the grant methodology from the Subsidies Appendix using a 15-year allocation period (the average useful life of assets in the steel industry, according to the U.S. Internal Revenue Service Class Life Asset Depreciation Range System) and the same discount rate as described for the long-term loans. Because these grants benefit a company's total production, we allocated the benefit over total sales of all steel products by Forjas Alavesas during the review period. On this basis, we preliminarily determine that Forjas Alavesas received a benefit of 0.25 percent *ad valorem.*

For all other firms, we are using as the best information available the rate for Forjas Alavesas, which is the highest contemporaneous rate.

(4) Operating Capital Loans

The Spanish government requires banks to set aside funds for short-term operating capital loans as part of its Privileged Circuit Exporter Credit program, which provides short-term financing to exporters at preferential rates. The operating capital loans are granted for a period of less than one year.

Forjas Alavesas had no loans from this program on which interest was due during the review period. Therefore, we preliminarily determine that Forjas Alavesas received no benefits from this program during the review period.

For all other firms, we are using the rate from the final determination in oil country tubular goods from Spain as the best information available. On this basis, we preliminarily determine the benefit to be 3.46 percent *ad valorem.*

(5) Other Programs

We also examined the following programs and preliminarily find that Forjas Alavesas did not use them during the review period.

A. Short-term Privileged Circuit Exporter Credit loans other than operating capital loans;

B. Research and development incentives; and

C. Accelerated depreciation and reduction in taxes.

We found that short-term export credits under the Privileged Exporter Circuit program provided a countervailable benefit of 0.69 percent *ad valorem* in the notice of final results of administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain (49 FR 12730, March 30, 1984). Therefore, we are using this rate as the best information available for all other firms. Because the Department has never found research and development incentives and accelerated depreciation and reduction in taxes to constitute or provide a countervailable benefit in any Spanish case, we preliminarily determine there to be no benefit from these programs.

Preliminary Results of Review

As a result of the review, we preliminarily determine the net subsidy to be 7.66 percent *ad valorem* for Forjas Alavesas and 24.04 percent *ad valorem* for all other firms. Because we consider these rates to be significantly different as defined in section 706(a)(2) of the Tariff Act, we are granting a company-specific rate to Forjas Alavesas.

The Department intends to instruct the Customs Service to assess countervailing duties of 7.76 percent of the f.o.b. invoice price on all shipments of Spanish carbon steel wire rod from Forjas Alavesas, S.A., and 24.04 percent of the f.o.b. invoice price of shipments of this merchandise from all other firms entered, or withdrawn from warehouse, for consumption on or after February 16, 1984 and exported on or before September 30, 1984.

Because we revoked this order effective October 1, 1984, we do not intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties.

Interested parties may submit written comments on these preliminary results within 25 days of the date of publication of this notice and may request disclosure and/or a hearing within 10

days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday afterward. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: October 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-23153 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-003]

Ceramic Tile From Mexico; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ceramic tile from Mexico. The review covers the period July 1, 1983 through June 30, 1984 and 15 programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant to be zero or *de minimis* for 18 firms and 4.43 percent *ad valorem* for all other firms during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Alan Long or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 20871) the final results of its last administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20013, May 10, 1982). On September 10, 1985, September 25, 1985, and October 15, 1985, three Mexican exporters, Azulejos Orino, S.A., Ceramica Regiomontana, S.A., and Vitromex, S.A., requested in accordance with § 355.10 of the Commerce Regulations an administrative review of the order. We published the initiation of the administrative review on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican ceramic tile, including non-mosaic, glazed and unglazed ceramic floor and wall tile. Such merchandise is currently classifiable under items 532.2400 and 532.2700 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1983 through June 30, 1984 and 15 programs: (1) FOMEX: (2) Article 94 of the Banking Law; (3) CERPROFI; (4) FONEI; (5) FOGAIN; (6) State tax incentives; (7) FOMIN; (8) NDP perferential discounts; (9) Import duty reductions and exemptions; (10) FIDEIN: (11) Bancomext loans; (12 Delay of payments on loans; (13) Delay of payments to PEMEX of fuel charges; (14) Preferential state investment incentives; and (15) CEDI.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: pre-export (production) financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interest rate that financial institutions charged borrowers for FOMEX per-export financing outstanding during the period of review, denominated in Mexican pesos, ranged from 7 to 19.30 percent. The annual interest rate for FOMEX export financing, denominated in the currency of the importing country, ranged from 4.50 to 8.10 percent during the period of review.

Since we do not now have sufficient information to measure effective interest rates in Mexico, we chose nominal peso and dollar rates as our benchmarks. For peso-denominated loans, we used as a benchmark for the commercial interest rate in Mexico the average of the nominal interest rates published monthly by the Banco de Mexico in the *Indicadores Economicos*. For dollar-denominated loans, we used interest information obtained from the U.S. Federal Reserve Board.

We consider the benefit, or the cash flow effect, from loans to occur when the interest is paid. The interest on FOMEX pre-export loans is paid at maturity. Since certain FORMEX pre-export loans that matured during the period of review were taken out in May and June 1983, we used peso benchmarks from May and June 1983 and from the period of review. For FOMEX export loans, on which interest is pre-paid, we used only a benchmark for the period of review.

Based on this information, we preliminarily determine that comparable peso-denominated loans were available commercially at 64.65 percent for the pre-export loans outstanding from May and June 1983, and 60.73 percent for pre-export loans obtained during the period of review. Comparable dollar-denominated loans were available at 13.10 percent during the period of review. We found the resulting interest differentials to range between 41.43 percent and 57.65 percent for peso-denominated loans and between 5.00 percent and 8.60 percent for dollar-denominated loans.

Seven of the 25 known exporters of this merchandise used these programs during the period of review. Because we found that three of the exporters were able to tie all FOMEX loans to exports to specific countries, we used only the FOMEX loans on U.S. shipments for those three firms and allocated the benefit over only the value of total U.S. shipments (excluding exports from firms with zero or *de minimis* aggregate benefits) during the period of review. For the other four exporters that were unable to tie their FOMEX loans to exports to specific countries, we allocated their total FOMEX benefits over the total value of their exports. We then weight averaged the resulting benefits by those companies' proportion of total exports to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits) during the the period of review. We preliminarily determine the benefit from

FOMEX pre-export loans to be 3.22 percent, and from FOMEX export loans to be 0.65 percent, for a total benefit during the review period of 3.87 percent *ad valorem*.

On June 16, 1986, the Banco de Mexico changed the interest rates for FOMEX pre-export and export financing to 48 percent and 6.5 percent, respectively. To calculate the estimated duty deposit rate, we compared the new FOMEX interest rates to our most recent commercial benchmarks. The interest differential for peso-denominated loans is 33.76 percent, and for dollar-denominated loans, 5.07 percent. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX benefit of 2.57 percent *ad valerem*.

(2) Article 94 of the Banking Law

Section 2 of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations ("the Banking Law") established that up to 25 percent of a bank's total deposits must be funneled as loans into specially designated sectors of economic activitry. Loans granted under section 2 are obtained at below-market interest rates.

In Circular 1842/79, the Banco de Mexico established 12 categories of industries that are eligible to obtain financing under section 2 of Article 94. Most categories carry their own maximum interest rates, set by the Banco de Mexico. Category 12 consists only of exports of manufactured products.

We consider financing obtained at the preferential interest rate under category 12 of constitute an export bounty or grant because it is given only on merchandise destined for export. One firm received financing under category 12 during the period of review. The interest on category 12 loans is paid at maturity. To calculate the benefit from these peso-denominated loans, we used as a benchmark the same average commercial interest rates as for the FOMEX pre-export loans. The resulting interest differentials were 11.51 percent for loans outstanding from May and June 1983 and ranged between 7.00 and 12.62 percent during the period of review.

Since these Article 94 loans are based on shipments to specific countries, we allocated the benefit that the company received on its exports to the United States over the value of total exports (excluding exports from firms with zero or *de minimis* aggregate benefits) of the merchandise to the United States during the period of review. On this basis, we preliminary determine the benefit from this program to be 0.56 percent *ad valorem*.

(3) CEPROFI

Certification of Fiscal Promotion ("CEPROFI") are tax certificates that are used to promote the goals of the National Development Plan ("NDP") and are granted in conjunction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a variety of federal tax liabilities.

Article 25 of the decree that established the authority for issuing CEPROFI's published inthe *Diario Oficial* on March 6, 1979, requires each receipt to pay a four percent supervision fee. The four percent supervision fee is "paid in order to qualify for, or to receive," the CEPROFI's. Therefore, it is an allowable offset, as defined by section 771(6)(A) of the Tariff Act, from the gross bounty or grant.

Ceramic tile firms can receive CEPROFI benefits under three provisions: "Category I," which makes CEPROFI certificates available for the manufacture and processing of construction an capital goods; "Category II," which makes CEPROFI certificates available for particular industrial activities; and a third provision, which makes CEPROFI certificates available for the purchase of Mexican-made equipment.

The Department held in the final affirmative countervailing duty determination on bricks from Mexico (49 FR 19564, May 8, 1984) that CEPROFI certificates granted for the purchase of Mexican-made equipment are not countervailable since such certificates are available to any company that purchases Mexican-made equipment.

We consider the other two types of CEPROFI certificates to be domestic bounties or grants because they are available only to certain industries. We allocated the benefits each company received from the Category I and Category II CEPROFI provisions, less the four percent supervision fee, over the total value of each firm's sales to all markets during the period of review. We then weight-averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the United States of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from this program to be 0.001 percent *ad valorem* during the period of review.

(4) FONEI

The Fund for Industrial Development ("FONEI"), administered by the Banco de Mexico, is a specialized financial development fund that provides long-term loans at below-market rates. FONEI loans are available under various provisions having different eligibility requirements. The plant expansion provision is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the NDP, which include industrial decentralization. We consider this FONEI loan provision to confer a bounty or grant because it restricts loan benefits to those enterprises located outside of Zone IIIA.

Azulejos Orion, S.A., and Internacional de Ceramica, S.A., were the only two exporters that had FONEI loans for plant expansion or modernization outstanding during the period of review. Azulejos Orion, S.A., received a five-year variable-rate loan in May 1980 and Internacional de Ceramica, S.A., received a six-year variable-rate loan in April 1979.

We treated these variable-rate loans as a series of short-term loans. To calculate the benefits from these peso-denominated loans, we compared our benchmarks (the same average commercial interest rates as for FOMEX pre-export loans) to the preferential interest rates in effect for each FONEI loan payment made during the period of review. We allocated the benefits over the companies' total/sales to all markets. On this basis, we preliminarily determine that Azulejos Orion and International de Ceramica received benefits of 0.06 and 0.10 percent, respectively.

Ladrillera Monterrey, S.A., received a three-year variable-rate FONEI working capital loan in February 1983. In the absence of additional information, we consider this loan to be countervailable. To calculate the benefit from this peso-denominated loan, we used as benchmarks the same average commercial interest rates as for FOMEX pre-export loans.

Because Ladrillera Monterrey is not one of the firms that received zero or *de minimis* aggregate benefits, we have used this company's FONEI benefit as the basis for the country-wide benefit from this program. We allocated the benefit over the company's total sales to all markets. We then weight-averaged the resulting *ad valorem* benefit by the company's proportion of the value of Mexican exports to the United States of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from

this program to be 0.001 percent *ad valorem*.

(5) FOGAIN

The Guarantee and Development Fund for Medium and Small Industries ("FOGAIN") is a program that provides long-term loans to all small and medium-size firms in Mexico. However, the interest rates vary under the program depending on whether a small or medium-size business has been granted priority status, and whether a business is located in a zone targeted for industrial growth.

To the extent that this program provides financing at rates below the least beneficial rate available under FOGAIN, we consider it to be countervailable because of the more beneficial rates available to certain small and medium-size firms in certain types of industries and/or locations. Without these conditions that limit the magnitude of the available benefits, FOGAIN would not be countervailable because all small and medium-size firms in Mexico, regardless of the type of industry or location, are at a minimum eligible to receive FOGAIN loans at the least beneficial interest rate available under the program.

Three firms had FOGAIN loans on which interest payments were due during the period of review. Because the interest rates are variable, we treated the loans as a series of short-term loans. To determine the benefit, we used as our benchmarks the least beneficial interest rates that were available under FOGAIN.

We verified that the interest rates paid by the three firms to their banks for these FOGAIN loans were higher than the least beneficial contemporaneous interest rates available from the government under FOGAIN. We therefore find no benefits from this program during the period of review.

(6) Other Programs

We also examined the following programs and preliminarily find that exporters of ceramic tile did not use them during the review period:

(A) State tax incentives;

(B) National Industrial Development Fund ("FOMIN");

(C) NDP preferential discounts;

(D) Import duty reductions and exemptions;

(E) Trust Fund for the Study and Development of Industrial Parks ("FIDEIN");

(F) Bancomext loans;

(G) Delay of payments on loans;

(H) Delay of payments to PEMEX of fuel charges;

(I) Preferential state investment incentives; and

(J) Tax Rebate Certificates ("CEDI").

Firms Not Receiving Any Benefits

In this case the Department has established a certification process that would allow a rate of assessment and of cash deposit of estimated countervailing duties of zero for those firms certified as having neither applied for nor received countervailable benefits. We have received certificates from 17 firms stating that they neither applied for nor received countervailable benefits during the period of review and would not do so in the future. Those 17 firms are:

(1) Alfareria Montezuma, S.A.
(2) Arturo Carranza de la Pena.
(3) Azulejos Orion, S.A.
(4) Ceramica Santa Julia.
(5) Corporacion Euromexicana Comercial, S.A.
(6) Eduardo S. Garcia de la Pena.
(7) Internacional de Ceramica, S.A.
(8) Industrias AGE, S.A.
(9) J. Garza Arocha, S.A.
(10) Arenas y Barros.
(11) Gres, S.A.
(12) Transcon Distribuidora, S.A.
(13) Juana Maria Ramos Trevino.
(14) Luz Maria de la Pena Sanchez.
(15) Pisos Coloniales de Mexico, S.A.
(16) Porcelanite.
(17) Vitromex, S.A.

During the review period, we verified three of the 17 firms applying for zero rates under the certification process and found that none of those firms received countervailable benefits in excess of *de minimis*. In addition, during this review we found that Alfareria San Marco, S.A., did not receive countervailable benefits.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant during the period of review to be zero for the 18 firms listed above, and 4.43 percent *ad valorem* for all other firms.

The Department intends to instruct the Customs Service not to assess countervailing duties on shipments of this merchandise from the 18 firms and countervailing duties of 4.43 percent of the f.o.b. invoice price on shipments from all other firms exported on or after July 1, 1983, and on or before June 30, 1984.

The Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the 18 firms listed above and to collect a cash deposit of estimated countervailing duties of 3.13 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. These deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the last workday following. Any request for an administrative protective order must be made no later then five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: October 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-23154 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-002]

Cotton Yarn From Peru; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: In response to a request from the Government of Peru, the Department of Commerce has conducted an administrative review of the countervailing duty order on cotton yarn from Peru. The review covers the period January 1, 1983 through December 31, 1983 and three programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant for the period of review to be 28.56 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 34544) the final results of its last administrative review of the countervailing duty order on cotton yarn from Peru (48 FR 4508, February 1, 1983). We began this review of the order under our old regulations. On September 19, 1985, after the promulgation of our new regulations, the Government of Peru requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of the order. We published the new initiation on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 (" the Tariff Act").

Scope of Review

Imports covered by the review are shipments of various Peruvian cotton yarns currently classifiable under the following item numbers of the Tariff Schedules of the United States: 300.60, 301.01 through 301.60, 301.70, 301.80, 301.82, 301.84, 301.86, 301.88, 301.92, 301.94, 301.96, 301.98, 302.01 through 302.60, 302.70, 302.80, 302.82, 302.84, 302.86, 302.88, 302.92, 302.94, 302.96, and 302.98.

The review covers the period January 1, 1983 through December 31, 1983 and three programs: (1) CERTEX; (2) FENT; and (3) The Export Law.

Analysis of Programs

(1) CERTEX

Under the Certificates of Tax Rebate ("CERTEX") program, the Government of Peru issues tax certificates to exporters in amounts equal to a percentage of the f.o.b. invoice price of export shipments. Exporters can use the certificates to pay taxes owed to the Peruvian government. Five exporters used this program during the period of review.

We calculated the benefit under the program by dividing the total amount of CERTEX tax certificates issued on U.S. exports by total exports of cotton yarn to the United States during the period of review. We preliminarily determine the benefit conferred by the program to be 13.95 percent *ad valorem.*

The Peruvian government discontinued this program, effective September 15, 1983, for shipments of this merchandise to the United States. We preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that there is no current benefit from this program.

(2) FENT

Under the Nontraditional Export Fund ("FENT") program, the Government of Peru makes short-term export financing available to exporters of goods not traditionally exported. There are three types of short-term financing: soles loans, foreign currency loans and mixed currency loans. Exporters of cotton yarn used soles and foreign currency (dollar) loans during the review period. The loans are drawn from a fund established by the Banco Central de Reserva Del Peru ("BCRP") and passed through the Banco Industrial del Peru and a commercial bank. Because this program is available only to exporters, we preliminarily determine that it confers a bounty or grant on cotton yarn.

Soles loans are made in amounts of up to 90 percent of the export value of the shipment for a maximum period of 90 days. One exporter received a soles loan at an annual interest rate of 53 percent. To calculate the benefit, we established the differential between the preferential interest rate and a commercial benchmark rate, which we determine is the rate charged by commercial banks on promissory notes. We then multiplied the full loan principal by the interest rate differential, adjusting for the duration of the loan.

Foreign currency loans are granted for a maximum period of 180 days at a concessional annual interest rate of 1 percent. The amount of the loan cannot exceed 90 percent of the export value of the shipment. In order to receive this FENT loan, the firm must borrow in foreign currency from an external commercial source an amount equal to 80 percent of the value of the FENT loan. The BCRP reports the interest rate on these external dollar loans to be the prime rate plus a spread of 1.15 percentage points plus finance charges. The firm must deposit the full amount of this external loan with the BCRP, where it earns an interest rate of the London Interbank Offer Rate ("LIBOR") plus 5 percentage points.

To calculate the benefit, we first determined the annual interest differential between the 1 percent interest on the FENT loan and the average commercial rate for dollar loans available in Peru during the period of review. We multiplied the differential by the full amount of the FENT Loan, adjusting for the duration of the loan. We then calculated the net cost to the firm of the required external dollar loans by subtracting the return on the BCRP deposits of those loans from the cost of the loans. For the period of review, the cost to each firm of the external dollar loans exceeded the return on the BCRP deposits. We subtracted the net cost of those loans from the benefit on the FENT loans. Since the FENT loans are allocated specifically to U.S. shipments, we divided the total benefit by the total exports of cotton sheeting and sateen to the United States. On this basis, we preliminarily find the benefit from this program to be 10.68 percent *ad valorem.*

The Peruvian government discontinued this program, effective September 13, 1983, for exports of cotton yarn to the United States. We therefore preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that there is no current benefit from this program.

(3) The Export Law

The aim of the Law for the Promotion of Exports of Nontraditional Goods ("the Export Law") is to improve the foreign trade structure by promoting nontraditional exports.

Articles 8 and 9 of the Export Law permit exporters of nontraditional goods to invest or reinvest a larger proportion of their income, free of income tax, than is permitted other firms. The benefit is given in the form of a tax credit. One exporter used this program during the review period. To calculate the benefit, we divided the exporter's tax credit by its total exports and multiplied the result by its percentage of total exports of cotton yarn to the United States during the review period. We preliminarily determine the benefit from Articles 8 and 9 to be 0.03 percent *ad valorem.*

Under Article 16 of the Export Law, exporters may defer payment of import duties on machinery used to manufacture merchandise for export if they meet specified export targets set in the Export Law.

The deferral of duties it contingent upon meeting yearly export targets. If exporters achieve all targets within a maximum of five years, they are eligible for full exemption from payment of the duties. The exemption takes effect in the year that the export targets are reached. If the firm fails to meet the export targets, it must pay the duties with penalties. During the period of review, four firms obtained import duty deferrals on exports to the United States.

We consider these import duty deferrals to be equivalent to one-year

interest-free loans because there is uncertainty from year to year whether the duties will be paid or exempted from payment. We calculated the benefit by multiplying the amount of duties deferred by the same benchmark rate we determined for soles FENT loans. We then divided the results by each firms's total exports during the review period and multiplied these amounts by that firms's percentage of the total exports of cotton yarn to the United States. We preliminarily determine the benefit from Article 16 to be 3.89 percent *ad valorem*.

Article 31 of the Export Law, used by one exporter during the review period, provides for reduced shipping rates to exporters of nontraditional goods. The benefit is equal to the difference between the reduced rate and the rate charged to other shippers. We divided this amount by the firm's total exports and multiplied the result by the firm's share of total cotton yarn shipments to the United States. We preliminarily determine the benefit from Article 31 to be 0.01 percent *ad valorem*.

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant to be 28.56 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 28.56 percent of the f.o.b invoice price on any shipments of this merchandise exported on or after January 1, 1983 and on or before December 31, 1983.

The elimination of the FENT loans and of the CERTEX benefits on exports of this merchandise to the United States reduces the total estimated bounty or grant to 3.93 percent *ad valorem*. Therefore, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 3.93 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: October 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary.

[FR Doc. 86-23155 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Steel Slabs; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain carbon steel slabs.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, Room 3099, (202) 377-3833.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Central Steel Products provides that if the U.S. ". . .determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extending delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category. . . ."

We have received a short supply request for the following continuously cast, internally clean low carbon steel:

1. .065 maximum carbon steel slabs used in tin mill product two-piece can applications (drawn and ironed or drawn and re-drawn) and other critical end uses, in widths ranging from 33 to 38 inches;

2. .02 maximum carbon steel slabs used for extra deep draw, hot dipped galvanized, critical exposed automotive applications, in widths ranging from 70 to 72 inches;

3. .05 maximum carbon steel slabs used for critical exposed automotive and office furniture applications, in widths ranging from 58 to 72 inches; and

4. .05 maximum carbon steel slabs used for critical exposed automotive and office furniture applications, in widths ranging from 60 to 66 inches.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

October 7, 1986.

[FR Doc. 86-23159 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Wisconsin-Madison; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW, Washington, DC.

Docket Number: 84-073R. Applicant: University of Wisconsin-Madison, Madison, WI 53706. Instrument: Gas Isotope Ratio Mass Spectrometer System, Model Delta E. Manufacturer:

Finnigan MAT GmbH, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of March 5, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can analyze a small (30 microliter) sample of carbon dioxide with a guaranteed internal precision of ±0.02 o/oo. The National Bureau of Standards advises in its memorandum dated August 25, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23157 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Announcing Research Grants Program; Center for Manufacturing Engineering

SUMMARY: The purpose of this notice is to inform potential applicants that the Center for Manufacturing Engineering, National Bureau of Standards, which conducts a program of basic and applied research in computer automated manufacturing, also administers a program of research grants in highly selected areas of research related to the mission of the Center. Funding available for grants is variable depending upon levels of external support for Center research. During fiscal year 1986 the Center awarded grants totaling approximately $1.5 million. The grant program is limited to unsolicited proposals and is highly competitive.

ADDRESS: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 as referenced under the provisions of OMB Circular A-110 to: Office of the Director, Center for Manufacturing Engineering, National Bureau of Standards, Bldg. 220, Room B-322, Gaithersburg, MD 20899, (301) 921-3421.

SUPPLEMENTARY INFORMATION: The NBS Center for Manufacturing Engineering conducts a program of basic and applied research in computer automated manufacturing. During fiscal year 1986 approximately $1.5 million was made available for grants and cooperative research under this program. Grants made under this research program are awarded on the basis of unsolicited proposals that are in accord with the objective and programs of the Center. Areas of active research include:

(a) Realtime Control. Realtime control of robots, clusters of robots and machine tools (workstations), material handling systems, supporitng devices, and aggregations of workstations.

(b) Automated Systems Integration. Architectural issues for large computer automated systems, initialization, restart, orderly shutdown, error detection and recovery.

(c) Sensory Systems and Adaptive Control. Sensors and applications of sensors to closed-loop control of major systems.

(d) Factory Floor Communications. Development and testing of factory floor communications networks.

(e) Data Management. Development and testing of architectures for distributed data
management on the factory floor.

(f) Robot Metrology. Characterization and measuremant of errors in robot motion and development of techniques to accommodate those errors.

(g) Robot Vision and Sensory World Modeling. Study of models for processing and inference from vision and other complex source sensory systems.

(h) Machine Tool Metrology. Application of software and hardware techniques for improvement of machine tool accuracy and evaluation of machine tool performance.

(i) Automated Process Planning. Development of systematic approach to computer aided process planning leading to fully generative systems.

(j) Organization and Processing of Manufacturing Geometry Data. CAD-directed inspection, common domain data formats, integration of vision data, automated feature selection, automated generation of machining sequences from geometry.

(k) Application of expert systems and artificial intellegience to automated manufacturing systems.

(l) Software Engineering Tools applied to real-time control systems. Development of tools for specification, design, testing, and verification of software for automated manufacturing.

(m) Quality control issues in an automated factory. Development of tools and procedures for measuring quality control during manufacturing operations.

(n) Scheduling in an automated factory. Development of algorithms and simulation/emulation techniques for planning factory scheduling.

Proposal Review Process

All proposals will be reviewed first for suitability of the topic to the mission of the Center. Proposals on topics outside the mission of the Center will be returned. Proposals on topics within the mission of the Center will be reviewed further in accordance with the following process and criteria:

(a) Uniqueness. (20 points) Proposals for research which builds upon or makes direct use of Center results or facilities, or which addresses identifiable problems being investigated in the Center will receive favorable consideration over proposals for general research that could be supported by other grant programs, such as those of the National Science Foundation.

(b) Applicability. (20 points) Propopsals for research which will be conducted at NBS or which will be implemented or tested in facilities of the Center will receive favorable consideration over research to be conducted apart from the Center. It is generally expected that senior workers on the project will find it appropriate to conduct a major portion of their effort on-site at NBS in Gaithersburg, Maryland.

(c) Technical Merit of Proposal. (30 points) Proposals should identify a clearly defined research problem, set forth a technically feasible line of attack, and demonstrate knowledge of the state of the art. Ratings in this category wll be based on these criteria.

(d) Technical Qualifications of Proposer. (30 points) Qualifications of the Principal Investigator and availability of suitable laboratory support will be reviewed under this criterion.

Each proposal reviewed will be considered by a panel of three professionals from NBS. In cases of special technical complexity, experts from other interested government agencies, universities, or industry will be substituted for one or more of the NBS panel. The proposal, with evaluation, will be transmitted to the relevant Division Chief within the Center for Manufacturing Engineering for his or her consideraiton with respect to availability of funding.

Applicants should allow 60 days processing time.

Administrative questions pertaining to the grant process may be directed to the Grant Specialists, Sharon Green, National Bureau of Standards, Bldg. 301,

Room B-158, Gaithersburg, MD 20899. Telephone number (301) 921-2971.

Dated: October 7, 1986.

Ernest Ambler,

Director.

[FR Doc. 86-23079 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Announcement of Change to a Previously Announced Meeting

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

Federal Register Citation of Previous Announcement: 51 FR 35386.

Previously Announced Time and Date of the Meeting: The meeting will convene at 1:00 p.m., October 27, 1986, and adjourn at approximately 4:00 p.m. October 29, 1986.

Changes in the Meeting: The order in which agenda items will be presented at the scheduled meeting on October 27-28, 1986, of the Marine Fisheries Advisory Committee published in the **Federal Register**, October 3, 1986 (51 FR 35386), has been changed.

Portions Open to the Public

October 27, 1986, 1:00-5:00 p.m.—foreign ownership of U.S. flag vessels and non-tariff trade barriers.

October 28, 1986, 9:00-11:30 a.m.—seafood inspection, 1:30-5:00 p.m.—marine fishing license.

Dated: October 7, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries.

[FR Doc 86-23082 Filed 10-10-86; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Agency Information Collection Activities Under OMB Review

ACTION: Pubic Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) An estimate of the number of responses; (5) An estimate of the total number of hours needed to provide the information; (6) To whom comments regarding the information collection are to be forwarded; (7) The point of contact from whom a copy of the information proposal may be obtained.

Revision

DoD FAR Supplement Part 45 and Supplement 3 to the DoD FAR Supplement

The reporting requirement contained in 45.505-14 is a revision to an existing reporting requirement to provide Department of Defense better property management information.

Businesses or others for profit/small business or organizations:

Responses: 76,000

Burden Hours: 38,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, WHS/DIOR/ICD, 1215 Jefferson Davis Hwy., Suite 1204, Arlington, VA, telephone (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Owen Green at the following address: ODASD(P)/DARS, c/o OASD(A&L)(M&RS), Room 3C841, The Pentagaon, Washington, DC 20301-3062, telephone (202) 697-7266. This is a revision of an existing collection.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 8, 1986.

[FR Doc. 86-23133 Filed 10-10-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Policy Board Advisory Committee, Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The defense Policy Board Advisory Committee will meet in closed session on 27-28 October 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Policy Board is to advise the Secretary of Defense, Deputy Secretary and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will hold classified discussions on national security matters dealing with South Asia, chemical weapons and space.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub.L. No. 92-463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this DPB Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means

OSD Federal Register Liaison Officer Department of Defense.

October 8, 1986.

[FR Doc. 86-23134 Filed 10-10-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Acquisition Regulatory Council, Meetings

AGENCY: Department of Defense (DoD).

ACTION: Notice of meetings.

SUMMARY: The Defense Acquisition Regulatory Council will travel to Boston, Massachusetts, and Long Beach, California, during the week of October 20, 1986. The Council will conduct joint Government/Industry meetings at both locations and will discuss acquisition topics of mutual interest. The Council will be available for questions on specific DAR cases and issues.

DATES: October 21, 1986, and October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, 202/697-7268.

SUPPLEMENTARY INFORMATION: The Defense Contract Administration Services Region (DCASR) Boston, Massachusetts 02210-2184, will host the Council's meeting on Tuesday, October 21, 1986, from 8 a.m. to 4 p.m. The point of contact for further information is Mr. Thomas O'Brien, 617/451-4244.

On Thursday, October 23, 1986, from 8 a.m. until 4 p.m., the Council will conduct a joint Government/Industry meeting at the Naval Regional Contracting Center, Long Beach, California 90822. The point of contact for further information is Ms. Mary Jones, 213/547-8451.

Charles W. Lloyd,

Executive Secretary Defense Acquisition Regulatory Council.

[FR Doc. 86-23132 Filed 10-10-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Performance of Commercial Activities: Announcement of Program Cost Studies

The Department of the Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost studies of various functions at the listed activities. The cost study process is a time-consuming procedure and, depending upon the size of the functions involved, can take several months to several years to complete. Upon completion of the cost study process, solicitations will be synopsized in the *Commerce Business Daily* with instructions for potential contractors prior to bid opening. Consolidated bidders' list are not maintained since the solicitations will be processed by various contracting offices throughout the U.S.

Naval Hospital, Camp Pendleton, CA

Data Processing Services

Naval Hospital, Long Beach, CA

Data Processing Services

Fleet Numerical Oceanography Center, Monterey, CA

Operations of ADP Equipment
ADP Magnetic Media Library
Maintenance of Applications Software
Development and Maintenance of Systems Software Other ADP Operations

Naval Medical Command, Northwest Region, Oakland, CA

Data Processing Services
Systems Design, Development & Programming Services

Naval Supply Center, San Diego, CA

Other Storage and Warehousing

Naval Communication Station, Stockton, CA

Audiovisual Services
Custodial Services

Naval Submarine Base, New London, CT

ADP Keypunch Services

Naval Submarine Medical Research Laboratory, Groton, CT

Data Processing Services

Headquarters Naval District Washington, Washington, DC

Administrative Support Services

Naval Medical Command Southeast Region, Jacksonville, FL

Data Processing Services
Systems Design, Development & Programming Services
Other Automatic Data Processing (Provide Technical Support Services)

Fleet Aviation Specialized Operational Training Group Detachment, Mayport, FL

Training Devices and Simulators
Storage and Warehousing

Naval Air Station, Whiting Field, Milton, FL

Refuse Collection and Disposal Services

Naval Hospital, Orlando, FL

Data Processing Services

Naval Hospital, Pensacola, FL

Data Processing Services
Systems Design, Development & Programming Services

Naval Telecommunications Center, Pearl Harbor, HI

Consolidated Maintenance Department (TOO) Management and Support for All Divisions

Naval Training Station, Great Lakes, IL

Other Nonmanufacturing Operations

Naval Hospital, Great Lakes, IL

Data Processing Services
Systems Design, Development & Programming Services

Naval Security Group Activity, Winter Harbor, ME

Heating Plants and Systems
Sewage and Waste Plants and Systems
Buildings and Structures (Family Housing)
Buildings and Structures (Other than Family Housing)

Naval Radio Transmitting Facility, Annapolis, MD

Electrical Plants and Systems

Naval Hospital, Bethesda, MD

Data Processing Services

Naval Medical Data Service Center, Bethesda, MD

Other ADP Operations and Support
Operation of ADP Equipment
Systems Design, Development & Programming Services
Other Automatic Data Processing (Provide Technical Support Services)
Production Control & Customer Services

Naval Air Maintenance Training Group Detachment, Patuxent River, MD

Training Development and Support

Naval Construction Training Center, Gulfport, MS

Training Development and Support

Naval Technical Training Center, Meridian, MS

Printing/Reproduction
Training Development and Support

Naval Air Engineering Center, Lakehurst, NJ

Products Made From Fabrics or Similar Material

Naval Air Technical Training Center, Lakehurst, NJ

Still Photography
Audiovisual Training Aids and Devices
Word Processing Center
Other Administrative Support Services
Training Devices and Simulators

USNS Pt. Loma (T–AGOS2)

Other Water Transportation Services

USNS Mercy (T–AH19)

Other Water Transportation Services

USNS Comfort (T–AH2Z)

Other Water Transportation Services

Naval Hospital, Camp Lejeune, NC

Data Processing Services
Systems Design, Development & Programming Services

Navy Ships Parts Control Center, Mechanicsburg, PA

Base Operations Support
Motor Vehicle Operations
Motor Vehicle Maintenance
Buildings & Structures (Other than Family Housing)

Naval Hospital, Philadelphia, PA

Data Processing Services

Navy Aviation Supply Office, Philadelphia, PA

Base Operations Support
Installation Bus Service
Insect and Rodent Control
Motor Vehicle Operations
Motor Vehicle Maintenance
Electrical Plants and Systems
Heating Plants and Systems
Air Conditioning/Refrigeration Plant
Other Installation Services
Buildings & Structures (Other than Family Housing)

Naval Damage Control Training Center, Philadelphia, PA

Training Development and Support
Training Development and Support

Naval Hospital, Newport, RI

Data Processing Services

Naval Electronic Systems Engineering Center, Charleston, SC

Administrative Support

Naval Hospital, Charleston, SC

Data Processing Services
Systems Design, Development & Programming Services

Naval Supply Center, Charleston, SC

Physical Inventory

Naval Telecommunications Center, Charleston, SC

Custodial Services
Storage and Warehousing

Naval Air Station, Memphis, TN

Aeronautical Support Equipment
Chief of Naval Technical Training, Millington, TN
Administrative Support Services

Naval Hospital, Millington, TN

Systems Design, Development & Programming Services

Naval Hospital, Corpus Christi, TX

Data Processing Services
Systems Design, Development & Programming Services

Naval Guided Missile School, Dam Neck, VA

Word Processing Centers
Other Nonmanufacturing Operations
Administrative Support Services
Administrative Support Services
Printing and Reproduction

Naval Environmental Health Center, Naval Station, Norfolk, VA

Data Processing Services

Naval Medical Command Mid.-Atlantic Region, Norfolk, VA

Data Processing Services
Systems Design, Development & Programming Services
Other Automatic Data Processing (Provide Technical Support Services)

Navy Communication Area Master Station Atlantic Headquarters, Norfolk, VA

Storage and Warehousing (T801) 860201

Navy Management Systems Support Office, Norfolk, VA

Operation of ADP Equipment
ADP Magnetic Media Library

Navy Manpower Engineering Center, Norfolk, VA

Word Processing Center
Develop/Maintain Application Software
Develop/Maintain Systems Software

Naval Hospital, Bremerton, WA

Data Processing Services

Naval Station Seattle, Everett, WA

Library Services
Install Business Services
Pest Control
Motor Vehicle Operations
Motor Vehicle Maintenance
Electrical Plant
Heating Plant
Water System
Sewage/Waste
Air Conditioning
Storage/Warehousing
Messenger Service
Family Housing Management
Building/Structures
Grounds/Surface Areas
Waterways/Waterfront

Naval Radio Station T, Jim Creek, WA

Other Communications and Electronic Systems

Naval Communication Station, Puget Sound, WA

Storage and Warehousing
Administrative Support Services
Communication Centers

Naval Radio Station R, Sugar Grove, WV

Unaccompanied Personnel Housing
Other Recreational, Morale and Welfare Activities

Dated: October 6, 1986.

T.H. Upton,

Head, Commercial Activities Branch.

[FR Doc 86-23078 Filed 10-10-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133F]

Notice Inviting Applications for Research Fellowships Under the National Institute of Handicapped Research for Fiscal Year 1987

Purpose: Provides support directly to highly qualified individuals to conduct research on the rehabilitation of disabled persons. Six proposed priority areas in which individuals may apply for these awards are listed in the Notice of Proposed Priorities published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priorities. If there are any significant changes in the final priorities, applicants will be given an opportunity to amend or resubmit their applications.

Deadline for Transmittal of Applications: The deadline for submission of applications is January 15, 1987.

Applications available: October 28, 1986.

Available Funds: $300,000.

Estimated range of awards: $50,000.

Estimated average size of awards: $50,000.

Project Period: 12 months.

Applicable Regulations: (a) National Institute of Handicapped Research Regulations, 34 CFR Part 356, and (b) When published in final form, the funding priorities for this program.

For Applications or Information Contact: George Engstrom, National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

Program Authority: 29 U.S.C. 760-762.

Dated: October 7, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-23122 Filed 10-10-86; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 13, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 7, 1986.

Carlos U. Rice,

Acting Director, Information Technology Services.

Office of Educational Research and Improvement

Type of Review: New
Title: Fast Response Survey System—Chapter 1 of the Education Consolidation and Improvement Act Participation of Nonpublic School Students
Agency Form Number: ED 2379–25
Frequency: Non-recurring
Affected Public: Businesses or other for-profit; Non-profit institutions
Reporting Burden:
Responses: 900; Burden Hours: 367
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: The purpose of the survey is to collect information on how Chapter 1 participation of nonpublic school students has been affected by the recent Supreme Court decision (*Aquilar* v. *Felton*), which dealt with the provision of Chapter 1 instructional services to students on the premises of nonpublic sectarian (religiously affiliated) schools. Findings of the survey will be used by the Department in Congressionally mandated reports evaluating Chapter 1, which Congress will consider in its reauthorization of Chapter 1.

Type of Review: New
Title: Libraries and Literacy Education Survey
Agency Form Number: G50–19P
Frequency: Once only
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 5,441; Burden Hours: 4,081
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: These instruments survey the extent of library involvement in literacy education and will help to determine what library literacy service models exist in different types of libraries in urban and rural settings. Public, secondary school, and state institutional libraries are being surveyed.

Office of Special Education and Rehabilitative Services

Type of Review: Extension
Title: State Agency Project and Local Educational Agency Recordkeeping
Agency Form Number: B20–19P
Frequency: NA
Affected Public: State and local governments
Reporting Burden:
Responses: 0; Burden Hours: 0
Recordkeeping Burden:
Recordkeepers: 158; Burden Hours: 500.

Abstract: In order to receive a sub-grant under Pub. L. 89–313, State Operated Programs and Local Educational Agencies for Handicapped children must submit an application for a sub-grant to the State Education Agency.

Type of Review: New
Title: Evaluation of the National Institute of Handicapped Research (NIHR) Research and Training Centers Program
Agency Form Number: B20–17P
Frequency: Once only
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 334; Burden Hours: 1,004
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: This evaluation will assess impacts and effectiveness of the Research and Training Centers (RTC) program through a survey of all RTCs and of agencies and organizations that use RTC research findings and training activities to improve rehabilitation practice.

Type of Review: New
Title: Evaluation of Special Rehabilitation Projects and Demonstrations for Severely Disabled Individuals
Agency Form Number: B20–18P
Frequency: Once only
Affected Public: Individuals or households; state or local governments; non-profit institutions
Reporting Burden:
Responses: 33; Burden Hours: 117
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: This report will evaluate the rehabilitation projects for severely disabled individuals and will be used to prepare a report to Congress describing the program and its impacts.

Type of Review: Revision
Title: Grant Application Under the Education of the Handicapped Act
Agency Form Number: ED 9037
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 3,390; Burden Hours: 108,480
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: The application form provides instructions and information necessary for applicants to submit a request for Federal assistance. The information submitted is used by the Office of Special Education to determine grantee eligibility, acceptibility of application, and amount of grant award.

Office of Elementary and Secondary Education

Type of Review: Revision
Title: Instructions for Performance Status Report Law Related Education Program
Agency Form Number: ED 740–1,2
Frequency: Annually
Affected Public: State or local governments; non-profit institutions; small business organizations
Reporting Burden:
Responses: 27; Burden Hours: 81
Recordkeeping Burden:
Recordkeepers: 27; Burden Hours: 54.

Abstract: These instructions are utilized by grantees to submit reports that monitor compliance with the terms and conditions of grant awards under the Law Related Education Program.

Type of Review: Extension
Title: Application for School Assistance in Federally Affected Areas
Agency Form Number: A10–10P
Frequency: Annually
Affected Public: Individuals or households; State and local governments; non-profit institutions
Reporting Burden:
Responses: 3,000,300; Burden Hours: 327,840
Recordkeeping Burden:
Recordkeepers: 3300; Burden Hours: 1.

Abstract: This application is used by local education agencies that apply through their State education agencies for grants under the Impact Aid Program.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Upward Bound Program
Agency Form Number: ED 40–2P

Frequency: Annually
Affected Public: State or local; non-profit institutions; small businesses organization
Reporting Burden:
Responses: 400; Burden Hours: 6000
Recordkeeping Burden:
Recordkeepers: 0; Burden Hours: 0.

Abstract: The form is used to apply for non-competing continuation grants under the Upward Bound Program.

[FR Doc. 23120 Filed 10-10-86; 8:45 am]
BILLING CODE 4000-1-M

Office of Special Education and Rehabilitation Services

Project for Initiating Special Recreational Programs for Handicapped Individuals

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priority for Fiscal Year 1987.

SUMMARY: The Secretary proposes an annual funding priority for grants for Initiating Special Recreation Programs for Handicapped Individuals. The Secretary proposes a single priority to support applications for recreation programs which provide handicapped individuals with the opportunity for contact with non-handicapped peers, other than recreational service personnel, during at least part of the recreational program. The objective of this contact should be the eventual integration of handicapped individuals into existing community recreational programs which serve non-handicapped person.

DATE: Comments must be received on or before November 13, 1986.

ADDRESS: All written comments and suggestions should be sent to: Ed Sontag, Acting Associate Commisisoner, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, Room 3042, Mary E. Switzer Building, Department of Education, 400 Maryland Avenue SW., MS 2312, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Frank S. Caracciolo, Telphone: (202) 732-1340.

SUPPLEMENTARY INFORMATION: Grants for Handicapped Individuals are authorized by section 316 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 777f). Program regulations are established at 34 CFR Part 378. The purpose of the Special Recreation Programs for Handicapped Individuals is to support projects which initiate recreational activities for handicapped individuals to aid in their mobility and socialization.

Eligible applicants: State and public or other nonprofit agencies and organizations are eligible to apply for grants under this program.

Funds available: Final action on the fiscal year 1987 appropriation has not been taken, and the Department has not requested funds for this program in fiscal year 1987. However, in fiscal year 1986 the Congress appropriated $2,200,000 for this program and mandatory reduction required by Public L. 99-177 reduced the amount available to $2,105,000. Any funds appropriated for fiscal year 1987 will be used to support new special recreation projects which address the proposed priority described below.

Proposed priority: In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give absolute preference to applications that integrate handicapped individuals into existing community recreational programs. The purpose of this proposed priority is to support applications which propose to develop exemplary recreational programs that aid handicaped individuals in their mobility, socialization, independence, and community integration. Specifically, applications under this priority must propose recreational programs which provide the opportunity for handicapped individuals to have contact with non-handicapped peers, other than recreational service personnel, during at least part of the recreational program. The objective of this contact should be the eventual integration of handicappoed individuals into existing community recreational programs which serve non -handicapped persons. Applicants will be evaulated according to criteria which appear in program regulations at 34 CFR 378.31.

Projects to be funded: All funds available under this program in fiscal year 1987 will be used to support project applications submitted in response to this proposed priority.

Invitation to comment: Interested persons are invited to submit comments and recommendations regarding this proposed priority. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues a final priority. All comments submitted in reponse to this proposed priority will be available for public inspection, during and after the comment period, in Room 3042 Switzer Building, 330 C Street 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.

Authority: (29 U.S.C. 777f)

(Catalog of Federal Domestic Assistance No. 84.128 Initiating Special Recreation Programs for Handicapped Individuals)

Dated: September 25, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-23121 Filed 10-10-86; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

On October 7, 1986, notice was published of two meetings of the Industry Advisory Board to the International Energy Agency, to be held at Paris, France, on October 14, and 15, 1986 (51 FR 35685). The notice stated that the meetings would be held at the offices of UNESCO, 9 Place de Fontenoy, 75007, Paris. Following publication of the meeting notice, the Department of Energy was advised that the location of the meetings had been changed to the UNESCO Bonvin Building, 1 Rue Miollis, 75007, Paris.

Issued in Washington, DC October 9, 1986.

J. Michael Farrell,

General Counsel.

[FR Doc. 86-23201 Filed 10-9-86; 11:29 am]
BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case Nos. RF-003 and RF-004]

Energy Conservation Program for Consumer Products; Decision and Order Granting Waiver from Refrigerator and Refrigerator-Freezer Test Procedure to Whirlpool Corp.

AGENCY: Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order [Case Nos. RF-003 and RF-004] granting Whirlpool Corporation a waiver for its refrigerator-freezer models equipped with electronic adaptive defrost controls from the existing U.S. Department of Energy refrigerator and refrigerator-freezer test procedure.

FOR FURTHER INFORMATION CONTACT: Michael J. McCabe, U.S. Department of Energy, Office of Conservation and

Renewable Energy, Mail Station CE–132, Forrestal Building, 1000 Independence Avenue SE., Washington, DC 20585; (202) 252–9127
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–12, Forrestal Building, 1000 Independence Avenue SE., Washington, DC 20585; (202) 252–9513.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is herey given of the issuance of the Decision and Order set out below. In the Decision and Order, Whirlpool Corporation has been granted a waiver for its refrigerator-freezer models equipped with electronic adaptive defrost controls, permitting the company to use an alternate test method.

Issued in Washington, DC, October 3, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

Decision and Order of the Department of Energy, Office of Conservation and Renewable Energy

In the matter of: Whirlpool Corp.; [Case Nos. RF–003 and RF–004]

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including refrigerators and refrigerator-freezers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedure or when the prescribed test procedure may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108 (Sept. 26, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

On August 23, 1985, DOE's Office of Conservation and Renewable Energy granted a waiver (Case No. RF–001) from the DOE test procedure to the Whirlpool Corporation (Whirlpool) for refrigerators and refrigerator-freezers on the grounds that the procedure yielded materially inaccurate estimates of the energy consumed by Whirlpool's refrigerator-freezers models equipped with what the Company has termed "electronic adaptive defrost Controls" (ADC). 50 FR 34186. Whirlpool's ADC initiates defrost cycles on the basis of compressor run time, refrigerator and freezer door openings, and the length of the preceeding defrost period.

On March 12, 1986, Whirlpool submitted a Petition for Waiver (Case No. RF–003) of DOE test procedure requirements for a new ADC-equipped basic model which is considered different from the basic model cited in the previous petition. Whirlpool's new basic model, Frigidaire Model FPE26VWD has a different capacity, 25.7 cubic feet, and does not have the SERVA-DOOR feature of the previous model. The petition proposed using the same alternate test procedure determined by DOE in Case No. RF–001.

On April 8, 1986, Whirlpool submitted a Petition for Waiver (Case No. RF–004) of DOE test procedure requirements for another refrigerator-freezer the Company has developed with a slightly revised adaptive defrost control system, Kenmore Model 106.85769. With this design modification the actual interval between defrost cycles could be from six hours to approximately six days, whereas the ADC-equipped basic models addressed in Case Nos. RF–001 and RF–003 have an interval between defrost cycles from six hours to 12 days. Therefore, this petition proposed using the alternate test procedure in Case No. RF–001, but modified to allow use of an estimated factor representing frequency of defrost until field tests are conducted to determine actual frequency of defrost when using this control. Whirlpool has stated it is currently conducting such tests.

According to DOE's regulations, at 10 CFR 430.2, Whirlpool's new refrigerator-freezers described in Case Nos. RF–003 and RF–004 constitute different "basic models" since different capacity and features affect energy consumption. Whirlpool seeks to use the same test method for testing its new ADC-equipped models as was granted in the earlier case discussed above. The arguments presented in the petitions as to faults with the existing DOE test procedure and the basis for an alternative procedure were the same as those presented in the previous petition (Case No. RF–001).

On April 10 and April 18, 1986, respectively, Whirlpool filed an "Application for Temporary Exception" with the Office of Hearings and Appeals (OHA) of DOE in accordance with 10 CFR 205.125. On July 8, 1986, OHA issued a Decision and Order, addressing both applications, granting Whirpool a temporary exception from the DOE refrigerator and refrigerator-freezer test procedure for the two new basic models of refrigerator-freezers which use an electronic adaptive defrost control system and which are manufactured by the firm. OHA stipulated in its decision and Order that the temporary exception relief granted shall remain in effect until the Office of Conservation and Renewable Energy of DOE issues a final Decision and Order with respect to Whirlpool's Petition for Waiver under the authority of 10 CFR 430.27 or until the close of business on November 30, 1986, whichever occurs first.

With regard to Whirlpool's Petitions for Waiver, the Office of Conservation and Renewable Energy published the petitions in the **Federal Register** and solicited comments, data, and information respecting the petitions in conformance with the requirements of 10 CFR 430.27. 51 FR 18655 (May 21, 1986). Comments were received from one manufacturer of refrigerators and refrigerator-freezers, General Electric Company (GE). GE's comments are discussed later in this notice.

The Office of Conservation and Renewable Energy consulted with the Federal Trade Commission on August 4, 1986, concerning the Whirlpool petitions.

Assertions and Determinations

Whirlpool is a manufacturer of home appliances, including refrigerator-freezers. Whirlpool has developed what it terms an "electronic adaptive defrost control" for refrigerator-freezers that initiates defrost cycles in response to operating conditions and usage patterns. Whirlpool's petitions requested DOE to grant Whirlpool relief from the DOE test procedure for refrigerators and refrigerator-freezers for its ADC-equipped refrigerator-freezer models on the basis that the existing test procedure yields materially inaccurate estimates of the energy consumption of such units.

Whirlpool stated that its ADC-equipped refrigerator-freezers initiate defrost cycles on the basis of compressor run time, refrigerator and freezer door openings, and the length of the proceeding defrost period. Whirlpool

cited three faults with using the current DOE test procedure for refrigerators and refrigerator-freezers to evaluate the energy consumption of ADC-equipped refrigerator-freezers.

First, the current test procedure has no provision for determine the interval between defrost cycles for ADC-equipped refrigerator-freezers which would be comparable to actual usage patterns. Second, the current test procedure would likely underestimate the actual energy consumption of such products because the unrepresentative low humidity conditions normally encountered within the product during the test and the lack of refrigerator and freezer compartment door openings during the test lengthens the period between defrost cycles beyond that which would be expected under normal usage conditions. Third, this lengthening of the period between defrost cycles lengthens the duration of the existing DOE test to the point that it becomes unduly burdensome to conduct.

DOE agrees with Whirlpool that the existing DOE test procedure for refrigerators and refrigerator-freezers (Appendix A1) is not appropriate for testing its new ADC-equipped refrigerator-freezers since it would not yield results reflective of the expected energy consumption of such units in actual usage and would be burdensome to conduct because of the extremely long length of each test period. Also, DOE considers that Whirlpool has provided sufficient evidence throughout the waiver process that it is deserving of relief from the DOE test procedure for refrigerators and refrigerator-freezers for its new ADC-equipped refrigerator-freezer models.

In Case No. RF–001, DOE agreed with Whirlpool that the provisions for testing "long-time" automatic defrost refrigerator-freezers found in the existing DOE test procedure could be adapted for testing Whirlpool's ADC-equipped refrigerator-freezer models. DOE determined that the alternate test should be the "long-time" automatic defrost test and the value for the typical time between defrost cycles for use in the alternative test should be three days (72 hours) which equates to 0.33 cycles per day.

For the pending petition, Case No. RF–003, GE argued that Whirlpool did not provide a rationale or test data supporting its request to use the same test procedure as Case No. RF–001 for a model that has different features than the models in that earlier case.

Furthermore, regarding Case No. RF–004, GE maintained that Whirlpool failed to submit technical data supporting its request for use of an estimated factor representing frequency of defrost for the test procedure in Case No. RF–001 to be used on a model equipped with a modified automatic defrost control not covered by the existing waiver.

Although there are differences in features (capacity and through-the-door service) between the basic models in Case No. RF–001 and Frigidaire Model FPE26VWD, Case No. RF–003, DOE does not consider these models to differ significantly in terms of design and time between defrosts. The models in Case Nos. RF–001 and RF–003 defrost between every six hours and every twelve days and may be expected to have similar energy consumption with almost equal efficiencies. Therefore, DOE considers the alternative test procedure prescribed in Case No. RF–001 to be appropriate for the model described in Case No. RF–003 (Frigidaire Model FPE26VWD).

In regard to Whirlpool's request for the Kenmore Model 106.85769, Case No. RF–004, DOE agrees with GE that Whilpool has not provided sufficient data to justify use of an estimated factor representing frequency of defrost. The maximum intervals between defrost periods for the models in Case No. RF–001 and the model in RF–004 (six days and 12 days respectively) will have little, if any, effect on energy consumption. Moreover, while the algorithms employed by the models differ slightly, DOE is not convinced that the models will consume significantly different amounts of energy or have significantly different efficiencies. Therefore, DOE considers the alternate test procedure prescribed in Case No. RF–001, without modification, to be appropriate for the Kenmore Model 106.85769.

General Electric also critized Whirlpool's petitions for not identifying the models for which waivers are requested.

DOE's test procedure waiver provisions require that Petitions for Waiver ". . . shall identify the particular basic model for which a waiver is requested . . ." (§ 430.27(b), 10 CFR Part 430). DOE's interpretation of its regulation is that the information necessary to identify the particular basic model is that which DOE deems necessary to identify clearly the basic model in question. A generic designation of the model line or series which constitutes a basic model may be sufficient in many cases; however, DOE reserves the right to use the specific model numbers of the basic model for identification purposes. Therefore, DOE requested and Whirlpool provided the model numbers applicable to the products covered in the Petitions for Waiver. DOE uses these model numbers in today's Decision and Order to specifically identify the ADC-equipped refrigerator-freezers to which it applies. DOE considers the use of model numbers to be appropriate in this case since there is no reason why the presence or absence of the ADC device on any particular refrigerator-freezer model would be self evident even to an informed observer. The model numbers are used to avoid possible confusion between refrigerator-freezer models covered by today's Decision and Order and those models not covered by today's action.

DOE believes the alternate test procedure prescribed in Case No. RF–001 to reasonably reflect the energy consumption and energy efficiency of Whirlpool's two new ADC-equipped refrigerator-freezer models. Furthermore, consumers will find that the energy consumption and energy efficiency results from this test procedure are comparable to those of conventional refrigerator-freezer models as tested under the existing DOE test procedure for refrigerators and refrigerator freezers.

It is therefore ordered that:

(1) The "Petitions for Waiver" filed by Whirlpool Corporation (Case Nos. RF–003 and RF–004), are hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4). (2) Notwithstanding any contrary provisions of Appendix A1 of 10 CFR, Part 430, Subpart B, Whirlpool Corporation shall be permitted to test its Frigidaire Model FPE26VWD and Kenmore Model 106.85769 refrigerator-freezer models equipped with electronic adaptive defrost controls on the basis of the test procedure specified in 10 CFR, Part 430, with the modifications set forth below:

(i) Section 4.1.2 is modified by adding the following sentence at the end of the section:

"If the model being tested has an electronic adaptive defrost control, the provisions of section 4.1.2.2 shall apply."

(ii) Section 4.1.2.2 is added to read:

"4.1.2.2 Electronic Adaptive Defrost Control. If the model being tested has an electronic adaptive defrost control system, the test time period shall consist of two parts. The first part shall be the same as the test for a unit having no defrost provisions (section 4.1.1). The second part shall start when a defrost period is deliberately initiated during a compressor "on" cycle and shall terminate at the second turn "on" of the compressor motor after the turn "on" at

the conclusion of the defrost period or after four hours, whichever comes first."

(iii) Section 5.1.2 is modified by adding the following sentence at the end of the section:

"For models equipped with electronic adaptive defrost controls, compartment temperatures shall be those measured in the first part of the test period specified in section 4.1.2.2."

(iv) Section 5.2.1.3 is added to read:

"5.2.1.3 Electronic Adaptive Defrost Control. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$ET = (1440 \times EP1/T1) + [EP2 - (EP1 \times T2/T1)) \times 0.33]$

where:

ET and 1440 are defined in 5.2.1.1

EP1 = energy expended in kilowatt-hours during the first part of the test

EP2 = energy expended in kilowatt-hours during the second part of the test

T1 = length of time in minutes of the first part of the test

T2 = length of time in minutes of the second part of the test

0.33 = predicted number of defrost cycles per day.

(3) The waiver shall remain in effect from the date of issuance of this order until the Department of Energy prescribes final test procedures appropriate to Frigidaire Model FPE26VWD and Kenmore Model 106.85769 refrigerator-freezers models equipped with electronic adaptive defrost controls manufactured by Whirlpool Corporation.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, DC, October 3, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 86-23169 Filed 10-10-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA87-1-45-000]

Inter-City Minnesota Pipelines, Limited, Inc.; Request for Waiver of PGA Filing Date and Shortening of Notice Period

October 7, 1986.

Take notice that on September 29, 1986, Inter-City Minnesota Pipeline, Limited, Inc. (Inter-City), filed pursuant to § 154.51 of the Commission's regulations a request for a waiver of the filing date for its annual PGA and a commensurate shortening of the notice period to allow the PGA filing, when made, to become effective on November 1, 1986.

Inter-City states that its annual PGA filing is to be filed on or before October 15, 1986 and to become effective November 1, 1986 pursuant to § 154.38(d)(4)(iv)(a) of the Commission's regulations. Inter-City further states that although it has prepared a filing reflecting current Canadian border rates, it now believes ongoing negotiations involving a contract amendment to lower the purchased gas price for both its Eastern and Western Zones will be completed in the very near future. Rather than file and refile its PGA or to file based on as-yet uncertain rates, Inter-City states that a filing reflecting completed negotiations will be made on or before october 15, 1986 and that it will seek the November 1, 1986 effective date for the reduced rates.

Inter-City further states that a copy of its request was served on all customers and on the Minnesota Public Service Commission.

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 October 15, 1986. 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. 86-23106 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-53-000, 001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

October 8 1986.

Take notice that on October 1, 1986, K N Energy, Inc. (K N) tendered for filing Twenty-Fifth Revised Sheet No. 4, Seventh Revised Sheet No. 4A and Fourth Revised Sheet No. 4B to its FERC Gas Tariff, Third Revised Volume No. 1.

K N states that the proposed changes adjust the rates charged to its jurisdictional customers pursuant to the Gas Cost Adjustment provision (section 19) and the Incremental Pricing Surcharges provision (section 20) of the General Terms and Conditions of its FERC Gas Tariff, to reflect an increase in the base cost of gas and to amortize certain unrecovered gas costs. The proposed changes would increase the commodity rate under each of K N's jurisdictional rate schedules by 18.91¢ per Mcf, of which 1.56¢ per Mcf represents the increase in the base purchase gas cost and 17.35¢ per Mcf represents the increase in the unrecovered gas cost surcharge.

K N states that copies of this filing were served on its jurisdictional customers and interested public bodies.

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 October 16, 1986. 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. 86-23107 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-165-000]

Petition of Kentucky West Virginia Gas Company for Waiver of Commission Regulations and for Direct Billing of Certain NGPA Costs

October 8, 1986.

Take notice that on September 30, 1986, Kentucky West Virginia Gas Company ("Kentucky West") filed pursuant to the Commission's regulations a petition for waiver of the Commission's Natural Gas Policy Act ("NGPA") regulations so as to permit the retroactive qualification of company-owned wells as NGPA sections 107and 108 wells. Kentucky West states that the requested waiver is fully consistent with Commission policy as expressed in *Consolidated Gas*

Transmission Corp., et al., 36 FERC ¶ 61,193 (1986).

Kentucky West also petitions the Commission to permit the direct billing of NGPA prices associated with the wells for which a waiver of the Commission's regulations is sought.

By such petition Kentucky West requests Commission authorization to bill its customers directly for the difference between (1) the amounts each such customer paid during the period December 1, 1978, through March 2, 1983, for Kentucky West's pipeline production for which retroactive well qualification authorization is sought; and (2) the amounts each such customer would have paid if Kentucky West during such time period had not been unlawfully denied the right to price such pipeline production at Natural Gas Policy Act prices, plus interest calculated in accordance with the Commission's Regulations. Customers of Kentucky West will be given the option of paying the direct billing amounts in either a lump sum payment, or in equal monthly installments of direct billing amounts, plus interest, to be paid over a ninety-five month period.

Kentucky West states that its direct billing proposal is the only reasonable and realistic method of implementing the *Kentucky West* mandate and that such proposal (1) affords the only reasonable and practical method of recovering the gas costs involved from the customers who purchased the gas; (2) is necessary to avoid placing an undue burden upon certain Kentucky West customers; and (3) failure to permit direct billing would violate judicial mandate and applicable law.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214. All such motions or protests must be filed on or before October 16, 1986. 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. 86-23108 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-166-000]

Petition of Kentucky West Virginia Gas Company for Direct Billing

October 8, 1986.

Take notice that on September 30, 1986, Kentucky West Virginia Gas Company ("Kentucky West") filed a petition in accordance with the mandate of the United States Court of Appeals for the Fifth Circuit in *Kentucky West Virginia Gas Company* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), and the Federal Energy Regulatory Commission's Order on Remand therefrom.

By such petition Kentucky West requests Commission authorization to bill its customers directly for the difference between (1) the amounts each such customer paid during the period November 1, 1979, through March 2, 1983, for Kentucky West's pipeline production that received well qualifications in accordance with the Commission's Regulations and for which Kentucky West had sought timely recovery through its rates; and (2) the amounts each such customer would have paid if Kentucky West during such time period had not been unlawfully denied the right to price such pipeline production at Natural Gas Policy Act prices, plus interest calculated in accordance with the Commission's Regulations. Customers of Kentucky West will be given the option of paying the direct billing amounts in either a lump sum payment, or in equal monthly installments of direct billing amounts, plus interest, to be paid over a eighty-four month period.

Kentucky West states that its direct billing proposal is the only reasonable and realistic method of implementing the *Kentucky West* mandate and that such proposal (1) affords the only reasonable and practical method of recovering the gas costs involved from the customers who purchased the gas; (2) is necessary to avoid placing an undue burden upon certain Kentucky West customers; and (3) failure to permit direct billing would violate judicial mandate and applicable law.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 and 385.214. All such motions or protests must be filed on or before October 16, 1986. 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. 86-23109 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-2-000]

Mississippi River Transmission Corp.; Application

October 3, 1986.

Take notice that on October 1, 1986, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP87-2-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation of natural gas for Arkla Energy Resources, a division of Arkla, Inc. (AER), pursuant to a Gas Transportation Agreement (Agreement) between AER and MRT, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

MRT requests authorization to receive up to 150 billion Btu equivalent of natural gas per day from AER or for AER's account at three points of delivery at MRT's facilities in Jefferson, Jackson and Faulkner Counties, Arkansas. MRT would redeliver thermally equivalent volumes, less an allowance attributable to compressor fuel, lost gas and gas unaccounted for, at three points of interconnection between MRT's and AER's facilities in Caddo and Ouachita Parishes, Louisiana, it is stated. MRT states that the Agreement provides that, to the extent AER has additional gas it desires to have transported, MRT may, at its discretion, transport such additional volumes. The primary term of the Agreement is 15 years, it is stated.

MRT proposes to charge AER a rate of 9.84 cents per MMBtu equivalent which is based on the non-gas cost of service and billing determinants approved in the settlement of MRT's most recent general rate case in Docket No. RP84-63-000, refined to establish a cost of service for transportation performed only in the southern portion of MRT's system.

MRT states that the proposed transportation would serve the public convenience and necessity, inasmuch as the proposed transportation may under certain circumstances be accomplished by backhaul, and would therefore result in reduced operating costs for MRT and

its customers. MRT also states that the proposed service would be fully interruptible and will be subordinate to transportation of MRT's system supply gas. Finally, MRT states that the proposed transportation would improve AER's gas purchasing flexibility, increase its transportation capabilities and increase the reliability of AER's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for MRT to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23110 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-16-002]

National Fuel Gas Supply Corp.; Proposed Tariff Changes

October 8, 1986.

Take notice that on October 1, 1986, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Substitute Sixth Revised Sheet No. 4 to be effective August 1, 1986, in compliance with Commission Order dated July 31, 1986 in Docket No. TA86-4-16-000. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until October 2, 1986.

National states that the purpose of Third Substitute Sixth Revised Sheet No. 4 is to reflect a net decrease of 55.13 cents per Dth. This change consists of a decrease in current purchase gas cost of 40.12 cents per Dth, and an increase in the purchase gas cost surcharge credit adjustment of 15.01 cents per Dth.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

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 October 16, 1986. 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. 86-23111 Filed 10-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-172-000]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

October 8, 1986.

Take notice that on Septebmer 30, 1986, Transcontinental Gas Pipeline Corporation (Transco) tendered for filing First Revised Sheet Nos. 706 and 707 to its FERC Gas Tariff, Original Volume No. 2.

Transco states that the subject filing reflects a minor revision to its Rate Schedule X-74, which is a gas exchange agreement between Transco and Tennessee Gas Pipeline Company, A Division of Tenneco, Inc. (Tennessee) dated June 25, 1974, as amended, and authorized by the Commission by certificate of public convenience and necessity issued in Docket No. CP74-331 on November 29, 1974. Transco states that the tariff revision is being made to change the balancing provision of the gas exchange agremeent from a volumetric to a thermal basis as provided for in an amendatory agreement between Transco and Tennessee dated June 1, 1986.

The tariff sheets are proposed to become effective June 1, 1986, the date of the amendment to the gas exchange agreement providing for the change in the balancing provision. A copy of the filing has been served upon Tennessee.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in acoordnace with Rules 214 and 211 of the Commission's Rules and Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before October 16, 1986. 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. 86-23112 Filed 10-10-86; 8:45 am]

BILLING CODE 6771-01-M

Western Area Power Administration

Developing and Marketing Power From the Diamond Fork Power System and Jordanelle Powerplant

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Response to comments on proposals for developing and marketing power from the Diamond Fork Power System and Jordanelle Powerplant.

SUMMARY: On March 29, 1985, the Department of Energy, Western Area Power Administration (Western), issued a **Federal Register** notice (50 FR 12619) requesting comments on the proposed Diamond Fork Power System and Jordanelle Powerplant and an indication of interest in non-Federal financing for the proposed project. Further, a combined public information and

comment forum was held in Salt Lake City on April 25, 1985, when representatives of Western and the Bureau of Reclamation (Reclamation) explained the proposal and alternatives for construction and marketing the power produced. The majority of the respondents indicated that interest in non-Federal financing of the proposal was not sufficient to justify continuation with the project as proposed. As a result, Reclamation plans to refine the project's configuration to a smaller size.

ADDRESS: Clarifying information may be obtained by writing to: Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147. Telephone: (801) 524–5493.

SUPPLEMENTARY INFORMATION: The Diamond Fork Power System and Jordanelle Powerplant are features of the Bonneville Unit of the Central Utah Project (CUP). A primary purpose of the CUP is to provide water supplies to central Utah. The Secretary of the Interior was authorized in 1956 to construct, operate, and maintain the CUP as a participating project of the Colorado River Storage Project (CRSP) under section 1 of the CRSP Act, 43 U.S.C. Section 620.

The March 29, 1985, **Federal Register** notice contained the following elements:

1. Proposed five powerplants for the Diamond Fork Power System with an installed capacity of 166.20 MW and one powerplant for the Jordanelle Powerplant with a capacity of 10.40 MW. Total annual generation was estimated at 401.40 gWh. Reductions due to irrigation pumping and municipal and industrial (M&I) use resulted in 154.60 MW of capacity with 368.30 gWh of energy to be available as commercial power.

2. Proposed an optional annual purchase by Western of 300 gWh on a pass-through cost basis to increase the load factor of the available resource.

3. Estimated construction costs including the power system's share of the costs of the facilities serving more than one purpose totaled $272,832,000 of which $235,536,000 was associated with commercial power costs.

4. Provided a construction schedule calling for work to begin in 1990 with an on-line date of January 1, 1994.

5. Allocated costs to non-Federal financing totalling $217,536,000 or approximately 80 percent of the total construction costs.

6. Estimated that the additional repayment obligations would increase the Salt Lake City Area Integrated Projects rate by 4 to 5 mills per kWh, assuming that most existing CRSP customers would participate.

7. Proposed that transmission facilities would be built by Western and funded through either Congressional appropriations or cost participation agreements with interested utilities. The estimated cost of transmission system additions and related construction was $22,600,000. The cost of such transmission would be uncertain until points of delivery were identified.

Comments were received from 23 parties prior to the comment deadline of May 6, 1985. Of these comments, 17 were opposed to all or part of the proposal, particularly the assistance to M&I repayment. Moreover, insufficient interest was shown to be able to proceed with the nonfederally financed portion of the project as proposed.

Respondents were concerned with the expense of the 176.6 MW proposal. The composite cost of generation for the commercial portion of the Diamond Fork Power System would have been approximately 132 mills per kilowatt hour. Respondents stated that this cost was not competitive with other resource options then available. Current CRSP customers were concerned that the high cost of the proposal as presented would cause a significant increase in CRSP firm rates. Under the proposal, CRSP firm rates could have increased by 70 percent.

Very few of the respondents indicated that they were willing to participate in financing the non-Federal portion of the proposal; however, several indicated that they would be interested in a smaller, lower-cost plan. Two respondents submitted alternate designs with lower associated costs for the development of the Diamond Fork Power System.

As a result of the comments received, Reclamation is refining the design of the Diamond Fork Power System. The power system will be constrained by the water delivery system which is now being sized to only accommodate water deliveries of the Bonneville Unit and the Strawberry Valley Project. Western will also need to revise requirements for transmission system facilities and related delivery conditions. Details of the new proposal and an opportunity to comment on the revised plan will be published in a **Federal Register** notice in the spring of 1987. Anyone interested in the development of marketing and allocation procedures can contact Western at the address provided above. Those interested in details of the revised plan can contact: Mr. Clifford Barrett, Regional Director, Upper Colorado Region, Bureau of Reclamation, 125 South State Street, Salt Lake City, UT 84147, (801) 524–5592.

Issued in Golden, Colorado, October 3, 1986.

William H. Clagett,
Administrator.

[FR Doc. 86–2390 Filed 10–10–86; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL. 3094-4]

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: Patricia Minami, (202) 382–2712 or FTS 382–2712.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Potential NESHAP Development for Ethylene Oxide Emission Sources (EPA ICR #1288). (Revision of a currently approved collection.)

Abstract: This is a one-time only request about ethylene oxide use in chemical synthesis. EPA will use the information to determine long-term emission rates for each facility, the population at risk, and the dispersion of ethylene oxide emissions from vents or drains. The ultimate purpose is to estimate the health risks to the U.S. population by modeling human exposure.

Respondents: Owners and operators of facilities that use ethylene oxide in chemical synthesis.

Comments on all parts of this notice may be sent to:

Patricia Minami, 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
Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW, Washington, DC 20503.

Dated: October 6, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86–23010 Filed 10–10–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59788; FRL–3095–1]

Styrene, Acrylic Modified Alkyd; Certain Chemical Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 davs before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 211722). In the **Federal Register** of November 21, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of each.

DATES: Close of Review Period: Y 86–259—October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86–259

Manufacture. Confidential.

Chemical. (G) Styrene, acrylic modified alkyd.

Use/Production. (S) Industrial and commercial protective coatings. Prod. range: 218,000 to 436,000 kg./yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 2 workers up to 5 hrs/day, up to 57 days/yr.

Environmental Release/Disposal. 5 kg/batch released to land. Disposal by landfill and sawdust.

Dated: October 6, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–23105 Filed 10–10–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51644; FRL–3095–2]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-eight such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86–1743, 86–1744, 86–1745, 86–1746, 86–1747, 86–1748, 86–1749, 86–1750, 86–1751 , 86–1752, 86–1753, 86–1754, 86–1755, 86–1756, 86–1757 and 86–1758—December 24, 1986.

P 86–1759, 86–1760, 86–1761, P 86–1762, 86–1763, 86–1764, 86–1765, 86–1766, 86–1767, 86–1768, 86–1769 and 86–1770—December 27, 1986.

P 86–1771, 86–1772' 86–1773, 86–1774, 86–1775 and 86–1776—December 28, 1986.

P 87–1, 87–2, 87–3 and 87–4—December 30, 1986.

Written comments by:

P 86–1743, 86–1744, 86–1745, 86–1746, 86–1747, 86–1748, 86–1749, 86–1750, 86–1751, 86–1752, 86–1753, 86–1754, 86–1755, 86–1756, 86–1757 and 86–1758—November 24, 1986.

P 86–1759, 86–1760, 86–1761, 86–1762, 86–1763, 86–1764, 86–1765, 86–1766, 86–1767, 86–1768, 86–1769 and 86–1770—November 27, 1986.

P 86–1771, 86–1772, 86–1773, 86–1774, 86–1775 and 86–1776—November 28, 1986.

P 87–1, 87–2, 87–3 and 87–4—November 30, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–51644]" and the specific PMN number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201 , 401 M Street, SW., Washington, D.C. 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submisssion provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86–1743

Manufacturer. Confidential.

Chemical. (G) Cresol, aryl aldehyde polymer.

Use/Production. (G) Coating component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1744

Manufacturer. Confidential.

Chemical. (G) Cresol, aryl aldehyde polymer.

Use/Production. (G) Coating component. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1745

Manufacturer. The Dow Chemical Company.

Chemical. (S) 1,3-Phenylene-bis(3-methyl-1-(methyl phenyl) pentylidene)-bis-lithium.

Use/Production. (S) Site-limited polymerization initiator. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 3 workers.

Environmental Release/Disposal. Disposal by incineration.

P 86–1746

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyamide—DB.

Use/Production. (S) Industrial electric and electronic industries, automotive and appliance industries, film and fiber. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Released to air and land. Disposal by navigable waterway.

P 86–1 747

Manufacturer. The Dow Chemical Company.

Chemical. (S) 1,1'-methylenbis(4-isocyanatobenzene); 1,9-nonanedioic acid (azelaic).

Use/Production. (S) Industrial electric, electronic industries, automotive, appliance industries, film and fiber. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential.

P 86–1748

Importer. DSM Resins US, Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. (S) Industrial gravure inks. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/per batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1749

Importer. DSM Resin US, Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. (S) Industrial web fed, heatset offset inks.

Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1750

Importer. DSM Resins US, Incorporated.

Chemical. (G) Maleic modified rosin ester.

Use/Import. (S) Industrial heatset sheet fed offset inks.

Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/per batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1751

Importer. DSM Resins US, Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. (S) Industrial web fed, heatset offset inks.

Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/per batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1752

Importer. DSM Resins US, Incorporated.

Chemical. (G) Phenolic modified rosin ester.

Use/Import. (S) Industrial heatset web offset inks.

Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, 1 hr/per batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1753

Importer. DSM Resins US, Incorporated.

Chemical. (G) Hydrocarbon resin.

Use/Import. (S) Industrial gravure inks. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, 1 hr/per batch.

Environmental Release/Disposal. Disposal by adquate exhaust equipments with dustfilters.

P 86–1754

Importer. DSM Resins US, Incorporated.

Chemical. (G) Hydrocarbon resin.

Use/Import. (S) Industrial hot melt and pressure sensitive hot melt adhesives. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 1 to 3 workers, up to 20 minutes per batch.

Environmental Release/Disposal. No data submitted.

P 86–1755

Importer. DSM Resins US, Incorporated.

Chemical. (G) Hydrocarbon resin.

Use/Import. (S) Industrial hot melt and pressure sensitive hot melt adhesives. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 1 to 3 workers, up to 20 minutes per batch.

Environmental Release/Disposal. No data submitted.

P 86–1756

Importer. DSM Resins US, Incorporated.

Chemical. (G) Fumaric rosin ester.

Use/Import. (S) Industrial gravure and flexo inks for packaging.

Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/per batch.

Environmental Release/Disposal. Disposal by adaquate exhaust equipments with dustfilters.

P 86–1757

Manufacturer. Confidential.

Chemical. (G) Poly (vinyl ester co-saturated dicarboxylic acid ester co-olefin).

Use/Production. (G) Pressure sensitive adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1758

Importer. DSM Resins US, Incorporated.

Chemical. (G) Fumaric rosin ester.

Use/Import. (S) Industrial sheet fed offset inks and overprint varnishes. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal and inhalation, a total of 2 to 5 workers, up to 1 hr/per batch.

Environmental Release/Disposal. Disposal by adequate exhaust equipments with dustfilters.

P 86–1759

Manufacture. ALCOLAC, Incorporated.

Chemical. (G) Epoxidized, hydroxylated natural ester.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total 1 worker, up to 4 hrs/da, up to 48 days/yr.
Environmental Release/Disposal. 26 to 52 kg released to water. Disposal by Publicly Owned Treatment Works (POTW).

P 86–1760

Manufacture. ALCOLAC, Incorporated.
Chemical. (G) Polyalkoxylated, hydroxylated natural ester.
Use/Production. (G) Moisturizer. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 to 4 workers, up to 6 hrs/da, up to 10 days/yr.
Environmental Release/Disposal. 88 to 176 kg released to water. Disposal by POTW.

P 86–1761

Importer. American Hoechst Corporation.
Chemical. (G) Saturated polyester resin.
Use/Import. (S) Industrial organic filler for epoxy powder coatings and polyurethane powder coatings. Import range: 1 ,000,000 to 2,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86–1762

Manufacturer. Confidential.
Chemical. (G) Polyvinyl acetate copolymer.
Use/Production. (S) Industrial coatings applications for textile and paper products. Prod. range: 1,500,000 to 3,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/day, up to 120 days/yr.
Environmental Release/Disposal. 8,000 kg/yr released to land with 1,000 kg/yr to water. Disposal by POTW, permitted lanfill and navigable waterway.

P 86–1763

Manufacturer. Ashland Chemical Company.
Chemical. (G) Modified phenol formaldehyde resin.
Use/Production. (G) Open, non-dispersive use. Prod. range Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 3 hrs/day, up to 12 days/yr.
Environmental Release/Disposal. 1 to 3 kg/batch released to land. Disposal by incineration and sanitary landfill.

P 86–1764

Manufacturer. Ashland Chemical Company.
Chemical. (G) Modified phenol formaldehyde resin.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 3 hrs/day, up to 12 days/yr.
Environmental Release/Disposal. 1 to 3 kg/batch released to land. Disposal by sanitary landfill and incineration.

P 86–1765

Manufacturer. Confidential.
Chemical. (G) Acrylic modified alkyd resin.
Use/Production. (G) Resin is converted into paint systems Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1766

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin is converted into paint systems.Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1767

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin is converted into paint systems. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1768

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin is converted into paint systems. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1769

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resin.
Use/Production. (G) Resin converted to paint. Prod. range: Confidential.
Toxicitv Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1770

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Resin is converted into paint systems. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1771

Importer. CIBA-GEIGY Corporation.
Chemical. (G) Benzotriazole derivative.
Use/Import. (G) Light stabilizer for polymers. Import range: Confidential.
Toxicity Data. Acute oral > 2,000 mg/kg; COD: 2.02 g.
Exposure. Processing: dermal and inhalation, a total of 4 to 8 workers, up to 15 to 30 minutes per day, up to 60 days/yr.
Environmental Release/Disposal. No data submitted.

P 86–1772

Manufacturer. Products Research and Chemical Corporation.
Chemical. (S) Polymer of 2-ethanol, 1, 1'-thiobis; ethanol, 2-mercapto, reaction product with propylene oxide; 3-thiahept-5-ene-1-ol; 1 ,3-propanediol, 2-ethyl-2- (hydroxymethyl) and ethanethiol, 2,2'(1,2-ethanediyl bis [oxy]) bis.
Use/Production. (S) Industrial polymer for adhesives and sealants. Prod. range: 60,000 to 500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 47 workers, up to 8 hrs/day, up to 60 days/yr.
Environmental Release/Disposal. 3 to 5 kg/batch released to land. Disposal by approved landfill.

P 86–1773

Manufacturer. Products Research and Chemical Corporation.
Chemical. (S) Polymer of 2-ethanol, 1, 1'-thiobis; ethanol, 2-mercapto, reaction product with propylene oxide; 3-thiahept-5-ene-1-ol; 1,3-propanediol, 2-ethyl-2-(hydroxymethyl) and ethanethiol, 2,2'-thiobis.
Use/Production. (S) Industrial polymer for adhesive and sealants. Prod. range: 60,000 to 500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 47 workers, up to 8 hrs/day, up to 60 hrs/yr.

Environmental Release/Disposal. .3 to 5 kg/batch released to land. Disposal by approved landfill.

P 86–1774

Manufacturer. Products Research and Chemical Corporation.

Chemical. (S) Polymer of ethanol, 2-mercapto oxirane extended, hydroxy terminated and methylene bis-(4-cyclohexyl isocyanate).

Use/Production. (S) Industrial polymer for adhesives, sealants, and coatings. Prod. range: 50,000 to 200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 49 workers, up to 4 hrs/day, 80 days/yr.

Environmental Release/Disposal. 5 kg/batch released to land. Disposal by approved landfill.

P 86–1775

Manufacturer. Products Research and Chemical Corporation.

Chemical. (S) 1,5,14,18-Tetrahydroxy-7,12-dioxa-3, 16-dithiaoctadecane.

Use/Production. (S) Site-limited and industrial crosslinking agent for adhesives, sealants, coatings and encapsulating formulations. Prod. range: 1,000 to 5,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 9 workers, up to 2 hrs/day, 4 days/yr.

Environmental Release/Disposal. 1 kg/batch released to land. Disposal by approved landfill.

P 86–1776

Manufacturer. Confidential.

Chemical. (S) Polymer of phthalic anhydride; 2,2,4-trimethyl-1- 3-pentanediol; 2,2-oxybis (ethanol); 2-ethyl hexanol; trimethylolpropane; and fascat 4100.

Use/Production. (S) Industrial and site-limited polymer for general metal finishing. Prod. range: 100,000 to 250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 13 workers, up to 1 hr/day up to 36 days/yr.

Environmental Release/Disposal. .5 to 40 kg/day released to air and land. Disposal by incineration and sanitary landfill.

P 87–1

Importer. Confidential.

Chemical. (G) Aliphatic polycarboxilic acid metal salt.

Use/Import. (G) Contained use bleaching agent. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 87–2

Importer. Confidential.

Chemical. (G) Substituted polyester of neopentyl glycol.

Use/Import. (G) Coatings for industry. Import range: 1,500 to 15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 28 workers, up to 4 hrs/day, up to 260 days/yr.

Environmental Release/Disposal. .02 to .8 kg/batch released to land. Disposal by sanitary landfill and incineration.

P 87–3

Importer. Confidential.

Chemical. (G) Polymer of styrene with substituted acrylate and methacrylate.

Use/Import. (G) Industrially used coatings with dispersive use. Import range: 3,000 to 32,300 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 6 workers, up to 2 hrs/day, up to 66 days/yr.

Environmental Release/Disposal. .05 to .2 kg/batch released to land. Disposal by sanitary landfill and incineration.

P 87–4

Importer. MTC America Incorporated.

Chemical. (G) Bis (p-ethylbenzylidene) sorbitol.

Use/Import. (G) Nucleating agent. Import range: Confidential.

Toxicity Data. Acute oral: 50,000 parts per million (ppm): Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

Dated: October 6, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–23104 Filed 10–10–86; 8:45 am]

BILLING CODE 6560–50–M

Farm Credit Administration

District Director Elections

AGENCY: Farm Credit Administration.

ACTION: Notice of decision.

SUMMARY: Section 607 of the Farm Credit Amendments Act of 1985 (1985 Amendments) amended section 5.2 of the Farm Credit Act of 1971, as amended (Act), to provide for the direct election of the at-large member of each Farm Credit System (System) district board. In response to questions concerning the implementation of this provision, on January 29, 1986, the Farm Credit Administration (FCA) informed the System that district directors who were appointed and confirmed before December 23, 1985, and whose terms commenced before January 22, 1986, could continue to serve out the remainder of their terms. (Letter from Donald E. Wilkinson, Acting Chairman, to Ed Breihan, Chairman, Tenth Farm Credit District Board, January 29, 1986.)

On June 27, 1986, a Petition in the Matter of Elections of the At-Large Members of Each Farm Credit District Board was filed with the FCA by a group of System borrowers (petitioners) requesting that the FCA immediately implement section 5.2 and hold elections to fill the at-large director positions. In response to this petition, the Farm Credit Administration Board (Board) determined at its July 1, 1986 meeting that public comment should be solicited on the implementation of the at-large director election provisions of the 1985 Amendments. Accordingly, on July 10, 1986, the Board published in the **Federal Register** an invitation for public comment on the issue. The Board requested comments on whether the at-large district directors should be elected either immediately without regard to existing terms of appointed directors or after the terms of the appointed directors expire. The Board also invited comments on any other aspect of district director elections that would be useful in the regulation of district board elections. The Board determined that comments should be submitted to the agency on or before August 15, 1986. *See* 51 FR 25069 as amended by 51 FR 26014.

The FCA Board considered all of the comments received and reached a decision at a meeting held on Wednesday, September 3, 1986. The Board made the following determinations.

1. The ongoing election of directors-at-large whose current terms expire on December 31, 1986, shall be completed;

2. The election process shall begin immediately for directors-at-large whose terms will expire on December 31, 1987 and 1988;

3. Appointed director positions shall not be vacated and such persons shall occupy their positions until they voluntarily leave the board or until their successors are elected;

4. Directors whose terms would otherwise expire on December 31, 1987, and December 31, 1988, shall expire on December 31, 1987; and

5. The terms of the at-large directors shall be 3 years ending on December 31, 1990, for those directors replacing appointed directors whose terms expire on December 31, 1987, and 4 years ending on December 31, 1991, for those directors replacing appointed directors whose terms expire on December 31, 1988; and thereafter, all terms of directors-at-large will be 3 years.

SUPPLEMENTARY INFORMATION:

Petitioners advanced a number of legal and policy arguments to suport their claim that the FCA has an obligation to hold immediate elections for the at-large director positions. They believe that Congress' use of the word "shall" without any qualification or limitation indicates that elections are to be held immediately. Petitioners note that Congress deleted all references in section 5.2 to the Governor's appointment power and substituted a requirement that borrowers-at-large shall elect the at-large director. The sole contingency, in petitioners' view, was the provision in section 401 of the 1985 Amendments that provided a 30-day delayed effective date for the amendments. Petitioners believe that their right to elect the at-large director vested on the effective date of the 1985 Amendments.

Petitioners state that their position is supported by section 402(d) of the 1985 Amendments, which provides that appointments made under the Act prior to the date of enactment would remain valid until superseded or replaced under the authority of the 1985 Amendments. Upon the 1985 Amendments becoming effective, petitioners assert that such appointments were terminated.

In contrast to that argument, petitioners suggested that the transition provision in section 402(d) did not apply to section 607. They note that section 402(d) arose in the House bill, H.R. 3792, which contained no provision modifying the method of choosing the at-large director. They stated that section 607 originated in the Senate bill, S. 1884, which did not contain a transition provision with language comparable to that in section 402(d). Accordingly, petitioners assert that Congress did not intend to allow appointed directors to continue in office. Petitioners argue that where Congress intends the term of an official to continue past the date of legislative change, the extension is expressly provided for in the statute.

Petitioners state that the legislative history of the 1985 Amendments also supports their position. They observe that one of the principle purposes of the 1985 Amendments was to break the structural ties between the FCA and System institutions and remove the FCA from management of System institutions. The FCA's failure to implement the at-large director provision has preserved a structural tie that must be severed. Petitioners assert that, for the FCA to be a truly independent regulator, it must hold immediate elections to select replacements for the appointed directors. Furthermore, this is a remedial provision, which as a matter of statutory construction should be interpreted broadly and implemented without delay. Any different rule would frustrate Congress' purpose.

Petitioners advance a number of policy reasons to support their request for immediate elections. One of the acknowledged principle considerations in the passage of the 1985 Amendments was the emphasis on maintaining and enhancing local control of the System through mechanisms such as the election of the at-large director. The FCA's failure to implement this provision is at odds with its ministerial duty and the intent of Congress. It gives the appearance that the agency is opposed to local control.

Petitioners question who the appointed directors represent since they were appointed by the Governor and that position has been abolished. They believe Congress did not intend for individuals who are not accountable to anyone to sit on the district boards in light of the need for responsible corporate governance in these financially stressful times. Petitioners argue that the safe and sound management of System institutions dictates that the FCA hold immediate elections to permit accountable directors to take office.

Petitioners also believe that Congress did not intend for the uneven treatment of shareholders between the districts that are currently electing at-large directors and shareholders in other districts that presently cannot elect directors until the terms of the appointed directors expire. Therefore, petitioners believe that immediate elections for the at-large director position should be held.

Comments From Public

The FCA received 40 comments to the Notice. Of these comments, six arrived after the corrected closing date for comments, August 15, 1986. However because of the confusion which may have resulted by the original publication of an incorrect date, the Board considered all the comments received.

Of the comments received, 39 addressed the issue of implementation of the at-large election provisions of the 1985 Amendments. The remaining comment expressed concern over the turnout of eligible voters in district elections and offered suggestions to encourage more active involvement by voters in the election process. The commentators include 24 shareholders of various System institutions, of which 15 are residents of the State of Texas and 9 of those individuals are directors of Federal land bank associations (FLBA) located in Texas. The remaining commentators included eight FLBAs, six of which are from the Texas District; the Board of Directors of the Tenth Farm Credit District; a Congressman; the president of a commercial bank located in Texas; a shareholders' advisory committee; three individuals; and the Farm Credit Corporation of America (FCCA), who claimed to represent the 37 banks of the System.

There were 37 comments in favor of holding immediate elections for the at-large director positions. One commentator offered a suggestion related to the at-large election process. The FCCA, claiming to represent the 37 banks, opposed immediate implementation of the provisions.

A number of commentators expressed total support for the petition and recommended that the agency grant the relief requested. A common theme of a number of the shareholders and FLBA commentators is that the FCA has a mandatory, nondiscretionary duty to immediately hold elections. They argue that failure to immediately hold elections discriminates against shareholders based on their residence. They observed that the Columbia, St. Louis, Wichita, and Spokane districts are in the process of electing at-large directors to their district boards while the shareholders in the remaining districts will not elect directors until 1987 or 1988, depending on when the term of the appointed director expires. These commentators argue that Congress did not intend such an unfair result.

A number of other commentators viewed the at-large election provisions as intended to strengthen local control and allow shareholders a voice in the operation of the System. They argued that the 1985 Amendments granted them the right to vote in director elections and the failure to implement this provision abridges such right. One FLBA commentator stated that the election of the at-large director would give

associations the ability to voice their opinions and reclaim some of the local control that has recently been lost in the System. It believes that if this loss of local control continues, the System will not be shareholder-controlled and, as a result, shareholders will lose contact with the System.

Other commentators expressed a number of varied concerns. One shareholder expressed the opinion that the problems of the System are due to the misuse of power by the FCA and that problems began when local associations lost control of the System. Another commentator expressed the opinion that because appointed directors may be in office illegally, any board votes taken by such persons may also be illegal. A number of the shareholder commentators asserted that because appointed directors were placed in their positions by the former Governor, such directors represent the former Governor or the FCA and not shareholders.

Several of the association commentators expressed the belief that immediate elections will not be disruptive and will not destory continuity on boards. In support of that argument, one commentator noted that the most recent appointee to the Tenth Farm Credit Board had no previous experience on it and had replaced a 6-year veteran of the board. It asserted that the election of a replacement director could only add to the continuity of the board. Another commentator expressed the opinion that any objections to elections based on the need to preserve continuity do not outweigh the right of shareholders to have a voice in the management of System institutions.

Although not addressed by most commentators, a few persons expressed an opinion regarding the term of the at-large director. One association suggested that at-large directors should serve the remainder of the appointed term. Another association suggested that at-large dirctor serve a 3-year term.

In an unrelated matter, one association commentator stated that independent associations in a consolidated district should be permitted to select the at-large director because, otherwise, the consolidated association would always be able to elect the at-large director.

A Congressman opined that failure to institute at-large director elections is inconsistent with congressional intent to reform the governing process of the System. Consistent with the position of a number of the commentators, the Congressman believes that arguments based on the issues of the need for continuity and staggered terms are irrelevant to the Board's decision. The Congressman, along with several other commentators, also noted that there's nothing to prevent appointed directors from running in the election process.

Another concern expressed by several commentators was that the System needs to work together to accomplish common goals. They stated that it is important to the financial markets for the system to eliminate any divisiveness over matters such as the election of at-large directors. These commentators believe the FCA must do all it can to resolve these controversies and has an obligation to hold elections immediately. Several of the commentators urge that whatever the FCA does, it should reach a decision immediately so the financial markets will have a chance to respond.

In contrast to the opinions of the other commenters, the FCCA believes that appointed directors should be allowed to complete their terms. The FCCA believes its position is supported by both the 1985 Amendments and a number of policy arguments including the maintenance of board continuity; the maintenance of staggered terms for directors; the need to avoid potential problems that could arise if a district board had only six members, even on a temporary basis; and the need to avoid the expense associated with unscheduled elections at this critical time when the System is suffering severe financial stress.

The FCCA argues that section 607 of the 1985 Amendments must be read in conjunction with section 402. It believes that the language of section 402(d) authorizes appointed directors to complete their terms. The FCCA disagrees with petitioners' argument that section 402 does not apply to section 607.

The FCCA believes that section 402 is analogous to provisions in previous amendments to other Farm Credit Acts in which Congress has reconstituted one or more boards and has specifically provided that incumbents continue to serve until their terms expire. The FCCA argues that if Congress had intended to immediately replace all appointed directors with newly elected directors it could have easily made that intent clear in the 1985 Amendments. The FCCA notes there is not a single reference in the legislative history to indicate that Congress intended to implement the at-large director provisions through immediate elections.

In response to petitioners' comment regarding whether appointed directors represent anyone, the FCCA noted that under general corporate legal principals, directors are responsible to shareholders for their actions. They argued that, as a matter of law, a person assuming an appointed directorship would have a fiduciary duty to the institution and its shareholders, not the FCA.

The FCCA expressed concern over the extremely low percentage of ballots cast in a recent at-large election. It believes this demonstrates a clear need to provide better information to shareholders regarding the election process. It suggested that the FCA should provide shareholders with information concerning eligibility criteria for the nomination and election process, and the name and telephone number of an FCA employee who could be contacted regarding additional information and to answer questions concerning the election process. The FCCA also commented that the FCA should coordinate the timing of press releases so that information reaches the voters in a timely fashion.

The FCCA suggested that there was a need for the FCA to establish guidelines concerning the role of System officers, employees, and directors in elections. Specifically, the FCCA believes that such individuals should not answer questions from voters regarding eligibility and conflict of interest, but that it would be appropriate for them to prepare materials educating borrowers concerning the background, purpose, and process of at-large elections. In a final comment, the FCCA believes that each individual borrower is entitled to one vote regardless of whether a borrower has a loan from more than one System institution.

A stockholders' advisory committee also expressed concern over the low voter turnout in the at-large election process. It recommended that the FCA consider expanding the information given to voters regarding the election process by describing the qualifications, duties, and responsibilities of district directors. In addition, the FCA should provide information to association boards of directors to be used to explain at-large director election procedures to members.

Opinion of the Board

The arguments of the commentators supporting immediate elections are, for the most part, simple, brief distillations of detailed arguments presented by petitioners. The FCCA disputes the legal arguments asserted by petitioners and offers a number of policy arguments in opposition to immediate elections. The Board's determination of the issue is based on an analysis of the claims raised in the petition and the arguments

raised by the commentators supporting or opposing immediate elections.

Section 5.2 of the Act does not impose a ministerial, nondiscretionary duty on the FCA to hold immediate at-large director elections. Contrary to the argument of the petitioners, the use of the word "shall" in section 5.2 is not determinative of the issue. The regulation only requires that at-large directors be elected by borrowers-at-large and does not impose a requirement for immediate implementation of the provision.

Petitioners argue that section 402(d) does not apply to the tenure of the at-large directors since that section came from House bill H.R. 3792, which did not include any provision amending the election of district board members. In effect, petitioners are suggesting that in order to determine the interaction between various sections of an act, one must discern the origins of the particular sections in question. Under petitioner's approach, if a provision was drafted in one chamber without contemplation of another provision that was adopted in the other legislative chamber, the effect of the one provision on the other may be disregarded. This analysis appears to disregard the fact that both Houses of Congress enacted and the President signed the entire 1985 Amendments, including both provisions in question. Moreover, reliance on the legislative history of a provision only has relevance in situations where the statutory language is not clear. In this instance, spection 402(d) plainly provides that all appointments, including at-large director appointments, remain in effect until superseded by the 1985 Amendments.

Petitioners claim that Congress' failure to include in the 1985 Amendments a provision specifically providing for appointed directors to continue in their positions evidences congressional intent that appointed directors be immediately replaced with elected directors. Petitioners' statutory analysis is not compelling. First, Congress has provided in section 402(d) a provision that allows for the continuation of appointments made prior to the effective date of the 1985 Amendments. Second, an analysis of prior Farm Credit Acts illustrates that Congress has taken various approaches to address the issue of holdover appointments. Generally, where Congress has intended the person to immediately step down upon the effective date of a new act, the act has included a specific provision to that effect. For example, the Farm Credit Act of 1953 (1953 Act) changed the Governor from a Presidential appointee to an appointee of the Federal Farm Credit Board (FFCB). The 1953 Act directed that upon its effective date, the existing Governor would be replaced by an interim Governor until a successor was selected by the FFCB. A comparable provision relating to the Governor was also included in the 1985 Amendments. The absence of this type of transition provision regarding appointed directors supports the argument that their positions are not terminated until replacement directors have been elected.

While the Board concurs in the FCCA's observation that there is no specific reference to Congress' intending that the FCA hold immediate at-large director elections, the Board finds that neither is there any indication from the legislative history that Congress intended appointed directors to serve out the remainder of their terms.

Petitioners' also argue that one of the primary purposes of the 1985 Amendments, the establishment of the FCA as an arm's-length regulator, will be negated if appointed directors continue in office. This argument is premised on petitioners' perception that appointed directors owe no duty to their institution and serve at the day-to-day direction of the FCA. There is no validity to this argument. Upon appointment to a district board, the director's fiduciary duties run to the stockholders of the bank and the bank itself. Neither the Act nor any other statutory provisions authorized the FCA to exercise any control over such person's conduct while on a district board. Indeed, appointed members had no reporting obligations to the Governor or the FCA and did not serve at the pleasure of the Governor or the FCA. The Board acknowledges it could be argued that since appointed directors could be reappointed for one additional term, they would be sensitive to the wishes of the Governor during their first terms. However, this argument has no further relevance since the reappointment power no longer exists.

The Board finds that the FCCA's concerns regarding the continuity of service of board members, continuity of staggered terms, continuation of a full board, and the expense of elections are not determinative. Every time a new director is elected to any board there is a break in continuity. This is inherent in the election system. The existing staggered terms can be maintained by electing directors for different terms as provided for by section 5.1 of the Act. The FCCA's third concern regarding the continuation of a full board is addressed in section 402(d), which provides that existing at-large directors shall hold office until their successors are elected. Thus, the board would remain at seven members. In any event, even if a board loses one of its members, that would not be a unique occurrence. District boards have functioned with less than seven members in the past. With respect to the expense, the Board acknowledges these are financially stressful times; however, if the 1985 Amendments require immediate elections, any expense involved must be borne as a statutory cost of doing business.

Accordingly, the Board believes neither the arguments of petitioners and supporting commentators nor counterarguments of the FCCA are conclusive with respect to determining whether the FCA must hold immediate elections for the at-large director positions. However, a provision in the 1985 Amendments not cited or discussed by any of the commentators, section 403—Sense of Congress, provides insight into Congress' intent with respect to section 607.

In section 403, Congress stated that the 1985 Amendments should be implemented as soon as practicable. Although a Sense of Congress provision does not have the force of law, it is a demonstration of Congress' purpose or design with respect to the accompanying legislation. The fact that Congress used a nonbinding provision is evidence that it intended to leave the timing of the implementation to the sound discretion of the FCA. Congress recognized that while it might be preferable to implement various provisions quickly, this desire must be balanced against the necessity of a smooth transition period and an intent to avoid needless confusion and disruption in the operation of the System. Thus, the Board finds that section 403 supports the election of replacement directors in an orderly manner and within a reasonable time frame and that the terms of appointed directors would expire upon the election and assumption of office of their successors.

The Board finds that due to statutory requirements, the logistics involved and the fact that there are 24 other district director elections scheduled in 1987, it appears that the election process cannot be completed until December 1987. Specifically, the FCA must conduct a contracting competition to select vendors to handle the printing, envelope stuffing, and mailing of nomination and election ballots. Prior to sending nomination ballots, each district bank must prepare and transmit to the FCA a list of eligible voters, which the Board estimates will number 512,000 persons.

Section 5.2 of the Act specifies that nomination ballots shall be sent to borrowers-at-large 60 days prior to the date of nomination. Based on the nominations received, the FCA tallies the votes and directs the vendor to prepare an election ballot consisting of the two nominees receiving the highest number of votes. Section 5.2 requires that election ballots be mailed to voters 60 days prior to the date of election. Upon receipt of the completed election ballots, the FCA counts the votes and determines the person selected as at-large director. Further complicating the election process are the 24 regular district director positions up for election in 1987; two positions in each district, one person to be elected by FLBAs and the other by PCAs.

In order to ensure that all at-large elections are completed in a timely manner, the Board has determined that all at-large directors elected in 1987 shall have their terms commence on January 1, 1988. In addition, the Board finds that to preserve the present staggering of terms of at-large directors and to avoid the expense of holding additional elections in 1988, the directors replacing appointed directors whose terms will expire on December 31, 1987, shall be elected for 3-year terms, and the directors replacing appointed directors whose terms will expire on December 31, 1988, shall be elected for 4-year terms. Thereafter, all director terms shall be 3 years in length.

With respect to the commentator's request that the independent, nonconsolidated associations be permitted to elect the at-large director, staff observes that the commentator misunderstands section 5.2. Section 5.2 authorizes all borrowers-at-large not including associations to vote for the at-large director. As such, no action can be taken on the associations' recommendation.

With regard to the general comments on district elections, the Board agrees that voting should be encouraged. In the most recent at-large director elections, the FCA included in the nomination ballots mailed to voters, information regarding qualifications requirements and nomination procedures. However, the agency's only statutorily authorized function and responsibility is to carry out the election duties specified in section 5.2 of the Act and, therefore, the agency is limited in the actions it can undertake. The Board believes that it is the System's responsibility to undertake programs to improve voter turnout. Providing detailed information to voters and institutions for dissemination to voters is best performed by the System. System institutions have closer contact with shareholders/voters and have greater resources than the FCA to develop and disseminate such information in an efficient and cost-effective manner.

In response to the FCCA's comment regarding guidelines for elections, the Board notes that existing regulations at §§ 612.2200 and 612.2230 offer guidance to bank and association employees regarding appropriate behavior during the election process.

The Board disagrees with the FCCA's interpretation of section 5.2 and finds that a person is entitled to more than one vote if that person has loans from more than one institution. Congress' use of the conjunctive "and" rather than the word "or" in section 5.2(a)(2)(B) indicates that a person can be a borrower-at-large in more than one institution. The reference in section 5.2(c) to the vote of a borrower-at-large refers to each borrower-at-large in an institution as having a single vote. It does not preclude a person from being a borrower-at-large in two institutions. From a policy standpoint, this interpretation is consistent with the recognition that each borrower in the different institutions has concerns unique to that organization and, accordingly, should have the right to vote these different interests.

Frank W. Naylor, Jr.,

Chairman.

Marvin Duncan,

Member.

[FR Doc. 86-23069 Filed 10-10-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the paperwork reduction act of 1980.

Title of Information Collection: Application for a Merger or Other Transaction Pursuant to Section 18(c) of the FDI Act (Phantom Bank Merger and Corporate Reorganization) (OMB No. 3064-0015).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget Standard Form 83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval to extend, for a three-year period, the expiration date of the form used by FDIC-supervised banks who apply for a merger-type transaction under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) that involve a phantom bank merger or other merger which is for the purpose of corporate reorganization. The form, FDIC 6220/07, requires the applicant to furnish information concerning the terms and conditions of the merger, structure of the transaction and a statement of condition of recent date for the applicant and the other institutions. The information collected on the form is used by the FDIC as a basis for evaluating certain factors as required by section 18(c) of the FDI Act before approving the application. The aggregate annual burden for this collection is estimated to be 4,800 hours.

Dated: October 7, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-23127 Filed 10-10-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; T & O International, Inc., et al.

Notices is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

T & O International, Inc., 1040 East Wardlow Road, Long Beach, CA 90807, Officer: John Anthony Dedola, President

Loor International Forwarders, Inc., 1915 Brickell Avenue, #CPH5, Miami, FL 33129, Officers: Julio Alberto Loor, President/Director, Caridad Loor, Vice President/Secretary/Treasurer

Alaska Pacific Trading Company, dba ALPAC, 627 Pioneer Blvd., 600 1st Avenue, Seattle, WA 98104, Officers: Takayki Someya, Chairman of the Board, Setsuo Kimura, President/Secretary, Hidehiko Tsuru, Vice President

Saga Transport (USA) Inc., 500 Fifth Avenue, New York, NY 10036, Officers: Francis Alexander, President, Georges Abitbol, Director, Didler Bissery/Director, Michael Fiemeyer, Director

Jorge A. Colon, dba King International, 1782 N.W. 82nd Avenue, Miami, FL 33126

Pasha International, Inc., 5725 Paradise Drive, Corte Madera, CA 94925, Officers: George W. Pasha, III, President, Janet M. Pasha, Vice President, Robert W. Stout, Vice President, Glenn S. Yamagruchi, Vice President/Secretary/Treasurer, Joelle C. Vossbrink, Assistant Secretary

Dated: October 7, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86-23077 Filed 10-10-86; 8:45 am]

BILLING CODE 6730-01-M

[C.O. 1, Amdt. No. 8]

Organization and Functions of the Federal Maritime Commission

The following delegation of authority is made to the Director, Bureau of Agreements and Trade Monitoring, by amending Commission Order 1, Section 8 *Specific Authorities Delegated to the Director, Bureau of Agreements and Trade Monitoring,* to add subsection 8.17.

8.17 (a) Authority to determine that no action should be taken to prevent an agreement or modification of an agreement from becoming effective under section 6(c)(1) of the Shipping Act of 1984 for all unopposed agreements and modifications to agreements which will not result in a significant reduction in competition. Agreements which are deemed to have the potential to result in a significant reduction in competition and which, therefore, are *not* covered by this delegation include but are not limited to:

1. New agreements authorizing the parties to collectively discuss or fix rates (including terminal rates).

2. New agreements authorizing the parties to pool cargoes or revenues.

3. New agreements authorizing the parties to establish a joint service or consortium.

4. New sailing agreements.

5. New equal access agreements.

6. Significant modifications to the above categories of agreements as set forth in 46 CFR 572.403(a)(3).

(b) Authority to grant or deny shortened review pursuant to 46 CFR 572.605 for agreements for which authority is delegated in (a) above.

Dated: October 7, 1986.

Edward V. Hickey, Jr.,

Chairman.

[FR Doc. 86-23076 Filed 10-10-86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86F-0363]

Fluid Systems, Division of UOP, Inc.; Filing of Food Additive Petition

Correction

In FR Doc. 86-21891 appearing on page 34503 in the issue of Monday, September 29, 1986, make the following corrections:

1. The docket heading is corrected as set forth above.

2. In the second column, in the third line, insert "filed a " after "has".

3. In the fifth line, "cross-linked" was misspelled.

4. In the tenth line, "copolymer" was misspelled.

5. Under **SUPPLEMENTARY INFORMATION,** in the sixteenth line, insert "the" before "food-contract".

BILLING CODE 1505-01-M

[Docket No. 77N-0240; DESI 1786]

Certain Single Entity Coronary Vasodilators—Nitroglycerin Ointment; Drug Efficacy Study Implementation; Revocation of Exemption; Announcement of Marketing Conditions

Correction

In FR Doc. 86-19797, beginning on page 31371 in the issue of Wednesday, September 3, 1986, make the following corrections:

1. On page 31371, in the second column, in the **FOR FURTHER INFORMATION CONTACT** caption, the contact person should read "Mary E. Catchings".

2. On page 31374, in the first column, in the last line, the date should read "November 3, 1986". And in the second column, in paragraph 2., sixteenth line, the date should read "March 3, 1987".

3. And on the same page, in the third column, paragraph 3., the last two lines should read, "Division of Bioequivalence at the address given above".

BILLING CODE 1505-01-M

National Institutes of Health

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for November 1986.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, NICHD, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and section 10(d) of Publ L. 92-463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications.These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485 will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Population Research Committee

Acting Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of Meeting: November 6–7, 1986
Place of Meeting: Landow Building, Conference Room A
Open: November 6, 1986, 9:00 a.m.–10:00 a.m.
Closed: November 6, 1986, 10:00 a.m..5:00 p.m. November 7, 1986, 9:00 a.m.–adjournment
Name of Committee: Maternal and Child Health Research Committee
Executive Secretary: Dr. Laurence Johnston, Room 6C03, Landow Building, Telephone: 301, 496–1485
Date of Meeting: November 12–13, 1986
Place of Meeting: Landow Building, Conference Room A
Open: November 12, 1986, 9:00 a.m.–10:00 a.m.
Closed: November 12, 1986, 10:00 a.m.–5:00 p.m., November 13, 1986, 9:00 a.m.–adjournment
Name of Committee: Mental Retardation Research Committee
Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301, 496–1696
Date of Meeting: November 19–20, 1986.
Place of Meeting: Landow Building, Conference Room A
Open: November 19, 1986, 9:00 a.m.–10:00 a.m.
Closed: November 19, 1986, 10:00 a.m.—5:00 p.m. November 20, 1986, 9:00 a.m.–adjournment

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: September 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–23097 Filed 10–10–86; 8:45 am]

BILLING CODE 4140–01–M

Public Health Services

National Toxicology Program; Amended Notice of Availability of Fourth Annual Report on Carcinogens: Call for Public Comments, Fifth Annual Report on Carcinogens

The following information was inadvertently deleted from the notice published on Thursday, October 2, 1986 (51 FR 35297).

Appendix A—List of Substances in Annual Report on Carcinogens

Reference Source

1. Substances or groups of substances, occupational exposures associated with a technological process, and medical treatments that are known to be carcinogenic.

CAS Nos.	Substance	NCI/NTP technical reports	IARC vol.
000092–67–1	4-Aminobiphenyl		1
	Analgesic mixtures containing phenacetin	67	24
	Arsenic and certain arsenic compounds		23
001332–21–4	Asbestos		14
000446–86–6	Azathioprine		26
000071–43–2	Benzidine	289	29
000092–87–5	Benzene		29
000494–03–1	N,N-bis(2-chloroethyl-2-naphthylamine (chlornaphazine)		4
000542–88–1	Bis(choloromethyl)ether and technical grade chloromethyl methyl ether	191	4
000107–30–2			
000055–98–1	1,4-Butanediol dimethylsulfonate (myleran)		4
	Certain combined chemotherapy for lymphomas		26
000305–03–3	Chlorambucil		26
	Chromium and certain chromium compounds		23
	Coke oven emissions [OSHA Fed. Reg. Vol. 41 (206) 1976 1976 p. 46742–46790–		
	Conjugated estrogens		21
000050–18–0	Cyclophosphamide		26
000056–53–1	Diethylstilbestrol		21
	Hematite underground mining		1
	Isopropyl alcohol manufacture (strong-acid process)		15
	Manufacture of auramine		1
000148–82–3	Melphalan		9
	Methoxsalen with ultra-violet A therapy (PUVA)		24
000505–60–2	Mustard gas		9
000091–59–8	2-Napthylamine		4
	Nickel refining		11
	Rubber industry (certain occupations)		28
	Soots, tars, and mineral oils (occupational exposure)		3
	Thorium dioxide [MacMahon, Am. J. Path., Vol. 23, 1947, p. 585–613]		
000075–01–4	Vinyl chloride		19

2. Substances or groups of substances, occupational exposures associated with a technological process, and medical treatments which may reasonably be anticipated to be carcionogens.

CAS Nos.	Substance	NCI/NTP Technical reports	IARC vol.
000053–96–3	2–Acetylaminofluorene [R.H. Wilson, Cancer Res., Vol. 1, 1941, p. 595–608]		
000107–13–1	Acrylonitrile		19
023214–92–8	Adriamycin		10
001402–68–2	Aflatoxins		10
000117–79–3	2–Aminoanthroaquinone	144	27
000082–28–0	1–Amino–2–methylanthraquinone	111	27
000061–82–5	Amitrole		7
000090–04–0	o-Anisidine and		
000134–29–2	o-anisidine hydrochloride	69	27
000140–57–8	Aramite		5
000056–55–3	Benz(a)anthracene		3
000205–99–2	Benzo(b)fluoranthene		3
000050–32–8	Benzo(a)pyrene		3
000098–07–7	Benzotrichloride		29
	Beryllium and certain beryllium compounds		23
000154–93–8	Bischloroethyl nitrosourea		26
	Cadmium and certain cadmium compounds		11

CAS Nos.	Substance	NCI/NTP Technical reports	IARC vol.
000056-23-5	Carbon tetrachloride		20
013010-47-4	1-(2-Chloroethyl)-3-cyclohexyl-1-nitrosourea (CCNU)		26
000067-66-3	Chloroform		20
000095-83-0	4-Chloro-o-phenylenediamine	63	27
000120-71-8	p-Cresidine	142	27
000135-20-6	Cupferron	100	
041901-08-7	Cycasin		10
004342-03-4	Dacarbazine		26
000050-29-3	DDT	131	5
039156-41-7	2,4-Diaminoanisole sulfate	84	27
000095-80-7	2,4-Diaminotoluene	162	16
000226-36-8	Dibenz(a,h)acridine		3
000224-42-0	Dibenz(a,j)acridine		3
000053-70-3	Dibenz(a,h)anthracene		3
000194-59-2	7H-Dibenzo(c,g)carbazole		3
000189-64-0	Dibenzo(a,h)pyrene		3
000189-55-9	Dibenzo(a,i)pyrene		3
000096-12-8	1,2-Dibroma-3-chloropropane	206,28	20
000106-93-4	1,2-Dibromoethane (EDB)	210,86	
000091-94-1	3,3'-Dichlorobenzidine		29
000107-06-2	1,2-Dichloroethane	55	26
001464-53-5	Diepoxybutane		11
000117-81-7	Di(2-ethylhexyl)phthalate	217	29
000064-67-5	Diethyl sulfate		4
000119-90-4	3,3'-Dimethoxybenzidine		4
000060-11-7	4-Dimethylaminoazobenzene		8
000119-93-7	3,3'-Dimethylbenzidine		1
000079-44-7	Dimethylcarbamoyl chloride		12
000057-14-7	1,1-Dimethylhydrazine		4
000077-78-1	Dimethyl sulfate		4
000123-91-1	1,4-Dioxane	80	11
001937-37-7	Direct Black 38	108	29
002602-46-2	Direct Blue 6	108	29
000106-89-8	Epichlorohydrin		11
000050-28-2	Estrogens (not conjugated): 1. Estradiol 17b		21
000053-16-7	Esterogens (not conjugated): 2. Estrone		21
000057-63-6	Estrogens (not conjugated): 3. Ethinylestradiol		21
000072-33-3	Estrogens (not conjugated): 4. Mestranol		21
000075-21-8	Ethylene oxide		36
000096-45-7	Ethylene thiourea		7
000050-00-0	Formaldehyde (Gas)		29
000118-74-1	Hexachlorobenzene		20
000680-31-9	Hexamethylphosphoramide		15
000302-01-2	Hydrazine and hydrazine sulfate hydrazine sulfate		4
010034-93-2			
000122-66-7	Hydrazobenzene	92	
000193-39-5	Indeno(1,2,3-cd)pyrene		3
009004-66-4	Iron dextran complex		2
000143-50-0	Kepone (Chlordecone)	76-1278	20
000301-04-2	Lead acetate and lead phosphate		23
007446-27-7			
	Lindane and other hexachlorocyclohexane isomers	14	20
000075-55-8	2-Methylaziridine (propyleneimine)		9
000101-14-4	4,4'-Methylenebis(2-chloroaniline) (MBOCA)		
000101-61-1	4,4'-Methylenebis(N,N-dimethyl)benzenamine	186	27
000101-77-9	4,4'-Methylenedianiline and its dihydrochloride	248	
013552-44-8			
000074-88-4	Methyl iodide		15
000443-48-1	Metronidazole		13
000090[94-8	Michler's ketone		
002385-85-5	Mirex	181	
	Nickel and certain nickel compounds	181	20
000139-13-9	Nitrilotriacetic acid		11
000099-59-2	5-Nitro-o-anisidine	6	
001836-75-5	Nitrofen	127	27
000055-86-7	Nitrogen mustard	184,26	30
000079-46-9	2-Nitropropane		9
000924-16-3	N-Nitrosodi-n-butylamine		29
001116-54-7	N-Nitrosodiethanolamine		17
000055-18-5	N-Nitrosodiethylamine		17
000062-75-9	N-Nitrosodimethylamine		17
000156-10-5	p-Nitrosodipenylamine		17
000621-64-7	N-Nitrosodi-n-propylamine	190	27
000759-73-9	N-Nitroso-N-ethylurea		17
000684-93-5	N-Nitroso-N-methylurea		17
			17

Appendix B—Chemicals Proposed for Addition in the Fifth Annual Report on Carcinogens

CAS No.	Chemical	References used in evaluation*
00093-56-3	o-Aminoazotoluene	IARC 8 (1975)
00106-99-0	1,3-Butadiene	NTP TR 288
00115-28-6	Chlorendic acid	NTP TR 304
63449-39-8	Chlorinated paraffins C12, 60% chlorine)	NTP TR 308
0563-47-3	3-Chloro-2-methyl propene	NTP TR 300
0569-61-9	C.I. Basic Red 9 HC1	NTP TR 285
0106-46-7	1,4-Dichlorobenzene	NTP TR 319 IARC 29 (1982)
0075-09-2	Dichloromethane (methylene dichloride)	NTP TR 306 IARC 20 (1979)
0101-90-6	Diglycidyl resorcinol ether	NTP TR 257 IARC 36 (1985)

CAS No.	Chemical	References used in evaluation*
0513-37-1	Dimethylvinyl chloride	NTP TR 316
0140-88-5	Ethyl acrylate	NTP TR 259 IARC 19 (1979)
	Other polycylcic hydrocarbons	
0205-82-3	a. Benzo(j)fluoranthene	IARC 32 (1983)
0207-08-9	b. Benzo(k)fluoranthene	IARC 32 (1983)
0192-65-4	c. Dibenzo(a,e)pyrene	IARC 32 (1983)
0191-30-0	d. Dibenzo(a,l)pyrene	IARC 32 (1983)
3697-24-3	e. 5-Methylchrysene	IARC 32 (1983)
0101-80-4	4,4'-Oxydianiline	NTP TR 205 IARC 29 (1982)
0063-92-3	Phenoxybenzamine HC1	NTP TR 72 IARC 24 (1980)
0075-56-9	Propylene oxide	NTP TR 267 IARC 36 (1985)
0542-75-6	Telone II® (mainly 1,3-dichloropropene)	NTP TR 269
0127-18-4	Tetrachloroethylene (perchloroethylene)	NTP TR 13/311 IARC 20 (1979)

*NTP TR can be obtained by requests to the Public Information Office, NTP, P.O. Box 12233, Research Triangle Park, NC 27709, Tel. (919-541-3991) or FTS (629-3991).
*IARC vols. can be ordered from WHO Publications Center USA, 49 Sheridan Ave., Albany NY 12210.

Dated: October 8, 1986.

David P. Rall, M.D.,

Director, National Toxicology Program.

[FR Doc. 86-23098 Filed 10-10-86; 8:45 am]

BILLING CODE 4140-01-M

Request for Establishment of Collaborative Agreement for the Preclinical and Clinical Development of Dideoxycytidine as an Anti-Viral Agent Useful in the Treatment of Acquired Immunodeficiency Syndrome (AIDS)

AGENCY: Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services solicits responses to establish a collaborative agreement with an industrial sponsor for the preclinical and clinical development of dideoxycytidine as a drug for the treatment of Acquired Immunodeficiency Syndrome. Scientists from the National Cancer Institute have established that this compound is effective in inhibiting in vitro growth of HTLV-III, the etiologic agent of AIDS. In exchange for the successful participation in this collaborative agreement, the Government will grant the industrial sponsor exclusive royalty-bearing license under U.S. Patent Application Serial No. 769,017. The Government is seeking "orphan drug" status for dideoxycytidine. The Government seeks a sponsor who, in accordance with the requirements of the regulations governing the licensing of Government-owned inventions (37 CFR 404.8), presents the most meritorious plan for the development of dideoxycytidine to New Drug Application (NDA) status with the best terms for the Government. Specifically, respondents are sought who will be able to:

(1) Synthesize necessary bulk pharmaceutical product for the treatment of 500–1,000 patients with HIV infection in Phase I, Phase II, and Phase III developmental studies.

(2) Perform formulation, vialing, quality control testing, and distribution of drug for Phase I and Phase II and, if appropriate, Phase III clinical trials both in the intramural program of the National Cancer Institute and extramural AIDS Treatment Evaluation Units recently established by the National Institutes of Allergy and Infectious Diseases. These clinical trials may be performed under the sponsorship of an Investigational New Drug Application to be held by the National Cancer Institute or the NIAID. Prior to being released for commercial distribution, the drug would have to be granted a product license by the Food and Drug Administration.

(3) The drug company will be expected to perform clinical studies. In addition, the National Institute of Allergy and Infectious Diseases may conduct studies of dideoxycytidine in the AIDS Treatment Evaluation Units. However, the drug company will be encouraged to do additional testing in other medical centers as indicated.

(4) Provide data management support for both intramural and extramural studies of dideoxycytidine necessary for submission of a New Drug Application to the Food and Drug Administration.

(5) Cost share in intramural and extramural clinical monitoring studies (pharmacokinetics, patient immune profiles and viral outgrowth studies) necessary for the demonstration of clinical efficacy of dideoxycytidine in the treatment of AIDS.

(6) The United States government will receive reasonable royalties, once the drug is marketed for general use.

ADDRESS: Applications should be sent to: Dr. Lowell T. Harmison, Science Advisor, Office of the Assistant Secretary for Health, 200 Independence Ave., SW., Washington DC 20201.

For further information (including copy of the patent application) contact: Dr. Eddie Reed, Executive Secretary, AIDS Drug Selection Committee, Building 31, Room 3A49, Bethesda, MD 20892.

DATE: In view of the important priority of developing new drugs for the treatment of AIDS, interested parties should submit responses to the Assistant Secretary for Health within 45 days of the date of this notice. Late responses will not be considered. Respondents may be provided an additional opportunity to provide additional information, to present an oral statement and to answer questions if the Department determines that it be necessary.

SUPPLEMENTARY INFORMATION: Responses will be reviewed by senior scientists from the National Cancer Institute, the National Institute of Allergy and Infectious Diseases, and the Office of the Assistant Secretary for Health. Criteria for choosing the industrial partner in this collaborative agreement will include:

(1) Experience in preclinical and clinical drug development with special emphasis on the development of antiviral compounds.

(2) Prior manufacturing capabilities and experience with drugs for broad distribution.

(3) Ability to package, market, and distribute antiviral pharmaceutical products in a nationwide marketing system at a reasonable price.

(4) Experience in the evaluation, monitoring, and interpretation of data from investigational biologic and virologic assays under an Investigational New Drug Application.

(5) Experience in the evaluation, monitoring and interpretation of data from Phase I and Phase II clinical

studies under an Investigational New Drug Application.

(6) Willingness to cooperatge with the Public Health Service in collection, evaluation, publication and maintenance of data from clinical trials and tests of investigational biologic assays.

(7) Willingness to cost share in AIDS drug development as outlined above (i.e., bulk drug synthesis, data management, etc.).

(8) Agreement to be bound by DHHS rules involving human/animal subjects.

Dated: October 9, 1986.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 86-23295 Filed 10-10-86; 9:31 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paper Reduction Act.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: Additional Requirements for Trust Responsibilities, 25 CFR 271.33.

Abstract: Indian tribes which are preparing contract applications which involve Bureau trust responsibilities in the area of natural resources provide additional information to assure the protection, preservation and perpetuation of such resources, to ensure fair market value to tribes or individual Indians and that no delegation of trust responsibility occurs.

Frequency: Upon initial application.

Description of Respondents: Indian tribes contracting Bureau programs in the area of natural resources.

Annual Responses: 74.

Annual Burden Hours: 2,300.

Bureau clearance officer: Cathie Martin 202-343-3577.

October 2, 1986.

Hazel E. Elbert,

Deputy to the Assistant Secretary—Indian Affairs (Tribal Services).

[FR Doc. 86-23073 Filed 10-10-86; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposals for the collection of information listed below have been submitted to the Office of Management and Budget for approval under the provision of the paperwork reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and explanatory materials may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: 25 CFR 13.11 Content of reassumption petition.

Abstract: Federally recognized Indian tribes in Pub. L. 83-280 states may, under the Indian Child Welfare Act, reassume jurisdiction of Indian child custody proceedings. This information enables the Secretary to determine whether reassumption is feasible.

Bureau Form Number: none.

Frequency: Once, or as needed until approved.

Description of Respondents: Federally Recognized Indian Tribes.

Annual Responses: 1.

Annual Burden Hours: 80.

Title: 25 CFR 21.3—State or other contracting agency furnish plan of operation.

Abstract: The Bureau requires a plan executed by the State or other agency entering into a contract with the Bureau specifying the services and assistance to be rendered under the terms of the contract, and a budget showing the plan for expenditures of funds. Upon approval of the contract no deviation from the plan shall be made without prior approval.

Bureau Form Number: None.

Frequency: Annually, or at time of contract.

Description of Respondents: States or other agencies who contract with the Bureau.

Annual Responses: 3.

Annual Burden Hours: 12.

Title: 25 CFR 21.6—Financial statement.

Abstract: Any state or agency which has contracted with the Bureau shall thirty days after the close of each fiscal year provide the Commissioner of Indian Affairs an analysis of financial expenditures made pursuant to that contract.

Bureau Form Number: None.

Frequency: Annually, or thirty days after the close of each fiscal year.

Description of Respondents: States or other agencies that contract with the Bureau.

Annual Burden Hours: 24.

Title: 23:13—Payment for appointed counsel in state Indian child custody proceedings.

Abstract: A state court that appoints counsel for an indigent party in an Indian child custody proceeding for which appointment of counsel is not authorized by state law shall send written notice to the Bureau. The Area Director using this information can certify if the client in the notice is eligible to have his counsel compensated by the Bureau in accordance with the Indian Child Welfare Act.

Bureau Form Number: None.

Frequency: Upon request for assistance.

Description of Respondents: State courts.

Annual Responses: 4.

Annual Burden Hours: 12.

Bureau Clearance Officer: Anne Bolton, 202-343-1676.

Hazel R. Elbert,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 86-23072 Filed 10-10-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AZ-050-06-4830-02]

Arizona; Yuma District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Yuma (Arizona) District Advisory Council Meeting.

SUMMARY: A meeting and field tour by the Yuma District Advisory Council will be held on Friday, November 7. Council members will tour the Imperial Dam Long-Term Visitor Area and then hold a regular Advisory Council meeting in the afternoon.

DATE: November 7, 1986.

FOR FURTHER INFORMATION CONTACT: Douglas B. Stockdale, Yuma District

Office, 3150 Winsor Avenue, Yuma, Arizona 85365, (603) 726–3600.

SUPPLEMENTARY INFORMATION: A short initial meeting will be held at 10 a.m. at the Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona. The tour will begin at 10:30 a.m. The Council will return to the District Office at 2 p.m. for a regular meeting. Discussions will center on the day's tour and other Council-initiated topics. The public is invited to attend the meetings and tour but must provide their own transportation and meal.

Written statements from the public may be filed for the Council's consideration. Statements must arrive at the District Office by November 5. Oral statements will also be accepted but, depending on the number of persons wishing to address the Council, a per-person time limit may be imposed.

Summary minutes of the District Advisory Council meeting will be maintained in the Yuma District Office and will be available for inspection and reproduction during regular business hours (7:45 a.m. through 4:30 p.m.) within 30 days of the meeting.

Dated: October 6, 1986.

J. Darwin Snell,

District Manager.

[FR Doc. 86–23175 Filed 10–10–86; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Time Extension for Annual List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The annual list of labor surplus areas for the period October 1, 1985, through September 30, 1986, is extended until further notice. A recently enacted statute reduced the minimum population criteria for labor surplus areas to twenty-five thousand. The Employment and Training Administration will continue to accept exceptional circumstance petitions for labor surplus area designations on the basis of the criteria in effect at the time, except that minimum population criterion shall be twenty-five thousand.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue, NW., Room N4470 Attention: TEESS, Washington, DC 20210. Telephone (202) 535–0186.

SUPPLEMENTARY INFORMATION: Section 18003(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99–272, 100 Stat. 82, 363, added a new subsection (n) to section 15 of the Small Business Act, 15 U.S.C. 644(n). Subsection (n) provides, in part, that "the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand." The amendment was effective July 7, 1986. Pub. L. 99–272 Section 18003(b). Previously, the minimum population criteria had been set, by regulation, at fifty-thousand, 20 CFR 654.4(b).

Accordingly, effective July 7, 1986, the Employment and Training Administration began accepting exceptional circumstance petitions (20 CFR 654.5(b)) submitted by appropriate State employment security agencies to classify civil jurisdictions with a population of twenty-five thousand or more as labor surplus areas.

Annually, the Employment and Training Administration reviews the appropriate data for all civil jurisdictions to determine which areas meet the basic labor surplus area criteria at 20 CFR 654.5(a). The list of qualifying civil jurisdictions, known as the annual list of labor surplus areas, is usually released to the public on or about October 1 of each year. Classification issued on or about October 1 of each year are valid through September 30 of the following year.

The next classification of civil jurisdictions for the annual list of labor surplus areas under the criteria at 20 CFR 654.5(a) must utilize the twenty-five thousand minimum population criteria mandated by 15 U.S.C. 644(n). The Employment and Training Administration, therefore, cannot make the determinations under 20 CFR 654.5(a) until all of the necessary steps to implement 15 U.S.C. 644(n) have been implemented. For that reason the Employment and Training Administration is extending the effective date of the annual list of labor surplus areas for the period of October 1, 1985, through September 30, 1986, until further notice while implementation of 15 U.S.C. 644(n) is being completed. See 50 FR 41606 (October 11, 1985). After implementation, the Employment and Training Administration will publish the new annual list of labor surplus areas, utilizing the new minimum population criteria of twenty-five thousand, in the **Federal Register.**

Signed at Washington, DC, on September 29, 1986.

Roger D. Semerad

Assistant Secretary of Labor.

[FR Doc. 86–23135 Filed 10–10–86; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M–86–104–C]

Petition for Modification of Application of Mandatory Safety Standard; Hegins Mining Co.

Hegins Mining Company, Zerbe, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its No. 3 Skidmore Slope (I.D. No. 36–01856) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is damp to very wet, with one piece of electrical equipment which is a small sump pump located at the foot of the slope.

3. Petitioner states that the distance from the mine portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 13, 1986. Copies of the

petition are available for inspection at that address.

Dated: October 1, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23136 Filed 10-10-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-84-C]

Petition for Modification of Application of Mandatory Safety Standard; Ronald Bush Coal Co.

Ronald Bush Coal Company, R.D. Box 44, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Skidmore Slope (I.D. No. 36-01956) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is always damp to wet. There is a fire extinguisher at all electrical equipment underground

3. Petitioner states that the distance from the gangway to another split of air is 2,000 feet. The mine can be evacuated in less than 15 minutes into another mine.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 13, 1986. Copies of the petition are available for inspection at that address.

Dated: October 1, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23137 Filed 10-10-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-96-C]

Petition for Modification of Application of Mandatory Safety Standard; S.&T. Coal Company

S.&T. Coal Company, R.D. #1, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Skidmore Slope (I.D. No. 36-01984) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-contained self-rescue device approved by the Secretary which is adequate to protect such person for one hour or longer.

2. The mine is damp to very wet, with one piece of electrical equipment, which is a small pump located at the foot of the slope.

3. Petitioner states that the distance from the mine portal to the actual working face is less than 2,000 feet. The mine can be evacuated in less than 15 minutes.

4. Petitioner states that the devices are too heavy, bulky and cumbersome to be worn while working or in the narrow confines of the slope gun boat which serves as a mantrip at the mine.

5. Sections of the mine are subjected to freezing temperatures making constant availability of the device questionable. In addition, the wet mine conditions make it difficult to locate a suitable dry storage location for the self-rescuers.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington Virginia 22203. All comments must be postmarked or received in that office on or before November 13, 1986. Copies of the petition are available for inspection at that address.

Dated: October 1, 1986.

Particia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23138 Filed 10-10-86; 8:45 am]

BILING CODE 4510-43-M

[Docket No. M-86-87-C]

Petition for Modification of Application of Mandatory Safety Standard; Western Fuels Utah, Inc.

Western Fuels Utah, Inc., P.O. Box 1067, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 77.1800 (cutout switches) to its Deseret Western Railroad Deserado Mine (I.D. No. 05-03505) located in Rio Blanco County, Colorado. The petition is filed under section 101(C) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires be provided with cutout switches at intervals of not more than 2,000 feet.

2. Petitioner states that application of the standard in the 9926 foot loading loop trolley would result in a diminution of safety to the miners in that opening cutout switch 600 KW no load or 12000 KW under full load could result in injury to the person operating the switch.

3. The trolley wire is out in the open on the surface and is 22 feet in the air, which protects the mines from inadvertently coming into contact with it.

4. As an alternate method, petitioner states that—

(a) In case of an emergency there is a qualified person that can deenergize the trolley conductor. This person must notify the Western Area Power Administration as to which line needs to be deenergized, what disconnects need to be opened and what grounding disconnects need to be closed. W.A.P.A. then notifies the power plant with the procedures to take to deenergize the trolley line. Once the trolley line has been deenergized, W.A.P.A. calls the Deseret Western Railroad and informs the authorized person that the line has been deenergized.

(b) The access roof door of the locomotive is padlocked at all times with the key available only to supervisors in charge of the locomotive operation and maintenance. The access door is only unlocked after receiving

verification from W.A.P.A. that the trolley is dead; and

(c) Railroad personnel test the trolley line with a special voltage tester to ensure deenergization.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 13, 1986. Copies of the petition are available for inspection at that address.

Dated: October 6, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-23139 Filed 10-10-86; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application No. D-1918]

Proposed Exemption for Certain Transactions Involving the Trammell Crow Co., Inc. Employees Profit Sharing Plan and Trust (the Plan); Dallas, TX

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain real estate transactions between the Plan and parties in interest (the Parties in Interest) with respect to the Plan. Such transactions will arise in conjunction with a program of divestiture and diversification of the Plan's investment portfolio as described hereinafter.

EFFECTIVE DATE: This proposed exemption will be effective on the date of publication of the grant of this exemption in the **Federal Register** and will expire on the earlier of (i) ten (10) years from its effective date or (ii) upon the disposition of all properties and interests subject to the exemption and the initial investment of all proceeds pursuant to the exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address below, within the time period set forth below. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth below.

DATES: Written comments and requests for a public hearing must be received by the Department within 45 days from the date of publication of this proposed exemption in the **Federal Register.**

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D-1918. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Temporary Nature of Exemption

The Department has determined that the exemption, if granted, will be temporary in nature and, unless extended pursuant to timely application made following substantial compliance with the real estate divestiture and diversification program, described hereinafter, will expire on the earlier of (i) ten years from its effective date or (ii) upon the disposition of all properties and interests subject to the exemption and the initial investment of all proceeds pursuant to the exemption.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan by the Trammell Crow Company, Inc. and the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.[1] Therefore, this notice of pendency is issued solely by the Department.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Summary of Facts and Representations

1. The Plan is a defined contribution plan which provides for discretionary contributions by Trammell Crow Company, Inc. (TCC), the sponsor of the Plan. As of October 31, 1985, the Plan had approximately 2,055 participants. The Plan is administered currently by a seven member Profit Sharing Committee. These seven Individuals also serve as trustees (the Trustees) for the Plan. The current Trustees are all employees of TCC and are participants in the Plan. The Trustees have exclusive authority and discretion with respect to the investment of the Plan's assets.

2. TCC is a Texas corporation founded by Mr. Trammell Crow. TCC sponsored entities comprise the largest private commercial real estate developer in the United States. Trammell Crow Partners, Ltd. (TCP), a Texas limited partnership, is an owner of a substantial number of the shares of TCC. Various owners of TCP are the organizers of and the general partners in real estate partnerships (the Partnerships) which own, develop, and manage TCC-conceived and sponsored real estate projects located in 32 states. Key personnel of TCC are also permitted to acquire ownership interests in the Partnerships. Typically, real estate Partnerships have from 3 to 10 general partners and from 1 to 40 limited partners. There are currently approximately 1, 800 Partnerships.

From its inception, a real estate Partnership acquires the land needed for a project and enters into contracts and

[1] The references in this exemption to specific sections of the Act refer also to the corresponding sections of the Code.

other arrangements for services needed to complete the project. TCC and key employees of TCC provide many of these services to the project which include the coordination of land use for various zoning ordinances, review of architectural design work, the obtaining of interim and permanent financing, and the coordination of the construction of the project with contractors and subcontractors. Additional services to the Partnerships are performed by certain management companies (the Management Companies) that are under TCC control. The Management Companies serve each of the 55 divisions in which the Partnerships are organized. The Management Companies act as direct overhead cost centers, charging each Partnership in a division with its share of overhead expenses and salaries of TCC, and also provide working capital to the Partnerships in a division.

3. The Plan was established in 1963 as a means to allow staff and employees of TCC to participate in the profits associated with the business of TCC. This was accomplished by TCC inviting the Trustees of the Plan to acquire on behalf of the Plan general and limited partnership interests in certain of the Partnerships (the Partnership Interests) at their low fair market value upon formation. Typically, the Plan purchased Partnership Interests for a nominal amount of either one dollar or ten dollars per percentage point of interest acquired. From the Plan's establishment until 1975, the Plan had acquired Partnership Interests in 42 Partnerships. Also, prior to 1975, as part of their real estate investment program, the Trustees acquired on behalf of the Plan, (1) direct ownership interests in seven parcels of real property (the Improved Real Property) located in Texas and Missouri and leased to third parties, and (2) a 20% undivided ownership interest (the Undivided Interests) in each of two real estate entities. (Hereinafter, the Partnership Interests, the improved Real Property, and the Undivided Interests will be referred to, collectively, as the Pre-ERISA Real Estate Investments.)

4. In 1975, pursuant to advice of independent counsel, the Trustees reviewed all Plan investments in order to ascertain the possible impact of the passage of the Act. Except for the acquisition of a small number of Partnership Interests in 1975 (or shortly thereafter), purchased under pre-1975 commitments, the Trustees decided to cease purchasing new Partnership Interests. In addition, after January 1, 1975, the Trustees reorganized and disposed of certain of the Plan's Partnership Interests and converted into limited Partnerships Interests. Currently, the Plan owns twenty one (21) limited Partnership Interests and five (5) general Partnership Interests.[2]

5. In 1977, TCC created Employee's Inc., as a wholly owned subsidiary. Employee's, Inc. was formed to own and manage new interests in Partnerships. When Employee's, Inc. was formed, TCC anticipated that a number of years would pass before the interests in Partnerships acquired by Employee's, Inc. would have a positive net value. However, by 1980, it became clear that interests in the Partnerships acquired by Employees, Inc. accrued in value much earlier and at a faster rate than anticipated. In 1980, Employee's, Inc. was reorganized to provide for two classes of stock, non-voting common and voting preferred. As a result of the reorganization, TCC became the owner of 100% of the preferred stock of Employee's, Inc., and the Plan purchased 100% of the common stock of Employee's, Inc. The applicants have characterized the common stock of Employee's Inc. as "qualifying employer securities," as that term is defined in section 407(d)(5) of the Act. Accordingly, the applicants represent that the Plan's acquisition and holding of such stock is entitled to the relief from the prohibited transaction provisions of section 406 of the Act by reason of the statutory exemption contained in section 408(e).[3]

6. Since 1963, total aggregate capital investments by the Plan in Pre-ERISA Real Estate Investments were approximately $4.2 million of which $1.2 million represented investments in the Partnership Interests. Because the Plan invested in the Partnership Interests at the inception of the relevant Partnerships and on very favorable terms, substantial appreciation in value frequently occurred and retirement benefits accumulated rapidly. In addition, since acquisition, the Improved Real Property and the Undivided Interests also appreciated in value.[4]

On April 25, 1979, the Dallas Area Office (DAO) of the Department began an investigation of the Plan in which representatives of the Kansas City Regional Office and the Internal Revenue Service also participated. The investigation covered Plan years ending December 31, 1975 through December 31, 1979. In a letter dated August 12, 1982, the DAO informed the Trustees that it found that 70% of the Plan's assets were invested in the Pre-ERISA Real Estate Investments with 50% of the Plan's assets in the Partnership Interests, alone. As part of its findings, the DAO recommended that the Plan should dispose of all TCC-related Partnership investments described above, or seek retroactive exemption for any past prohibited transaction which may have occurred with respect to such investments. In addition, the DAO recommended that the Plan diversify its real estate holdings such that, in the future, at least 80% of Plan funds derived from contributions by TCC and income from investments, including disposition proceeds (collectively, the Investment Proceeds, as defined in Section IV(f) of this proposal), would not be invested in real property or related investments.

As of December 31, 1984, the Plan had total assets of $59,491,661 with approximately 38% of those assets invested in the Pre-ERISA Real Estate Investments.[5] Specifically, 29.54%, 8.2%, and .35% of the Plan's assets were invested in the Partnership Interests, the Improved Real Property, and the Undivided Interests, respectively. While the percentage of Plan assets represented by the Pre-ERISA Real Estate Investments has decreased since the end of the years subject to the DAO Investigation, their absolute value, as estimated by TCC, has increased. Such percentage decrease was largely due to the increase in value of Employee's Inc. stock since 1980, when it was acquired by the Plan, and to the resulting increase in the Plan's asset base. As of December 31, 1984, Employee's Inc. stock represented 36% of the Plan's assets. The remaining 26% of the Plan's assets

[2] The applicants represent that services rendered by TCC, the Management Companies, or employees of TCC to the Partnerships in which the Plan invested did not constitute prohibited transactions under section 406 of the Act, as a provision of services to a plan by a party in interest as defined in section 3(14) of the Act, inasmuch as the Partnerships which owned, managed, and developed real estate were, in effect, real estate operating companies not engaged in the investment of capital.

[3] The Department expresses no opinion as to whether the common stock in Employee's Inc. is qualifying employer securities under section 407(d)(5) or whether the acquisition and/or holding of such common stock in Employee's Inc. constitutes a violation of any of the provisions of Part 4 of Title I of the Act.

[4] As of December 31, 1984, according to the estimate of TCC, the Partnership Interests, the Improved Real Property, and the Undivided Interests had values of $17,575,000 $4,881,327, and $211,070, respectively.

[5] TCC determines on an annual basis the value of all Partnerships that it services. Because of the growing number of projects involving different types of real estate developments, TCC represents that it is impractical to have every project independently appraised. Accordingly, all statements as to Plan assets values are based on TCC estimates.

was invested in various securities and corporate stock.

7. Although TCC and the Trustees filed an application for retroactive exemption in 1983, the Department has not been able to determine from the record presented by the applicants that a proposed exemption relating to prohibited transactions which may have occurred since the passage of the Act would meet the criteria described in section 408(a) of the Act. However, in view of the Plan's continued holding of the Pre-ERISA Real Estate Investments, the Trustees have agreed to a Plan divestiture and diversification program consistent with the DAO investigation and recommendations. Thus, the applicants have agreed to the following divestiture and diversification program over a ten year period commencing with the effective date of the grant of this exemption: (1) The applicants will make a good faith effort to dispose of all Pre-ERISA Real Estate Investments; (2) The Plan, during this period of divestiture, will not invest directly in any new interests in Partnerships involving real estate projects sponsored by TCC; and (3) The Plan will not purchase any additional shares of any corporation, partnership, or entity controlling, controlled by, or under the common control of TCC, TCP, or any partner of TCP, including Employee's Inc. common stock.[6] Additionally, as one of the conditions of this exemption, the Trustees wil be required to invest at least 80% of the Investment Proceeds of the Plan in investments which are not real estate related (the Real Estate Related Investments), as defined in Section IV(j).

8. The applicants represents that a ten year period for divestiture is necessary because an orderly disposition of the Pre-ERISA Real Estate Investments is critical and in the best interests of the Plan's participants and beneficiaries. Attempting to sell these assets too quickly or prematurely could create a "fire sale" mentality among prospective purchasers and subject the Plan to depressed market prices or less than arm's length terms and conditions.

Dispositions may occur in several ways. If the Pre-ERISA Real Estate Investment consists of the Improved Real Property, the realty may be the subject of the disposition. If the Pre-ERISA Real Estate Investment consists of a Partnership Interest or Undivided Interest, such interests may be the subject of the disposition. Although the applicants represent that attempts will be made to sell the Pre-ERISA Real Estate Investments to unrelated parties, it may be determined to be appropriate to sell such assets to Parties in Interest. Accordingly, pursuant to the agreed upon program of divestiture and diversification, the applicants have requested exemptive relief for the proposed sales to Parties in Interest of the Pre-ERISA Real Estate Investments.

The applicants represent that all dispositions to Parties in Interest will be cash sales and that every disposition of any of the Pre-ERISA Real Estate Investments will be based upon an appraisal performed by an independent, qualified appraiser.

9. Prior to the time determined to be appropriate to dispose of any of the Pre-ERISA Real Estate Investments, certain funds may be required to maintain and protect their value. As a result, the Trustees may desire to reinvest, as needed, a limited amount of funds (the Reinvestments) in the Pre-ERISA Real Estate Investments. Such Reinvestments shall be used in connection with Pre-ERISA Real Estate Investments only: (a) For repairs, improvements, renovations, refurbishments, or other similar and reasonable expenditures to maintain, preserve, and enhance the value and commercial viability of the Pre-ERISA Real Estate Investments; and (b) For funding any capital contributions (the Capital Contributions) to the Pre-ERISA Real Estate Investments. In addition, Capital Contributions by the Plan may be made to the Pre-ERISA Real Estate Investments to fund the Plan's proportionate share of "operational cash shortages,"[7] of any such investments. The applicants represent that Parties in Interest, such as certain key employees of TCC, currently own and may own in the future sufficient aggregate equity interests in certain of the Partnerships in which the Plan owns Partnership Interests to cause those Partnerships to be Parties in Interest with respect to the Plan, under section 3(14) of the Act. Accordingly, the applicants have requested exemptive relief for Reinvestments, including additional Capital Contributions, if any, to be made in the future by the Plan in the Pre-ERISA Real Estate Investments which are or become Parties in Interest with respect to the Plan.

The applicants represent that (1) the Plan will make no more than its *pro-rata* share of any Capital Contributions to the Pre-ERISA Real Estate Investments; (2) such Capital Contributions will constitute an equity investment by the Plan: and (3) distributions of income and profits from the Pre-ERISA Real Estate Investments, if and when made to all other owners of the Undivided Interests, or to partners who invest on the same terms as the Plan in the Partnerships, will also be made to the Plan on a *pro-rata* basis. The applicants further represent that during the term of the exemption, the Reinvestments, including Capital Contributions, shall not exceed the greater of four million dollars ($4,000,000), or an amount equal to twenty percent (20%) of the value of the Pre-ERISA Real Estate Investments, as determined on December 31, 1986 (the Limitation of Reinvestments).[8]

10. The applicants represent that an independent qualified real estate investment manager (the Real Estate Investment Manager) will be appointed by TCC to manage, control, and dispose of the Pre-ERISA Real Estate Investments. His advice, consent, and written approval will be a prerequisite to engaging in any transaction affecting the Pre-ERISA Real Estate Investments, including those covered by this exemption.

The Real Estate Investment Manager will have sufficient authority, responsibility, and control to enable him to discharge his responsibilities with respect to the Pre-ERISA Real Estate Investments and any conflicts which may arise in the course of management and disposition of these investments, without the prior approval of the

[6] However, Employee's Inc. (which is not deemed to be a Pre-ERISA Real Estate Investment) may invest its internally generated profits (the Internally Generated Profits), as defined in Section IV(e), in the purchase of interests in newly formed Partnerships.

[7] "Operational cash shortages" means all costs, expenses, or charges with respect to the operation of the Partnerships and the ownership, operation, development, maintenance, and upkeep of any of the Partnerships, or property owned by any of the Partnerships (including interest payments), insurance premiums, repairs, costs of capital improvements, direct and indirect overhead expenses, advertising expenses, professional fees, wages, and utility costs, to the extent such costs, expenses, or charges exceed the cash flow, if any, derived from the operation of the Partnerships and the proceeds of any loans made to the Partnerships.

[8] The Department herein is proposing exemptive relief solely with respect to such Reinvestment or Capital Contribution transfers of assets of the Plan to entities which are Parties in Interest. Other transactions which may result in conflicts of interest by reason of the sharing of the investments between the Plan and Parties in Interests and fiduciaries with respect to the Plan are not the subject of this exemption.

The applicants maintain that payments for services which will be rendered and other transactions which will take place during the term of this exemption between the Partnerships in which the Plan owns Partnership Interests, TCC, employees of TCC, and the Management Companies will not be prohibited transactions under the Act, because the assets owned by those Partnerships are not Plan assets. The Department herein is not expressing any opinion as to whether the assets of the Partnerships in which the Plan owns Partnership Interests are or will become Plan assets.

Trustees of the Plan. The Real Estate Investment Manager will have authority to hire assistants, employees, outside consultants, and expert staff to assist him in carrying out his duties. In this regard, the Real Estate Investment Manager will have access to sufficient funds from Plan asserts to enable him to hire assistants, employees, experts, and consultants, including independent qualified appraisers to assure that the price he approves as a part of the disposition of any of the Pre-ERISA Real Estate Investments, is the fair market value, and to enable him to initiate and maintain until final decision any action or law suit which he deems necessary to file on behalf of the participants and beneficiaries of the Plan. Upon written notification by the Real Estate Investment Manager, the Trustees will promptly replace any amounts expended from such funds. The applicants represent that the Real Estate Investment Manager will have at least five (5) years experience in a variety of commercial real estate areas and will be well rounded in business and economics, including decision-making management experience and service in an advisory capacity or service on the boards of directors of at least two (2) broad-based business or financial organizations.

11. The specific duties and responsibilities of the Real Estate Investment Manager are set forth in a letter to the Department dated March 31, 1986, and in a management agreement between TCC, the Trustees, and the Real Estate Investment Manager. The Real Estate Investment Manager will be responsible for each of the following:

(a) At least twice each year, the review of all information, transactions, and other matters which the Real Estate Investment Manager deems to be relevant and material and which concern the Pre-ERISA Real Estate Investments;

(b) The approval in writing of all terms, provisions, price, timing, and any other aspects of any transactions involving the Pre-ERISA Real Estate Investments and the Plan, whether the transactions are with unrelated third parties or with Parties in Interest;

(c) The disposition of any of the Pre-ERISA Real Estate Investments which may arise under the operation of the Partnerships' agreements because of the occurrence of "conversion events" (the Conversion Events) or in certain "buy-sell" circumstances (the Buy-Sells) and the authority to exercise all of the Plan's rights, title, and interests in, or connected with, the Pre-ERISA Real Estate Investments;[9]

(d) Monitoring the actions of the Trustees to assure that at least 80% of the Investment Proceeds is invested in non-Real Estate Related Investments;

(e) The written approval of Reinvestments or Capital Contributions by the Plan, and actions to assure that the Plan is not treated in a discriminatory manner when such Reinvestments or Capital Contributions occur;

(f) The determination that the Limitation on Reinvestments is not exceeded;

(g) The review, before independent accountants complete their annual report, of all information and other matters which are reasonably deemed to be relevant and material to the valuation of the Pre-ERISA Real Estate Investments, in order to confirm the valuation of the investments and the methodology used in arriving at the valuation;

(h) Upon disposition of the Pre-ERISA Real Estate Investments, the verification that each participant in the Plan will receive, pursuant to the Plan, their share of the undiscounted fair market value of such asset; and

(i) Review and verification that the Plan's Annual Report (Form 5500) reflects the current value of all of the Plan's real estate assets consistent with section 3(26) of the Act.

12. The management agreement between the Trustees and the Real Estate Investment Manager also provides that:

(a) The Real Estate Investment Manager will have no ownership in or any significant financial involvement with or any dependency on TCC or any affiliate of TCC (the Affiliates), as defined in section IV(a). The Real Estate Investment Manager will not be a director or employee of TCC or any of the Affiliates or receive more than five percent (5%) of his gross income during any calendar year in the form of direct or indirect compensation, fees, or payments for serving in an advisory capacity to TCC or any of the Affiliates (including his duties as the Real Estate Investment Manager to the Plan).

(b) TCC or any of the Affiliates will not have the power to exercise any controlling influence over the decisions to be made by the Real Estate Investment Manager pursuant to this proposed exemption.

(c) The Real Estate Investment Manager shall receive from the Plan a reasonable monthly fee for the services which he shall provide to the Plan and to the Trustees as a Real Estate Investment Manager.

(d) Written minutes will be taken and documents maintained in connection with all meetings involving the Real Estate Investment Manager. Such minutes will include a rationale as to why decisions were made by the Real Estate Investment Manager with respect to his duties and responsibilities.

(e) Should the Real Estate Investment Manager resign, TCC has authority to name a successor Real Estate Investment Manager (the Successor). Otherwise, the Real Estate Investment Manager may not be dismissed by TCC, except for "good cause," as defined in Section IV(c), upon fifteen (15) days notification in writing by the Trustees to the Real Estate Investment Manager.

(f) Within thirty (30) days of the appointment of a Successor by TCC, the Trustee shall file with the Department the name of such Successor along with his qualifications and shall notify the Department of the reason for such action.

It is represented that the Plan document will be amended if the terms of these representations or any agreement with the Real Estate Investment Manager would otherwise contravene any provision of the Plan.

13. TCC, the Trustees, and William E. Cooper (Mr. Cooper) of Dallas, Texas, have executed a management agreement

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[9] Conversion Events include such occurrences as withdrawals by a general partner from one of the Partnerships, termination of employment of a general partner with TCC, the unauthorized attempt to dispose of a general partnership interest in one of the Partnerships, or attempted assignment of an interest in one of the Partnerships for the benefit of creditors. Upon the occurrence of such Conversion Events, the general partner's partnership interest automatically converts to a limited partnership interest, and all other partners have a conditional option to purchase all of the converted interest at an appraised price, or upon agreed terms, and in accordance with their respective percentage of ownership. If less than all other partners elect to purchase the converted partners interests, that interest may be allocated among the purchasing partners as they may agree. If no partner exercises any option, the converted partner may purchase the entire interest of all the other partners at the established price.

A Buy-Sell may occur following a Conversion Event if a third party, not affiliated with any partner in such Partnership, makes an offer to purchase all of the Partnership's assets or all of the interests of the Partnership. Then either: (1) All of the partners are bound to accept the terms of the offer; or (2) One or more of the partners may refuse to accept the offer and instead purchase all the assets or interests owned by the other partners on the same terms as contained in the offer. Thus, Conversion Events and Buy-Sells may give rise to sales and purchases of a Partnership Interest between the Plan and Parties in Interest. The Department is not in a position to make any exemptive findings at this time with respect to potential purchases of Partnership Interests by the Plan, pursuant to Conversion Events or Buy-Sells to the extent that the Circumstances surrounding a particular purchase may vary from transaction to transaction.

which appoints Mr. Cooper as the Real Estate Investment Manager for the Plan. Mr. Cooper represents that he is qualified for the position in that he has had experience in a wide variety of commercial real estate areas and in management. He has served on the board of directors of broad-base business or financial organizations and has been chairman of many charitable and philanthropic associations. Further, Mr. Cooper states that he has received the advice of counsel concerning his fiduciary responsibilities under the Act, in particular as those responsibilities apply to the Plan, and acknowledges that he is a fiduciary with respect to the Plan.[10]

14. Mr. Cooper represents that he is independent in that he is not one of the Parties in Interest with respect to the Plan, pursuant to section 3(14) of the Act or section 4975(e)(2) of the Code, other than by reason of his status as fiduciary for the Plan. It is represented that Mr. Cooper has and will have no direct or indirect business relationship with TCC or with any of the Affiliates. Further, during his term as the Real Estate Investment Manager, he will not become an owner, officer, director, or employee of TCC, or any of the Affiliates. It is represented that Mr. Cooper will not receive any significant amount of direct or indirect compensation from Mr. Trammell Crow, TCC, or any of the Affiliates, nor will any of his compensation or fees from TCC, any of the Affilates, and those he receives from serving as the Real Estate Investment Manager for the Plan, constitute more than five percent (5%) of his gross income during any calendar year. It is also represented that neither the Trustees, Mr. Crow, TCC, nor any of the Affiliates, nor any owner thereof, will have the power to exercise any controlling influence over the decisions made by Mr. Cooper, pursuant to his duties as Real Estate Investment Manager.

15. Notwithstanding the representations made in paragraph 14 above, in addition to his duties as Real Estate Investment Manager to the Plan, Mr. Cooper presently serves as an advisor to the Dallas Market Center Company and the Trammell Crow Hotel Company, which are owned by Mr. Trammell Crow and/or Mr. Crow's children. However, Mr. Cooper represents that the aggregate fees he received from both companies for advisory services rendered during 1985 comprised less than 1.4% of his gross income. Mr. Cooper also serves on the corporate board of Trammell Crow Distribution Company, shares of which are owned by the Plan. Mr. Cooper is currently receiving payments from Mr. Crow's children pursuant to a sale in 1981 of a business in Houston, Texas in which he was a fifty percent (50%) owner.

[10] The Department relies on the representations of Mr. Cooper with respect to his status as a fiduciary under the Act and does not hereby construe any exculpatory clauses contained in the management agreement between Mr. Cooper, TCC, and the Trustees in any way to modify his fiduciary duties and responsibilities with respect to the Plan imposed by reason of Part 4 of Title I of the Act and by the management agreement.

Notice To Interested Persons

Within fifteen (15) days following publication of the proposed exemption in the **Federal Register**, a copy of the pendency notice will be furnished to all active participants and former participants who have any deferred vested account balances in the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Proposed Exemption

Section I-Specific exemption involving disposition of pre-ERISA real estate investments to parties in interest. If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale to Parties in Interest of any or all of the Pre-ERISA Real Estate Investments, including certain parcels of Improved Real Property directly held by the Plan, the Undivided Interests in real estate, and the Partnership Interests owned by the Plan, if the following conditions are met:

(a) The sales price is the fair market value as determined by an independent qualified appraiser; and

(b) The conditions as set forth below in section III of this exemption are met.

Section II-Specific exemption for transactions involving reinvestments in parties in interest. If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Reinvestments by the Plan in, including Capital Contributions by the Plan to, the Pre-ERISA Real Estate Investments, which are or become Parties in Interest with respect to the Plan under section 3(14) of the Act and section 4975(e)(1) of the Code, if the following conditions are met:

(a) Any Capital Contributions made by the Plan represent an equity investment and are in proportion to the Plan's existing equity ownership interest in any of the Partnerships in which the Plan owns Partnership Interests or in other entities which comprise the Pre-ERISA Real Estate Investments; and

(b) The conditions set forth in Section III of this exemption are met.

Section III-General conditions

(a) An Independent Qualified Real Estate Investment Manager for the Plan, as defined in section IV(d), who may not be removed except for "good cause," as defined in section IV(c), reviews and approves or initiates such transactions;

(b) At the time such transactions are entered into by the Plan, the terms of the transactions are not less favorable to

the Plan than the terms generally available in arm's length transactions between unrelated parties;

(c) The total amount of Reinvestments (including any Capital Contributions) made by the Plan with respect to Pre-ERISA Real Estate Investments throughout the term of this proposed exemption, do not exceed the greater of four million dollars ($4,000,000) or an amount equal to twenty percent (20%) of the value of the Plan's Pre-ERISA Real Estate Investments, as determined on December 31, 1986;

(d) Subject to review by the Independent Qualified Real Estate Investment Manager, at least eighty percent (80%) of the Investment Proceeds of the Plan, as defined in sectin IV(f), will be invested in non-Real Estate Related Investments, as defined in section IV(j);

(e) The Plan will not be subject to discrimination with respect to its ability to make (or forebear from making) Reinvestments or Capital Contributions in a manner and to the extent available to all partners who invest on the same terms as the Plan in the Partnerships;

(f) The Plan does not invest in any new Partnership Interests;

(g) The Plan does not purchase any additional common or preferred sares of stock in Employee's Inc. However, Employee's Inc. may invest Internally Generated Profits, as defined in Section IV(e), in the purchase of interests in newly formed Partnerships;

(h) The Plan does not purchase stock or any ownership interest in any corporation, partnership, or other entity directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with TCC, TCP, or any partner of TCP, which entity engages in the ownership and development of real estate through the purchase of interests in commercial real estate; and

(i) The Trustees maintain, for a period ending three years after the term of this exemption, records and all documents necessary to enable the persons described below in paragraph (a) of this secton III (i) to determine whether the conditions of this exemption have been met. Sepcifically, these records and documents shall include but not be limited to: (1) written minutes of all meetings in which the Independent Qualified Real Estate Investment Manager takes part which include an explanation as to why decisions were made by the Independent Qualified Real Estate Investment Manager with respect to all transactions under his responsibility; and (2) Records which will permit identification of the assets owned by Employee's Inc., and the Plan's proportionate interest therein. However, (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the applicants, the records are lost or destroyed prior to the end of the period ending three years after the term of this exemption, and (2) no Parties in Interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (a) below.

(a) (1) Except as provided in section (2) of this paragrah (a) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (i) of this Section III are unconditionally available at the office of the Trustees for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(B) Any fiduciary of the Plan and/or the Independent Qualified Real Estate Investment Manager of the Plan and any duly authorized employee or representative of such fiduciary or Independent Qualified Real Estate Investment Manager;

(C) TCC, or any duly authorized employee or representative of TCC; and

(D) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participant or beneficiary.

(a) (2) None of the persons described in subparaghraphs (B) through (D) of this paragraph (a) shall be authorized to examine trade secrets of the applicants, or commercial or financial information which is privileged or condifential.

Section IV-Definitions. For the purposes of this exemption:

(a) "Affiliates" of TCC include—

(1) Any of the owners of TCC;

(2) TCP or any partner of TCP;

(3) Any Management Company; or

(4) Any TCC sponsored entity (including the partnerships) which is involved in commerical real estate development and is not a publicly held organization.

(b) "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) "Good cause" means any act or refusal to act in such a manner that the consequence thereof will:

(1) be a violation of any significant duty or obligation imposed on him as the Independent Qualified Real Estate Investment Manager of the Plan; or

(2) result in material and substantial harm or damage to the Plan or its assets or result in any consequence which is adverse to the best interests of the Plan participants and beneficiaries; or

(3) be the inability of the Independent Qualified Real Estate Investment Manager to perform his usual duties in the normal course of affairs because of any physical, mental, disability, or other condition.

(d) "Independent Qualified Real Estate Investment Manager" means a fiduciary who has acknowledged in writing that he is a fiduciary with respect to the Plan and is qualified to serve with respect to the real estate transactions described herein. The Independent Qualified Real Estate Investment Manager will have the power to engage in any transaction related to the holding and disposition of the Pre-ERISA Real Estate Investments, including sufficient control to enable him to discharge his responsibility with respect to the management and disposition of all of the Pre-ERISA Real Estate Investments of the Plan. The Independent Qualified Real Estate Investment Manager will be independent in that he is not an owner, director, or employee of TCC or of any of the Affiliates of TCC, as defined in Section IV(a). Also, he will earn no more than 5% of his gross income during any calendar year in the form of direct or indirect compensation, fees, or payments for services in an advisory capacity to TCC or any of the Affiliates (including his duties as the Independent Qualified Real Estate Investment Manager for the Plan).

(e) "Internally Generated Profits" means income minus expenses plus depreciation and other non-cash charges deducted in determining such net profit plus other cash amounts in excess of reasonable corporate needs as determined by the Board of Directors of Employee's Inc., minus amounts distributed to the Plan as a shareholder.

(f) "Investment Proceeds" means contributions to the Plan by TCC, plus net cash income, plus net disposition proceeds derived from all Plan assets (including net proceeds from the disposition of all of the Pre-ERISA Real Estate Investments and distributions to the Plan from Employee's Inc.).

(g) "Parties in Interest" means persons as defined by section 3(14) of the Act.

(h) "Partnership Interests" means any general or limited partnership interest owned by the Plan in real estate Partnerships that are conceived and sponsored by TCC;

(i) "Pre-ERISA Real Estate Investments" means the Improved Real

Property, the Undivided Interests, and the Partnership Interests which the Plan either purchased, or incurred a binding obligation to purchase, prior to the effective date of the Act.

(j) "Real Estate Related Investments" means any interests in unimproved or improved real property, undivided interests in real property, and partnership interests in partnerships which own real property.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

Signed at Washington, DC, this 8th day of October 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefits, U.S. Department of Labor Administration.

[FR Doc. 86-23140 Filed 10-10-86; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for the Biophysics Program; Meeting

In accordance with the Federal Advisory Committee, as amended, Pub. L. 92-463, The National Science Foundation announces the following meeting:

Name: Advisory Panel for the Biophysics Program.

Date and Time: Wednesday, Thursday and Friday, October 22, 23, and 24, 1986 from 8:00 AM to 6:00 PM.

Place: The National Science Foundation, 1800 G Street NW. Washington, DC, Room 1242.

Type of Meeting: Closed.

Contact: Dr. Arthur Kowalsky, Director, Biophysics Program; Dr. Patricia Jost, Director, Biophysics Program (202) 357-7777 or 7778.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10 (d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

October 6, 1986.

[FR Doc. 86-23115 Filed 10-10-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology.

Date and Time: Wednesday, Thursday, and Friday, October 22, 23, and 24, 1986, from 9:00 AM to 5:00 PM.

Place: Room 628, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Eve Briles, Assistant Program Director, Cell Biology Program, Room 334. Telephone: 357-7474.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provision, of section 10(d) of Pub. L. 92-463. The Committee Management Office was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

October 6, 1986.

[FR Doc. 23116 Filed 10-10-86; 8:45 am]

BILLING CODE 7555.01-M

Advisory Committee for Ocean Sciences (ACOS); Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS).

Date and time: October 27 and 28, 1986—8:30 a.m. to 5:00 p.m. each day.

Place: Room 203, The Brookings Institution, 1775 Massachusetts Ave., NW, Washington, DC.

Type of meeting: Open.

Contact person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, Room 609, National Science Foundation Washington, DC—Telephone: 202/357-9639.

Summary minutes: May be obtained from the contact person.

Purpose of committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda

The Committee will hold morning and afternoon Sessions on both days. Following opening remarks and general introductions—the Committee will hear presentations and status reports of current and topical interest from various officials and representatives from NSF, other departments and agencies, and other organizations active in ocean sciences matters. The Committee will also hear reports from subcommittees, ranging from Ocean Engineering to Oversight Review, and determine a proper course of action based on the information and circumstances presented. The committee will also discuss the draft updated Long-Range for Ocean Sciences and take appropriate action concerning further presentation and dissemination. The Committee will also conduct necessary administrative functions in accordance with established custom and practice with respect to: Approval of the minutes of the previous meeting; determination of time and place of the next meeting; as well as any other appropriate business.

M. Rebecca Winkler,

Committee Management Officer.

October 7, 1986.

[FR Doc. 86-23117 Filed 10-10-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322-OL-5; ASLBP No. 86-534-01-OL]

Long Island Lighting Co.; Shoreham Nuclear Power Station, Unit 1 (EP Exercise); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for *Long Island Lighting Company* (Shoreham Nuclear Power Station, Unit 1), Docket

No. 50–322–OL–5, is hereby reconstituted by appointing Administrative Judge John H Frye, III, in place of Administrative Judge Morton B. Margulies and Administrative Judge Oscar H. Paris in place of Administrative Judge Jerry R. Kline because of schedule conflict Administrative Judge John H Frye is appointed Chairman of the Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

John H Frye, III, Chairman
Oscar H. Paris
Frederick J. Shon

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The addresses of the new Board members are:

Administrative Judge John H Frye, III, Chairman Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555
Administrative Judge Oscar H. Paris, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 7th day of October, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86–23167 Filed 10–10–86; 8:45 am]

BILLING CODE 7590–01–M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Commission Meetings

Notice is hereby given of meetings of the prospective payment Assessment Commission on October 28–29, 1986, at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland.

The Subcommittee on Diagnostic and Therapeutic Practices will meet in the Montgomery Room at 9 o'clock a.m., October 28, 1986. The Subcommittee on Hospital Productivity and Cost-Effectiveness will convene at 9 o'clock a.m., October 28, 1986, in the Maryland Room.

The full Commission will convene at 9:30 a.m. on October 29, 1986, in the Montgomery Room.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 86–23253 Filed 10–10–86; 8:45 am]

BILLING CODE 6820–BW–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–23684; File No. SR–Amex–86–25]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to the Imposition of a $500 Filing Fee Payable by New Applicants for Regular, Options Principal and Associate Membership, Trading Permit Privileges and for Approval as Authorized Representatives

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 September 24, 1986, the American Stock Exchange, Inc. ("Amex") 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 American Stock Exchange, Inc. proposes to implement a $500 processing fee payable by new applicants for regular, options principal and associate membership, trading permit privileges and for approval as authorized representatives.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis ofr, 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

When an individual applies for membership, trading permit privileges (such as the existing options trading permits or the newly proposed limited trading permits), or for approval as an authorized representative, the Exchange staff provides a significant amount of administrative support in connection with the application process.

The staff reviews in detail with the applicant all of the documents which must be provided in support of the application, arranges for a background investigation by an outside agency, and reviews the SEC Litigation, Actions, and Proceedings Bulletin to determine whether the applicant is, or has been, the subject of any disciplinary proceedings. In addition, each applicant is required to attend a 2½ day educational seminar, and pass a qualifying examination, prior to being elected to membership.

In order to recover a portion of the cost of processing such applications, a relatively modest $500 fee will be imposed. This fee will be required for applications in the following categories: Regular, options principal and associate membership; trading permit privileges; memberships/permits which are held subject to special transfer agreements, i.e., lease agreements; and authorized representatives.

If an applicant has previously been processed and approved in one of the above categories, and has been active in such category during the preceding 12 months, he will not be required to pay another processing fee. In such situations, the exchange will require that the individual update his existing application, which normally would not require the same extensive background and litigation checks undertaken in connection with a new applicant. For example, a regular member who transfers his seat and within one year purchases or leases an options principal membership will not be charged the $500 fee in connection with his application as an options principal member.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) in particular in that the $500 processing fee provides for equitable dues, fees and other charges among the Exchange's members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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 refer to the file number in the caption above and should be submitted by November 4, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23165 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23685; File No. SR-Phlx-86-31]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating To Use of the General Securities Representative (Series 7) Examination and Its Study Outline To Qualify Persons Seeking Registration as General Securities Representatives

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 September 11, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx") 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 Philadelphia Stock Exchange, Inc. (Phlx) hereby announces as a proposed rule change the use of the Series 7 examination and its study outline to qualify persons seeking registration as general securities representatives.

II. Self-Regulatory Organization's Statement Regarding 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 III 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 proposed rule change reflects the PHLX's current use and commitment to future use of the Series 7 examination and its study outline in qualifying persons seeking registration as general securities representatives. The PHLX is particularly proud or its on-going participation in the joint self-regulatory efforts in updating the examination to reflect the significant developments in the securities markets. These developments include the introduction of new securities products such as index options, interest rate options, and foreign currency options.

The use of the Series 7 examination and its study outline for the above stated purposes is consistent with section 6(c)(3) of the Securities Exchange Act of 1934 which authorizes a national securities exchange to "examine and verify the qualifications of an applicant" to become a member or associated with a member in accordance with procedures established by the rules of the exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any 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 or received.

III. 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 Phlx. All submissions should refer to the file number in the caption above and should be submitted by November 4, 1986.

IV. Accelerated Approval of Proposed Rule Change

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.

The Commission finds good cause for approving the proposed rule change

prior to the thirtieth day after the date of publication of notice thereof, in that, the Commission recently approved a proposed rule change submitted by the National Association of Securities Dealers, Inc. ("NASD") that permitted it to revise and update the Series 7 Examination and its study outline to adequately reflect current trends in the securities markets.[1] Accordingly, the Commission believes that Phlx should be permitted to use the Series 7 Examination to foster continuity among the national securities exchanges in examining and verifying the qualifications of an applicant seeking registration as a general securities representative.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23164 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. NO. IC—15350; Filed No. 812-6388]

GMO Core Trust; Application

October 7, 1986.

Notice is hereby given that, GMO Core Trust, a business trust formed under the laws of Massachusetts ("Applicant"), 125 High Street, Boston, Massachusetts 02110, filed an application on May 19, 1986, and an amendment thereto on September 15, 1986, for an order, pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act"), exempting Applicant from section 17(a) of the Act to the extent necessary to permit certain shareholders to make in-kind investments and to allow Applicant to redeem shares of certain shareholders in-kind. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant is an open-end, diversified management investment company registered under the Act and currently has only as single portfolio ("Fund") represented by shares of Applicant's Domestic Equity Series (together with the shares of any subsequently created series, "Shares"). The investment objective of the Fund is to achieve a total return greater that that of the Standard and Poor's 500 Stock Index through investment in a broadly diversified and liquid portfolio of common stocks. The Fund is advised and managed by Grantham, Mayo, Van Otterloo and Co. ("Manager").

Shares are sold to investors with a minimum initial investment of $5,000,000 and minimum subsequent investment of $500,000. Applicant's prospectus and statement of additional information (together, "Prospectus") provide that an investor may purchase Shares either in cash or in exchange for shares of common stock owned by the investor ("in-kind investments") or a combination thereof. The purchase price of Shares is the net asset value of the Shares determined after the purchase order is received plus a premium established from time to time by Applicant. The premium on cash investments is .10% of the net asset value of the Shares purchased plus an amount determined by the Manager based on the anticipated brokerage and other expenses of the Fund incurred in connection with the investment; provided, however, that the total premium on cash investments may not be more than .38% of the net asset value. The premium on in-kind investments is .10% of the net asset value of the Shares. The premiums are paid to and retained by the Fund.

An investor may make an in-kind investment in the Fund only if (1) the Manager, in its sole discretion, believes the investor's securities are appropriate investments for the Fund, (2) the investor represents and agrees that all securities offered to the Fund are not subject tc restriction upon their sale by the Fund under the Securities Act of 1933, or otherwise, and (3) the securities may be acquired under the investment restrictions of the Fund.

Shares are redeemed at the net asset value per share next determined after receipt of the redemption request, less tha applicable redemption fee. In the case of cash redemptions, the redemption fee will be .10% of the amount redeemed plus an amount equal to the brokerage and transaction costs of the Fund associated with the redemption, as determined by the Manager, except that, if the redeeming shareholder is able to arrange for the simultaneous purchase of Shares by a new investor or the pruchase of additional Shares by a current shareholder, the redemption fee will be .10% of the amount redeemed, up to the value of the purchase by the new investor or curent shareholder. Notwithstanding the foregoing, the redemption fee charged on cash redemptions will not exceed an amount established from time to time by the Fund, currently .38%. In the case of in-kind redemptions, the redemption fee will be .10% of the amount redeemed. These charges are retained by the Fund and are intended to cover brokerage and other expenses of the Fund arising out of redemptions.

Applicant seeks an exemption from section 17(a) of the Act to allow the shareholders owning more than 5% of the outstanding Shares (such shareholders not otherwise "affiliated persons") of Applicant within the meaning of section 2(a)(3) of the Act being referred to as "Affiliated Shareholders" to make in-kind investments and to allow Applicant to redeem shares of such Affiliated Shareholders in-kind, subject to the following conditions:

(1) The securities acquired by the Fund in an in-kind investment or distributed to an Affiliated Shareholder pursuant to a redemption in-kind ("Securities") will be limited to Securities listed on a securities exchange or Securities for which quoted bid prices are available;

(2) The Securities will be valued, in the case of Securities listed on a securities exchange for which market quotations are available, at their last quoted sales price, or, if there is no such reported sale, at the most recent quoted bid price and, in the case of unlisted equity Securities, at the most recent quoted bid price;

(3) Applicant's board of trustees, including a majority of the trustees who are not interested persons (as defined in the Act) of Applicant ("Independent Trustees") will determine no less frequently than annually: (a) whether the Securities have been valued in accordance with Condition (2); (b) whether the acquisition or distribution of any such Securities is consistent with the policies of the Fund as reflected in the Prospectus; and (c) whether the procedures for valuation and review described in Condition (2) and this Condition (3) continue to be appropriate;

(4) Applicant will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any in-kind investment by, or redemption in-kind to, an Affiliated Shareholder occurred, the first two years in an easily accessible place, a written record of each such investment of redemption setting forth a description of each security distributed, the identity of the Affiliated Shareholder, the terms of the acquisition or distribution and the

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[1] *See* Securities Exchange Act Release No. 23325 (June 16, 1986), 51 FR 22974.

information or materials upon which the valuation described in Conditions (2) was made.

Applicant submits that the requested exemption meets the standards set forth in section 17(b) of the Act. All in-kind investments by Affiliated Shareholders will be on terms which are reasonable and fair to Applicant and the Affiliated Shareholder because they will be valued pursuant to an objective, verifiable standard. Applicant argues that the use of quoted prices for valuing the Securities leaves no room for the Affiliated Shareholder or the Manager to effect a transaction detrimental to the other shareholders of the Trust. Further, because the standard for valuing the Securities is the same as that used by the Fund to value its portfolio, Applicant submits that purchases and redemptions in-kind will have no adverse effect on the Fund's net asset value per share. Also, periodic review by the board of trustees, including the Independent Trustees, will provide additional assurance that the transactions are fair and reasonable.

Applicant further states that, for similar reasons, the use of an objective, verifiable standard to value the Securities also assures that there is no overreaching by either party. In addition, contends that the Manager's fiduciary obligation to Applicant and the Manager's professional incentive to achieve the highest possible return for the Fund will guard against overreaching by an Affiliated Shareholder. Applicant also states that all its shareholders have invested substantial amounts in the Fund and are believed to be vigilant and sophisticated investors.

According to Applicant, in-kind investments and redemptions by an Affiliated Shareholder are not inconsistent with the Fund's investment policy set forth in the Prospectus and are consistent with the general purposes of the Act because in-kind investments and redemptions offer reduced costs and increased returns to all Affiliated Shareholders without any additional expense, and with possible savings for Applicant. For these reasons, Applicant submits that the proposed transactions, conducted subject to the conditions set forth above, would be reasonable and fair, would not involve any overreaching by either Applicant or the Affiliated Shareholders and, are consistent with the investment policies of the Fund and with the general purposes of the Act. Further, Applicant submits that the proposed transactions are 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.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 30, 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 Sercretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon the 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 motion.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23162 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15348; File No. 812-6449]

OKOBANK Osuuspankkien Keskuspankki Oy and OKO Funding Inc.; Foreign Bank Application

October 3, 1986.

Notice is hereby given that OKOBANK Osuuspankkien Keskuspankki Oy ("Bank") Arkadiankatu 23, SF-00100 Helsinki 10, Finland, and OKO Funding Inc., ("Subsidiary"), 1209 Orange Street, Wilmington, Delaware 19801, filed an application on August 8, 1986, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Bank and the Subsidiary (collectively, "Applicants") from all provisions of the Act. All interested persons are referred to the application on file with Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for text of all applicable provisions.

According to the application, the Bank is a commercial bank organized under the Finnish Law Governing the Commercial Banks of August 29, 1986. The Bank is the central bank for Finnish cooperative banks and one of Finland's leading commercial banks. On the basis of total assets at December 31, 1985, the Bank, on a consolidated basis, ranked fifth among all banks in the Republic of Finland. At December 31, 1985, the Bank's share capital totaled the equivalent of $73 million, 99.93% of the share capital of the Bank is owned by the cooperative banks and the Finnish Government owns the remainder. The Subsidiary is a corporation organized under the laws of the State of Delaware. All of the issued and outstanding shares of capital stock of the Subsidiary are owned by the Bank. The Subsidiary was established for the sole purpose of obtaining funds in the commercial paper market to be used by the Bank.

Applicants proposes to issue and sell short-term unsecured negotiable promissory notes of the type generally referred to as commercial paper ("Notes"). Although neither of them has a present intention of doing so, Applicants may in the future offer other securities, other than equity securities ("Future Securities"). The Notes and any Future Securities will be (1) direct and unconditional obligations of the Bank, (2) direct and unconditional obligations of the Subsidiary unconditionally guaranteed by the Bank or (3) a combination of (1) and (2).

The Notes and any Future Securities issued by the Bank will rank *pari passu* among themselves and equally with all other unsecured indebtedness of the Bank and prior to any subordindated indebtedness of the Bank and to the Bank's capital stock. The Notes and any Future Securities issued by the Subsidiary will be direct liabilities of the Subsidiary and will rank *pari passu* among themselves, prior to the Subsidiary's capital stock, and, while it is not contemplated that the Subsidiary will have any indebtedness other than Notes issued by it, but in the event that it does issue any Future Securities, equally with all other unsecured, unsubordinated indeptedness of the Subsidiary and prior to any of the Subsidiary's subordinated indetedness. The Bank's guarantee of the Notes and any Future Securities issued by the Subsidiary will rank equally with all other unsecured, unsubordinated indebtedness of the Bank, and prior to any subordinated indebtedness of the Bank and to the Bank's capital stock.

Applicants plan to issue and sell the Notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance upon an opinion of special legal counsel in the United States that the offering and sale of the Notes will qualify for the exemption from the registration requirements of the 1933 Act provided by section 3(a)(3) thereof. Offerings of any Future Securities will be made only pursuant to a registration statement under the 1933 Act or

pursuant to an applicable exemption for such registration, the availability of which will be confirmed by an opinion of special legal counsel in the United States. Applicants do not request Commission review or approval of such opinion. The Notes and any Future Securities will have received, prior to issuance, one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations, and special legal counsel in the United States shall certify the receipt of such rating; provided, however, that no such rating need be obtained with respect to any such issue if, in the opinion of special legal counsel in the United States, an exemption from registration is available under section 4(2) of the 1933 Act.

The Notes will be sold to one or more commercial paper dealers in the United States which, as principal, will offer them to investors in the United States. In certain cases, however, the commercial paper dealers may offer the Notes as agents. Applicants undertake to secure an undertaking from each such dealer that (1) the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors, wealthy individuals and other purchasers of the type that normally participate in the commerical paper market, and (2) such commercial paper dealers will provide each offeree, prior to any sale of the Notes, a memorandum describing the business and containing the most recent publicly available fiscal year-end audited financial statements of the Bank. Applicants will provide or cause to be provided to such dealers information sufficient to prepare such memorandum. Applicants represent that the memorandum will be at least as comprehensive as those customarily used in commerical paper offerings in the United States and will include a brief paragraph highlighting material differences between Finnish and United States generally accepted accounting principles applicable to commercial banks such as the Bank. Such memorandum will be updated periodically to reflect material changes in the financial status of the Bank. Any Future Securities of the Bank or the Subsidiary offered in the United States will be done on the basis of disclosure documents at least as comprehensive as those used in the presently proposed offering. Such a disclosure document will be provided to each offeree who has indicated an interest in such securities, prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act, such a disclosure document will be provided to such persons and in such manner as may be required by the 1933 Act. Applicants consent to having any order granting the relief requested, under section 6(c) of the Act, expressly conditioned upon compliance by them with their undertaking regarding disclosure memoranda.

Applicants represents that they will appoint agents for service of process in any action based on the Notes or any Future Securities issued by the Bank or any guarantee by the Bank of the Notes or any Future Securities issued by the Subsidiary and instituted in any New York State or United States Federal court in The City of New York by a holder of any of the Notes or any Future Securities. The Bank further represents that it will expressly accept the jurisdiction of an appropriate New York State court or United States Federal court in The City of New York in respect of any such action based on the Notes or any Future Securities issued by the Bank or any guarantee by the Bank of the Notes or any Future Securities issued by the Subsidiary. Applicants represent that such appointment by the Bank and the Subsidiary of an authorized agent and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes or any Future Securities have been paid; that the Bank will be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or any Future Securities or otherwise.

Applicants assert that, among other things, compliance by them with a number of substantive provisions of the Act would, as a practical matter, conflict with the Bank's operations and that the Bank would, thus, be effectively precluded from making a public offering of debt securities in the United States if the Bank or the Subsidiary were required to register as an investment company and comply with such provisions of the Act. Applicants also assert that approval of their application would advance the policies underlying the International Banking Act of 1978 by permitting the Bank to offer securities in the United States. Further, the Bank's operations are supervised and regulated by the Government of Finland and, therefore, the application of the requirements of the Act to the offer and sale of the Notes would be unnecessary and in some cases prevent the Bank from operating normally as a commercial bank. Applicants further assert that neither the Bank, as a Finnish bank subject to such supervision and regulation, nor the Subsidiary, as its wholly-owned subsidiary, should be treated as an investment company within the meaning of the Act. Based on all the facts and circumstances recited in their application, Applicants submit that granting an exemptive order, pursuant to section 6(c) of the Act, would be 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.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 27, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the 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 Applicants 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.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23161 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15347; File No. 811-4783]

Thirteen Star Partners, Ltd.; Application

October 3, 1986.

Notice is hereby given that Thirteen Star Partners, Ltd. ("Applicant"), a Florida limited partnership and registered under the Investment Company Act of 1940 ("Act") as a non-diversified management company, 180 Park Avenue North, Suite 2-B, Winter Park, Florida 32789, filed an application on September 3, 1986, pursuant to section 8(f) of the Act, for an order declaring that it has ceased to be an investment company. 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

rules thereunder for all applicable provisions.

Applicant was formed for the purpose of participating in the distribution of thirteen designated motion pictures through the acquisition of a limited partnership interest in Warner Bros. Thirteen Star Distributing Company, a California limited partnership. Applicant offered units of limited partnership interest pursuant to Regulation D under the Security Act of 1933. At the time of filing of this application, Applicant had approximately 166 limited partners.

On June 2, 1986, Applicant filed an application, pursuant to section 6(c) of the Act, for an order exempting it from all provisions of the Act. The application was granted by order dated August 21, 1986 (Investment Company Act Released No. 15270). Accordingly, Applicant is requesting that the Commission issue an order terminating its registration under the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 27, 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.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23163 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23678]

Securities Processing; Availability of Revised Rules; Stock Transfer Assn.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of availability of the revised rules of the Stock Transfer Association.

SUMMARY: A copy of the Rules of the Stock Transfer Association (as amended in April 1986) may be obtained from: Ms. Janie Goggin, c/o Bank of New York, Corporate Trust Administration, 90 Washington Street, 27th Floor, New York, New York 10015.

All requests should be accompanied by a fee of $10 payable to the Stock Transfer Association, Inc.

SUPPLEMENTARY INFORMATION: The Stock Transfer Association ("STA") and other transfer agent acssociations have revised and updated the rules of the STA. Those Rules represent a compendium of state commercial law and industry practice concerning the registration and transfer of securities. Specifically, the Rules of the STA cover common procedures, simplification statutes, security description and registration forms, and the transfer of securities by corporations, partnerships, fiduciaries, and other individuals or entities. The Rules of the STA should serve as a reference guide for transfer agents and also should assist presentors in the presentment of securities transfers.

Dated: October 3, 1986.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-23088 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23683; File No. SR-NASD-86-23]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 5, 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 proposed rule change to sections 1(zz) and 3 of Appendix E of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("Corporation" or "NASD") The proposed rule change would define a control based system of aggregating options positions for the purpose of determining options limits.

The proposed system establishes "control," rather than "ownership," as the determinative factor for the aggregation of accounts. The Corporation propose to define "control" as the power to make investment decisions for an account or accounts, or to materially influence directly or indirectly the actions of any person or entity who makes investment decisions. Thus, if a person or entity has such power over two or more accounts, the Corporation would presume that control exists and that the positions in such accounts would be aggregated. In addition, control would be presumed under the following circumstances: (1) Between members of joint accounts who have authority to act on behalf of the account; (2) between general partners; (3) shared ownership interests of 10% or more in two entities; (4) when accounts have common directors or management; and (5) where a person or entity has the authority to execute transactions in an account.

The presumption of control, however, would be rebuttable by a person or entity who submits an affidavit or other evidence sufficient to negate the presumption. The Corporation will consider the following factors in determining if aggregation of accounts is required: (1) Whether similar patterns of trading activity appear among separate entities; (2) whether similar business purposes and interest exist between the two accounts; (3) whether there is common supervision of the entities which extends beyond assuring adherence to each entity's investment objectives and/or restrictions; and (4) the degree of contact and communication between directors and/or managers of separate accounts.

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 statutory 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 place 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 Board of Governors approved the proposed rule change to define a control-based system of aggregating options positions for the purpose of determining options limits. The proposed rule change would also make materially uniform the language of the respective options markets' rules concerning options limits in that the Commission has approved control based systems for the American Stock Exchange, Chicago Board Options Exchange, Inc. and Philadelphia Stock Exchange.

The proposed rule change is consistent with the requirements of section 15A of the Securities Exchange Act of 1934 ("Act") and the rules and regulations thereunder applicable to the Corporation by providing for a more practical standard for determining if two of more accounts should be aggregated. Therefore, the proposed rule change is consistant with section 15A(b)(6) of the Act, which provides, in pertinent part, that the Corporation's rules be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not anticipate that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comment on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes contained in this filing.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because the rule change is substantively the same as rule changes filed previously by the Chicago Board Options Exchange, Inc. ("CBOE) the American, Philadelphia and New York Stock Exchanges, ("Amex", "Phlx" and "NYSE" respectively), and approved by the Commission.

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 because the rule change is substantively the same as proposals filed previously by the CBOE, Amex, NYSE and Phlx and approved by the Commission.[1]

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 refer to the file number in the caption above and should be submitted by November 4, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23160 Filed 10-10-86; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Releases Nos. 22550 (October 22, 1985), 22695 (December 9, 1985) and 23041 (March 20, 1982), 50 FR 43824 (October 28, 1985), 50 FR 20976 (December 13, 1985) and 51 FR 10592 (March 27, 1986), respectively.

DEPARTMENT OF TRANSPORTATION

[Docket No. 44380]

Seattle/Portland-Japan Service Review Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on November 10, 1986, at 10:00 a.m. (local time) in Room 5332, 400 7th Street SW., Washington, DC., before the undersigned administrative law judge.

Order 86-9-92 defines the issues to be considered. In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and two copies to the judge of (1) proposed stipulations; (2) requests for information and evidence in addition to the proposed evidence request attached to Order 86-9-92; (3) statements of position; and (4) proposed procedural dates. The Office of Aviation Enforcement and Proceedings (AEP) will circulate its material on October 30, 1986, and the other parties on November 6, 1986. The submissions of the other parties shall be limited to points on which they differ with AEP and shall use the marking and lettering system used by AEP. In addition, the other parties shall describe any problems they may have in complying with the evidence request attached to Order 86-9-92.

The October 30 and November 6 dates are delivery dates and not mailing dates.

Dated at Washington, DC., October 6, 1986.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 86-23182 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ending—October 3, 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. 44389 R-1—R-13

Parties: Members of International Air Transport Association.
Date Filed: October 1, 1986.
Subject: South Atlantic Cargo Rates.
Proposed Effective Date: October 1, 1986.

Docket No. 44390 R-1—R-21

Parties: Members of International Air Transport Association.
Date Filed: October 1, 1986.
Subject: Intra Europe Passenger Fares.
Proposed Effective Date: October 1, 1986.

Docket No. 44391 R-1 and R-2

Parties: Members of International Air Transport Association.
Date Filed: October 1, 1986.
Subject: TC3 Cargo Rates.
Proposed Effective Date: October 1, 1986.

Docket No. 44392

Parties: Members of International Air Transport Association.

Date Filed: October 1, 1986.

Subject: Increase Rates ex Tunsia.

Proposed Effective Date: October 1, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-23151 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Week Ended October 3, 1986

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the applicaton by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44382

Date Filed: September 30, 1986.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 28, 1986.

Description: Application of Northwest Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for an amendment to its certificate of public convenience and necessity for Route 129 to permit Northwest to provide air transportation services between the United States and Thailand via Japan.

Docket No. 44383

Date Filed: October 1, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 29, 1986.

Description: Application of Avair, Inc. pursuant to section 401(d)(1) of the Act requests a certificate of public convenience and necessity authorizing scheduled interstate air transportation, also requests a determination of fitness pursuant to Part 204 and, pursuant to Part 215 of the Economic Regulations, authorization to use the tradename "American Eagle".

Docket No. 44393

Date Filed: October 1, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 29, 1986.

Description: Application of Pan American World Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests authority to provide scheduled combination service from a point or points in the United States via intermediate points to Grand Cayman, Cayman Islands and beyond to other points in the Caribbean and South America on Pan Am's Route 136.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-23150 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 86-059]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for Applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership in the Towing Safety Advisory Committee (TSAC). This committee advises the Secretary of Transportation on rulemaking matters related to shallow draft and coastal waterway navigation and towing safety.

Eight members will be appointed as follows: Four (4) representatives from the barge and towing industry; two (2) representatives from the port districts, authorities, or terminal operators; and two (2) representatives from the general public.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The Committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

DATE: Requests for applications should be received no later than 1 December 1986 and must be completed and returned to the Coast Guard no later than 1 January 1987.

ADDRESS: Persons interested in applying should write to Commandant (G-CMC/21), U.S. Coast Guard, Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Captain J. H. Parent, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/21), Washington, DC 20593-0001, (202) 267-1477.

Dated: October 8, 1986.

J. H. Parent,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86-23126 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-86-17]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 3, 1986.

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

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 6, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25001	Million Air, Inc	14 CFR 121.371 and 121.378	To allow petitioner to have the overhaul, maintenance, and inspection of the engines, powerplants, and components of its CL-44 aircraft No. N908L performed by any or all of the companies Motoren-und Turbinen-Union of West Germany, Alfa Romeo of Italy, and/or Airscrew Howden, Ltd., of England.
25037	Sheila Johnson	14 CFR 61.103(a)	To allow petitioner to obtain a private pilot's license at age 16.
18881	Experimental Aircraft Association	14 CFR 91.22(a)(1)	Extension of Exemption No. 2689 to allow members of the International Aerobatic Club to participate in aerobatic competitions sanctioned by the International Aerobatic Club, a division of Experimental Aircraft Association, without being required to meet the fuel requirement for flight under visual flight rules.
25007	People Express Airlines	14 CFR Part 145	To allow petitioner to utilize certificated repair stations to perform line and overnight maintenance services at places other than the home base of the certificated repair station.
25066	Beech Aircraft Corporation	14 CFR 61.57(a)(1), 61.57(e)(2), 61.63(d)(2) and (3), 61.157(a), and Part 61, Appendix A.	To allow Beechcraft Training Center to utilize simulators for training and checking pilots for portions of flight tests required for pilot certification.
25043	United Executive Jet, Inc	14 CFR § 135.165(b)	To allow petitioner to operate its Learjet Model 35 aircraft with only one high frequency communications receiver and one Global/VLF Omega Long Range Navigation Receiver.
18114	Flying Tigers	14 CFR 121.547(c) and 121.583(a)	Extension of Exemption No. 2600 to allow petitioner to carry a journalist, reporter, or photographer on board its cargo aircraft.
25077	Pocono Airlines, Inc	14 CFR 135.429(a) and 135.435	To allow petitioner to employ Societe Nationale Industrielle Airspatiale, Sasmat Rousseau Aviation, Turbomeca, and Ratier-Figeac of France and Lucas Aerospace, Ltd., of England to overhaul and repair its Nord 262 aircraft even though these companies do not hold the appropriate U.S. certificates.
25075	Versatile Helicopters, Inc	14 CFR 141.35(d)(3)(ii)	To allow Mr. Keith Hickman to fulfill the duties of chief flight instructor for Versatile Helicopters, Inc., without meeting the requirement of 1,500 hours as a certificated flight instructor.
25079	Montex Drilling Company	14 CFR 61.58(c)	To allow petitioner's pilots to complete the requirement for 24-month pilot-in-command check for the BA-111 in an FAA-approved simulator.
25038	Skyworld Airlines	14 CFR 121.503 (a) and (b) and 121.511	To allow petitioner to schedule a pilot or flight engineer in excess of 8 hours of flight time in any 24 consecutive hours without a rest period of 16 hours following the flight time.
24440	American Flyers	14 CFR 141.91(a)	Amendment of Exemption No. 4419 to allow petitioner to operate a pilot ground school in Farmers Branch, Texas, 28 nautical miles from its home base of operations.
25080	Aeroservice International Training Center, Inc	14 CFR 121.407(a)(1)(i) and Part 141, Appendix F, Item IV.	To allow petitioner's students, who are enrolled in AITC rating programs under Part 141 for the Boeing 707, Boeing 737, and McDonnell-Douglas DC-9 aircraft to complete the required training in an airplane simulator instead of in an airplane in flight.
25074	Aero Industries, Inc	14 CFR 135.267(d)	To allow petitioner to schedule day and night rest periods for its flight crewmembers in lieu of meeting the 10-hour rest requirement preceding an assigned flight.
25073	Atlantis Airlines, Inc	14 CFR 91.116 (f) and (g) and 135.225(e)(1).	To allow petitioner to take off from Myrtle Beach Air Force Base with less than the required 1-mile minimum visibility.
82-CE-27-AD	William T. Creech	AD 82-19-01	Relief from the requirement to inspect the wing spars of PA-24 Comanche aircraft after each 100 hours of flight time.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought—Disposition
20378	PHH Beckett, Inc	14 CFR 61.68(c)	Extension of Exemption No. 3067 to allow petitioner's pilots in command to complete their entire 24-month pilot-in-command checks for the BAC 1-11 in an FAA-approved visual flight simulator. *GRANTED September 15, 1986.*
24194	United Airlines	14 CFR 43.3 and 43.7	Extension of Exemption No. 4127 to allow petitioner to acquire aircraft parts from Canadian Pacific Airlines, Ltd., which have been maintained or approved for return to service by persons prescribed by §§ 43.3 and 43.7 for installation on petitioner's aircraft when located other than in Canada. *GRANTED August 29, 1986.*
12227	National Business Aircraft Association	14 CFR 91.169 and 91.181(a)	Extension of Exemption No. 1637, as amended, to allow members of petitioner to operate small civil airplanes and helicopters of U.S. registry under the operation rules of §§ 91.183 and 91.215 and the inspection procedures of § 91.169(f) subject to certain conditions. *GRANTED September 25, 1986.*
18324	American Airlines	14 CFR 43.3 and 121.709(b)(3)	Extension of Exemption No. 2678 to allow petitioner's certificated flight engineers to stow supplemental oxygen masks during flight and to make an entry in the aircraft maintenance logbook. *GRANTED September 10, 1986.*
25009	City of Jacksonville Mosquito Control Branch	14 CFR 137.53(c)(2)	To allow petitioner to install a supplemental type certificated approved spray system on its Cessna aircraft 337A, SN 337-0486, Registration No. N53865, for the control and eradication of mosquitoes in Duval and surrounding counties. Petitioner states that the aircraft does not require being equipped with device capable of jettisoning at least one-half of the aircraft's maximum authorized load of agricultural materials within 45 seconds, when operated over congested areas, as required by the subject section. *DENIED September 25, 1986.*
24945	San Diego Mesa College	14 CFR 141.35(e)	To permit Mr. Donald E. Taylor to act as the Chief Ground Instructor for San Diego Mesa College even though he does not meet the requirement of 1 year of experience as a ground school instructor in a certificated pilot school. *GRANTED Septe 25, 1986.*
24975	Transco Energy Company	14 CFR 61.161(b)(3)	To exempt Mr. Gerald D. Barnes from meeting the 8-year requirement for night flight time as specified in § 61.161(b)(3). *GRANTED September 25, 1986.*
24954	Seattle Jet Center	14 CFR 135.267	To allow petitioner to operate its fixed wing aircraft in Hospital Emergency Medical Transport Service without meeting the flight and duty time limitations. *DENIED 9/3/86.*
25094	Western Airlines, Inc	SFAR 48	To permit petitioner to initiate operations at LaGuardia Airport on or before November 1, 1986, with slots acquired in the special slot lottery conducted on March 27, 1986. *PARTIAL GRANT 9/19/86.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—Disposition
25093	McClain Airlines, Inc	SFAR 48	To permit petitioner to initiate operations at O'Hare International Airport on or before October 15, 1986, with slots acquired in the special slot lottery conducted on March 27, 1986. *PARTIAL GRANT 9/19/96.*
24479	Mountain Air Cargo	14 CFR 135.179	To exempt petitioner from the cited section and any other pertinent section which purports to govern the development of and operation of Cessna 208A aircraft under a Minimum Equipment List ("MEL"). *DENIED 9/3/86.*
21987	Texas Department of Public Safety	14 CFR 91.65(b), 91.70(b), 91.73(a), 91.79(c), 91.85(b), & 91.109(a).	To permit petitioner to conduct certain law enforcement flight operations in close proximity to suspect aircraft; in airport traffic areas at speeds greater than the authorized limits; without operating the aircrafts position lights; at less than 500 feet above the surface over other than congested areas; in airport traffic areas other than to land or take off from an airport in that area; and/or in deviation from prescribed VFR crusing altitudes. PARTIAL GRANT 8/27/86.
24761	Executive Jet Aviation, Inc	14 CFR 91.191(a)(4) & 135.165(b)	To allow petitioner to operate its turbojet/fanjet aircraft in extended overwater operations with one Omega/VLF Long-range navigations system (LRNS) and one high-frequency (HF) communication system. *PARTIAL GRANT 9/11/86.*
24693	Fairchild Aircraft Corporation	14 CFR 135.157(b)(2)	To permit petitioner and any othe similary situated operator of SA226-TC, SA227-AC, and SA227-TC aircraft to operate those aircraft under the oxygen quantity requirements of § 121.133(e)(1) & (2). *DENIED 9/15/85.*
24904	Omniflight Helicopters, Inc	14 CFR 133.1	To allow petitioner to carry properly trained personnel below the helicopter for the accomplishment of routine maintenance and construction on powerline utility projects. *DENIED 9/25/86.*
16955	American Airlines	14 CFR 61.58(c)	To change the name on exemption 2473 to American Airlines from American Airline Training Corp. to permit petitioner's trainees to complete their entire 24-month pilot-in-command check in a Federal Aviation Administration (FAA)-approved flight simulator, subject to certain conditions and limitations. *GRANTED 9/25/86.*
24864	Air Logistics	14 CFR 135.429	To allow petitioner to operate aircraft equipped with nine or less seating configurations when maintained in accordance with § 135.411(a)(2) *DENIED 9/22/86.*
24718	ERA Helicopters, Inc	14 CFR 43.3(g)	To allow petitioner's certified pilots to remove, check, clean and re-install magnetic chip detector plugs on the engine and gearboxes on certain company helicopters. *GRANTED 9/19/86.*

[FR Doc. 23149 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Harford County, Maryland

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement and section 4(f) Evaluation is being prepared for the proposed widening of Maryland Route 22 from Bel Air to Interstate Route 95.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Terry, Jr., Field Operations Engineer, Federal Highway Administration, The Rotunda, 301/962-4010, and/or Mr. Louis Ege, Deputy Director, Project Development Division, Maryland State Highway Administration, 707 North Calvert Street, Room 310, Baltimore, Maryland 21202, telephone 301/659-1130.

SUPPLEMENTARY INFORMATION: The FWHA, in cooperation with the Maryland State Highway Administration, is preparing an environmental impact statement to develop an acceptable alternate to widen a 9.5 mile portion of Maryland Route 22 to four through-lanes and to construct on new location a 2.3 mile bypass of the Town of Churchville.

In addition to the No-Build, two Build alternates are under consideration for the widening of Maryland 22. The Four Lane Divided Highway Alternate would provide two through-lanes in each direction separated by a 20-foot median. Left turn lanes would be provided at the signalized intersections. The widening would be constructed along the present route. The Five Lane Undivided Highway Alternate would provide two through-lanes in each direction with a continuous center lane for left turns. This alternate also would be constructed along the present route. With either alternate, several optional connections from Maryland Route 155 to Maryland Route 22 are proposed in order to reduce the traffic conflicts created by the close proximity of the MD 155/MD 22 intersection to the MD 136/MD 22 intersection. Also proposed are two bypass alternates around Churchville. Bypass Alternate B consists of a two-lane undivided rural highway with partial control of access, on new location to the south of Maryland Route 22. Bypass Alternate A consists of a similar type highway located further south, in proximity of Graftons Lane.

The primary impacts associated with the proposed improvements consist of proximity impacts along the widening, and farmland impacts on the bypass alignments.

A public hearing will be held after circulation of the DEIS. A public notice will give the time and place of the public hearing, and individual notices will be sent to those agencies, groups, and individuals on the mailing list. The Draft EIS will be vailable for public and agency review and comment prior to the public hearing. To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

(Catalog of Federal Domestic Assistance Program Number 20.025, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Emil Elinsky,

Division Administrator, Baltimore, Maryland.

[FR Doc. 86-23074 Filed 10-10-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1985 Rev., Supp. No. 38]

Surety Companies Acceptable on Federal Bonds; Termination of Authority, International Business and Mercantile Reassurance Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to International Business and Mercantile Reassurance Company of Chicago, Illinois, under the United

States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective June 30, 1986.

The Company was last listed as an acceptable surety of Federal bonds at 50 FR 41288, dated October 9, 1985.

With respect to any bonds currently in force with this Company, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2298.

Dated: October 6, 1986.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 23091 Filed 10–10–86; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Advisory Committee on Native American Veterans; Rescheduling Meeting

The meeting of the Advisory Committee on Native American Veterans which was originally scheduled for October 21, 22 and 23, 1986. (51 FR 33972, September 24, 1986), has been rescheduled to November 12, 13 and 14, 1986. The sessions will be held in the Omar Bradley Conference Room, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC. The meetings on November 12 and 13 will convene at 8:30 a.m., and run until 4:30 p.m. The November 14 meeting will convene at 8:30 a.m., and adjourn at 12:30 p.m. All sessions will be open to the public.

Dated: October 3, 1986.

By direction of the Administration.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–23119 Filed 10–10–86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 198
Tuesday, October 14, 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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 PM (Eastern Time) Monday, October 20, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Proposed Contracts for Expert Services In Connection With Court Cases.
2. Proposed Commission Decision.
3. Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: October 8, 1986.

Johnnie L. Johnson, Jr.,

Attorney-Advisor, Executive Secretariat.

This Notice Issued October 8, 1986.

[FR Doc. 86–23199 Filed 10–9–86; 11:06 am]

BILLING CODE 6750–06–M

2

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub.L. no. 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 9:00 a.m., Friday, November 14, 1986.

STATUS: Open and Closed.

ADDRESS: Field Museum of Natural History, Roosevelt Road, Lake Shore Drive, Chicago, Illinois 60605. (312) 922–9410.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Buck, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506. (202) 786–0536.

SUPPLEMENTARY INFORMATION:

The National Museum Services Board is established under the Museum Serivces Act, Title LL of the Arts, Humanities, and Cultural Affairs act of 1976, Pub. L. 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities invested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of November 14, 1986 will be open to the public from 9:00 a.m. through discussion of agenda item number V. The meeting will be closed to the public for a review of agenda item VI pursuant to paragraphs 6,9 (B), and other relevant provisions of subsection (c) of section 552 of Title 5, United States Code because the Board will consider information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

National Museum Services Board—November 14, 1986 Meeting Agenda

I. Approval of Minutes of July 18, 1986 Meeting
II. Director's Report
III. Legislative and Regulatory Update
IV. Other Business
V. Program Report
  A. Museum Assessment Program
  B. Conservation Support Program
  C. General Operating Support
VI. Closed Session

Dated: October 6, 1986.

Lois Burke Shepard,

Director.

[FR Doc. 86–23252 Filed 10–9–86; 4:00 pm]

BILLING CODE 7036–01–M

3

OVERSEAS PRIVATE INVESTMENT CORPORATION

ACTION: Meeting of the Board of Directors.

TIME AND DATE: 10:30 a.m. (closed meeting) Tuesday, October 21, 1986.

PLACE: Offices of the Corporation, fourth floor Board Room, 1615 M Street NW., Washington, DC.

STATUS: The meeting will be closed to the public.

MATTER TO BE CONSIDERED: Insurance Project in East Asian Country.

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Secretary of the Corporation at (202) 457–7007.

Mildred A. Osowski,

Corporate Secretary.

October 9, 1986.

[FR Doc. 86–23200 Filed 10–9–86; 11:06 am]

BILLING CODE 3210–01–M

federal register

Tuesday
October 14, 1986

Part II

Environmental Protection Agency

Pesticide Products Containing Dinoseb; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPP-68013; FRL-3094-8]

Decision and Emergency Order Suspending the Registrations of All Pesticide Products Containing Dinoseb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of emergency suspension order.

SUMMARY: This Notice announces the emergency suspension of all registrations issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for pesticide products containing dinoseb (2-sec-butyl-4,6-dinitrophenol) or any of its salts. The Administrator has determined that continued sale, distribution, or use of dinoseb products during the time required to cancel such products would pose an imminent hazard and that an emergency exists that does not permit EPA to hold a hearing before suspending such products. These determinations are based primarily on evidence that dinoseb exposure poses a risk of birth defects, male sterility, and acute toxicity to agricultural workers. The substantive basis for these determinations and the procedures which affected registrants must follow to obtain a hearing on these determinations are set forth below.

DATE: The Emergency Order suspending all registrations of pesticide products containing dinoseb was issued and became effective immediately on October 7, 1986. Any request by a registrant for a hearing on the issue of whether an imminent hazard exists must be received by the Office of the Hearing Clerk at the address given below within 5 days of receipt of this Notice by that registrant.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Additional information supporting this action is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Information and Services Section, Management and Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Michael McDavit, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1014A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1787).

SUPPLEMENTARY INFORMATION:

I. Order

This Notice and Emergency Order suspends the registration of each pesticide product which contains dinoseb (2-sec-butyl-4,6-dinitrophenol) or any of its salts. I have determined that continued registration of dinoseb products during the time required to conduct a cancellation proceeding would be likely to result in unreasonable adverse effects on the environment and therefore poses an imminent hazard. I have also determined that continued sale, distribution, or use of dinoseb products during the pendency of a suspension hearing would involve unacceptable risks and that an emergency exists that does not permit me to hold a hearing before suspending such products. Accordingly, I am today issuing an emergency order immediately suspending all registrations of dinoseb products, as published elsewhere in today's **Federal Register.** The substantive rationale for these determinations is explained below.

Pursuant to section 6(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136d(c)(3), I hereby suspend the registration of each pesticide product containing dinoseb (2-sec-butyl-4,6-dinotrophenol) or any of its salts. Effective immediately, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver to any person any pesticide product containing dinoseb or any of its salts. This Order also expressly prohibits any person from using any pesticide product containing dinoseb or any of its salts for any purpose. However, nothing in this Order prohibits any registrant, wholesaler, dealer, retailer, or other distributor who previously sold or distributed dinoseb products to any person from reacquiring such products from that person in contemplation of an indemnification claim or for safe disposal.

II. Legal Authority

A. Standards for Maintaining a Registration

Before a pesticide product may be lawfully sold or distributed in either intrastate or interstate commerce, the product must be registered by the Environmental Protection Agency under FIFRA sections 3(a) and 12(a)(1). A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions. A pesticide product may be registered or remain registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of [the] pesticide" (FIFRA section 2(bb). The burden to demonstrate that a pesticide product satisfies the criteria for registration is at all times on the proponents of initial or continued registration. *Industrial Union Dept.* v. *American Petroleum Institute,* 448 U.S. 607, 653 n. 61 (1980); *Environmental Defense Fund* v. *Environmental Protection Agency,* 510 F.2d 1292, 1297, 1302 (D.C. Cir. 1975).

Under FIFRA section 6, the Agency may issue a notice of intent to cancel the registration of a pesticide product whenever it determines that the product no longer satisfies the statutory criteria for registration. The Agency may specify particular modifications in the terms and conditions of registration, such as deletion of particular uses or revisions of labeling, as an alternative to cancellation. If a hearing is requested by an adversely affected person, the final order concerning cancellation of the product is not issued until after a formal administrative hearing.

B. Suspension of a Pesticide Product

The suspension provisions in FIFRA section 6(c) give the Administrator authority to take interim action until completion of the time-consuming procedures which may be required to reach a final cancellation decision. Under this section, the Administrator may suspend the registration of a product and prohibit its distribution, sale, or use during cancellation proceedings upon a finding that the pesticide poses an "imminent hazard" to humans or the environment. "Imminent hazard" is defined by FIFRA section 2(1) as:

> . . . a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Pub. L. 91-135.

As noted above, "unreasonable adverse effects on the environment" means that the risks associated with use of a pesticide outweigh the benefits of its use. Thus, in order to find an "imminent hazard," the Agency must determine that the risks associated with continued registration during the period likely to be necessary to complete a cancellation proceeding appear to outweigh the benefits. The Agency may not suspend the registration of a pesticide to prevent an imminent hazard unless it has previously issued, or simultaneously issues, a notice of intent to cancel the registration or change the classification of that pesticide.

Suspension is an interim remedy which enables the Agency to abate potential risks in advance of the full analysis of risks and benefits in a cancellation hearing. The function of suspension "is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues." *Environmental Defense Fund* v. *Environmental Protection Agency*, 465 F.2d 528, 537 (D.C. Cir. 1972). The courts have emphasized that suspension does not require a "crisis." Rather, "it is enough if there is substantial likelihood that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process." *Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975), quoting *Environmental Defense Fund* v. *Environmental Protection Agency*, 465 F.2d 528, 540 (D.C. Cir. 1972).

A notice of intent to suspend (unlike an emergency suspension order) does not take effect immediately. Registrants are notified and afforded 5 days from the date of receipt of the notification to request an expedited hearing on the question of imminent hazard. If no hearing is requested for a product, the suspension of that product becomes final and is not reviewable by any court. If a hearing is requested for a product, the final order concerning suspension of the product is not issued until after the completion of an expedited hearing.

C. Emergency Suspension

If the Administrator determines that (1) a pesticide poses an imminent hazard, and (2) that "an emergency exists that does not permit him to hold a hearing before suspending," FIFRA section 6(c)(3) provides that he may issue an emergency order immediately suspending registration of the pesticide.

The term "emergency" is not defined by FIFRA. The Agency interprets FIFRA section 6(c)(3) to mean that, if the threat of harm to humans or the environment associated with continued sale, distribution, or use of a pesticide is sufficiently serious and immediate that the risks would be likely to outweigh the benefits during the time required for a suspension hearing, the registration of that pesticide may be suspended immediately. Thus, the determination whether an emergency exists is even more preliminary than the determination concerning the question of imminent hazard, and an emergency order is analogous to a temporary restraining order issued by a court while it is determining whether to issue a preliminary injunction. *Dow Chemical Company* v. *Blum*, 469 F.Supp. 892, 901 (E.D. Mich. 1979).

An emergency suspension order may be issued without prior notice to affected registrants and is effective immediately upon issuance. Registrants are notified that an emergency order has been issued and may request an expedited hearing by submitting a valid hearing request within five days from receipt of the notification. If a registrant does not request an expedited hearing concerning a particular product, but does request a hearing concerning cancellation of that product, the emergency order remains in effect until the completion of the cancellation proceeding. If an expedited hearing is held concerning any product, the hearing is confined solely to the question of imminent hazard, and the emergency order remains in effect during the pendency of the expedited hearing. Following the expedited hearing, the Administrator issues a final order which may either retain, modify, or rescind the suspension during subsequent cancellation hearings.

The Administrator's determination that an emergency exists that does not permit him to hold a hearing before suspending is subject to review in an appropriate United States district court. The only issues in any such review are whether the order was arbitrary, capricious, or an abuse of discretion, and was issued in accordance with procedures established by law (FIFRA section 6(c)(4)).

III. Findings Concerning Imminent Hazard and Emergency

Dinoseb and its salts are registered as a herbicide, dessicant, fungicide, and insecticide. The principal use of dinoseb is to control broadleaf weeds as a contact herbicide at preemergence and postemergence. Other major uses of dinoseb are to control fungus and to desiccate vegetation before harvest. I have determined that the further sale, distribution, and use of dinoseb as a herbicide, desiccant, fungicide, or insecticide would pose an imminent hazard during the period required to conduct administrative hearings concerning cancellation. I have further determined that an emergency exists with respect to all dinoseb products which does not permit me to hold a hearing concerning my determination of imminent hazard before acting to prohibit further sale, distribution, and use of such products.

This unit summarizes my findings concerning the existence of an imminent hazard and an emergency. Units IV and V then set forth in greater detail the evidence and analyses upon which these findings are based.

A. Findings Concerning Imminent Hazard

In order to find that a pesticide poses an imminent hazard and may therefore be suspended, I must determine whether the risks associated with continued registration during the period necessary to complete a cancellation hearing appear to outweigh the benefits. For purposes of this determination, and in conformity with the timetable for any cancellation hearing held pursuant to the Notice of Intent to Cancel for dinoseb products issued today, I have assumed that a cancellation hearing concerning the various registered dinoseb products would require approximately 18 months.

In evaluating the risks which dinoseb would pose during a cancellation hearing, I have placed the greatest emphasis on new studies which were recently submitted to the Agency which indicate that dinoseb may cause birth defects. I have also relied on other data which indicate that dinoseb may cause adverse reproductive effects in males and is acutely toxic. In addition, I have considered laboratory data which indicate that dinoseb induces cataracts, and may cause cancer and immunologic defects.

The Agency's exposure analysis indicates that virtually all workers directly involved in the application of dinoseb products have an inadequate margin-of-safety (MOS) between their estimated exposure and the highest dose at which no teratogenic effects have been observed in animals. A substantial portion of all application workers have literally no MOS at all. Indeed, the exposure estimates for some workers approach or exceed the dose which actually caused birth defects in animals.

Further, the Agency believes that the potential risk for birth defects is not confined to workers engaged in applying dinoseb. Although it is more difficult to

quantify the risk for other exposed populations, it appears that workers engaged in maintenance and repair of farm equipment and agricultural workers re-entering treated fields may also have an unacceptable risk. In some instances, bystander exposure through drift and inadvertent contact with contaminated equipment or clothing may also pose an unacceptable risk.

I am especially concerned about the teratogenic risks posed by dinoseb use because the evidence demonstrates that birth defects may be induced by dinoseb exposures which cause no other apparent adverse effects. Since a substantial number of people report acute reactions to dinoseb exposure every year, it is reasonable to infer that a significantly greater number of people are exposed to dinoseb concentrations which may pose a developmental hazard. Moreover, Agency scientists believe that irreversible damage to the fetus may result from a single exposure of a pregnant female at a time when she may not yet be aware that she is pregnant.

In addition to its potential teratogenic effects, dinoseb may cause adverse reproductive effects such as decreased fertility or sterility in males with repeated exposure. The acute toxicity of dinoseb, as evidenced by frequent reports of toxic reactions in exposed workers, is also an important concern.

Based on the Agency's analysis of the available evidence, I believe that applicators and other populations with substantial dinoseb exposure are at significant risk for teratogenic and other adverse effects. I have no reason to believe that such risk would be any less severe during the 18 months required to conduct a cancellation hearing. In the absence of a suspension order, every use of every registered dinoseb product could lawfully continue during that 18 months. It is therefore necessary for me to evaluate the likely benefits of continued use of dinoseb during the same 18-month period.

The Agency has concluded that reasonably efficacious alternatives would be available in sufficient quantity for most of the registered uses of dinoseb during the pendency of a cancellation hearing. In many instances, use of an alternative will result in increased treatment costs, but these costs will have a negligible impact at the consumer level. The lack of a satisfactory alternative to dinoseb for use on peanuts at the "cracking" stage may result in substantial initial yield losses and have an impact at the consumer level. Although it is likely that a satisfactory alternative will eventually be identified, the short-term impact on peanut growers may be significant.

I have evaluated the available information concerning the risks and benefits associated with continued use of dinoseb during the approximately 18 months required for a cancellation hearing. Based on this information, I have determined that the risks of continued use during this period are likely to outweigh the benefits and that registered dinoseb products therefore pose an imminent hazard.

B. Findings Concerning Existence of an Emergency

In order to find that an emergency exists, I must determine whether the threat of harm associated with continued sale, distribution, or use of dinoseb products is sufficiently serious and immediate that the risks would be likely to outweigh the benefits during the time required for a suspension hearing. For purposes of this determination, and in conformity with the mandatory timetable I have established for any hearing on the question of imminent hazard, I have assumed that a suspension hearing would require approximately four months.

In the absence of an emergency order, it appears that substantial exposure to dinoseb could occur as a result of lawful use during the time required for a suspension hearing. Dinoseb is used for multiple purposes during the fall and winter months on a large number and variety of agricultural sites and nonagricultural sites, including forage legumes, small grains, fruit and nut orchards, berries, cucurbits, grapes, hops, potatoes, beans, onions, garlic, ornamentals, conifers, and non-crop areas (such as rights-of-way and aquatic drainage ditches). Many of these uses involve hand-held spraying, which can result in high acute exposure and involve more applicators treating a given area than what is required for ground boom application. Based on the large number of registered uses, the complexity of use patterns, and the effects of weather and multiple growing seasons, the Agency has concluded that virtually all registered dinoseb products could be applied for some use during the time period required for an expedited suspension hearing. Further, the Agency has concluded that the additional introduction of dinoseb products into channels of trade or continued sale of such products would frustrate any effort to prohibit continued use during an expedited hearing and would reduce the enforceability of an emergency order directed at such use.

An immediate prohibition on use of dinoseb products would probably cause some disruption, as users are required to identify and obtain or implement alternatives. However, the Agency has concluded that, with the possible exception of the use of dinoseb for desiccation of potato vines, supplies of alternative pesticides are likely to be sufficient. In any event, the majority of the potato crop for 1986 has already been treated. On balance, the incremental benefits of continued sale, distribution, and use of dinoseb products during a suspension hearing appear to be similar to the benefits of continued registration during a cancellation hearing.

Based on the available evidence on risks and benefits, I have determined that an emergency exists that does not permit me to hold a hearing before suspending the registration of dinoseb products. I have concluded that the risks of continued use are sufficiently serious and immediate to require immediate prohibition of all use of all pesticide products containing dinoseb. I have also concluded that continued distribution or sale of dinoseb products would be inconsistent with and frustrate enforcement of any prohibition on continued use of such products.

I am therefore issuing today an Emergency Order immediately prohibiting any further distribution, sale, or use of any pesticide product containing dinoseb. This Order will remain in effect during any hearing which may be requested concerning the question of imminent hazard. In the event that any such hearing is requested, the deadlines which I have established should permit a final determination on the issue of imminent hazard prior to the spring growing season.

IV. Risk Assesment

A. Hazards of Dinoseb

A review of the toxicology literature on dinoseb, including data recently submitted to EPA in support of reregistration, indicates that exposure to dinoseb may pose a variety of hazards such as developmental toxicity (including frank teratogenic effects), reproductive toxicity, acute toxicity, induction of cataracts, and immunotoxicity. An oncogenicity hazard may also exist (from the parent compound and certain salts contaminated with nitrosamines).

Based on data recently submitted to EPA, it is now known that dinoseb is a developmental toxicant in laboratory animals. Further, EPA has data that

indicate dinoseb affects the reproductive system of male laboratory animals, and lastly, acute toxicity of dinoseb is achieved through exposure to relatively low doses by both the oral and dermal routes when compared with other pesticides.

The following discussion describes the hazards, exposures and risks of dinoseb.

1. Developmental Toxicity

The recent evidence is clear that dinoseb is a developmental toxicant in laboratory animals. EPA has reviewed new studies that indicate that dinoseb induces birth defects in both the rabbit and rat by the oral route of exposure. In the rabbit, dinoseb exposure induced defects associated with the neurologic systems, specifically the brain, the spinal cord, and the skeletal system. In the rat, dinoseb exposure induced skeletal defects and eye malformations.

Dinoseb was administered by oral gavage to Chinchilla rabbits at doses of 0, 1, 3, and 10 mg/kg/day during days 6–18 of gestation (Leist, 1986a). The study found that dinoseb produced biologically and statistically significant increases in malformations and/or anomalies in the rabbit at the highest dose tested when compared against the control group. External, internal (body cavities and cephalic viscera), and skeletal defects were observed in 11 out of 16 litters. These defects included cranial defects associated with hydrocephaly, hydrocephaly alone, scoliosis/kyphosis/malformed/fused caudal or sacral vertebrae, and encephalocele.

In the rabbit, dams did not show indications of toxicity at any dose. The defects observed in the fetuses were generally irreversible.

Developmental toxicity was also observed in a second recently submitted teratology study (Leist, 1986b). In this study, dinoseb was administered by oral gavage to female Wistar rats at doses of 0, 1, 3, and 10 mg/kg/day during days 6–15 of gestation. Developmental toxicity was observed at the high dose level, as evidenced by a slight depression in fetal weight, delayed ossification, and an increase in supernumerary ribs. An increased incidence of supernumerary ribs may be indicative of more severe skeletal changes at higher doses. Maternal toxicity, in the form of body weight depression, was also observed at this dose level.

In addition to the recent submissions of teratology data, other evidence in the scientific literature of adverse developmental effects in multiple species supports the finding that dinoseb may pose a developmental hazard. A recently published study by Giavanni (1986) reported eye malformations (microphthalmia) in the rat at dietary dose levels only slightly higher than those administered in the rat teratology study recently submitted to EPA. Screening studies were conducted by several investigations in which rats or mice were exposed to dinoseb by intraperitonal, subcutaneous, oral intubation or *in vitro* routes at various times during gestation. Although the results were variable and depended on the species tested, route of administration, and endpoint examined, various manifestations of developmental toxicity were observed, including skeletal defects, supernumerary ribs, hydrocephaly, and delayed neural tube closure (Gibson, 1973; McCormack et al., 1980; Beaudoin and Fisher, 1981; Kavlock, 1985; Preache and Gibson, 1975).

Based on all of these studies, EPA scientists have concluded that dinoseb is a potential human developmental toxicant. The evidence clearly demonstrates that developmental effects can be produced in multiple species (rabbit, rat and mouse) by differing routes of exposure (oral routes: gavage and feeding; intraperitoneal; and subcutaneous injection). In these species, the primary targets for this chemical are the brain and spinal cord, and the vertebrae associated with the spinal cord.

2. Reproductive Toxicity

Dinoseb causes adverse male reproductive effects in the rat and mouse. Studies have demonstrated that dinoseb induces testicular effects including decreased sperm counts (with partial or no recovery) and abnormal sperm cell morphology in rats and testicular atrophy in mice.

In a study published in 1982, Linder *et al* administered dinoseb in the feed to Sherman rats at doses of 0, 75, 150, 225, 300 ppm for an 11-week period followed by a 16-week recovery period. In this study, dinoseb exposure produced the following effects: (1) depressed body and organ weights (testes and epididymis), (2) decreased reproductive performance, fetal viability, and sperm count, (3) induced sperm malformations, and (4) increased mortality (in the high dose group).

In 1981, Brown concluded a dinoseb chronic feeding study in CD–1 mice. Test animals were administered dinoseb in the feed for 100 weeks at nominal dose levels of 0, 1, 3 and 10 mg/kg/day. In this study, dinoseb exposure produced adverse effects on the reproductive organs of male animals. At all dose levels, dinoseb produced adverse effects on the testes, including atrophy/hypospermatogenesis/degeneration and dystrophic calcification, in exposed males.

EPA scientists have concluded that there is sufficient evidence to consider dinoseb a potential cause of human male reproductive disorders, such as decreased fertility or sterility. Adverse effects in the male reproductive system of rats and mice exposed to dinoseb indicate that dinoseb can impair male reproductive function.

3. Acúte Toxicity

Dinoseb is highly acutely toxic to humans by all routes of exposure. In recent years, at least one human fatality has been attributed to dermal exposure to dinoseb.

While using a backpack hand-held sprayer in 1983, a farmworker in Texas received a lethal dose of dinoseb (alkanolamine salt formulation) from dermal exposure. The sprayer apparently leaked dinoseb onto his body, which permitted a sufficiently lethal quantity of dinoseb to contact and penetrate his skin.

The California Department of Food and Agriculture (CDFA) also annually reports a substantial number of poisoning incidents resulting from the use of dinoseb (Blondell, 1986). Dinoseb, in contrast to most heribicides, is more acutely toxic by the dermal route of exposure. Dinoseb has a dermal LD_{50} of about 75 mg/kg. As shown below, end-use formulations of representative alternative herbicides and desiccants have higher LD_{50}'s and, therefore, are less toxic by the dermal route of exposure than dinoseb (Ware, 1983).

Paraquat	236 mg/kg
Diquat	>400 mg/kg
Bentazon	>2500 mg/kg
Glyphosate	7940 mg/kg
Diuron	>10,000 mg/kg
2,4-DB	>10,000 mg/kg

4. Dermal Penetration

This chemical appears to be significantly absorbed through the skin of laboratory animals and humans. Dinoseb is a lipophilic compound and, as such, is soluble in alcohol, spray oil, and most organic solvents (Hayes, 1982). Lipophilic substances of low or moderate molecular weight like dinoseb are generally well absorbed through the skin.

The human fatality in Texas in 1983 from dinoseb exposure was attributed to exposure primarily through the dermal route. As discussed above, in laboratory animals the dermal LD_{50} is relatively low. In fact, oral LD_{50} values and acute dermal LD_{50} values in four different

species (rats, guinea pigs, mice, and chickens) (Rowe, 1949?) indicate that the ratio (oral LD_{50} divided by dermal LD_{50} value) is generally close to 1 (i.e., comparable absorption is occurring by either route). Ratios using oral and dermal dermal LD_{50} values for alkanolamine salts are generally closer to 0.2, indicating a lesser rate of absorption. Pertinent laboratory data for several end-use formulations of dinoseb administered to the rat and rabbit are summarized below.

	LD_{50} Values (mg/kg)	
	Oral (Rat)	Dermal (Rabbit)
Alkanolamine salt formulation	89	356
Dinoseb parent formulation	89 (male), 59 (female).	75

An *in vivo* study of dermal penetration in rats at the EPA laboratory in Research Triangle Park (RTP) found that more than 90 percent of dinoseb applied to the skin penetrated within a 72-hour period (unpublished data). A limitation of this study is that dinoseb was applied in an acetone vehicle, and acetone will disrupt the integrity of the epidermis/dermis layers due to its lipid-dissolving properties. Nonetheless, this experiment found dinoseb to be the most effective dermal penetrant from among a group of 14 pesticides.

5. Human Observations

EPA is not aware of any human studies on the developmental or reproductive toxicity of dinoseb. The following discussion concerns human poisoning incidents involving dinoseb.

California is the only State that enforces mandatory reporting of occupational pesticide incidents. Accordingly, the California Department of Food and Agriculture (CDFA) has provided EPA with summaries of pesticide poisoning reports attributed to the dinitrophenol class of pesticides (Blondell, 1986). Dinoseb is the major dinitrophenol pesticides in use today, and 99 percent of all the dinitrophenol pesticide used in California contain dinoseb or one of its salts. As a result, most reports of poisoning incidents concerning dinitrophenol pesticides involve dinoseb or its salts.

California physicians reported an average of 8 cases of systemic poisoning and 10 cases of skin or eye injury caused by dinitrophenol pesticides each year from 1981 through 1985.

According to the California reporting system, incident data are summarized into one of the following mutually exclusive categories: (1) systemic, (2) eye only, (3) skin only, or (4) both eye and skin. During the 1981–1985 time period, dinitrophenol was the ninth largest cause of systemic poisoning in California. Four people were hospitalized for a total of 9 days because of these poisonings and 35 people were absent from work for a total of 145 days.

The poisoning incidents are summarized in Table 1. These data indicate that some poisoning incidents occur in each category of individuals exposed as a result of dinoseb application. The greatest hazard is apparently from ground boom application. EPA has no reason to believe that a similar hazard does not exist in other States where dinoseb is used. The majority of dinoseb usage is in the Southeast States for weed control on peanuts and soybeans. Only a fraction of dinoseb usage is in California, and yet, poisoning incidents are consistently reported there annually.

TABLE 1.—SUMMARY OF OCCUPATIONAL ILLNESS DUE TO DINITROPHENOLS IN CALIFORNIA, 1981–1985

Type of worker	Systemic	Eye	Skin	Eye and skin	Total
Ground applicator [1]	20	7	16	2	45
Hand applicator [2]	9	4	2	0	15
Mixer-loader [3]	5	6	0	1	12
Coincidental exposure [4]	1	1	1	2	5
Exposure to field residue [5]	0	0	3	1	4
Other	3	2	2	0	7
Total	38	20	24	6	88

[1] Person exposed while applying by dust or spray rig.
[2] Person exposed while applying by hand-pump, hose-end, or backpack sprayer, duster or aerosol can.
[3] Person exposed while mixing or loading pesticide.
[4] Person exposed to an application-strength dilution, not directly involved in handling the pesticide. Primarily includes persons exposed to spray drift.
[5] Persons exposed to residues while working in a previously treated field.

6. Other Hazards

EPA scientists have reviewed some studies that indicate that dinoseb induces other significant toxicological effects in humans and laboratory animals.

Dinoseb has the potential to damage human eyes. This conclusion is based both on evidence that humans exposed to dinitrophenols develop cataracts and on similar effects observed in laboratory animals exposed to dinoseb. Cataracts were induced in people as a result of the former use of dinitrophenol as a weight reducing aid for humans in the 1930's (Hayes, 1982; Gosselin et al, 1981). Eventually, this effect was linked directly to the medicinal use of dinitrophenol. In addition, cataracts have been observed in the eyes of three different species of laboratory animals following exposure to dinoseb (Brown, 1981; Spencer et al., 1948; McCollister et al., 1967; Tucker et al., 1967).

Another possible toxic effect of dinoseb is oncogenicity. One recently submitted long-term study indicates that dinoseb causes tumors in the liver of female mice (Brown, 1981). A statistically significant ($p<0.05$) treatment-related, but not dose-related increase in liver adenomas, and in adenomas plus carcinomas, was found in treated female mice. The treated males did not have any statistically significant increases in tumor incidence.

The Agency has tentatively concluded that dinoseb is a Class C oncogen, i.e., a possible human carcinogen.

Potentially potent cancer-causing compounds known as nitrosamines are also present as contaminants in two salt formulations of dinoseb (alkanolamine and triethanolamine). Based on data provided by registrants, the amount of nitrosamines contaminating these formulations ranges from 0.6 to 279 ppm. According to the notice of Proposed Policy on Pesticides Contaminated With N-nitroso Compounds (45 FR 42854) issued on June 25, 1980, any level of nitrosamine contamination above 1 ppm must be mitigated, or a series of risk reduction measures must be initiated.

Limited studies also suggest that dinoseb has the potential to affect the immunological system. In hamsters, laboratory tests have indicated that dinoseb exposure may cause antibody production to decrease (Dandliker, et al., 1980), and in mice, a study found that dinoseb exposure induced changes in the appearance of the thymus (Brown, 1981).

27. Mechanism of Action

The toxicity of dinoseb is apparently related to the properties of the class of chemicals in which it belongs, dinitrophenols (Hayes, 1982). The dinitrophenols produce toxicity through interference with fundamental chemical processes involving the production of energy necessary for the formation of vital carbohydrate, fat, and protein building blocks. Dinoseb uncouples oxidative phosphorylation by preventing the phosphorylation of adenosine diphosphate (ADP) to adenosine triphosphate (ATP). This reaction is a basic energy conserving step in cell biochemistry, and when disrupted, results in other cellular changes such as increased oxygen uptake and increased permeability of mitochondria to hydrogen ions.

B. Dose—Response Assessment

EPA scientists believe that the study most suitable for the calculation of MOS is the oral study in rabbits. In this study, frank teratogenicity was observed in the rabbits at the high dose of 10 mg/kg/day, and a single fetus at the 3 mg/kg/day dose level had malformations very similar to those observed at the high dose level. Maternal toxicity was not observed at any dose level. Based on these findings in the high dose group, the developmental toxicity No-Observed-Effect Level (NOEL) was established at 3 mg/kg/day and the maternal toxicity NOEL at 10 mg/kg/day. A tabulation of the malformations observed in this study is given in Table 2.

TABLE 2.—SUMMARY OF RABBIT TERATOLOGY MALFORMATIONS AND ANOMALIES

Dose group (mg/kg)	Type of effect	Fetuses (affected/examined)	Litters (affected/examined)
0	—Bipartite sternebrae 5	2/123	2/15
	—Shortened rib No. 12	1/123	1/15
1	—Omphalocele	1/117	1/16
	—Acrania, anencephaly, agenesis of the face, abnormally shaped sternebrae 2–5, fused sternebrae (4–5)	1/117	1/16
3	—Fused ribs 6 and 7, abnormally shaped, absent or fused thoracic vertebral bodies (6 and 10)	1/120	1/15
10	—External: Dyscrania, omphalocele, lacunae of crania, encephalocele, micrognathia, microphtalmia or anophthalmia, palatoschisis, cheilognathopalatoschism, kyphosis or scoliosis, shortened tail, malrotated hind limbs, dysmorphogenesis of vertebral column, arthrogryposis, aphalangia, hypdactyl, ectromelia	26/122	6/16
	—Internal (Body Cavities): Partial agenesis of diaphragm, agenesis of right kidney, hypertrophy of left kidney, agenesis of left kidney, hemidiaphragm, caudal dystrophy of both kidneys	4/122	3/16
	—Internal (cephalic viscera): hydrocephalus, microcephaly	37/122	10/16
	—Skeletal: Shortened femur and tibia, agenesis of fibula, shortened tail, malrotated hind limbs, dymorphogenesis of vertebral column, arthrogryposis, aphalangia, hypodactyly, ectromelia, shortened femur and tibia, agenesis of fibula, spina bifida oculta	10/122	4/16

As corroborating evidence, the new rat teratology study also indicates a developmental toxicity NOEL of 3 mg/kg/day, based on an increased incidence of skeletal variations observed at 10 mg/kg/day. Maternal toxicity was observed in this study at the high dose level of 10 mg/kg/day based on moderate body weight depression. Nonetheless, each of the recently submitted teratology studies independently results in the same NOEL. The Agency "Guidelines for the Health Assessment of Developmental Toxicants" state that, although agents that produce developmental toxicity at a dose that is not toxic to the maternal animal are of greatest concern, it is not appropriate to assume that developmental effects observed at maternally toxic doses result only from maternal toxicity. In the case of dinoseb, there is clear evidence in the rabbit that developmental toxicity consisting of a variety of malformations can be produced at a level that does not result in maternal toxicity. The rat studies provide evidence that developmental toxicity occurs in a second species at comparable dose levels.

C. Exposure Assessment

All methods of application of dinoseb results in some level of worker exposure. Depending on the crop and the target pest, dinoseb is applied by either a ground boom sprayer, aerial applicator, or hand-held sprayer. EPA has recently completed a generic worker exposure assessment for each of these methods, and has utilized data from this assessment to estimate mixer/loader and applicator exposure levels to dinoseb.

Approximately 45,000 workers, including up to 2,200 females, are involved in application of dinoseb. A large number of farmworkers and bystanders may also be exposed to dinoseb during or shortly after application, and other people may be exposed to dinoseb as an indirect result of application by a secondary route of exposure (for example, laundering of contaminated clothing).

Dietary exposure to dinoseb may occur through the consumption of treated commodities, but dinoseb residues in such commodities are low or nonexistent. Dinoseb has been found in ground water in several States indicating that exposure through drinking water is also possible.

The scientific basis, assumptions, and the results of EPA's exposure assessments are described in this unit.

1. Exposure of Application Workers

a. *Methodology for assessing worker exposure.* In estimating the range of likely exposures for workers involved in application of dinoseb, EPA employed a standard methodology in which exposure data for other pesticides (surrogate data) are used to derive exposure estimates (Honeycutt, 1985). In evaluating exposure to other agricultural pesticides, EPA has reviewed numerous worker exposure studies. The results of such studies can be appropriately used to estimate dermal exposure to other pesticides because the factors that most influence the amount of pesticide exposure to the skin are formulation type, application method, and application rate. These factors are more related to the physical parameters governing a pesticide's use than to the properties of the specific pesticide. Accordingly, dermal exposure can be estimated by combining the results of appropriate surrogate studies with information concerning dinoseb use practices.

i. *Selection of surrogate exposure studies.* The factors noted above were used to help select appropriate surrogate exposure studies to estimate dinoseb worker exposure. The selection of suitable surrogate studies was also dependent on the kind of application activity or type of pesticide worker. Workers exposed to dinoseb include mixer/loaders, ground boom applicators, aerial applicators (pilots), flaggers, and applicators using hand-held sprayers.

(1) *Formulation type.* The primary formulations of dinoseb are liquids as emusifiable and soluble concentrates. In estimating dinoseb exposure levels, EPA used only those exposure studies on liquid formulations or dilutions.

(2) *Application method.* Dinoseb is applied by three different application methods: ground boom, aerial, and hand-held sprayer. EPA used those studies in which similar application equipment was used to apply the pesticide. In some cases, studies were used in which state-of-the-art protective equipment (such as closed loading systems and enclosed tractor cabs) was employed even though such equipment is not required by any federally registered dinoseb label.

(3) *Application rate.* Pesticide application rates used in the surrogate exposure studies varied as a function of the pesticide, crop site, target pest, etc. Exposure estimates from these studies were converted into uniform expressions of dermal exposure per 1 pound of active ingredient (a.i.) applied per acre. This conversion facilitates adjustments for the specified application rates for particular uses of dinoseb.

ii. *Types of workers exposed to dinoseb*—(1) Mixer/loader. A search of the published literature found 12 studies on mixer/loader exposure resulting from handling mixing and loading equipment used for aerial or gound boom application of pesticides. The mixer/loader exposures were categorized by formulation type, and within formulation type by the use of gloves and closed or

open loading systems. These articles did not contain sufficient information to adjust exposure for the use of a face shield or apron. Exposure estimates were calculated for a mixer/loader wearing protective gloves, long pants, and a long-sleeve shirt.

The BAAL (1983) and Lavy (1982) studies provided a combined total of 19 replicates in which mixer/loader exposure could be expressed as mg/lb a.i. An open loading system was used in these studies. Based on a weighted average, the dermal exposure to mixer/loaders wearing gloves and using an open loading system was calculated as 0.95 mg/lb a.i.

A total of 20 replicates from three studies, Lavy (1982), Dubelman (1982), and Peoples (1979), were utilized to provide exposure information on mixer/loaders wearing gloves and using closed loading systems. Based on a weighted average, the estimated dermal exposure for mixer/loaders wearing gloves and using a closed loading system is 0.023 mg/lb a.i.

(2) *Pilot.* A total of 29 replicates from six studies, Lavy (1980 and 1982), Maddy (1982), Peoples (1979), Mumma (1985), and Atallah (1982), were used to estimate dermal exposure to pilots. Dermal exposure was calculated assuming that the pilots wore long pants and long sleeve shirts, which reduced exposure to the covered areas by 50 percent. Adjusting these data to 1 lb a.i. per acre and using a weighted average, the estimated dermal exposure to pilots is 0.67 mg/hr.

(3) *Flagger.* A total of 24 replicates from four studies, Lavy (1980), Maddy (1982), Peoples (1979), and Atallah (1982), were used to estimate dermal exposure to flaggers. These exposure estimates were calculated assuming that the flaggers wore long sleeve shirts and long pants, which reduced exposure by 50 percent to the torso and the legs. The estimated dermal exposure to flaggers ranges from 0.32 to 20 mg/hr and the weighted average is 3.8 mg/hr.

Exposure to flaggers may be much higher. Flagger exposure is extremely variable because wind shifts can produce dermal exposures as high as 1,700 mg/hr.

(4) *Ground boom applicator.* A total of 92 replicates from six studies, BAAL (1983), Dubelman (1982), Maitlen (1982), Staiff (1975), Wojeck (1983), and Wolfe (1967), were used to estimate dermal exposure to ground boom applicators. The exposure estimates were calculated assuming that the applicator wore long sleeve shirts and long pants, which reduced exposure by 50 percent to the covered areas.

Estimated exposure values from these six studies ranged over three orders of magnitude. Such wide variation is expected due to the kinds and number of variables associated with ground boom application. The variables that result in a wide range of estimated exposure to ground boom applicators include the use of open versus enclosed tractor cabs, individual working habits, boom placement, and weather.

Because the estimated exposure values based on surrogate data ranged widely, and a higher proportion of the data points were located at the low end of the range, a geometric mean was calculated rather than a simple, weighted mean. A geometric mean is a more representative and meaningful average under these conditions because the final value is not as influenced by outlying data points. However, both the geometric mean and the range are provided to characterize the variation within the surrogate data. The estimated dermal exposure ranges from 0.33 mg/hr to 146 mg/hr and the geometric mean is 6.3 mg/hr.

(5) *Handsprayer.* A total of 49 replicates from four studies, BAAL (1983), Copplestone (1976), Davis (1983), and Everhart (1982), were used to estimate dermal exposure to applicators from the use of hand-held sprayers. The tank concentration was adjusted to 0.1 percent a.i. The exposure estimates were calculated assuming applicators wore longsleeved shirts and long pants, which reduced exposure to covered areas by 50 percent.

In these four studies, applicators used hand-held sprayers to treat lawns, shrubs, and trees. The direction that the spray nozzle was pointed in these studies affected the total exposure and the distribution of exposure to the body. However, the number of replicates was too small to control for the direction of the spray. The weighted average for dermal exposure from hand-held sprayers using a spray concentration of 0.1 percent a.i. is 8.8 mg/hr.

iii. *Protective clothing assumptions.* EPA initiated a Label Improvement Program (LIP) for all dinoseb products in 1983 primarily in response to the farmworker fatality in Texas that resulted from dermal exposure to dinoseb. Registrants of approximately 95 percent of all dinoseb products have complied with that notice. The major elements of the LIP were to require the use of additional protective clothing, and to upgrade the first aid information for treating people exposed to dinoseb.

While applying or spraying diluted dinoseb products, the revised label requires that workers wear long leg pants, long-sleeved shirts or coveralls, and shoes and socks. While mixing and/or loading concentrated dinoseb products, the label requires that workers wear the above-mentioned clothing, and further, use impermeable gloves, goggles or a face shield, and an impermeable apron.

These protective clothing requirements are similar to the application practices in many of the surrogate studies. Some of the surrogate studies reflect use of additional protective measures not included on the revised dinoseb label. Use of these additional measures would likely result in exposures toward the lower end of the estimated range. Failure to comply with label requirements would result in exposures exceeding EPA's estimates. This is important because recent surveys demonstrate that application workers often do not conform to such requirements (Opinion Research Corp., 1985; Waldron, 1985) and FIFRA requires EPA to consider the effects of "widespread and commonly recognized practice."

Most exposure to agricultural pesticides occurs to the hands. During mixing/loading, from 50 to 99 percent of the exposure is to the hands. The surrogate data base reflects that fact. Goggles, face shields, and aprons are intended to protect the worker from acute injury resulting from splashes or spills. Under routine conditions, these additional precautions are not expected to yield substantial exposure reductions beyond those attributable to impermeable gloves.

iv. *Dinoseb use practices.* EPA evaluated crop and geographic parameters in order to estimate the amount of dermal exposure resulting from the use of dinoseb on a given crop, and in some cases, in different geographic locations. Based on the best available information, EPA estimated the following factors for a given crop treated with dinoseb: (1) the average acreage of a field, (2) the average acreage treated in a day (or the average amount of time per day to treat a crop), (3) the average number of application days per year, and (4) the amount of active ingredient used per acre.

For certain crops grown in multiple locations (such as potatoes in Maine and Idaho), EPA assumed that crop conditions varied according to location. The same crop grown in different parts of the country often has distinctive growing conditions that bear on the use of pesticides like dinoseb, such as field size, weed pressure, etc. These factors directly influence the amount of exposure expected from the use of dinoseb.

EPA also had to estimate the proportion of dinoseb usage by commercial and private applicators for a given crop and to determine when it was appropriate to combine exposure values from mixing/loading and application. This latter determination was made when EPA concluded that the same person would be performing both functions.

b. *Worker exposure estimates.* EPA's estimates of worker exposure to dinoseb reflect a range of application practices. For the various kinds of workers using dinoseb on representative major crops, the middle of the estimated range represents likely exposure levels for users utilizing required protective clothing while mixing/loading and applying dinoseb. The low end of the range represents likely exposure for users employing additional protective measures such as closed loading systems and enclosed tractor cabs. The high end of the range represents likely exposure levels for users who wear only some of the required protective clothing and use equipment will like open loading systems.

EPA's exposure estimates, derived from surrogate data and adjusted to reflect dinoseb use practices, are presented in Table 3.

TABLE 3.—SUMMARY OF DAILY OCCUPATIONAL EXPOSURES TO DINOSEB ON MAJOR SITES

Use site	Daily exposure (mg/kg/day) [a] [b]
Soybeans:	
Ground boom application: [c]	
Open pour:	
Preemergence	12 (9.1–72)
Early post	6.4 (5.0–39)
Late post	1.4 (1.1–8.9)
Closed loading:	
Preemergence	2.9 (0.36–63)
Early post	1.6 (0.20–34)
Late post	0.37 (0.045–7.6)
Aerial application: [d]	
Mixer/loader:	
Open pour:	
Preemergence	39
Early post	21
Late post	4.9
Closed loading:	
Preemergence	0.95
Early post	0.52
Late post	0.12
Pilot:	
Preemergence	0.34
Early post	0.19
Late post	0.043
Flagger:	
Preemergence	2.0
Early post	1.1
Late post	0.24
Potates (desiccation): [c]	
Maine	0.60 (0.28–8.2)
Idaho	1.2 (0.56–17)
Commercial	1.8 (0.82–25)
Cotton (postemergence): [c]	3.9 (2.6–34)
Peanuts (early postemergence): [c]	
Open pour	15 (12–75)
Closed	3.0 (0.44–63)
Peas: [c]	
New York:	
Preemergent	4.4 (3.2–34)
Postemergent	0.88 (0.62–6.9)
Washington:	
Preemergent	8.8 (6.2–69)
Postemergent	1.1 (0.78–8.7)
Grapes (hand sprayer): [c] [d]	1.1
Apples (hand sprayer): [c] [d]	6.7

[a] The exposure estimate is a geometric mean for ground boom applicators, otherwise the estimate is a weighted mean. On sites where a ground boom is used an exposure range is also given in parenthesis.

[b] A standard weight of 70 kg was used to characterize dinoseb exposure on a mg/kg basis. EPA recognizes that adult females in the United States often weigh less than 70 kg. Adjusting exposure to reflect a lower expected mean weight of 60 kg would increase exposure only slightly (approximately 5 percent).

[c] Exposure estimate includes mixing/loading and application.

[d] Ranges are not presented for data that were not widely variable.

For the other minor uses of dinoseb in which a hand-held sprayer is used and which are not included in Table 3, EPA estimates that applicators will receive exposures in the range between the estimate for grapes (1.1 mg/kg/day) and the estimate for apples (6.7 mg/kg/day). The conditions under which dinoseb is applied to these two crops exemplifies the conditions (acreage, application rate, etc.) under which dinoseb is applied to the other sites that require the use of a hand-held sprayer.

Workers exposed to dinoseb, when used as a fungicide or herbicide for small fruit, orchards, nut farms, and certain field crops, may apply dinoseb to more than one crop and thereby receive a higher aggregate exposure.

The exposure estimates presented in Table 3 do not include the significant dinoseb exposure associated with in-field equipment maintenance. The CDFA annual incident reports indicate that in-field maintenance and repair of equipment used to apply dinitrophenol pesticides has resulted in frequent poisonings. Although the level of average exposure during such activities is difficult to quantify, EPA is concerned that this kind of activity may be another significant source of exposure to dinoseb.

c. *Dinoseb exposure studies.* Several exposure studies have been done directly with dinoseb. Exposure estimates from these studies are close to the estimates derived from the generic data base. Wolfe (1961) found overall exposure to the skin to be 89 mg/hr for workers that wore short sleeve shirts and long pants. This study also found that exposure to the hands under protective gloves is 22 mg/hr. For pilots, exposure to only the hands is 0.2 mg/hr.

More recently, Maddy and Fong (1983) assessed the combined dermal exposure resulting from mixing/loading and applying dinoseb using hand-held and truck-mounted boom sprayers. Exposure to the skin was measured underneath the clothing worn (long sleeved shirt, long pants, and protective gloves) during the study. The range of exposure from this study for these workers is 5.6 to 335 mg/hr.

For the particular use practices evaluated in the exposure studies on dinoseb, the exposure estimates were actually higher than the estimates derived from the surrogate data. At minimum, these studies corroborate the magnitude of the exposure estimates used in EPA's exposure evaluation.

d. *Number of dinoseb applicators.* EPA has estimated the number of applicators exposed annually to dinoseb to be approximately 45,000. Based on annual dinoseb usage figures, EPA derived this figure by assuming an applicator could treat a certain amount of acreage per day. Using the number of acres under cultivation for a given crop and the number of farms growing that crop, coupled with the amount of acreage treated potentially in a day, provided EPA with a framework to estimate the size of the work force used to apply dinoseb. EPA also assumes that up to 5 percent of that work force is female. Therefore, approximately 2,200 females may be currently handling dinoseb. The total number of applicators handling dinoseb by crop is summarized in Table 4.

TABLE 4.—ESTIMATED ANNUAL NUMBER OF APPLICATORS HANDLING DINOSEB

Crop/site	Annual applicators		
	Commercial	Private	Total
Alfalfa	100	3,500	3,600
Almonds and walnuts	0	1,600	1,600
Beans	0	3,000	3,000
Cane and bush berries	0	4,600	4,600
Cotton	0	6,760	6,760
Field crops (other)	5	200	205
Fruit trees	10	1,320	1,330
Grapes	0	3,450	3,450
Hops	0	90	90
Peas	10	240	250
Peanuts	0	6,850	6,850
Potatoes	70	600	670
Soybeans	425	12,000	12,425
Strawberries	0	60	60
Total	620	44,270	44,890

2. Bystander/Secondary Exposure

Bystanders and other people in the agricultural community are also exposed to dinoseb. CDFA annual incident reports indicate that farm workers (including females) are regularly exposed to dinoseb from residues in the field. Although the stability of dinoseb is not fully understood, EPA does know that dinoseb is stable in full light and in

water at different pH levels and, therefore, may persist in treated fields long enough to expose farmworkers re-entering such fields immediately after treatment. To maintain some perennial crops, farm workers may re-enter fields after dinoseb application to conduct activities such as scouting for pests, pruning plants, or repairing or moving irrigation equipment. Given these practices and the reported incidents, EPA has determined that some farmworkers, even when they are not involved in pesticide application, may be exposed to dinoseb if working in fields recently treated.

Aerial application, in particular, and ground boom application as well, may result in spray drift. Although efforts are being made by agricultural pesticide users to reduce the exposure of people downwind of pesticide application sites, some amount of drift from the target site is inevitable. In California, 15 percent of the total illnesses due to pesticide exposure in 1985 resulted from coincidental exposure (primarily as spray drift), and about 6 percent of all dinitrophenol poisoning incidents from 1981 to 1985 resulted from coincidental exposure. Therefore, people located in areas adjacent to fields being treated with dinoseb may be exposed. Occupational groups particularly vulnerable to spray drift exposure include utility or road repair personnel, mosquito abatement workers and game wardens. For example, in 1981 the CDFA reported that two gas utility workers were acutely exposed to a dinitrophenol during aerial application.

Agricultural workers and their families may also be exposed to dinoseb by indirect routes. Clothing worn while applying dinoseb is contaminated with the pesticide and may eventually expose whoever launders that clothing. Studies have shown that when clothing contaminated with a pesticide is laundered with noncontaminated household laundry, cross-contamination can also occur. Farm spray equipment and tractors will have some level of surface residue after dinoseb use. People may contact these surfaces and be exposed to dinoseb while cleaning or servicing the equipment and tractors.

3. Dietary and Ground Water Exposure

In 1985 and 1986, the Food and Drug Administration (FDA) analyzed 70 food samples for dinoseb residues. Only one cotton seed meal sample had a trace of dinoseb. No dinoseb residues were detected in shelled or unshelled peanuts; sweet, red, and white potatoes from three different areas of the country; and several other commodities. Edible plant parts are not directly treated with dinoseb. Tolerances are published under 40 CFR 180.281 for dinoseb residues in a number of food crops (ranges from 0.1 ppm on most commodities to 1 ppm on soybean forage and hay). Exposure to dinoseb through the diet is considered highly unlikely.

Dinoseb has been found in ground water in potato growing regions of New York and Massachusetts in the range of 1–5 ppb. On a national scale, the extent of contamination is unknown. The highest level found to date is 36.7 ppb.

D. Risk Characterization

Risk characterization is the final evaluation that takes into account all components discussed above. The hazard identification unit has identified concerns in the areas of developmental, reproductive, and acute toxicity, as well as other areas.

The greatest concern, based on both qualitative and quantitative considerations, is in the area of developmental toxicity. Dinoseb has been shown to induce developmental toxicity in both the rat and rabbit by the oral route of administration. In the rabbit, a variety of malformations was observed at levels that did not induce maternal toxicity. Screening studies in several species support the classification of dinoseb as a developmental toxicant.

In addition, several lines of evidence suggest that dinoseb is well absorbed dermally. These data include dermal penetration studies conducted by EPA, a comparison of oral and dermal Ld_{50} values, and case reports of human poisoning following dermal exposure.

1. Occupational Risk of Dinoseb

Using a NOEL of 3 mg/kg/day and assuming 100 percent dermal absorption, MOS values for developmental toxicity were calculated for workers involved in applying dinoseb. The MOS is a comparison of the expected human exposure with the NOEL in laboratory testing. EPA has calculated individual MOS values and ranges corresponding to the exposure levels previously presented. The MOS values for major sites are presented in Table 5, as well as the exposure estimates previously discussed.

TABLE 5.—SUMMARY OF DAILY OCCUPATIONAL EXPOSURES TO DINOSEB AND MARGINS-OF-SAFETY ON MAJOR SITES

Use	Daily Exposure (mg/kg/day)	Margins-of-safety (MOS)
Soybeans/Ground Boom:		
Open Pour:		
Preemergence.	12 (9.1—72)	<1 (range <1)
Early Post	6.4 (5.0—39)	<1 (range <1)
Late Post	1.4 (1.1—8.9)	2 (<1 to 4)
Closed Loading:		
Preemergence.	2.9 (0.36—63)	1 (<1 to 8)
Early Post	1.6 (0.20—34)	2 (<1 to 15)
Late Post	0.37 (0.045—7.8)	8 (<1 to 67)
Soybeans/Aerial:[1]		
Mixer/Loader:		
Open pour:		
Preemergence.	39	<1
Early Post	21	<1
Late Post	4.9	<1
Closed loading:		
Preemergence.	0.95	3
Early Post	0.52	6
Late Post	0.12	25
Pilot:		
Preemergence.	0.34	9
Early Post	0.19	16
Late Post	0.043	70
Flagger:		
Preemergence.	2.0	2
Early Post	1.1	3
Late Post	0.24	13
Potatoes (desiccation):		
Maine	0.60 (0.28—8.2)	5 (<1 to 11)
Idaho	1.2 (0.56—17)	3 (<1 to 5)
Commercial	1.8 (0.82—25)	2 (<1 to 4)
Cotton (postemergence).	3.9 (2.6—34)	<1 (<1 to 1)
Peanuts (early postemergence):		
Open Pour	15 (12—75)	<1 (range <1)
Closed	3.0 (0.44—63)	1 (<1 to 7)
Peas:		
New York:		
Preemergent.	4.4 (3.2—34)	<1 (range <1)
Postemergent.	0.88 (0.62—6.9)	3 (4 to 5)
Washington:		
Preemergent.	8.8 (6.2—69)	<1 (range <1)
Postemergent.	1.1 (0.78—8.7)	3 (<1 to 4)
Grapes/Hand spray[3].	1.1	3
Apples/Hand spray[3].	6.7	<1

[1] The exposure estimate is a geometric mean for ground boom applicators, otherwise the estimate is a weighted mean. On sites where a ground boom is used an exposure range is given in parenthesis.
[2] The Margin-Of-Safety is the ratio of the No-Observed-Effect Level of 3 mg/kg/day for developmental toxicity (in the rabbit) to the estimated human exposure level.
[3] Ranges are not provided for data that were not widely variable.

To ensure that people that handle pesticides like dinoseb are not at a significant risk, EPA traditionally requires a "margin-of-safety" or "MOS" between the highest level at which no effects are observed in laboratory animals and the dose at which people are exposed. This allows some protection for potentially greater susceptibility of humans compared to test species, differences in sensitivity among humans, limitations in study design for establishing a threshold, etc. An MOS greater than or equal to 100 is generally necessary to provide an acceptable level of protection from

developmental toxicity effects for a pesticide.

In this case, EPA has determined that virtually no MOS exists against inducing birth defects in pregnant workers who handle dinoseb for each of the registered uses. Many MOS values are less than 1 and all are much less than 100.

Women of child bearing age who handle dinoseb and who wear the required protective clothing and use state-of-the-art protective farm equipment will still receive sufficient exposure to have no effective protection against potential dinoseb-induced birth defects. Because the risk of developmental toxicity is based on acute exposure, an MOS less than 100 results even if a female worker uses dinoseb only once per season (for example, in orchards for weed control).

2. Coincidental Risk of Dinoseb

From either direct routes (spray drift) or indirect routes (contaminated clothing), people other than applicators can be exposed to dinoseb and be at risk. At this time, EPA does not have sufficient data to quantify the risk but it appears that spray drift, re-entry, and secondary exposure to residues on equipment or clothing may pose a substantial risk of inducing birth defects.

As previously discussed, poisoning incidents from spray drift of dinitrophenol pesticides have been reported in California. These data reveal that acute poisonings from spray drift occur annually, and it may be inferred that low level drift exposure may place exposed individuals at risk for birth defects even more frequently. Accordingly, EPA has concluded that women of child bearing age inadvertently exposed to dinoseb by spray drift are at risk of dinoseb=induced birth defects.

In addition to the risk of developmental toxicity, certain male applicators are at potential risk of dinosebinduced adverse reproductive effects. Studies in both rats and mice indicate effects on the testes from subchronic and chronic exposure at dose levels comparable to those observed among certain male applicators of dinoseb. There may be an inadequate MOS for male reproductive effects and those applicators using dinsoeb over an extended period may be at risk of temporary or permanent sterility.

3. Dietary Risk of Dinoseb

EPA determined the risk of developmental toxicity from dietary exposure to dinoseb residues in food and ground water. Dinoseb residues are rarely found in food, and dinoseb levels found in ground water are far less than worker exposure levels; consequently, the risk of developmental toxicity appears to be negligible.

Utilizing the Tolerance Assessment System (TAS), a maximum daily exposure of 0.00111 mg/kg (body weight)/day for females over 13 years old was estimated assuming exposure to residues at the tolerance level and a maximum intake of treated commodities. The MOS for this maximum daily exposure is equal to 2703. Available data on representative crops support the established tolerance levels, and the Food and Drug Administration (FDA) has not detected dinoseb residues in representative commodities and foodstuffs. Therefore, EPA has concluded that there is an adequate MOS for the risk of developmental toxicity occurring in women consuming foods from crops that have been treated with dinoseb.

Dinoseb has been found in the ground water of two States. Based on levels found in these States, EPA determined the risk of developmental toxicity for pregnant females consuming such water. Using the highest reported level of dinoseb contamination found (36.7 ppb), the MOS for pregnant females is equal to 2452. This MOS provides sufficient protection against developmental toxicity.

V. Determination of Benefits

EPA has conducted an assessment of the benefits associated with the continued use of dinoseb on crops for which it is currently registered for use. Dinoseb is a pesticide with herbicidal, fungicidal, and insecticidal properties used on a variety of field crops, fruits, nuts, vegetables, and some non-agricultural sites. This assessment focuses on the economic impacts resulting from the lack of availability of dinoseb during the time required for suspension and cancellation hearings.

EPA's estimates of the economic impact associated with the unavailability of dinoseb during the time required for a suspension hearing are based on use which would have otherwise occurred between late September 1986 and March 1, 1987. In addition to potential increases in treatment costs and yield losses, these estimates include short-term impacts associated with the limited availability of alternative pesticides. The total usage which would have occurred during the time required to hold a suspension hearing is estimated to be between 10 percent and 15 percent of the total annual dinoseb usage.

EPA's estimates of the economic impact associated with the unavailability of dinoseb during the time required for a cancellation hearing are based on the assumption that such a hearing would last 18 months. These estimates are based almost entirely on potential increases in treatment costs and yield losses. For this analysis, it was assumed that sufficient supplies of registered alternatives would be available prior to the beginning of any cancellation hearing.

Economic losses from the unavailability of dinoseb are primarily due to increased control costs and expected yield losses for some sites. The lack of dinoseb is expected to affect the desiccation use on potatoes and the herbicide use on peanuts. For some other sites, such as green peas, snap beans, caneberries, and hops, the extent of economic impacts is uncertain. The economic impact on the following remaining crops is expected to be minor during the time it takes to conduct cancellation hearings: soybeans, potatoes (weed control), cotton, alfalfa and clovers, grapes, almonds and other nut crops, other field crops, non-crop areas, and other fruit and vegetable crops. Overall, economic impacts at the consumer level are not expected to be significant, with the possible exception of peanuts.

The largest single use of dinoseb in the fall/winter period is the desiccation of potato vines prior to harvest. All of the current dinoseb treatments for this purpose could be eventually replaced by the pesticides diquat and paraquat. Paraquat use would be limited to potatoes not intended for storage. The lack of dinoseb for any remaining 1986 harvest could be economically disruptive. While sufficient supplies of the alternatives may not be available at the present time, the majority of the potato crop has already been treated this year. Based on market surveys, desiccating effectiveness, and relative costs, diquat is expected to occupy a larger market share in the future.

The estimated annual economic impacts are presented in Table 6.

TABLE 6.—Annual Economic Impacts of Withdrawal of Dinoseb Products From the Pesticide Market

Crops	Purpose	Active ingredient applied annually (1,000 pounds)	Annual impacts of dinoseb unavailability	
			User impacts ($ million)	Market and consumer impacts
Soybeans	Herbicide	3,500	6.2	None.
	Desiccant	negligible	negligible	None.
Peanuts	Herbicide	740	71	Possible price increases.
Cotton	Herbicide	1,300	2.4	None.
Beans (snap)	Herbicide	186	0.477	Undetermined.
Potatoes	Desiccant	1,200	4.9	Minor.
	Herbicide	150	0.770	None.
Green Pea	Herbicide	165	1.2	Possible price increase (<1%).
Grapes	Herbicide	170	0.1	None.
	fungicide	negligible	negligible	None.
Alfalfa	Herbicide desiccant (combined).	350	0.7	None.
Almonds and Walnuts	Herbicide	127	.144	None.
	fungicide	negligible		
Berries	Herbicide	47	.078	Undetermined.
Hops	Herbicide fungicide (combined).	60	.117	Undetermined.
Non Crop Areas	Herbicide	500	None	None.
Other crops	Herbicide fungicide desiccant insecticide (combined).	262	0.6	None.
Total Impact	NA	8,757	80–90	No significant impacts except for possible peanut price increase.

A. Uses of Dinoseb as an Herbicide, Desiccant, and Fungicide

1. Soybeans and Peanuts

The single largest usage (40 percent) of dinoseb is on soybeans for weed control and about 4 percent of the soybean crop is treated with dinoseb. Both the alkanolamine and sodium salts are registered for use on soybeans. Approximately 9 percent of dinoseb usage is on peanuts and as of 1985, one source indicated that 36 percent of the peanut crop was treated with dinoseb (some sources estimate a higher percent of crop treated). Dinoseb is used to control immature broadleaf weeds at the "cracking stage" when soybean and peanut seedlings are just emerging from the soil. Dinoseb use at this early postemergence period reduces competition with seedling weeds including cocklebur, morningglory and pigweed. Broadleaf weed control at this growth stage is a significant benefit of dinoseb. A mixture of the dinoseb sodium salt and the naptalam sodium salt (Dyanap®, Ancrack®, Preemerge Plus®) is widely used in the South as a preemergence, cracking stage, and postemergency spray to control broadleaf weeds.

Nearly all the dinoseb usage on peanuts is at the cracking stage, and dinoseb is the principal herbicide registered for use during the cracking stage. Although diphenamid and alcahlor are registered for use during this period on peanuts, these herbicides are often tank-mixed with dinoseb. Without dinoseb, peanut growers will have to rely more on other herbicides that can be applied at late postemergence, such as bentazon, acifluorfen and 2,4–DB.

These other postemergence herbicides do not provide the same broad spectrum weed control activity that dinoseb provides. No postemergence grass control chemcials are available for use on peanuts. The recently registered soybean herbicides, imazaquin (Sceptor®), Canopy®, and Classic®, will control some dinoseb-controlled weeds on soybeans, but these herbicides are not currently registered for use on peanuts.

Most alternative chemicals and combinations will control many of the same weeds as dinoseb except for certain broadleaf weeds such as sicklepod, Florida beggarweed, and most grasses. Without the early postemergence use of dinoseb there will be greater reliance on the alternatives to provide effective control of larger, more mature, broadleaf weeds. If effective control cannot be achieved, adverse yield and revenue impacts could occur in the soybean and peanut markets.

Little or no dinoseb usage on soybeans and peanuts is likely to occur during the time required for a suspension hearing and therefore no economic impact is expected.

The annual economic impact on peanut growers is estimated at $71 million and the impact on soybean growers is estimated at $6.2 million if dinoseb is unavailable during the 18-month period required for a cancellation hearing. Peanut producers rely on the early postemergence weed control of dinoseb. Alternative pesticides are limited in number and do not provide the same weed control spectrum as dinoseb. EPA estimates that the lesser efficacy of currently available alternatives will result in a 20 percent reduction in peanut yields ($70 million revenue loss) during the first year that dinoseb is unavailable. In addition, treatment costs would increase by $1 million because the alternatives are more expensive.

Changes in consumer prices and Government support payments are difficult to assess at this time given the current Government support levels, acreage allotments, and poundage quotas. However, impacts on peanut producers are expected to decrease by approximately 20 percent in subsequent years because of anticipated support program adjustments. Consumers may also experience commodity price increases for peanuts over the next few years.

2. Cotton

Approximately 15 percent of dinoseb usage is on cotton and about 6 percent of the total cotton crop in the U.S. is treated with dinoseb. The alkanolamine salt of dinoseb is used as a postemergence directed spray after the crop is 4 to 5 inches high and when the weeds are still less than 1 inch high. A second and third application may be made between 7 to 14 days apart, before the cotton bolls begin to open. Dinoseb is used to control broadleaf weeds that are not controlled by preplant incorporated or preemergence herbicides. Preplant incorporated herbicides used on cotton include trifluralin, bensulide, norflurazon, prometryn, pendimethalin and dalapon. Preemergence herbicides include DCPA, diuron, dipropetryn, diphenamid, norflurazon, and oryzalin. Postemergence herbicides for broadleaf weed control on cotton are cyanazine (may be tank mixed with MSMA or norflurazon), MSMA, DSMA, EPTC, linuron, oxyfluorfen, fluometuron, diuron, and glyphosate.

Little or no dinoseb usage on cotton is likely to occur during the time required for a suspension hearing and therefore no economic impact is expected.

If dinoseb is unavailable for use on cotton during the time required for a cancellation hearing, the economic impact is expected to be minor. The use of alternatives is expected to have

minor economic impacts on treatment costs and effectiveness. The potential increase in treatment costs would not exceed $2.4 million.

3. Snap Beans

Approximately 2 percent of dinoseb usage is on snap beans and about 20 percent of the snap bean acreage is treated with dinoseb annually to control annual weeds. The primary alternatives to dinoseb are metolachlor and chloramben. Dinoseb use on snap beans is scattered throughout the U.S. and no particular geographic region of the country relies heavily on dinoseb for broadleaf weed control.

EPA estimates that approximately 72,000 pounds of dinoseb active ingredient would otherwise be used on some snap beans during the time required for a suspension hearing, with the major use occurring in early spring. The economic impact associated with lack of availability of dinoseb during such a hearing is expected to be approximately $100,000.

The economic impact associated with treatment cost changes is expected to be minor (approximately $477,000 annually) if dinoseb is unavailable during the period required for a cancellation hearing. However, the relative efficacy of the alternatives is uncertain.

4. Potatoes

Dinoseb is used on potatoes both as a herbicide and as a vine desiccant prior to harvest. Approximately 16 percent of dinoseb usage is on potatoes and about 50 percent of all potato acreage in the U.S. is treated with dinoseb annually. Only 10 percent of all dinoseb used on potatoes is as a herbicide (mostly in the Eastern States) and the remaining 90 percent is used as a vine killer prior to mechanical harvesting throughout the Eastern and Western potato States.

As a herbicide, dinoseb is used mainly for broadleaf weed control. Typically, dinoseb is tank-mixed with alachlor, metolachlor or dalapon to control grass weeds. Registered alternatives for broadleaf weed control are metribuzin, EPTC, and linuron.

Potatoes are planted in different parts of the country throughout the year to provide a nearly continuous supply of production. Harvesting occurs throughout the year, but is mainly done in the fall. Some regions may have two potato seasons per year.

As a potato vine killer, or desiccant, dinoseb is applied 10 to 20 days before harvest. Desiccation of potato vines both facilitates mechanical harvesting and helps to "set" or toughen the potato skin so that the tubers can be harvested with a minimum of skinning and bruising. Dinoseb may be applied to potatoes by a ground boom or by aerial application. In the Northeast, dinoseb application is done by ground boom and, in the Central and West areas of the U.S., dinoseb application is equally split between ground and air applications.

The main chemical alternative to dinoseb for desiccation is diquat. Frost is also used to kill potato vines in late producing States, especially during the late part of the harvest season. Other alternative desiccants are endothall and ametryn, but these chemicals work more slowly than dinoseb and their use may require multiple applications to achieve comparable results. Paraquat may be used for fresh market potatoes, but not potatoes intended for storage.

An estimated 25 percent of the dinoseb usage for potato desiccation will occur through October 1, at which time the harvest season nears completion. Treatment cost increases could result in losses to growers of approximately $1.2 million during the period required for a suspension hearing. Alternatives are not expected to be in adequate supply to replace dinoseb. Production and quality losses are likely to occur on 150,000 acres or 12 percent of the U.S. potato acreage but data are not available to assess resultant losses.

If dinoseb is unavailable for desiccation during the time required for a cancellation hearing, diquat and paraquat will be the principal alternatives. Because the cost and efficacy of diquat is similar to dinoseb, diquat will probably acquire a large portion of the market. A large proportion of the 1986 potato crop has already been treated so it is unlikely that a disruption in the potato harvest would ensue this fall. A nonchemical alternative currently being used is a mechanical beater which kills the vines with a steel or rubber flail.

The total annual economic impact if dinoseb is unavailable during the time required for a cancellation hearing is estimated at $5.67 million annually (assuming the supplies of alternative chemicals adjust to the new demand). Treatment cost increases could be as high as $10 per acre. However, no major impacts on commodity prices are expected and the overall long term impact would be negligible.

5. Green Peas

Over one-third of the annual green pea crop is treated with dinoseb either preemergence or postemergence to control broadleaf weeds. The major alternatives are bentazon, MCPA, and MCPB. Major pea growing States that use dinoseb are Wisconsin, Minnesota, New York, Washington, Oregon, and Colorado.

Little or no dinoseb usage on green peas is likely to occur during the time required for a suspension hearing and therefore no economic impact is expected.

Most of the alternatives provide poor control of black nightshade, so the unavailability of dinoseb during the period required for a cancellation hearing may have significant economic impacts. Average treatment costs could increase by as much as $10 to $11 per acre, reducing farm income for green pea producers. Those farms with serious black nightshade infestations may have larger economic impacts because of yield and crop quality losses. If yield reductions are sufficiently large, small increases in retail prices could occur. The total annual impact of such effects would be approximately $1.2 million.

6. Grapes

The usage of dinoseb on grapes (only 2 percent) is concentrated in California. About 15 percent of the total grape acreage in California is treated for control of black nightshade, pigweed, purslane, and other winter broadleaf weeds. The herbicide alternatives are glyphosate, paraquat, diuron, simazine, and napropamide.

The triethanolamine salt of dinoseb is applied as a fungicide to dormant grape vines in the winter to control dead-arm disease. It is applied as a directed spray to the soil using a hand-held spray gun or a tractor drawn spray boom. The fungicide alternative for use on dormant grape vines is sodium arsenite. However, when treating non-dormant vines, the following alternative fungicides are available: captan, basic copper sulfate, folpet, and mancozeb. All of these provide adequate control of dead-arm disease.

During the time required for a suspension hearing, effective alternatives for use on grapes would be available and are expected to be in adequate supply. Some minor impacts for this period are possible but the aggregate impact of loss of dinoseb for use on grapes is expected to be less than $100,000.

If dinoseb is unavailable during the time required for a cancellation hearing, the available alternatives for control of weeds or disease are comparable in cost and efficacy. No price impacts for consumers are expected. The total annual economic impact will not exceed $100,000 if dinoseb is withdrawn from use on grape vineyards.

7. Alfalfa

Approximately 4 percent of annual dinoseb usage is on alfalfa to control annual and perennial weeds and grasses and to desiccate the seed crop before harvest. However, only 2 percent of the nation's alfalfa crop is treated with dinoseb. The major alternatives to dinoseb for use on alfalfa are propham, 2,4-DB, simazine, chlorpropham, paraquat, and diuron.

The benefits from the use of dinoseb on alfalfa are negligible. Approximately 350,000 pounds of dinoseb active ingredient would otherwise be used on alfalfa during the time required for a suspension hearing. Alternative chemicals are available for use and the overall economic impact is estimated to be $700,000.

Similarly, if dinoseb is unavailable for the 18 month period required for a cancellation hearing, the annual economic impact at the user level would not exceed $700,000.

8. Almonds and Walnuts

The use of dinoseb on almonds and walnuts is confined to California where approximately 12 percent of the almond crop and 3 percent of the walnut crop are treated. The combined dinoseb usage on these two nut crops is slightly more than 1 percent of the total dinoseb annual usage.

On both almonds and walnuts, dinoseb is used as a contact herbicide for control of annual grasses and broadleaf weeds. The primary alternatives to dinoseb for herbicide use on almonds are paraquat, glyphosate, simazine, and napropamide. The alternatives to dinoseb for herbicide use on walnuts are paraquat, simazine, diuron, EPTC, oxyfluorfen.

The triethanolamine salt of dinoseb is also used as a contact eradicant fungicide to aid in the control of blossom brown rot disease. This salt is applied at either the dormant or delayed dormant stage of almond trees. One major fungicide alternative to dinoseb for control of blossom rot disease is sodium pentachlorophenate. This chemical is equally effective when used in the same manner as dinoseb. Many other alternatives are also registered for treating blossom rot disease as a direct leaf spray.

During the time required for a suspension hearing, effective alternatives for use on almonds and walnuts would be available and expected to be in adequate supply. Some minor impacts for this period are possible but the aggregate impact of loss of dinoseb for use on both nuts is expected to be less than $144,000.

Minimal annual economic impacts are expected if dinoseb is not available for use on almonds and walnuts during the 18 month period required for a cancellation hearing. The estimated annual impact would be $144,000 and adverse consumer effects are not expected.

9. Berries

Dinoseb is registered for use on many berry crops including blueberry, blackberry, currant, raspberry, boysenberry, gooseberry, loganberry, and strawberry. Generally both the percent of crops treated and the percent of dinoseb usage are negligible for these sites. Noteworthy exceptions include the treatment of up to 3 percent of the California strawberry crop, and use in Oregon for weed control in raspberry and blackberry crops. Dinoseb is used to control annual grasses and broadleaf weeds between and within the berry rows. For strawberries, dinoseb is used to control chickweed and annual winter grasses.

The alternatives to dinoseb for use on strawberries are DCPA and napropamide. The standard treatment in California is napropamide. The alternatives to dinoseb for use on the other berries are mainly paraquat and diuron.

During the time required for a suspension hearing, the economic impact due to the unavailability of dinoseb for use on various berries is not expected to exceed $78,000.

If growers had to use the alternatives for weed control on these berry crops, some minor treatment cost impacts could occur and be as much as $13 per acre treated. The impact on the strawberry crop is estimated to be less. For all berries, the total annual economic impact could exceed $78,000 if dinoseb were unavailable for use in the period required for a cancellation hearing.

10. Hops

In the States of Washington, Oregon, and Idaho, up to 25 percent of the hops is treated annually with dinoseb to control or suppress downy mildew. Dinoseb usage on hops is only 0.1 percent of the total dinoseb usage. Nonetheless, it is a routine part of the downy mildew control system in the hops industry.

To control downy mildew on hops, dinoseb is used within an overall control system in which multiple fungicides and non-chemical controls are utilized. Dinoseb is generally applied up to four times in one growing season as a directed spray to the basal portion of the hops vine (but not within 14 days of harvest). A hand-held spray gun or directed nozzles from a tractor drawn ground boom are used to apply dinoseb to hops.

The other pesticides used with dinoseb for downy mildew control are copper fungicides and metalaxyl. Since there appears to be no true alternative currently registered with comparable action to replace dinoseb for downy mildew control, users will have to rely on other available chemicals and/or modify their production systems. As a result, treatment costs may increase and yields could be affected without the use of dinoseb.

During the time required for a suspension hearing, EPA expects that growers will be able to adjust the current downy mildew control system to provide effective pest control. The economic impact for this time period is estimated to be $20,000.

The most significant impact likely to occur if dinoseb is unavailable for use on hops during the period for a cancellation hearing would be an increase in treatment costs. This annual economic impact may be as high as $117,000.

11. Non-Crop Areas

Up to 6 percent of dinoseb usage is for weed control in non-crop areas. Dinoseb is of limited usefulness on non-crop sites because it is relatively short-lived and it primarily affects only emerged vegetation. Numerous alternative herbicides are available for this use. During the time required for a suspension hearing, no economic impact is expected since there are satisfactory alternative chemicals available for use. Similarly, no economic impact is expected due to lack of availability of dinoseb during the time required for a cancellation hearing.

12. Other Minor Uses

Dinoseb is registered as a herbicide, fungicide or desiccant on the following crops or sites: clovers (alsike, ladino, sweet, and red), apple, apricot, barley, other beans (field, lima, kidney and navy), birdsfoot trefoil, cherry, citrus, corn, cucurbits (cucumbers, pumpkins, and squash), date, fig, filbert, garlic, lentils, mint, nectarine, oats, olive, onion, peach, pear, pecan, plum, rye, wheat, dichondra, flax, timothy hay, ornamental bulbs (bulbous iris, daffodil, gladiolus, narcissus and tulip), ornamental shrubs (ligustrum, lilac, spirea and yew), roses, forestry (conifer release) and drainage ditches. EPA has found little or no usage of dinoseb on these crops or sites. This fact suggests that farmers and consumers receive

little benefit from these registered uses. The economic impact of dinoseb unavailability would be negligible during the period required for suspension and cancellation hearings.

B. Uses of Dinoseb as an Insecticide

Two currently registered products containing the triethanolamine salt of dinoseb are labeled for use as insecticides. Available data indicate neither is currently marketed, but both are registered for the control of mites, aphids, and other insects on fruits and nuts and several other sites. This insecticide is applied by the same methods as the fungicidal applications.

The unavailability of the triethanolamine salt of dinoseb for use as an insecticide during the period required for suspension and cancellation hearings will have no economic impact.

VI. Risk Reduction Measures

Based on the available evidence concerning the risks and benefits of dinoseb, EPA has concluded that the risks associated with the continued use of dinoseb products as currently registered during the time required for suspension and cancellation hearings would be likely to outweigh the benefits. Before deciding to issue this Emergency Order, EPA evaluated a number of risk reduction measures short of immediate suspension to determine whether or not such measures would be likely to reduce the risks for developmental toxicity to acceptable levels. In each instance, such measures would be implemented through mandatory revisions in labeling or other terms and conditions of registration. EPA has concluded that none of these measures is a practical and efficacious alternative to immediate prohibition of use. In the discussion that follows, risk reduction measures that EPA considered are evaluated for their potential effectiveness and feasibility.

A. Protective Clothing

The use of additional protective clothing and protective farm equipment can be required on the label. Most current labels (revised per the Label Improvement Program in 1983) requires that workers wear goggles or a face shield, impermeable gloves, and an apron when handling the concentrated form of dinoseb. These labels also state that workers must wear longsleeved shirts, long leg pants and shoes and socks when handling the concentrate and while spraying the prepared formula.

The total body exposure to dinoseb could be reduced with the use of chemically resistant coverall-type suits. EPA is aware that the registrants of dinoseb are exploring ways to decrease worker exposure in this manner. A consortium of dinoseb registrants has conducted, but not yet submitted to EPA, an applicator exposure study in which all participants were required to wear Tyvek® suits (synthetic, disposable coveralls) when handling dinoseb.

EPA has concluded that requiring the use of such protective clothing for workers applying dinoseb is not an acceptable alternative. Not only is this kind of protective clothing requirement impractical and difficult to enforce, it is also potentially hazardous to workers handling chemicals like dinoseb.

Studies and calculations by CDFA have shown that above 80° F the hazard of heat stress becomes very important when this type of clothing is worn. EPA is concerned about heat stress resulting from the use of such protective equipment in the field.

This concern is compounded by specific toxic properties of dinoseb. Acute exposure to dinoseb is characterized by an increase in body temperature. If an applicator is already hot from wearing a water-tight outfit such as a Tyvek® suit, and then accidentally contacts (e.g., a leaking back-mounted, hand-held sprayer) a sufficient quantity of dinoseb to induce hyperthermia, the applicator may attribute his discomfort to the suit and not to an acute poisoning symptom from dinoseb exposure.

In short, the use of such suits could compromise the use of increased body temperature as a timely and key diagnostic tool for detecting acute poisoning by dinoseb. Given this information, EPA does not regard the use of Tyvek® suits to be a practical solution to reduce applicator exposure to dinoseb. The potential problem of aggravated heat stress nullifies this option.

Because protective equipment is already required on dinoseb labels and because special p?otective clothing (Tyvek+ suits) is contra-indicated, EPA has concluded that no further protective clothing requirements would sufficiently and safely reduce exposure to dinoseb.

B. Protective Farm Equipment

The revised dinoseb label does not require the use of specialized protective farm equipment. Nonetheless, EPA scientists assumed that closed loading systems and enclosed tractor cabs were being used by applicators of dinoseb when they estimated the range of dinoseb exposure from surrogate exposure data. Closed loading systems are mechanical systems used to transfer concentrated pesticide. Pumps are used to move the pesticide from one container to another, thereby theoretically reducing worker exposure from splashes and vapors otherwise occurring while pouring liquid pesticides from open containers. Enclosed tractor cabs reduce applicator exposure by simply protecting the operator from pesticide drift.

EPA has determined that the use of this equipment would not adequately reduce worker exposure to dinoseb. As previously mentioned, the use of such protective equipment was considered in the recent exposure assessment. Some of the surrogate exposure studies were conducted with the use of this state-of-the-art protective equipment. As such, the higher MOS values reflect conditions that would result in less dinoseb exposure. Although higher MOS values were calculated for mixer/loaders using closed loading systems (and different application rates), and higher MOS ranges were calculated for applicators using a variety of application equipment including enclosed tractor cabs, none of these MOS values provided adequate margins of safety from the risk of developmental toxicity. All MOS values were still well below 100.

The use of closed loading systems and enclosed tractor cabs would not provide sufficient protection against dinoseb exposure and, therefore, this option would not effectively mitigate risk.

C. Lower Application Rates

Another possible option to mitigate risk is to reduce the application rate to a level that produces a significantly lower exposure to mixer/loaders and applicators. Handling less pounds of active ingredient does generally reduce exposure to mixer/loaders and applicators. The exposure assessment identified sites that use high application rates such as some preemergence uses of dinoseb (9 to 12 pounds active ingredient per acre). Conversely, relatively low application rates (0.625 pound active ingredient per acre) are used for fungicidal uses of dinoseb. While the exposure will in fact be influenced by a lower application rate, high exposure will still occur. MOS values for sites where lower application rates are currently used are still significantly below 100.

The use of lower application rates would not effectively mitigate the risk from dinoseb exposure.

D. Gender-Based Restrictions

A number of gender-based restrictions could be required to reduce the risk of developmental toxicity associated with exposure to dinoseb. Because only the fetuses of pregnant women are at risk of

developmental toxicity, the labeling for dinoseb products could be amended to prohibit women of childbearing capacity from mixing/loading or applying dinoseb. EPA could require label or other warnings to alert women to the potential for developmental toxicity. In addition, EPA could require employers to obtain the informed consent of female workers in writing before permitting them to work with dinoseb.

As a practical matter, pregnant women could misunderstand a label warning or prohibition or could knowingly jeopardize the health of the fetus. Some women may be pregnant but not yet be aware of their pregnancy. Birth defects may be induced early in the first trimester of pregnancy—often at that time when women are unaware of their condition.

The current work force handling dinoseb contains an expanding number of females. Nationally, EPA estimates that 5 percent of the mixer/loaders and applicators of pesticides are female. Many women have entered the agricultural workforce in the last two decades. Today, more women own and operate farms and more women professionally apply pesticides than did in previous decades.

Warning female farmworkers or prohibiting them from handling dinoseb or working in dinoseb-treated areas is impractical and difficult to enforce. United States Department of Agriculture (USDA) statistics on the number of female farmworkers in 1981 show that nearly 490,000 work either permanently or temporarily on farms in the U.S. Crops such as grapes, berries, nuts, and fruit orchards typically require large farmworker support.

Other pregnant females may be exposed to dinoseb as bystanders from spray drift or as farm residents from clothing or other items contaminated with dinoseb. No adequate means exist to warn or prohibit pregnant females from being in the proximity of farms that use dinoseb. Women could contact contaminated farm equipment or other contaminated surfaces on the farm premises, or handle contaminated clothing or protective equipment. All of these exposure pathways could not be effectively controlled by gender-based restrictions.

Moreover, gender-based restrictions will not mitigate the risks associated with male reproductive effects and acute toxicity. Some male workers handling dinoseb are at risk of dinoseb-induced sterility and all workers are at risk of acute toxicity.

EPA has considered the feasibility of gender-based restrictions and concluded that these are not practical for reducing exposure to dinoseb and the risk of developmental toxicity, reproductive toxicity, and acute toxicity.

VII. Procedural Matters

This Notice announces that the Agency has issued an Emergency Order suspending the registrations of all pesticide products containing dinoseb or any of its salts. The Emergency Order expressly prohibits any further sale, distribution, or use of any pesticide product containing dinoseb, including federally registered products and products registered under state law and marketed solely in intrastate commerce pursuant to 40 CFR 162.17. Registrants of products affected by the Emergency Order may request an expedited Agency hearing on the question of whether an imminent hazard exists. This unit explains how to request an expedited hearing, the consequences of requesting or not requesting an expedited hearing, and the procedures which will govern any expedited hearing in the event one is requested.

A. Procedures for Requesting a Hearing

Any registrant of a pesticide product containing dinoseb may request a hearing concerning the Agency's determination that an imminent hazard exists. Registrants who request a hearing must comply with the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. These procedures establish the following requirements: (1) Each hearing request must specifically identify by registration or accession number each individual pesticide product concerning which a hearing is requested, 40 CFR 164.121(a)(3) and 164.22(a); (2) Each hearing request must be accompanied by a document setting forth specific objections to the Agency's findings pertaining to the question of imminent hazard and state the factual basis for each such objection, 40 CFR 164.121(a)(3) and 164.22(a); and (3) Each hearing request must be received by the Office of the Hearing Clerk within 5 days from the date of receipt of this Notice, FIFRA section 6(c)(2); 40 CFR 164.121(a)(2) and 164.5(a). Failure to comply with any one of these requirements will invalidate the request for a hearing and result in suspension of the products in question by operation of law.

Requests for hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

B. Consequences of Failure to File a Hearing Request

Unless the registrant of a particular dinoseb product submits a timely and valid request for an expedited hearing concerning that product, the suspension of that product will become final by operation of law, will not be reviewable by any court, and will remain in effect until a final order is issued concerning the proposed cancellation of that product. Submission of a request for an expedited hearing concerning a particular dinoseb product will not prevent cancellation of that product by operation of law in the event no cancellation hearing is requested.

C. Consequences of Filing a Hearing Request

The Emergency Order announced by this Notice is effective immediately, regardless of whether or not a registant requests an expedited hearing concerning the question of imminent hazard. The Order will remain in effect until completion of any expedited hearing and issuance of a final order on the issue of suspension. The final suspension order to be issued by the Administrator or his delegate after any expedited hearing may retain the suspension, modify it, or rescind it.

D. Hearing Procedures

If a registrant of a dinoseb product submits a timely and valid request for an expedited hearing, that hearing must commence within 5 days of receipt of the hearing request unless the registrant and the Agency agree that it will commence at a later time (FIFRA section 6(c)(2)). Valid and timely requests received subsequently may be consolidated with requests received prior to commencement of the suspension hearing. Any suspension hearing will be limited to the question of whether an imminent hazard exists (FIFRA section 6(c)(1)) and no parties other than affected registrants and the Agency will be permitted to participate actively in the hearing (FIFRA section 6(c)(3)).

I am also establishing a specific mandatory timetable for the evidentiary phase of any expedited hearing held concerning the suspension of dinoseb. The evidentiary hearing must begin no more than 15 calendar days after the first prehearing conference and the presentation of evidence must be concluded no more than 90 calendar days after the beginning of the evidentiary hearing. Once the presentation of evidence has been concluded, FIFRA section 6(c)(2) provides that the Administrative Law Judge will have 10 days to submit recommended findings and conclusions to me and I will have 7 days to issue a final order on the issue of suspension.

Additional time requirements are set forth at 40 CFR 164.121(j).

E. Separation of Functions

EPA's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of EPA in any administrative hearing on the issue of imminent hazard: the office of the Administrative Law Judge, the office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate office of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

VIII. References

(1) Atallah, Y.H., Cahill, W.P., and Whitacre, D.M. (1982) Exposure of Pesticide Applicators and Support Personnel to O-ethyl O-(4-nitrophenyl) phenyl-Phosphonothioate (EPN). Arch. Environ. Contam. Toxicol. 11:219–225.

(2) Beaudoin, A.R., Fischer, D. (1981) An *in vitro* evaluation of teratogenic action. Teratology, 23:57–61.

(3) Blondell, Jerome. (1986) Dinoseb Poisonings Statistics Summary. USEPA.

(4) British Agrochemicals Association Limited (BAAL). Spray Operator Safety Study, Report of a study carried out in 1983 in conjunction with the Robens Institute of Occupational Health and Safety, University of Surrey. Alembic House, 93 Albert Embankment, London SE1 7TU.

(5) Brown, D. (1981). Dinoseb: a 100-week oral (dietary) toxicity and carcinogenicity study in the mouse. Performed at Hazleton Laboratories Europe Ltd., Otley Rd., Harrogate, HG3 lPY, England.

(6) Copplestone, J.F. et al. (1976) Exposure to Pesticides in Agriculture: A survey of spraymen using dimethoate in the Sudan. Bull. World Health Organ. 54:217–223.

(7) Dandliker, W., Hicks, A., Levison, S. et al. (1980) Effects of pesticides on the immune response. Environmental Science and Technology 14(2):204–210.

(8) Davis, James E. et al. (1983) Potential Exposure to Diazinon During Yard Application. Environm. Monitor and Assess. 3:23–28.

(9) Dubelman, S. et al. (1982) Operator Exposure Measurements during Application of the Herbicide Diallate, J. Agric. Food Chem. 30(3):528–532.

(10) Everhart, L.P. and Holt, R.F. (1982) Potential Benlate Fungicide Exposure During Mixer/Loader Operations, Crop Harvest and Home Use. J. Agric. Food Chem. 30:222–227.

(11) Giavini, E. et al. (1986) Effect of Method Administration on the Teratogenicity of Dinoseb in the Rat. Arch. Environ. Contam. Toxicol. 15:377–384.

(12) Gibson, J.E. (1973) Teratology studies in mice with 2-sec-butyl-4,6-dinitrophenol (Dinoseb). Food and Cosmetic Toxicology 11:31–45.

(13) Gosselin, R.E., Smith R.P., Hodge, H.C. (1981) Clinical Toxicology of Commercial Products. Published by Williams and Wilkins (Baltimore). p. 157.

(14) Hayes, Jr., W.J. (1982) Chapter 9. Nitro compounds and related phenolic pesticides in: Pesticides Studied In Man. William & Wilkins, Baltimore/London.

(15) Honeycutt, R.C. (1985) Field worker exposure: the usefulness of estimates based on generic data, dermal exposure related to pesticide use. American Society of Chemistry Symposium Series 273, 1985, p. 369–375.

(16) Kavlock, R.J., Chernoff, N., Rogers, E.H. (1985) The effect of acute maternal toxicity on fetal development in the mouse. Teratogen, Carcinog., Mutagen. 5(1):3–14.

(17) Lavy, T.L., Shepard, J.S. and Bouchard, D.C. (1980) Field worker exposure and helicopter spray pattern of 2,4,5–T. Bull. Envionm. Contam. Toxicol. 24:90–96.

(18) Lavy, T.L. et al. (1982) 2,4–D Exposure received by aerial application crews during forest spray operations. J. Agric. Food Chem. 30:375–381.

(19) Leist, K.H. (study monitor) (1986a). Embryotoxicity study with Dinoseb Technical Grade (Code: HOE 026015 OH ZD98 0004) in the rabbit oral administration. Submitted by Hoechst Akiengesellschaft, Pharma Forschung Toxicologies, D 6230 Frankfurt/Main Federal Republic of Germany.

(20) Leist, K.H. (study monitor) (1986b). Embryotoxicity study with Dinoseb Technical Grade (Code: DDS 071085) in Wistar/Han rat (Kfm: WIST, outbred, SPF quality). Submitted by Dinoseb Task Force, c/o John Conner, Jr., McKenna, Conner, and Cuneo, 1575 Eye St. NW., Washington, DC 20005.

(21) Linder, R.E., Scotti, T.M., Svensgaard, D.J. et al. (1982) Testicular effects of dinoseb in rats. Arch. Environ. Contam. Toxicol., 11(4): 475–485.

(22) Maddy, K.T. et al. (1982) Monitoring of potential occupational exposure of mixers/loaders, pilots, and flaggers during application of Phosdrin (Mevinphos) in Imperial County in 1981. Report HS–889. California Department of Food and Agriculture. January 21, 1982.

(23) Maddy, K.T. and Harvard Fong. (1983) Monitoring Worker Exposure to Dinoseb. California Dept. of Food and Agriculture Report HS–1079.

(24) Maitlen, J.C. et al. (1982) Workers in the Agricultural Environment—Dermal Exposure to Carbaryl. Pesticide Residues and Exposure. Published by the American Chemical Society pp 83–103.

(25) McCollister, D., Copeland, J., Oyen, F. (1967) Results of 91-day dietary feeding studies of 2-secondary butyl-4,6-dinitrophenol (DNOSBP) in beagle hounds.

(26) McCormack, K.M., Abuelgasim, A., Sanger, V.L., Hook, J.B. (1980) Postnatal morphology and functional capacity of the kidney following prenatal treatment with dinoseb in rats. J. Toxicol, Environ. Health, 6(3): 633–644.

(27) Mumma, R.O., Brandes, G.A. and Gordon, C.F. (1985) Exposure of Applicators and Mixer/Loaders During the Application of Mancozeb by Airplanes, Airblast Sprayers, and Compressed-Air Backpack Sprayers. Dermal Exposure Related to Pesticide Use-Discussion of Risk Assessment, ACS Symposium Series #273. pp. 201–219.

(28) Opinion Research Corporation. (1985) An Evaluation of Monsanto's Grower Meetings final Report, June 1985.

(29) Peoples, S.A. et al. (1979) Monitoring of Potential Occupational Exposure of Mixer/Loaders, Pilots and Flaggers During application of Tributyl Phosphorotrithioate (DEE) and Tributyl Phosphorotrithioite (Folex) to Cotton Fields in the San Joaquin Valley of California in 1979. Report HS–676, Worker Health and Safety Unit, California Department of Food and Agriculture.

(30) Preache, M.M., Gibson, J.E. (1975) Effect of Food deprivation, phenobarbital and SKF–525A on teratogenicity induced by 2-sec-butyl-4,6-dinitrophenol (dinoseb) and on disposition of (14_c) dinoseb in mice. J. Toxicol. Environ. Health, 1:107–118.

(31) Rowe, V.K., McCollister, D.D., Spencer, H.C. (1949) The acute oral toxicity of 2-sec-butyl-4,6-dinitrophenol to rats, guinea pigs, and chicks. (unpublished study received on May 6, 1965 under unknown admin. no.; submitted by Dow Chemical U.S.A, Midland Mich., CDL:130443D).

(32) Spencer, H.C., Rowe, V.K., Adams, E.M. et al. (1948) Toxicological studies on laboratory animals of certain alkyldinitrophenols used in agriculture. J. Industrial Hygiene and Toxicology 30(1):10–25.

(33) Staiff, D.C. et al. (1975) Exposure to the Herbicide Paraquat. Bull. Envíronm. Contam. Toxico. 14(3):334–340.

(34) Tucker, W., Bennett, B., Robinson, V. (1967) Oral toxicity study of 2-sec-butyl-4,6-dinitrophenol in White Pekin ducklings. (unpublished study received April 13, 1967 under 7F0593; submitted by Dow Chemical Co., Indianapolis, IN CDL:090764–D).

(35) Waldron, A.C. Minimizing Pesticide Exposure Risk for the Mixer/Loader, Applicator, and Field Worker. ACS Symposium Series 273 Dermal Exposure Related to pesticide Use. 1985.

(36) Ware, George W. (1983) Pesticides, theory and application. W.H. Freeman and Co., San Francisco, CA. 1983.

(37) Wojeck, G.A. et al. (1983) Worker Exposure to Paraquat and Diquat. Arch. Environ. Contam. Toxicol. 12:65–70.

(38) Wolfe, H.R. et al. (1961) Health Hazards of Some Dinitro Compounds. Arch. Environ. Health. 38:468–475.

(39) Wolfe, H.R., Durham, W.F. and Armstrong, J.F. (1967) Exposure of Workers to Pesticides. Arch. Environ. Health. 14:622–633.

The public docket containing the above references is located at 1921 Jefferson Davis Highway, Room 236,

Arlington, Virginia. The references can be viewed from 8 a.m. to 4 p.m., Monday thru Friday, except legal holidays.

Dated: October 7, 1986.

Lee M. Thomas,

Administrator.

[FR Doc 86-23099 Filed 10-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66132; FRL-3094-7]

Dinoseb; Intent To Cancel and Deny all Registrations for Pesticide Products Containing Dinoseb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel; notice of intent to deny.

SUMMARY: The Administrator has today ordered the emergency suspension of all registered products containing dinoseb (2-sec-butyl-4,6-dinitrophenol) or any of its salts. As required by section 6(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, this Notice announces that the Agency also intends to cancel the registrations for all such products. In addition, this Notice announces that the Agency intends to deny all pending applications for Federal registration of pesticide products containing dinoseb.

DATE: Requests for a hearing by an affected registrant or applicant must be received by the Office of the Hearing Clerk at the address given below on or before November 13, 1986, or within 30 days of receipt of this Notice by the registrant or applicant, whichever occurs later. Requests for a hearing by any other adversely affected party must be received by the Office of the Hearing Clerk on or before November 13, 1986.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Additional information supporting this action is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Information and Services Section, Management and Program Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Michael McDavit, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 1014A, Crystal Mall #2, Arlington, VA (703-557-1787).

SUPPLEMENTARY INFORMATION:

I. Introduction

I am today issuing an emergency order suspending the registrations of all pesticide products which contain dinoseb (2-sec-butyl-4,6-dinitrophenol) or any of its salts and immediately prohibiting all sale, distribution, and use of dinoseb products, as published elsewhere it today's **Federal Register.** Section 6(c)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136d(c)(1), provides that the Agency may not suspend the registration of a pesticide unless it has previously issued, or simultaneously issues, a notice of intent to cancel the registration or change the classification of that pesticide. For the reasons set forth below, I have determined that all registered dinoseb products, when used in accordance with widespread or commonly recognized practice, appear to cause unreasonable adverse effects on the environment. Accordingly, I am today issuing this Notice of Intent To Cancel the registrations of all pesticide products containing dinoseb and to deny all pending applications for registration of any product containing dinoseb.

II. Legal Authority

Before a pesticide product may be lawfully sold or distributed in either intrastate or interstate commerce, the product must be registered by the Environmental Protection Agency (FIFRA sections 3(a) and 12(a)(1)). A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions. A pesticide product may be registered or remain registered only if it performs its intended pesticidal functions without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of [the] pesticide" (FIFRA section 2(bb)). The burden to demonstrate that a pesticide product satisfies the criteria for registration is at all time on the proponents of initial or continued registration. *Industrial Union Dept.* v. *American Petroleum Institute*, 448 U.S. 607, 653 n.61 (1980); *Environmental Defense Fund* v. *Environmental Protection Agency*, 510 F.2d 1292, 1297, 1302 (D.D. Cir. 1975).

Under FIFRA section 6, the Agency may issue a notice of intent to cancel the registration of a pesticide product whenever it determines that the product no longer satisfies the statutory criteria for registration. The Agency may specify particular modifications in the terms and conditions of registration, such as deletion of particular uses or revisions of labeling, as an alternative to cancellation. If a hearing is requested by an adversely affected person, the final order concerning cancellation of the product is not issued until after a formal administrative hearing.

Under FIFRA section 3(c)(6), when the Agency refuses to grant a pending application for registration, it issues a notice of intent to deny that application. The applicant or an interested person with the concurrence of the applicant may then request a hearing.

As noted above, no pesticide may be lawfully sold in either interstate or intrastate commerce unless it is registered by EPA. However, under 40 CFR 162.17, the Agency has permitted certain products previously registered under State law to continue to be sold and distributed solely in intrastate commerce, pending a final decision concerning Federal registration. In each instance, the State registrant was required to submit a "notice of application" for Federal registration and to agree to submit the balance of the application upon request by the Agency. Depending on the circumstances, when the Agency issues a notice of intent to cancel Federal registrations for a pesticide, it may either instruct intrastate applicants for similar products to submit a full application for Federal registration conforming to appropriate terms and conditions or notify the intrastate applicant that it intends to deny the application.

III. Findings Concerning Unreasonable Adverse Effects

The Emergency Order issued today announces that I have determined that continued use of pesticide products containing dinoseb would pose an imminent hazard during the period required for a cancellation hearing and that an emergency exists which requires suspension of further sale, distribution, and use of these products prior to any hearing concerning the issue of imminent hazard. In making these determinations, I relied upon the evidence and analyses concerning the risks and benefits of continued use of dinoseb products summarized in that Order.

Based in large measure on the same information, I have today determined that pesticide products containing dinoseb, when used in accordance with widespread and commonly recognized practice, appear to cause unreasonable adverse effects on the environment. I have further determined that none of the available alternatives to cancellation of such products could reduce the potential risks to acceptable labels. Accordingly, I am issuing this Notice of Intent to Cancel such products.

IV. Risk Assessment

A review of the toxicology literature on dinoseb, including data recently submitted to EPA in support of reregistration, indicates that exposure to dinoseb may pose a variety of hazards such as developmental toxicity (including frank teratogenic effects), reproductive toxicity, acute toxicity, induction of cataracts, and immunotoxicity. An oncogenicity hazard may also exist (from the parent compound and certain salts contaminated with nitrosamines).

Based on data recently submitted to EPA, it is now known that dinoseb is a developmental toxicant in laboratory animals. Further, EPA has data that indicate dinoseb affects the reproductive system of male laboratory animals, and lastly, acute toxicity of dinoseb is achieved through exposure to relatively low doses by both the oral and dermal routes when compared with other pesticides.

Moreover, even if the potential risks to exposed humans could be reduced to acceptable levels, the use of dinoseb also poses hazards to wildlife. Dinoseb is highly toxic to many kinds of non-target organisms. As many as 31 endangered or threatened species may be jeopardized by the continued use of dinoseb.

This unit of the Notice describes the EPA's rationale for these risk concerns, as well as, the potential human health concerns.

A. Effects on Humans

1. Hazard Identification

a. *Developmental toxicity.* The recent evidence is clear that dinoseb is a developmental toxicant in laboratory animals. EPA has reviewed new studies that indicate that dinoseb induces birth defects in both the rabbit and rat by the oral route of exposure. In the rabbit, dinoseb exposure induced defects associated with the neurologic systems, specifically the brain, the spinal cord, and the skeletal system. In the rat, dinoseb exposure induced skeletal defects and eye malformations.

The rabbit study found that dinoseb produced biologically and statistically significant increases in malformations and/or anomalies in the rabbit at the highest dose tested. Frank teratogenic effects, including external, internal (body cavities and cephalic viscera), and skeletal defects, were observed in the majority of the litters. Dams did not show indications of toxicity at any dose and the defects observed in the fetuses were generally irreversible.

Developmental toxicity was observed in the rat from another recently submitted teratology study. In this study, developmental toxicity was observed at the high dose level as evidenced by a slight depression in fetal weight, delayed ossification, and an increase in supernumerary ribs. Maternal toxicity, in the form of body weight depression, was also observed at the high dose level.

In addition to the recent submissions of teratology data, other evidence in the scientific literature of adverse developmental effects in multiple species supports the finding that dinoseb may pose a developmental hazard. A recently published study reported malformations in the rat at dietary dose levels only slightly higher than those tested in the rat teratology study recently submitted to EPA. Furthermore, a number of other investigators have tested rats and mice using a variety of routes of exposure and generally found various manifestations of developmental toxicity.

Based on all of these studies, EPA scientists have concluded that dinoseb is a potential human developmental toxicant. The evidence clearly demonstrates that developmental effects can be produced in multiple species (rabbit, rat and mouse) by differing routes of exposure. In these species, the primary targets for this chemical are the brain and spinal cord, and the vertebrae associated with the spinal cord.

b. *Reproductive toxicity.* Dinoseb causes adverse male reproductive effects in the rat and mouse. Studies have demonstrated that dinoseb induces testicular effects including decreased sperm counts (with partial or no recovery) and abnormal sperm cell morphology in rats, and testicular atrophy in mice.

A study in the rat demonstrated that dinoseb exposure produced the following effects: (1) Depressed body and organ weights (testes and epididymis), (2) decreased reproductive performance, fetal viability, and sperm count, (3) induced sperm malformations, and (4) increased mortality (in the high dose group). In a chronic feeding mouse study, dinoseb exposure produced adverse effects on the testes, including atrophy/hypospermatogenesis/degeneration and dystrophic calcification, in exposed males.

EPA scientists have concluded that there is sufficient evidence to consider dinoseb a potential cause of human male reproductive disorders, such as decreased fertility or sterility. Adverse effects in the male reproductive system of multiple species exposed to dinoseb clearly indicate that dinoseb can impair male reproductive function.

c. *Acute toxicity.* Dinoseb is highly acutely toxic to humans by all routes of exposure. In recent years, at least one human fatality has been attributed to dermal exposure to dinoseb. The California Department of Food and Agricuture (CDFA) also annually reports a substantial number of poisoning incidents resulting from the use of dinoseb.

Dinoseb is acutely toxic by the oral and dermal route of exposure to test animals. The oral LD_{50} of one representative dinoseb formulation is about 70 mg/kg (rat) and the corresponding dermal LD_{50} is about 75 mg/kg (rabbit).

Dinoseb's ability to penetrate the skin may account for the relatively similar acute toxicity observed from oral and dermal routes of exposure. Available data clearly indicate that dinoseb is well absorbed by the skin. *In vivo* studies in rats at the EAP laboratory in Research Triangle Park (RTP) indicate a substantial degree of dermal penetration. Even though this study had some limitations, if found dinoseb to be the most effective dermal penetrant from among a group of 14 pesticides.

d. *Human observations:* EPA is not aware of any human studies on the developmental or reproductive toxicity of dinoseb. The following discussion concerns human poisoning incidents involving dinoseb. Additional information on this topic is provided in the companion emergency Order.

California is the only State that enforces mandatory reporting of occupational pesticide incidents. Accordingly, the California Department of Food and Agriculture (CDFA) has provided EPA with summaries of pseticide poisoning reports attributed to the dinitrophenol class of pesticides. Dinoseb is the major dinitrophenol pesticide in use today.

California physicians reported an average of 8 cases of systemic poisoning and 10 cases of skin or eye injury caused by dinitrophenol pesticides each year from 1981 through 1985. During the 1981–1985 time period, dinitrophenol was the ninth largest cause of systemic

poisoning in California. Four people were hospitalized for a total of 9 days because of these poisonings and 35 people were absent from work for a total of 145 days.

EPA has no reason to believe that a similar hazard does not exist in other States where dinoseb is used. The majority of dinoseb usage is in the southeastern states for weed control on peanuts and soybeans. Only a fraction of dinoseb usage is in California, and yet, poisoning incidents are consistently reported there annually.

3. *Other hazards.* EPA scientists have reviewed some studies that indicate that dinoseb induces other significant toxicological effects in humans and laboratory animals. Dinoseb has the potential to induce cataracts. This conclusion is based both on evidence that humans exposed to dinitrophenols develop cataracts and on similar effects observed in laboratory animals exposed to dinoseb.

Another possible toxic effect of dinoseb is oncogenicity. One recently submitted long-term study indicates that dinoseb causes tumors in the liver of female mice. EPA has tentatively concluded that dinoseb is a Class C oncogen, i.e., a possible human carcinogen. Potentially potent cancer-causing compounds known as nitrosamines are also present as contaminants in two salt formulations of dinoseb (alkanolamine and triethanolamine).

Limited studies also suggest that dinoseb has the potential to affect the immunological system. In hamsters, laboratory tests have indicated that dinoseb exposure may cause antibody production to decrease, and in mice, a study found that dinoseb exposure induced changes in the appearance of the thymus.

f. *Mechanism of action.* The high acute toxicity of dinoseb is apparently related to the basic toxicity of the class of chemicals in which it belongs. This class, the dinitrophenols, generally produce high acute toxicity because they interfere with fundamental chemcial processes occurring in cells which produce energy or assist in the formation of vital carbohydrate, fat, and protein building blocks. Dinoseb "uncouples" oxidative phosphorylation by preventing the phosphorylation of adenosine diphosphate (ADP) to adenosine triphosphate (ATP). This reaction is a basic energy conserving step in cell biochemistry, and when disrupted, results in other cellular changes such as increased oxygen uptake and increased permeability of mitochondria to hydrogen ions.

2. Does—Response Assessment

EPA scientists believe that the study most suitable for the calculation of margins-of-safety (MOS) is the oral study in rabbits. In this study, frank teratogenicity was observed in the rabbits at the high dose of 10 mg/kg/day. Maternal toxicity was not observed at any dose level. Based on these findings in the high dose group, the developmental toxicity No-Observed-Effect Level (NOEL) is 3 mg/kg/day and the maternal toxicity NOEL is 10 mg/kg/day.

As corroborating evidence, the new rat teratology study also found a developmental toxicity NOEL of 3 mg/kg/day based on increased incidence of skeletal variations observed at 10 mg/kg/day. Maternal toxicity was observed in this study at the high dose level of 10 mg/kg/day based on moderate body weight depression. Nonetheless, both of the recently submitted teratology studies found the same NOEL. The Agency "Guidelines for the Health Assessment of Developmental Toxicants" state that, although agents that produce developmental toxicity at a dose that is not toxic to the maternal animal are of greatest concern, it is not appropriate to assume that developmental effects observed at maternally toxic doses result only from maternal toxicity. In the case of dinoseb, there is clear evidence in the rabbit that developmental toxicity consisting of a variety of malformations can be produced at a level that does not result in maternal toxicity. The rat studies provide evidence that developmental toxicity occurs in a second species at comparable dose levels.

3. Exposure Assessment

All methods of application of dinoseb results in some level of worker exposure. Depending on the crop and the target pest, dinoseb is applied by either a ground boom sprayer, aerial applicator, or hand-held sprayer. EPA has recently completed a generic worker exposure assessment for each of these methods, and has utilized data from this assessment to estimate mixer/loader and applicator exposure levels to dinoseb.

Approximately 45,000 workers, including up to 2,200 females, are involved in application of dinoseb. A large number of farmworkers and bystanders may also be exposed to dinoseb during or shortly after application, and other people may be exposed to dinoseb as an indirect result of application by a secondary route of exposure (for example, laundering of contaminated clothing.)

Dietary exposure to dinoseb may occur through the consumption of treated commodities, but dinoseb residues in such commodities are generally low or nonexistent. Dinoseb has been found in ground water in several States indicating that exposure through drinking water is also possible.

The scientific basis, assumptions, and the results of EPA's exposure assessments are summarized in this unit. A detailed account of these matters is contained in the companion Emergency Order.

a. *Exposure of application workers*—(i) *Methodology for assessing worker exposure.* In estimating the range of likely exposures for workers involved in application of dinoseb, the EPA employed a standard methodology in which exposure data for other pesticides ("surrogate data") are used to derive dermal exposure estimates (Honeycutt, 1985). In evaluating exposure to other agricultural pesticides, the Agency has reviewed numerous worker exposure studies. The results of such studies can be appropriately used to estimate dermal exposure to other pesticides because the factors that most influence the amount of pesticide exposure to the skin are formulation type, application method, and application rate. These factors were used to select appropriate surrogate exposure studies for the variety of application activities or types of pesticide workers involved in the use of dinoseb.

Consequently, EPA selected surrogate exposure studies on the kinds of workers exposed to dinoseb, which include mixer/loaders, ground boom applicators, aerial applicators (pilots), flaggers, and applicators using hand-held sprayers. EPA corroborated the generic exposure estimates with several exposure studies done directly with dinoseb and found that the dinoseb-specific exposure estimates were close to or higher than the estimates derived from the generic data base.

One factor influencing the amount of dinoseb exposure to workers is the use of protective clothing. The revised dinoseb label developed under a Label Improvement Program (LIP) in 1983, requires workers, while applying or spraying diluted dinoseb products, to wear long-legged pants, long-sleeved shirts or coveralls, and shoes and socks. While mixing and/or loading concentrated dinoseb products, the label requires that workers wear the above-mentioned clothing, and further, use impermeable gloves, goggles or a face shield, and an impermeable apron. These protective clothing requirements are similar to the application practices

in many of the surrogate studies. Some of the surrogate studies reflect use of additional protective measures not included on the revised dinoseb label. Use of these additional measures would likely result in exposures toward the lower end of the estimated range. Failure to comply with label requirements would result in exposures exceeding EPA's estimates. This is important because recent surveys demonstrate that application workers often do not conform to such requirements and FIFRA requires the Agency to consider the effects of "... widespread and commonly recognized practice".

Most exposure to agricultural pesticides occurs to the hands. During mixing/loading, from 50 to 99 percent of the exposure is to the hands. Since EPA assumes gloves are worn while mixing/loading, the surrogate data essentially reflect compliance with the most protective rquirement during mixing/loading.

EPA evaluated certain crop and geographic parameters in order to estimate dermal exposure. Based on the best available information, EPA estimated the following factors for a given crop treated with dinoseb: (1) The average acreage of a field, (2) the average acreage treated in a day (or the average amount of time per day to treat a crop), (3) the average number of application days per year, and (4) the amount of active ingredient used per acre. Some of these parameters had to be determined for more than one location.

(ii) *Worker exposure estimates.* EPA's estimates of worker exposure to dinoseb reflect a range of application practices. For the various kinds of workers using dinoseb on representative major crops, the middle of the estimated range represents likely exposure levels for users wearing required protective clothing while mixing/loading and applying dinoseb. The low end of the range represents likely exposure for users employing additional protective measures such as closed loading systems and enclosed tractor cabs. The high end of the range represents likely exposure levels for users who wear only some of the required protective clothing and use equipment like open loading systems.

The Agency's exposure estimates, derived from surrogate data and adjusted to reflect dinoseb use practices, in this unit are presented in Table 1.

TABLE 1—SUMMARY OF DAILY OCCUPATIONAL EXPOSURES TO DINOSEB ON MAJOR SITES

Use site	Daily exposure (mg/kg/day) [1]
Soybeans:	
Ground boom application: [2]	
Open pour:	
Preemergence	12 (9.1–72)
Early post	6.4 (5.0–39)
Late post	1.4 (1.1– 108.9)
Closed Loading:	
Preemergence	2.9 (0.36 –63)
Early Post	1.6 (0.20 –34)
Late post	0.37 (0.045– 7.8)
Aerial application: [2]	
Mixer/loader:	
Open pour:	
Preemergence	39
Early post	21
Late post	4.9
Closed loading:	
Preemergence	0.95
Early post	0.52
Late post	0.12
Pilot:	
Preemergence	0.34
Early post	0.19
Late post	0.043
Flagger:	
Preemergence	2.0
Early post	1.1
Late post	0.24
Potatoes [2] (desiccation):	
Maine	0.60 (0.28– 8.2)
Idaho	1.2 (0.56–17)
Commercial	1.8 (0.82–25)
Cotton [2] (postemergence)	3.9 (2.6– 34)
Peanuts [2] (early postemergence):	
Open pour	15 (12– 75)
Closed	3.0 (0.44–63)
Peas: [2]	
New York:	
Preemergent	4.4 (3.2–34)
Postemergent	0.88 (0.62– 6.9)
Washington:	
Preemergent	6.8 (6.2–69)
Postemergent	1.1 (0.78– 8.7)
Grapes [2 3] (hand sprayer	1.1
Apples [2 3] (hand sprayer)	6.7

[1] The exposure estimate is a geometric mean for ground boom applicators, otherwise the estimate is a weighted mean. On sites where a ground boom is used an exposure range is also given in parenthesis.
[2] Exposure estimate includes mixing/loading and application.
[3] Ranges are not presented for data that were not widely variable.

For the other minor uses of dinoseb in which a hand-held sprayer is used and which are not included in Table 1, EPA estimates that applicators will receive exposures in the range between the estimate for grapes (1.1 mg/kg/day) and the estimate for apples (6.7 mg/kg/day). The conditions under which dinoseb is applied to these two crops exemplifies the conditions (acreage, application rate, etc.) under which dinoseb is applied to the other sites that require the use of a hand-held sprayer.

Workers exposed to dinoseb, when used as a fungicide or herbicide for small fruit, orchards, nut farms, and certain field crops may apply dinoseb to more than one crop and thereby receive a higher aggregate exposure.

The exposure estimates presented in Table 1 do not include the significant dinoseb exposure associated with in-field equipment maintenance. The California Department of Agriculture (CDFA) annual incident reports indicate that in-field maintenance and repair of equipment used to apply dinitrophenol pesticides has resulted in frequent poisonings. Although the level of average exposure during such activities is difficult to quantify, EPA is concerned that this kind of activity may be another significant source of exposure to dinoseb.

EPA has estimated the number of applicators exposed annually to dinoseb to be approximately 45,000. Based on annual dinoseb usage figures, EPA has estimated this figure by assuming certain parameters about farm size and average acreage treated per day for a given crop.

EPA also assumes that up to 5 percent of that work force is female. Therefore, approximately 2,200 females may be currently handling dinoseb. The total number of applicators handling dinoseb by crop is summarized in Table 2.

TABLE 2.—ESTIMATED ANNUAL NUMBER OF APPLICATORS HANDLING DINOSEB

Crop/site	Annual applicators		
	Commercial	Private	Total
Alfalfa	100	3,500	3,600
Almonds and walnuts	0	1,600	1,600
Beans	0	3,000	3,000
Cane and bush berries	0	4,600	4,600
Cotton	0	6,760	6,760
Field crops (other)	5	200	205
Fruit trees	10	1,320	1,330
Grapes	0	3,450	3,450
Hops	0	90	90
Peas	10	240	250
Peanuts	0	6,850	6,850
Potatoes	70	600	670
Soybeans	425	12,000	12,425
Strawberries	0	60	60
Total	620	44,270	44,890

b. *Bystander/secondary exposure to dinoseb.* Bystanders and other people in the agricultural community are also exposed to dinoseb. CDFA annual incident reports indicate that farm workers (including females) are regularly exposed to dinoseb from residues in the field. EPA believes that dinoseb may persist in treated fields long enough to expose farmworkers re-entering such fields immediately after treatment.

Given these practices and the reported incidents, EPA has determined that some farm workers, even when they are not involved in pesticide application, may be exposed to dinoseb if working in fields recently treated.

Aerial application in particular, and ground boom application as well, may result in spray drift. Certain people located in areas adjacent to fields being treated may be exposed to dinoseb. Furthermore, agricultural workers and their families may also be exposed to dinoseb by indirect routes. People may

contact contaminated clothing or farm equipment immediately after dinoseb application. EPA has not quantified these exposure routes, but believes that such routes may be significant under certain circumstances.

c. *Dietary and ground water exposure.* In 1985 and 1986, the Food and Drug Administration (FDA) analyzed 70 food samples for dinoseb residues. Only one cotton seed meal sample had a trace of dinoseb. No dinoseb residues were detected in shelled or unshelled peanuts; sweet, red, and white potatoes from three different areas of the country; and several other commodities. Edible plant parts are not directly treated with dinoseb. Tolerances for dinoseb are published under 40 CFR 180.281 for a number of residues in food crops (ranges from 0.1 ppm on most commodities to 1 ppm on soybean forage and hay).

Dinoseb has been found in ground water in potato-growing regions of New York and Massachusetts in the range of 1 to 5 ppb. On a national scale, the extent of contamination is unknown. The highest level found to date is 36.7 ppb.

4. Risk Characterization

Risk characterization is the final evaluation that takes into account all components discussed above. The hazard identification section has identified concerns in the areas of developmental, reproductive, and acute toxicity, as well as several other areas.

The greatest concern, based on both qualitative and quantitative considerations, is in the area of developmental toxicity. Dinoseb has been shown to induce developmental toxicity in both the rat and rabbit by the oral route of administration. In the rabbit, a variety of malformations were observed at levels that did not induce maternal toxicity. Screening studies in several species support the classification of dinoseb as a developmental toxicant.

In addition, several lines of evidence suggest that dinoseb is well absorbed dermally. These data include dermal penetration studies conducted by EPA, a comparison of oral and dermal LD_{50} values, and case reports of human poisoning following dermal exposure.

a. *Occupational risk of dinoseb.* Using a NOEL of 3 mg/kg/day and assuming 100 percent dermal absorption, margin-of-safety (MOS) values for developmental toxicity were calculated for workers involved in applying dinoseb. The MOS is a comparison of the expected human exposure with the NOEL in laboratory testing. EPA has calculated individual MOS values and ranges corresponding to the exposure levels previously presented. The MOS values for major sites are presented in Table 3, as well as the exposure estimates previously discussed.

TABLE 3.—SUMMARY OF DAILY OCCUPATIONAL EXPOSURES TO DINOSEB AND MARGINS-OF-SAFETY ON MAJOR SITES

Use	Daily exposure (mg/kg/day) [1]	Margins-of-safety (MOS) [2]
Soybeans/ground boom:		
Open pour:		
Preemergence	12 (9.1 -72)	<1 (range <1)
Early post	6.4 (5.0 -39)	<1 (range <1)
Late post	1.4 (1.1 -8.9)	2 (<1 to 4)
Closed loading:		
Preemergence	2.9 (0.36-63)	1 (<1 to 8)
Early post	1.6 (0.20-34)	2 (<1 to 15)
Late post	0.37 (0.045- 7.8)	8 (<1 to 67)
Soybeans/aerial: [3]		
Mixer/loader:		
Open pour:		
Preemergence	39	<1
Early post	21	<1
Late post	4.9	<1
Closed loading:		
Preemergence	0.95	3
Early post	0.52	6
Late post	0.12	25
Pilot:		
Preemergence	0.34	9
Early post	0.19	16
Late post	0.043	70
Flagger:		
Preemergence	2.0	2
Early post	1.1	3
Late post	0.24	13
Potatoes (desiccation):		
Maine	0.60 (0.28-8.2)	5 (<1 to 11)
Idaho	1.2 (0.56-17)	3 (<1 to 5)
Commercial	1.8 (0.82-25)	2 (<1 to 4)
Cotton (postemeregence)	3.9 (2.6 -34)	<1 (<1 to 1)
Peanuts (early postemergence):		
Open pour	15 (12-75)	<1 (range <1)
Closed	3.0 (0.44-63)	1 (<1 to 7)
Peas:		
New York:		
Preemergent	4.4 (3.2-34)	<1 (range <1)
Postemergent	0.88 (0.62-6.9)	3 (4 to 5)
Washington:		
Preemergent	8.8 (6.2-69)	<1 (range <1)
Postemergent	1.1 (0.78-8.7)	3 (<1 to 4)
Grapes/Hand spray [3]	1.1	3
Apples/Hand spray [3]	6.7	<1

[1] The exposure estimate is a geometric mean for ground boom applicators, otherwise the estimate is a weighted mean. On sites where a ground boom is used an exposure range is given in parenthesis.

[2] The Margin-of-Safety is the ratio of the No-Observed-Effect Level of 3 mg/kg/day for developmental toxicity (in the rabbit) to the estimated human exposure level.

[3] Ranges are not provided for data that were not widely variable.

From the MOS values in Table 3, EPA has determined that virtually no MOS exists against inducing birth defects in pregnant workers who handle dinoseb for each of the registered uses. Furthermore, those registered uses also represent comparable exposure situations for the other crops not represented on the table, but currently registered for dinoseb. Hence, the respective MOS values are below 100 for those other sites, which indicates in total that no MOS exists against dinoseb induced birth defects on any registered site.

In summary, women of child bearing age who handle dinoseb and who wear the required protective clothing and use state-of-the-art protective farm equipment will receive sufficient exposure to have no effective protection against potential dinoseb-induced birth defects. Because the risk of developmental toxicity is based on acute exposure, an MOS less than 100 results even if a female worker only uses dinoseb once per season (for example, in orchards for weed control).

In addition to the risk of developmental toxicity, certain male applicators are at potential risk of dinoseb induced adverse reproductive effects. Studies in both rats and mice indicate effects on the testes from subchronic and chronic exposure at dose levels comparable to those observed among certain male applicators of dinoseb. There may be an inadequate MOS for male reproductive effects and those applicators using dinsoeb over an extended period may be at risk of temporary or permanent sterility.

b. *Coincidental risk of dinoseb.* From either direct routes (spray drift) or indirect routes (contaminated clothing), people other than applicators can be exposed to dinoseb and be at risk. At this time, there are not sufficient data to quantify the risk, but it appears that spray drift, reentry and secondary exposure to residues on equipment or clothing may pose a substantial risk of inducing birth defects.

As previously discussed, poisoning incidents from spray drift of dinitrophenol pesticides have been reported in California. These data reveal that acute poisonings from spray drift occur annually, and it may be inferred that low level drift exposure may place more exposed individuals at risk for birth defects even more frequently. Accordingly, EPA has concluded that women of child bearing age inadvertently exposed to dinoseb by spray drift are at risk of dinoseb-induced birth defects.

c. *Dietary risk of dinoseb.* EPA determined the risk of developmental toxicity from dietary exposure to dinoseb residues in food and ground water. Dinoseb residues are rarely found in food and dinoseb levels found in ground water are less than worker exposure levels, consequently the risk of developmental toxicity is negligible.

Utilizing the Tolerance Assessment System (TAS), a maximum daily exposure of 0.00111 mg/kg (body weight)/day for females over 13 years old was estimated assuming exposure to residues at the tolerance level and a maximum intake of treated commodities. The MOS for this

maximum daily exposure is equal to 2703. Available data on representative crops supports the established tolerance levels and FDA has not detected dinoseb residues in representative commodities and foodstuffs. Therefore, EPA has concluded that there is an adequate MOS for the risk of developmental toxicity occurring in women consuming foods from crops that have been treated with dinoseb.

Dinoseb has been found in the ground water of two States. Based on levels found in these States, EPA determined the risk of developmental toxicity for pregnant females consuming such water. Using the highest reported level of dinoseb contamination found (36.7 ppb), the MOS for pregnant females is equal to 2452. This MOS provides sufficient protection against developmental toxicity.

B. Effects on Wildlife

1. Non-Target Organisms

Dinoseb has the potential to affect non-target organisms. This pesticide is acutely toxic to mammals, birds, and certain aquatic animals. Dinoseb may also pose a risk of reproductive impairment to exposed mammals.

a. *Mammals.* The use of dinoseb and its salts poses significant acute and subacute risks to non-target mammals. Dinoseb is highly toxic to mammals when administered as an acute oral dose (LD_{50}s: rat = 40 mg/kg; guinea pig = 25 mg/kg; mouse = 41 mg/kg) and has similar toxicity when administered as an acute dermal dose.

Application rates of dinoseb up to 10 lbs a.i. per acre are allowed on numerous sites. Such rates can result in residue levels of >2000 ppm on short rangegrass, >1000 ppm on long grass, >1000 ppm on leaves and leafy crops, >550 ppm on forage, >100 ppm on pod-containing seeds and large insects, and 70 ppm on fruit. These estimated residue levels for the most part exceed the subacute dietary LC_{50}. Field kills of wild rabbits have been attributed to dinoseb exposure.

From laboratory studies on reproductive effects, a dinoseb dosage of 1 mg/kg/day can impair reproduction in rats and mice. For the mouse, a residue level in fodder of approximately 7 ppm would be sufficient to produce this dosage of 1 mg/kg/day. EPA does not have adequate data on the persistence of dinoseb in the environment, but even if breakdown in the environment is relatively rapid, the initial residues of 500–1000 ppm in treated vegetation that are expected from maximum-rate applications would take long periods to dissipate below 7 ppm. The full extent of reproductive impairment is unknown, but EPA has sufficient information to conclude that dinoseb may interfere with the reproductive viability of mammals exposed from field application.

b. *Birds.* The use of dinoseb and its salts poses significant acute and subacute risks to non-target birds. Dinoseb acid is highly toxic to waterfowl and upland gamebirds when administered in a single acute oral dose (mallard LD_{50} = 11.5 mg/kg, bobwhite quail LD_{50} = 42.5 mg/kg). The alkanolamine salt is moderately toxic to upland gamebirds when administered as a single acute oral dose (bobwhite quail LD_{50} = 122 mg/kg for the 51 percent emulsifiable concentrate), but no data are available on the acute oral toxicity of the ammonium and triethanolamine salts.

As previously mentioned, for many of the registered use patterns applications of dinoseb or its salts at maximum permissible use rates will result in initial residues of 500 to 2000 ppm on various types of foliage and feed. This concentration exceeds the subacute dietary LC_{50} for upland gamebirds (ring-necked pheasant LC_{50} = 515 ppm). Field kills of pheasants and songbirds have been attributed to dinoseb exposure.

c. *Fish.* Dinoseb and the triethanolamine formulation may be hazardous to non-target fish. Dinoseb acid is highly toxic to warmwater fish (fathead minnow 96-hour LC_{50} = 0.7 mg/L) and very highly toxic to coldwater fish (lake trout 96-hour LC_{50} = 0.067 mg/L). A test on fathead minnows showed that the no-effect level (NOEL) for the embryo-larvae stage was between 14.5 and 48.5 ppb. The maximum acceptable toxicant concentration (MATC) is therefore 14.5 ppb. Because the estimated environmental concentration (EEC) that would result in the waters of a hypothetical pond receiving runoff from an application of dinoseb acid to a corn field at the maximum permissible rates (2.50 lb a.i. per acre) is 29 ppb, which exceeds the 14.5 ppb MATC, use of dinoseb in proximity to water may pose a hazard to fish. The triethanolamine salt of dinoseb is highly toxic to warm-water fish (bluegill sunfish 96-hour LC_{50} = 0.110 mg/L for the 51 percent soluble concentrate/liquid).

d. *Other freshwater and marine animal species.* Dinoseb and its four salts may also be hazardous to other freshwater and marine animal species. Technical dinoseb acid is highly toxic to aquatic invertebrates (48-hour LC_{50} = 0.68 mg/L). However, no data have been submitted on the acute toxicity of the alkanolamine, ammonium, or triethanolamine salts to aquatic invertebrates.

Dinoseb acid is moderately toxic to juvenile estuarine invertebrates (pink shrimp 96-hour LC_{50} = 1.96 mg/L), and highly toxic to the embryo-larvae stage of oysters (48 hour EC_{50} = 0.209 mg/L). Certain registered uses of dinoseb (corn, cotton, citrus, soybeans, and peanuts) can be expected to cause dinoseb to enter the estuarine or marine environment because significant amounts of these crops are grown in coastal areas.

2. Hazards to Endangered Species

Dinoseb has been found to pose a threat to the continued existence of more than 30 endangered species. As part of a generic examination of the risk which agricultural chemicals pose to endangered species, EPA consulted with the Department of the Interior's Office of Endangered Species (OES). In response to EPA's request for consultation, OES issued a generic biological opinion stating that a group of pesticides including dinoseb pose jeopardy to the following species:

Attwater's Greater Prairie chicken
Aleutian Canada goose
Everglade kite
Valley Elderberry longhorn beetle
Delta green ground beetle
12 mussel species
Kern Primrose sphinx moth
Slackwater darter
Scioto madtom
Woundfin
Pecos gambusia
Commanche
Springs pupfish

To mitigate such jeopardy to these species, the biological opinion recommended that EPA prohibit the use of dinoseb within the habitat of the listed endangered species. Therefore, in order to protect these species from the hazards posed by exposure to dinoseb, it would be necessary to prohibit use of dinoseb in certain portions of approximately 116 counties located in fifteen States.

Based on dinoseb's similar toxicity to chemicals found to pose jeopardy to endangered species through EPA's case-by-case reviews, dinoseb may also pose a risk to the following additional threatened or endangered species:

Red Hills salamander
San Marcos salamander
Texas blind salamander
Houston toad
Alabama cavefish
Santa Cruz long-toed salamander
Blunt-nosed leopard lizard
Commanche Springs pupfish
Pahranagat bonytail
Bayou darter

Fountain darter
Leopard darter
San Marcos gambusia
Gila topminnow
Pahrump killifish
Pecos gambusia
Cui-ui
Colorado squawfish

The registered alternatives to dinoseb do not pose the same level of risk to endangered species. With the exception of paraquat (used as a desiccant), no alternatives to dinoseb have been identified as posing high risks to endangered species. Most alternatives are much less acutely toxic and either do not or have not been demonstrated to have comparable reproductive toxicity. Although the data bases are not complete for all of these pesticides, the alternatives for use on the current major dinoseb sites (cotton, soybeans, and peanuts) do have relatively complete data bases. These particular alternatives do not pose the same high risk to endangered species.

V. Determination of Benefits

EPA has conducted an assessment of the benefits associated with the continued use of dinoseb on crops for which it is currently registered for use. Dinoseb is a pesticide with herbicidal, fungicidal, and insecticidal properties used on a variety of field crops, fruits, nuts, vegetables, and some non-agricultural sites. The assessment focuses on the economic impact due to the cancellation of dinoseb.

This assessment will differ from the benefits assessment in the accompanying Emergency Suspension Order because an indefinite timeframe is used in this assessment rather than a set time period (length of suspension of cancellation hearings). However, as it turns out, the long term economic impacts of cancellation of dinoseb should not generally differ significantly from the impact of a suspension.

Economic losses from the unavailability of dinoseb are primarily due to increased control costs and expected yield losses for some sites. The lack of dinoseb is expected to affect particularly the desiccation use on potatoes and the herbicide use on peanuts. For some other sites, such as green peas, snap beans, caneberries, and hops, the extent of economic impacts is uncertain. The economic impact on the following remaining crops are expected to be minor if dinoseb were cancelled: Soybeans, potatoes (weed control), cotton, alfalfa and clovers, grapes, almonds and other nut crops, other field crops, non-crop areas, and other fruit and vegetable crops.

Overall, economic impacts at the consumer level are not expected to be significant, with the possible exception of peanuts.

The estimated annual economic impacts are presented in Table 4.

TABLE 4.—ANNUAL ECONOMIC IMPACTS OF WITHDRAWAL OF DINOSEB PRODUCTS FROM THE PESTICIDE MARKET

Crops	Purpose	Active ingredient applied annually (1,000 pounds)	Annual impacts of Dinoseb unavailability	
			User impacts ($ million)	Market and consumer impacts
Soybeans	Herbicide	3,500	6.2	None.
	Desiccant	Negligible	Negligible	None.
Peanuts	Herbicide	740	71	Possible price increases.
Cotton	Herbicide	1,300	2.4	None.
Beans (snap)	Herbicide	186	0.477	Undetermined.
Potatoes	Desiccant	1,200	4.9	Minor.
	Herbicide	150	0.770	None.
Green Pea	Herbicide	165	1.2	Possible price increase (<1%).
Grapes	Herbicide	170	0.1	None.
	Fungicide	Negligible	Negligible	None.
Alfalfa	Herbicide desiccant (combined).	350	0.7	None.
Almonds and Walnuts	Herbicide	127	.144	None.
	Fungicide	Negligible		
Berries	Herbicide	47	.078	Undetermined.
Hops	Herbicide fungicide (combined).	60	.117	Undetermined.
Noncrop Areas	Herbicide	500	No effect	None.
Other crops	Herbicide, fungicide, desiccant, insecticide (combined).	262	0.6	None.
Total impact	NA	8,757	80-90	No significant impacts except for possible peanut price increase.

A. Uses of Dinoseb as an Herbicide, Desiccant, and Fungicide

1. Soybeans and Peanuts

The single largest usage (40 percent) of dinoseb is on soybeans for weed control and about 4 percent of the soybean crop is treated with dinoseb. Both the alkanolamine and sodium salts are registered for use on soybeans. Approximately 9 percent of dinoseb usage is on peanuts, and as of 1985, one source indicated that 36 percent of the peanut crop was treated with dinoseb (some sources estimate a higher percent of crop treated). Dinoseb is used to control immature broadleaf weeds at the "cracking stage" when soybean and peanut seedlings are just emerging from the soil. Broadleaf weed control at this growth stage is a significant benefit of dinoseb. Nearly all the dinoseb usage on peanuts is at the cracking stage and dinoseb is the principal herbicide registered for use during the cracking stage.

Although diphenamid and alachlor are registered for use during this period, these herbicides are often tank-mixed with dinoseb. Without dinoseb, growers will have to rely more on the herbicides that can be applied late postemergence, such as bentazon, acifluorfen and 2,4-DB.

These other postemergence herbicides do not provide the same broad spectrum weed control activity that dinoseb provides. No postemergence grass control chemicals are available for use on peanuts. The recently registered soybean herbicides, imazaquin (Scepto®), Canopy®, and Classic®, will control some dinoseb-controlled weeds on soybeans, but these herbicides are not currently registered for use on peanuts.

Most alternative chemicals and combinations will control many of the same weeds as dinoseb except for certain broadleaf weeds such as sicklepod, Florida beggarweed, and most grasses. Without the early

postemergence use of dinoseb there will be greater reliance on the alternatives to provide effective control of larger, more mature, broadleaf weeds. If effective control cannot be achieved, adverse yield and revenue impacts could occur in the soybean and peanut markets.

The annual economic impact on peanut growers is estimated at $71 million and the impact on soybean growers is estimated at $6.2 million if dinoseb were cancelled. Peanut producers rely on the early postemergence weed control of dinoseb. Alternative pesticides are limited in number and do not provide the same weed control spectrum as dinoseb. EPA estimates that the lesser efficacy of currently available alternatives will result in a 20 percent reduction in peanut yields ($70 million revenue loss) during the first year that dinoseb is unavailable. In addition, treatment costs would increase by $1 million because the alternatives are more expensive.

As alternatives become registered and available for use on peanuts (such as the newly registered soybean herbicides), the economic impact from yield losses will diminish. Furthermore, impacts on peanut producers are expected to decrease by approximately 20 percent in subsequent years because of anticipated Federal support program adjustments. Consumers may also experience commodity price increases for peanuts over the next few years, but that trend will also diminish as more effective alternatives are registered.

2. Cotton

Approximately 15 percent of dinoseb usage is on cotton and about 6 percent of the total cotton crop in the U.S. is treated with dinoseb. The alkanolamine salt of dinoseb is used as a postemergence directed spray. Dinoseb is used to control broadleaf weeds that are not controlled by preplant-incorporated or preemergence herbicides.

If dinoseb were cancelled for use on cotton, the economic impact is expected to be minor. The use of alternatives is expected to have minor economic impacts on treatment costs and effectiveness. The potential increase for treatment costs would not exceed $2.4 million. This impact is also expected to diminish as new, less expensive alternatives become available.

3. Snap Beans

Approximately 2 percent of dinoseb usage is on snap beans and about 20 percent of the snap bean acreage is treated annually with dinoseb to control annual weeds. Dinoseb use on snap beans is scattered throughout the U.S. and no particular geographic region of the country relies heavily on dinoseb for broadleaf weed control.

The economic impact associated with treatment cost changes is expected to be minor (approximately $477,000 annually) if dinoseb were cancelled. Although the relative efficacy of the alternatives is uncertain, EPA expects that effective alternatives will become available in the future.

4. Potatoes

Dinoseb is used on potatoes both as a herbicide and as a vine desiccant prior to harvest. Approximately 16 percent of dinoseb usage is on potatoes and about 50 percent of all potato acreage in the U.S. is treated with dinoseb annually. Only 10 percent of all dinoseb used on potatoes is as a herbicide (mostly in the Eastern States) and the remaining 90 percent is used as a vine killer prior to mechanical harvesting throughout the Eastern and Western potato States.

As a herbicide, dinoseb is used mainly for broadleaf weed control. Typically, dinoseb is tank mixed with alachlor, metolachlor or dalapon to control grass weeds.

As a potato vine killer, or desiccant, dinoseb is applied to not only facilitate mechanical harvesting, but also to help "set" or toughen the potato skin so that the tubers can be harvested with a minimum of skinning and bruising.

The main chemical alternative to dinoseb for desiccation is diquat. Frost is also used to kill potato vines in late producing States, especially during the late part of the harvest season. Other alternative desiccants are endothall and ametryn, but these chemicals work more slowly than dinoseb and their use may require multiple applications to achieve comparable results. Paraquat may be used for fresh market potatoes, but not potatoes intended for storage.

If dinoseb were cancelled for the desiccant use on potato vines, diquat and paraquat would be the prinicipal alternatives. Because the cost and efficacy of diquat is similar to dinoseb, diquat will probably acquire a large portion of the market.

The annual economic impact of dinoseb's unavailability if it were cancelled is estimated at $5.67 million (assuming the supplies of alternative chemicals adjust to the new demand). Treatment cost increases could be as high as $10 per acre. However, no major impacts on commodity prices are expected and the overall long-term impact would be negligible.

5. Green Peas

Over one third of the annual green pea crop is treated with dinoseb either preemergence or postemergence to control broadleaf weeds. The major alternatives are bentazon, MCPA, and MCPB.

Most of the alternatives provide poor control of black nightshade so the cancellation of dinoseb may initially have significant economic impacts. Average treatment costs could increase per acre by as much as $10 to $11, reducing farm income for green pea producers. Those farms with serious black nightshade infestations may have larger economic impacts because of yield and crop quality losses. If yield reductions are sufficiently large, small increases in retail prices could occur. The total annual impact of such effects would be approximately $1.2 million until alternatives are registered than can control black nightshade.

6. Grapes

The usage of dinoseb on grapes (only 2 percent) is concentrated in California. About 15 percent of the total grape acreage in California is treated for control of certain weeds. Also, the triethanolamine salt of dinoseb is used as a fungicide on dormant grape vines in the winter to control dead-arm disease.

If dinoseb were unavailable, growers are not expected to bear higher costs nor lose efficacy for control of weeds or disease. No price impacts are expected for consumers if dinoseb were cancelled for use on grapes. The total annual economic impact would not exceed $100,000 if dinoseb were to be withdrawn from use on grape vineyards.

7. Alfalfa

Approximately 4 percent of annual dinoseb usage is on alfalfa to control annual and perennial weeds and grasses and to desiccate the seed crop before harvest. However, only 2 percent of the nation's alfalfa crop is treated with dinoseb.

If dinoseb were cancelled, an annual economic impact at the user level would not exceed $700,000. This impact is also expected to diminish as less expensive alternatives become available.

8. Almonds and Walnuts

The use of dinoseb on almonds and walnuts is confined to California where approximately 12 percent of the almond crop and 3 percent of the walnut crop are treated. The combined dinoseb usage on these two nut crops is slightly more than 1 percent of the total dinoseb annual usage.

On both almonds and walnuts, dinoseb is used as a contact herbicide for control of annual grasses and broadleaf weeds. The triethanolamine

salt of dinoseb is also used as a contact eradicant fungicide to aid in the control of blossom brown rot disease.

One major fungicide alternative to dinoseb for control of blossom rot disease is sodium pentachlorophenate. This chemical is equally effective when used in the same manner as dinoseb. Many other alternatives are also registered for treating blossom rot disease as a direct leaf spray.

Minimal annual economic impacts are expected if dinoseb is cancelled for use on almond and walnuts. The estimated annual impact would be $144,000. Adverse consumer effects are not expected.

9. Berries

Dinoseb is registered for use on many berry crops including blueberry, blackberry, currant, raspberry, boysenberry, gooseberry, loganberry, and strawberry. Generally both the percent of crops treated and the percent of dinoseb usage are negligible for these sites. Noteworthy exceptions include the treatment of up to 3 percent of the California strawberry crop, and use in Oregon for weed control in raspberry and blackberry crops.

If growers had to use the alternatives for weed control on these berry crops, some minor cost impacts could be as much as $13 per acre treated. The impact on the strawberry crop is estimated to be less. For all berries, the total annual economic impact is not expected to exceed $78,000 if dinoseb were cancelled.

10. Hops

In the States of Washington, Oregon, and Idaho, up to 25 percent of the hops is treated annually with dinoseb to control or suppress downy mildew. Dinoseb usage on hops is only 0.1 percent of the total dinoseb usage.

To control downy mildew on hops, dinoseb is used within an overall control system in which multiple fungicides and non-chemical controls are utilized.

Since there appears to be no true alternatives currently registered with comparable action to replace dinoseb for downy mildew control, users will have to rely on other available chemicals and/or modify their production systems. As a result, treatment costs may increase and yields could be affected without the use of dinoseb.

The most significant impact likely to occur if dinoseb were cancelled is an increase in treatment costs. The total annual economic impact may be as high as $20,000. However, EPA expects that growers will be able to adjust the current downy mildew control system to provide effective pest control.

11. Non-Crop Areas

Up to 6 percent of dinoseb usage is for weed control in non-crop areas. Dinoseb is of limited usefulness on non-crop sites. Numerous alternative herbicides are available for this use. If dinoseb were unavailable for use on non-crop areas little or no economic impact would occur for users.

12. Other Minor Uses

Dinoseb is registered as a herbicide, fungicide or desiccant on the following crops or sites: Clovers (alsike, ladino, sweet, and red), apple, apricot, barley, other beans (field, lima, kidney, and navy), birdsfoot trefoil, cherry, citrus, corn, cucurbits (cucumbers, pumpkins, and squash), date, fig, filbert, garlic, lentils, mint, nectarine, oats, olive, onion, peach, pear, pecan, plum, rye, wheat, dichondra, flax, timothy hay, ornamental bulbs (bulbous iris, daffodil, gladiolus, narcissus and tulip), ornamental shrubs (ligustrum, lilac, spirea and yew), roses, forestry (conifer release), and drainage ditches. EPA has found little or no usage of dinoseb on these crops or sites. This fact suggests that farmers and consumers receive little benefit from these registered uses. The economic impact of the cancellation of dinoseb would be collectively negligible on these registered sites.

B. Uses of Dinoseb as an Insecticide

Two currently registered products containing the triethanolamine salt of dinoseb can be used as insecticides. Available data indicate neither is currently marketed, but both are registered for the control of mites, aphids, and other insects on fruits and nuts and several other sites. These insecticides are applied by the same methods as the fungicidal applications. The cancellation of the triethanolamine salt of dinoseb will have little or no economic impact.

VI. Regulatory Options for Risk Reduction

There are three basic options for regulating all uses of dinoseb as a pesticide:

Option 1—Continuation of registration without changes,

Option 2—Continuation of registration with modifications to the terms and conditions of registrations, and,

Option 3—Cancellation of registration.

Adoption of option 1 would be appropriate when the Agency has concluded that the level of risk is acceptable when compared to the benefits of use and that further risk reduction measures are not necessary to assure that the use of the pesticide meets the statutory standard for continued registration. Adoption of option 3 would be appropriate when EPA has concluded that the risks from a use outweigh the benefits of that use. In other words, the risks cannot be mitigated to an acceptable level when compared to the benefits by any other measures short of cancellation.

Option 2 is appropriate when the risks of a pesticide use can be reduced to a level where the benefits of use outweigh the risks. This risk reduction is accomplished by modifying the terms and conditions of the pesticide's registration. These modifications, which are usually expressed through the pesticide's labeling, are generally changes in the way the pesticide is used. These changes are designed to reduce the exposure to the pesticide and thus reduce or eliminate the risk from the pesticide. In the discussion that follows, risk reduction measures that EPA considered are evaluated for their potential effectiveness and feasibility.

The specific risk reducing modifications which were selected for further consideration are presented in this unit.

A. Protective Clothing

The use of additional protective clothing and protective farm equipment can be required on the label. Most current labels (revised per the Label Improvement Program in 1983) require that workers wear goggles or a face shield, impermeable gloves, and an apron when handling the concentrated form of dinoseb. These labels also state that workers must wear longsleeved shirts, long-legged pants and shoes and socks when handling the concentrate and while spraying the prepared formula.

The total body exposure to dinoseb could be reduced with the use of chemically resistant coverall-type suits. EPA is aware that the registrants of dinoseb are exploring ways to decrease worker exposure in this manner. A consortium of dinoseb registrants have conducted, but not yet submitted to EPA, an applicator exposure study in which all participants were required to wear Tyvek® suits (synthetic, disposable coveralls) when handling dinoseb.

EPA has concluded that requiring the use of such protective clothing for workers applying dinoseb is not an acceptable alternative. Not only is this kind of protective clothing requirement impractical and difficult to enforce, it is

also potentially hazardous to workers handling chemicals like dinoseb.

Studies and calculations by CDFA have shown that above 80 °F the hazard of heat stress becomes very important when this type of clothing is worn. EPA is concerned about heat stress resulting from the use of such protective equipment in the field.

This concern is compounded by specific toxic properties of dinoseb. Acute exposure to dinoseb is characterized by an increase in body temperature. If an applicator is already hot from wearing a water-tight outfit such as a Tyvek® suit, and then accidentally contacts (e.g., a leaking back-mounted, hand-held sprayer) a sufficient quantity of dinoseb to induce hyperthermia, the applicator may attribute his discomfort to the suit and not to an acute poisoning symptom from dinoseb exposure.

In short, the use of such suits could compromise the use of increased body temperature as a timely and key diagnostic tool for detecting acute poisoning by dinoseb. Given this information, EPA does not regard the use of Tyvek® suits to be a practical solution to reduce applicator exposure to dinoseb. The potential problem of aggravated heat stress nullifies this option.

Because protective equipment is already required on dinoseb labels and because special protective clothing (Tyvek+ suits) is contra-indicated, EPA has concluded that no further protective clothing requirements would sufficiently and safely reduce exposure to dinoseb.

B. Protective Farm Equipment

The revised dinoseb label does not require the use of specialized protective farm equipment. Nonetheless, EPA scientists assumed that closed loading systems and enclosed tractor cabs were being used by applicators of dinoseb when they estimated the range of dinoseb exposure from surrogate exposure data. Closed loading systems are mechanical systems used to transfer concentrated pesticide. Pumps are used to move the pesticide from one container to another, thereby theoretically reducing worker exposure from splashes and vapors otherwise occurring while pouring liquid pesticides from open containers. Enclosed tractor cabs reduce applicator exposure by simply protecting the operator from pesticide drift.

EPA has determined that the use of this equipment would not adequately reduce worker exposure to dinoseb. As previously mentioned, the use of such protective equipment was considered in the recent exposure assessment. Some of the surrogate exposure studies were conducted with the use of this state-of-the-art protective equipment. As such, the higher MOS values reflect conditions that would result in less dinoseb exposure. Although higher MOS values were calculated for mixer/loaders using closed loading systems (and different application rates), and higher MOS ranges were calculated for applicators using a variety of application equipment including enclosed tractor cabs, none of these MOS values provided adequate margins of safety from the risk of developmental toxicity. All MOS values were still well below 100.

The use of closed loading systems and enclosed tractor cabs would not provide sufficient protection against dinoseb exposure and, therefore, this option would not effectively mitigate risk.

C. Lower Application Rates

Another possible option to mitigate risk is to reduce the application rate to a level that produces a significantly lower exposure to mixer/ loaders and applicators. Handling less pounds of active ingredient does generally reduce exposure to mixer/loaders and applicators. The exposure assessment identified sites that use high application rates such as some preemergence uses of dinoseb (9 to 12 pounds active ingredient per acre). Conversely, relatively low application rates (0.625 pounds active ingredient per acre) are used for fungicidal uses of dinoseb. While the exposure will in fact be influenced by a lower application rate, high exposure will still occur. MOS values for sites where lower application rates are currently used are still significantly below 100.

The use of lower application rates would not effectively mitigate the risk from dinoseb exposure.

D. Gender-Based Restrictions

A number of gender-based restrictions could be required to reduce the risk of developmental toxicity associated with exposure to dinoseb. Because only the fetuses of pregnant women are at risk of developmental toxicity, the labeling for dinoseb products could be amended to prohibit women of child bearing capacity from mixing/loading or applying dinoseb. EPA could require label or other warnings to alert women to the potential for developmental toxicity. In addition, EPA could require employers to obtain the informed consent of female workers in writing before permitting them to work with dinoseb.

As a practical matter, pregnant women could misunderstand a label warning or prohibition or could knowingly jeopardize the health of the fetus. Some women may be pregnant but not yet be aware of their pregnancy. Birth defects may be induced early in the first trimester of pregnancy—often at that time when women are unaware of their condition.

The current work force handling dinoseb contains an expanding number of females. Nationally, EPA estimates that 5 percent of the mixer/loaders and applicators of pesticides are female. Many women have entered the agricultural workforce in the last two decades. Today, more women own and operate farms and more women professionally apply pesticides than in previous decades.

Warning female farmworkers or prohibiting them from handling dinoseb or working in dinoseb-treated areas is impractical and difficult to enforce. United States Department of Agriculture (USDA) statistics on the number of female farmworkers in 1981 show that nearly 490,000 work either permanently or temporarily on farms in the U.S. Crops such as grapes, berries, nuts, and fruit orchards typically require large farmworker support.

Other pregnant females may be exposed to dinoseb as bystanders from spray drift or as farm residents from clothing or other items contaminated with dinoseb. No adequate means exist to warn or prohibit pregnant females from being in the proximity of farms that use dinoseb. Women could contact contaminated farm equipment or other contaminated surfaces on the farm premises, or handle contaminated clothing or protective equipment. All of these exposure pathways would not be effectively controlled by gender-based restrictions.

Moreover, gender-based restrictions will not mitigate the risks associated with male reproductive effects and acute toxicity. Some male workers handling dinoseb are at risk of dinoseb-induced sterility and all workers are at risk of acute toxicity.

EPA has considered the feasibility of gender-based restrictions and concluded that these are not practical for reducing exposure to dinoseb and the risk of developmental toxicity, reproductive toxicity, and acute toxicity.

E. Reformulation

Some pesticides have been reformulated with the intent to reduce worker exposure. For example, products can be microencapsulated by encasing the pesticide with a microscopic, synthetic sheath. Alachlor (Lasso®) was microencapsulated to reduce exposure to mixer/loaders and applicators.

Exposure assessments were conducted on both the microencapsulated and emulsifiable concentrate formulations, but no statistically significant difference in worker exposure was found between the two assessments. The apparent failure of this attempt to reduce worker exposure demonstrates that it is difficult to reformulate a pesticide into a product that yields less exposure to workers.

Water soluble bags have also been developed that can contain a pesticide safely while it is being transferred to mixing tanks. Mixer/loader exposure is clearly reduced by such product innovations. Unfortunately, even pilots conducting aerial applications receive a relatively high degree of exposure (when compared with the developmental toxicity NOEL), and yet pilots receive the least amount of exposure of all applicators. Pilots receive the least amount of exposure because they do not mix and load the pesticide and they are also within a confined space during application. Even with this protection, pilots still have MOS values well below 100. Reduced mixer/loader exposure alone will not suffice as long as the applicator exposure remains high.

Based on the reformulation technologies in use today, EPA has no reason to believe that such techniques will sufficiently reduce occupational exposure to dinoseb.

VII. Risk-Benefit Analysis

This unit presents EPA's analysis of the relative risks and benefits of the uses of dinoseb as a pesticide. It sets out EPA's determinations whether these uses cause unreasonable adverse effects on the environment.

A. Uses of Dinoseb as an Herbicide, Desiccant, and Fungicide

As summarized above, dinoseb's use as a herbicide, desiccant, and fungicide poses a considerable risk of developmental toxicity, male sterility, and acute dermal toxicity from occupational and possibly from coincidental exposure to dinoseb. Furthermore, the continued use of dinoseb poses a risk to non-target organisms including certain threatened and endangered species.

Although the benefits from the use of dinoseb on soybeans, peanuts, cotton, potatoes, and green peas are evidently high, the known risks substantiate the findings that these uses cause unreasonable adverse effects on the environment. EPA, therefore, has determined to cancel all registrations of dinoseb products for these uses.

EPA has also decided to cancel all other registered uses of dinoseb as a herbicide, desiccant, and fungicide based on the high risk posed by continued use and by the fact that the benefits were determined to be low to inconsequential of these remaining uses.

B. Uses of Dinoseb as an Insecticide

Because the dinoseb products registered as insecticides are applied in the same manner as the fungicidal uses, the same risks are posed to agricultural workers and other people coincidentally exposed to dinoseb as the formerly discussed uses. In addition, the benefits from the use of dinoseb as an insecticide are negligible.

EPA has determined that the insecticidal use of dinoseb poses unreasonable adverse effects on the environment and, therefore, the insecticidal uses of dinoseb are hereby cancelled.

VIII. Procedural Matters

This Notice announces that the Agency intends to cancel each registration and deny each pending application for registration of any pesticide product which contains dinoseb or any of its salts. Each of these products is also subject to the Emergency Suspension Order issued today, which expressly prohibits further sale, distribution, or use of any pesticide containing dinoseb or any of its salts. This unit explains how eligible persons may request a cancellation or denial hearing, the consequences of requesting or failing to request such a hearing, and the procedures which will govern any hearing in the event one is requested.

A. Procedures for Requesting a Hearing

Any registrant of a pesticide product containing dinoseb or applicant for registration of a dinoseb product (including intrastate applicants who have previously marketed such products pursuant to 40 CFR 162.17) may request a cancellation or denial hearing by submitting such a request within 30 days of receipt of this Notice, or within 30 days from the date of publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the Agency's intent to cancel, or any interested person with the concurrence of an applicant whose application the Agency intends to deny, may request a hearing within 30 days of the date of publication of this Notice in the **Federal Register.**

All persons who request a hearing must comply with the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. These procedures establish the following requirements: (1) Each hearing request must specifically identify by registration or accession number each individual pesticide product concerning which a hearing is requested, 40 CFR 164.22(a); (2) each hearing request must be accompanied by a document setting forth specific objections to the Agency's findings concerning unreasonable adverse effects and state the factual basis for each such objection, 40 CFR 164.22(a); and (3) each hearing request must be received by the Office of the Hearing Clerk within the applicable 30-day period (40 CFR 164.5(a)). Failure to comply with any one of these requirements will invalidate the request for a hearing and result in final cancellation or denial of registration for the product in question by operation of law.

Requests for hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

B. Consequences of Failure To File a Hearing Request

If no valid hearing request is submitted regarding a specific registration or application for registration of a dinoseb product, the cancellation or denial of registration for that product will be final and effective 30 days after receipt of this Notice by the registrant or applicant, or 30 days after publication of this Notice, whichever occurs later. Even if the registrant or applicant for registration of a dinoseb product requests an expedited hearing concerning the determination of imminent hazard set forth in the Emergency Order issued today, that request will not prevent subsequent cancellation or denial of registration for that product if no valid hearing request is submitted within the applicable 30-day period.

C. Consequences of Filing a Hearing Request

If a hearing concerning any product affected by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice Governing Hearings, 40 CFR Part 164. In the event a hearing is held concerning a particular product, cancellation or denial of the registration for that product will not become effective except pursuant to an order by the Administrator or his Judicial Officer at the conclusion of the hearing. Any hearing will be confined to the specific registrations or applications concerning which the hearing was requested.

D. Hearing Procedures

Any hearing concerning cancellation or denial of registration for any pesticide product containing dinoseb

will be held in accordance with FIFRA section 6(d). In the event that an expedited suspension hearing on the question of imminent hazard is held concerning any pesticide product subject to this Notice, any cancellation or denial hearing requested pursuant to this Notice will be held in abeyance and will not commence until entry of a final order concerning the issue of suspension. I am also establishing a mandatory timetable for completion of any cancellation or denial hearing held pursuant to this Notice. The first pre-hearing conference concerning any cancellation or denial hearing must be held within 45 calendar days from the date of the publication of this Notice or 15 calendar days from the date of issuance of a final order concerning the issue of suspension, whichever is later. The evidentiary phase of the hearing must be completed and the Administrative Law Judge must forward his recommended decision to me within 15 months of the date of the first pre-hearing conference. I or my Judicial Officer will then issue a final order concerning the issue of cancellation and/or denial within 90 days, as provided by FIFRA section 6(d).

E. USDA and SAP Review

When the Agency intends to issue a Notice of Intent to Cancel, it must furnish a draft of that notice and an analysis of the impact of the proposed action on the agricultural economy to the Secretary of the Department of Agriculture (USDA) for comment at least 60 days prior to issuing the notice (FIFRA section 6(b)). In addition, the Agency must within the same time period submit the proposed cancellation action to the FIFRA Scientific Advisory Panel (SAP) for comment concerning the impact of the proposed action on health and the environment (FIFRA section 25(d)).

In the event that written comments are received from the USDA or the SAP within 30 days of such referral, the Agency must publish those comments and the Agency's response to the comments along with the cancellation notice. However, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, he may waive the requirements of notice to and consultation with the USDA and SAP (FIFRA section 6(b)).

As noted above, I am today issuing an Emergency Order suspending the registrations, and prohibiting all further distribution, sale, and use, of all pesticide products containing dinoseb. Having made the requisite determination that suspension of all dinoseb registrations is necessary to prevent an imminent hazard, I hereby waive the formal requirements that the Agency provide the USDA and the SAP with 60 days notice and an opportunity to comment prior to issuance of the Notice. FIFRA section 25(d), as amended in 1980, provides that, when I exercise my authority under section 6(c) to immediately suspend the registration of a pesticide, I must promptly submit that suspension action to the SAP for comment. In accordance with this provision, the Emergency Order suspending the registrations of all dinoseb products and this Notice of Intent to Cancel have been forwarded to the SAP and will be considered at the SAP meeting scheduled for October 29, 1986. In addition, although I have waived the formal requirement for notice to and consultation with the Secretary of Agriculture prior to issuance of this Notice, the Agency did in fact consult with USDA representatives concerning its intent to suspend the registrations of dinoseb products prior to issuance of this Notice and the accompanying Emergency Order.

F. Separation of Functions

EPA's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Cancel: The office of Administrative Law Judge, the office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate office of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

Dated: October 7, 1986.

Lee M. Thomas,

Administrator.

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Federal Register

Tuesday
October 14, 1986

Part III

Department of Education

National Institute of Handicapped Research; Proposed Funding Priorities for Research Fellowships; Notice

DEPARTMENT OF EDUCATION

National Institute of Handicapped Research; Proposed Funding Priorities for Research Fellowships

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for research fellowships for fiscal year 1987.

SUMMARY: The Secretary of Education proposes funding priorities for research fellowships to be supported by the National Institute of Handicapped Research (NIHR) in fiscal year 1987. In the past, NIHR has funded some fellowships without specifying priority areas, as well as a number of fellowships based on announced priorities. The regulations provide that the Secretary may set priorities when there are critical areas to be addressed. The Secretary has determined that research fellows are needed in the following priority areas: study of rehabiiltation facilities; survey of professional development and training in rehabilitation research; analysis of employment issues related to learning disabilities; assessment of rehabilitation technology research; rehabilitation technology diffusion networking; and assessment of efforts in prevention of secondary disability.

DATE: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before November 13, 1986.

ADDRESSES: All written comments and suggestions should be sent to Betty Jo Berland, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue, SW., Room 3070 Switzer Building, Mail Stop 2305, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: National Institute of Handicapped Research, Telephone (202) 732–1207; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

SUPPLEMENTARY INFORMATION: Authority for the fellowship program of NIHR is contained in Section 202(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602 and by Pub. L. 98–221. The purpose of this program is to build research capacity and also to allow the Secretary to obtain the benefits of research conducted by highly qualified individuals. This research has a direct bearing on the development of programs, methods, procedures, and devices to assist in the provision of rehabilitative services to individuals. NIHR fellowship regulations authorize the Secretary to establish priorities for fellowships by reserving funds to support fellowships in particular areas.

NIHR invites public comment on the merits of the proposed priorities, both individually and collectively, including suggested modifications to the proposed priorities. Comments can include factors which support the importance of a priority to handicapped individuals and others.

The final priorities will be selected on the basis of public comment, the availability of funds, and any other relevant Departmental considerations. However, for the purpose of submitting applications, applicants should assume that these proposed priorities will be the final priorities. If there are any significant changes in the final priorities, applicants will be given an opportunity to modify their applications.

The following six priorities represent areas in which NIHR proposes to support research and related activities through priority fellowships. The publication of these proposed priorities does not bind the United States Department of Education to fund fellowships in any or all of these research areas. Funding of particular fellowships depends on both the availability of funds and on responses to this notice.

Proposed Priorities

NIHR proposes to accept applications for fellowships in the following priority areas only:

Fellow to Study Rehabilitation Facilities

Vocational rehabilitation facilities provide a wide range of rehabilitation-related services to disabled clients, including services contracted for by state service agencies. The actual number of facilities and the number of clients they serve have increased in recent years. A recent survey of accredited vocational facilities (University of Wisconsin, Stout, 1985) indicates that mental retardation and mental illness account for approximately two-thirds of all clients of these facilities (with 15 percent and 51 percent of the total respectively). Recent research (e.g., University of Arkansas, 1985; J. Noble, 1985) indicates that the most effective strategy to promote employment for these two populations is the "place-train" method in which training is conducted in the actual competitive employment in which the work will be performed. Facilities, in contrast, rely heavily on a facility-based "train-place" model of vocational development. If vocational facilities are to effectively serve mentally retarded and mentally ill target groups, they must develop new approaches.

In addition, few clients currently served in facilities fall within the primary disability categories which are associated with the disability management approaches—job retention and return-to-work—currently used in business and industry (Menninger Foundation, 1985). The disability management approach focuses on individuals who become disabled while employed, and thus is not appropriated to the needs of chronically mentally ill and mentally retarded individuals, most of whom do not experience the onset of disability while employed. Thus, it would be important to determine whether facilities can serve effectively as resources to industry in abetting disability management, particularly to small firms which cannot operate their own employee assistance programs.

An absolute priority will be given to applications for a fellowship to:

- Review the current practices of vocational rehabilitation facilities in promoting competitive employment for their clients of various disability groups;
- Analyze the need and potential for rehabilitation facilities to adopt the alternate "place-train" strategy of vocational development, including the personnel development and training needs which would be associated with such a change;
- Investigate the feasibility of rehabilitation facilities developing technical assistance and related service programs to serve business and industry in an effect to improve the management of disability among employees, including the related pesonnel development and training needs; and
- Assess the potential of facilities to respond to the interests of the Social Security Administration in identifying improved methods for rehabilitating recipients of Supplemental Security Income benefits and for reducing costs of the Social Security Disability Insurance Program.

Fellow to Survey Rehabititation Research

There are currently no standards for assessing professional development in rehabilitation research in the various relevant fields—e.g., rehabilitation psychology, physiatry, nursing, occupational and physical therapy, prosthetics and orthotices, orthopedic surgery, neurology, rehabilitation engineering, and other medical and nonmedical specialties. Nor is there a general awareness of practices in effect in universities and hospitals regarding standards and guidelines for training or accrediting professionals engaged in research.

NIHR funds training in rehabilitation research as well as research activities. In reports accompanying the 1985 appropriations bill for NIHR, Congress noted the the need for additional training in rehabilitation research. NIHR believes that not enough is known about current needs and practices in developing research capacity in the various disciplines involved in rehabilitation.

An absolute priority will be given to applications for a fellowship to:

- Determine the current deployment of professionals in rehabilitation research by discipline, credentials, and types of training, and assess needs for additional training in various areas;
- Identify, through surveys of professional associations and academic sources, current practices in training and providing credentials to researchers in rehabilitation-related fields;
- Characterize current practices in terms of entry requirements for research training, amount of didactic and experiential training, formal and informal mentorships, internships and other types of supervision, types of support for research training, duration and intensity of training, accreditation of the training sources, evaluation of trainee achievement, credentials earned, and how those trained make use of the new research expertise;
- Study and describe preservice and inservice training practices for research in at least one area which is comparable to rehabilitation in several important characteristics, and assess the applicability of some of those practices to training for rehabilitation research; and
- Provide a final report to NIHR including the findings of all of the above inquiries and recommendations for options to strengthen training in rehabilitation research.

Fellow to Study Employment Issues Related to Learning Disabilities

Persons with severe learning disabilities have considerable difficulty in obtaining and maintaining employment; this problem is often attributable to behavioral and social skills deficits. Estimates of unemployment among learning disabled adults range from 37–75 percent, generally depending on the age of the group studies (W.J. White, 1982; Crimando, 1984).

While learning disability is generally an aggregate of various perceptual and communication difficulties, inappropriate social and interpersonal behavior is a frequent result.

Any efforts to enhance employability and promote employment for this population must be based on an awareness of behavior patterns associated with successful employment. Such efforts also require knowledge of both effective intervention programs to enhance social skills and strategies to modify jobs or worksites to increase the incidence of employment and job retention in this group. Indications are that many strategies used with other disabled and nondisabled populations are not effective with learning disabled idividuals, while some techniques seem to have exceptional applicability. (Crimando, 1984).

NIHR is interested in advancing the state-of-knowledge in this area by contributing to an awareness of the differences in behavior and social skills typically associated with employment and unemployment in this population, and by aggregating knowledge of effective interventions to increase the incidence of successful employment for this group.

An aboslute priority will be given to applications for a fellowship to:

- Identify behavior patterns prevalent among different subgroups of adults with severe learning disabilities, particularly behavioral problems likely to affect job performance and interpersonal relations on the job;
- Undertake an analysis, using employment data bases, existing literature, consumers, counselors, and employers as information sources, to determine whether specific behavior characteristics or patterns can be used to predict employability and success in different types of jobs;
- Survey and assess intervention strategies which indicate a probability of success in assisting learning disabled youth and adults to develop requisite social skills;
- Survey any existing models or strategies for job modifications which have been successful with this population; and
- Provide a final report on these findings which includes strategies for the dissemination of this information to appropriate users such as job counselors, employers, educators, consumers, and family members for possible incorporation into individualized education programs and individualized written rehabilitation programs.

Fellow in Evaluation of Rehabilitation Technology Research

NIHR and other Federal agencies support research and development of rehabilitation technology through a number of mechanisms, including a major program of Rehabilitation Engineering Centers (REC's). NIHR currently allocates about $10,000,000 per year for the area of technology research.

Developments in technological aids and devices for the total population, including disabled and nondisabled individuals, have been both rapid and extensive in recent years, because of general improvements in available materials, solid-state circuitry and microprocessors, and increased public responsiveness to the use of technology. Private business and industry, as well as academia and government, are making major investments in the development, adaptation, and distribution of technological devices relevant to disabled individuals, including computers, telecommunications, robotics, and environmental controls.

For planning purposes, NIHR seeks periodically to evaluate the effectiveness and adequacy of research in various rehabilitation fields, including technology. NIHR has found that there is a paucity of models and methods to be applied in evaluating research programs, particularly those in fields such as rehabilitation. There has been no systematic assessment of the feasibility and utility of applying various types of evaluation strategies to rehabilitation research. Possible evaluation approaches include, but are not limited to: studies of impact on clients; cost effectiveness studies; studies of the utilization of research projects; management-by-objective assessment; evaluability assessment; process evaluations; and assessment of the effects on future research and development. Evaluation approaches may include longitudinal studies, case studies, cross-sectional studies, management analyses, and product evaluations, among others.

NIHR believes there is a need for a study of the state-of-the-art in research evaluation, with an assessment of the relative usefulness of various approaches for the evaluation of fields of research, such as rehabilitation technology. A research study would yield alternative models for analysis of the technology program, including assessment of the appropriateness of the focus and priorities of the program; assessment of productivity and accomplishments; usefulness of technology research to the rehabilitation field and to disabled people; its relationships to private sector development and distribution activities; and its relation to technology research sponsored by other Federal agencies.

An absolute priority will be given to applications for a fellowship to:

- Review the relevant literature on evaluation of research programs in

related areas, and review the existing literature on the technology program;

• Analyze the utility of various evaluation approaches for the assessment of the rehabilitation technology research program;

• Develop alternative assessment models which consider such factors as purposes and objectives of the technology research program; quality of research and management; quality, level, and appropriateness of personnel engaged in research and development and clinical services; needs for personnel development and training in research; research outcomes; importance and utilization of research products; appropriateness of priority areas of activity; relationship of REC's and the research programs of the REC's to other technology research and development, in both the private and public sectors; the role of the NIHR technology research program, especially the REC's, in producing clinical and research leaders in rehabilitation technology; institutional location and support to the technology research program; level and quality of client-services provided by REC's or other research projects; and other appropriate factors to be considered in an evaluation;

• Suggest various appropriate data collection strategies and data analysis methods which could be used for an evaluation of the technology research program, utilizing various types of data acquisition, including evaluation of written reports, use of self-reported and mail survey data, information collected from external sources, and on-site surveys; and

• Identify other sources of rehabilitation technology research and development for comparison purposes and to assess the extent of duplication or potential synergy.

Fellow in Rehabilitation Technology Diffusion Networking

There is a great disparity in the availability of technological aids and devices and the extent of their use by disabled individuals. There are many reasons for this gap, incuding lack of awareness about or availability of technological devices, costs, unsuitability of existing devices for specific individual needs, and lack of the personal assistance necessary to use the device or the interpersonal support to encourage its use.

The unmet needs of disabled persons for assistive devices have not been thoroughly documented. However, the 1979 Health Interview Survey published by the National Center for Health Statistics, estimated that 3.5 million noninstitutionalized adults, two million of them under age 65, need either assistance equipment or the aid of another person to perform basic functions of personal care, while an estimated additional 4.1 million adults need such help to perform general home management activities. An unknown number of disabled persons require assistive devices in order to maintain or improve job performance or to enhance the quality of their lives in social, cultural, educational, and recreational areas.

One approach to promote wider and more effective use of technological devices could be through the Independent Living Centers (ILC's), by establishing a network of resource centers for information on available technology and on commuity and other resources for individualized adaptations. Such an approach would enhance the capacity of ILC's individually and as network, and would stimulate the identification, development, and use of community resources and volunteers.

An absolute priorty will be given to applications for a fellowship to:

• Study ways to make information on assistive technology available through existing Independent Living Centers, including connections to existing databases on aids and devices (e.g., ABLEDATA) and plans to provide necessary training for staff to implement such information systems;

• Identify gaps in information and resources needed to make such a system feasible for ILC's and effective for disabled people;

• Review existing local programs involving volunteers and consumers in the provision of information about and assistance technological devices;

• Design a model for ILC's to use to assess the availability in their areas of standard technological devices and the local resources for making individual adaptations, including the availability of community groups and volunteers;

• Design one or more models for creating local volunteer councils involving professionals, consumers, and other volunteers, and assess liability issues involved in the use of volunteers and other community resources to adapt equipment; and

• Provide a model system which could be used by Independent Living Centers to establish information systems locally or to develop a national technology information network, including software and documentation for the system.

Fellow in Prevention of Secondary Disability

About 34.4 million Americans are disabled, over 25 million of whom have moderate or severe impairments that impede their abilities to carry out their major activities. Many disabled people are at high risk for further impairment and further loss of functional and daily living skills. This further loss of function may result from an increase in the severity of the disabling condition, as is often the case with a progressive disease such as multiple sclerosis and certain types of hearing or vision loss. Such a loss may also be caused by an additional related impairment for which the individual is at risk; circulatory or vision problems resulting from diabetes, or emotional impairment or social disabilities resulting from a traumatic injury or a chronic condition are examples of this type of additional disability. Finally, disabled individuals are at risk of further disability from the incidence of any impairment or disabiling condition to which people are susceptible generally, as well as to the effects of aging in disabled persons.

Whatever the etiology, the result is an increase in the severity of disability and the limitation in function. At present, the field has only limited knowledge of the problems and causes of additional disability, and we do not have strategies to prevent the occurrence of further disability, or so-called "secondary prevention".

An absolute priority will be given to applications for a fellowship to:

• Analyze the incidence and prevalence of additional impairments and disabilities among disabled people, and assess the extents to which disabled people become more disabled;

• Identify those disabilities most associated with additional risk;

• Identify Federal legislation which could have an impact on the prevention of further disability among disabled persons;

• Review the existing research on the topic and create an annotated bibliography;

• Identify current strategies to prevent further disability among disabled people;

• Identify priority areas for additional prevention efforts, including the disability groups and age groups associated with the greatest incidence of preventable secondary disabilities; and

• Conduct an in-depth analysis of one of the following issues, documenting past and present efforts and recommending areas for further research:

(1) One or more disability groups at high risk for increase in disability and for whom secondary prevention measures have been inadequate, including development of specific strategies to assist the subject population; or

(2) Extent and quality of existing public education efforts aimed at secondary prevention, including methods used by physicians and hospitals, related health personal, and voluntary organizations; or

(3) Role of fitness and recreation in the prevention of further disability, with emphasis on those disabilities where specific strategies are needed to effect maintenance of physical function and social skills; or

(4) The role of assistive devices in secondary prevention, especially as related to the physiology of muscle functioning and in the areas of communication and socialization.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding these proposed priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before (the 30th day after publication of this document) will be considered before the Secretary issues final priorities. All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 3070, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C., between the hours of 8:30 A.M. and 4:00 P.M., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 761a, 762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research).

William J. Bennett,

Secretary of Education.

[FR Doc. 86-23123 Filed 10-10-86; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Tuesday
October 14, 1986

Part IV

Department of Education

Secondary Education and Transitional Services for Handicapped Youth Program; Applications for New Awards and Funding Priorities; Notices

DEPARTMENT OF EDUCATION

[CFDA No. 84.158]

Notice Inviting Applications for New Awards Under the Secondary Education and Transitional Services for Handicapped Youth Program for Fiscal Year 1987

Purpose: To assist handicapped youth in the transition from secondary school to postsecondary environments such as competitive or supported employment.

Applications Available: October 23, 1986 (158C&L); December 1, 1986 (158J).

Project Period: up to 36 months.

Applicable Regulations: (a) The Secondary Education and Transitional Services for Handicapped Youth Program, 34 CFR Part 326, (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, and (c) when adopted in final form, the Annual Funding Priorities for this program. A notice of proposed annual funding priorities is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final annual funding priorities are published, applicants will be given the opportunity to amend or resubmit their applications.

Priorities: The Secretary has proposed to establish the following priorities for fiscal year 1987. The Secretary intends to give an absolute preference to applications that meet any of these priorities.

CFDA No.	Priority	Closing date	Intergovernmental review deadline	Available funds	Estimate of awards
84.158C	Models for cooperative planning and implementation of transitional services	12/15/86	2/13/87	$700,000	7
84.158J	The development, access, and use of interpersonal contacts, relationships, and networks by handicapped youth	2/2/87	4/03/87	950,000	8
84.158L	Models for providing secondary mainstreamed learning disabled and other mildly handicapped students with job-related training	12/15/86	2/13/87	700,000	7

For applications or information contact: Dr. William Halloran, for CFDA Numbers 84.158C and 84.158L, U.S. Department of Education, Office of Special Education Programs, Division of Educational Services, 400 Maryland Avenue, SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202, Telephone: (202) 732–1112; and Linda Glidewell, for CFDA Number 84.158J, U.S. Department of Education, Office of Special Education Programs, Division of Innovation and Development, 400 Maryland Avenue, SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202, Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1425

Dated: October 7, 1986.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 86–23124 Filed 10–10–86; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Secondary Education and Transitional Services for Handicapped Youth Program

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposes annual funding priorities for the Secondary Education and Transitional Services for Handicapped Youth Program to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1987.

DATE: Comments must be received on or before November 13, 1986.

ADDRESS: Comments should be addressed to the contact person listed in each individual proposed priority.

FOR FURTHER INFORMATION CONTACT: The person listed in each individual proposed priority.

SUPPLEMENTARY INFORMATION: The Secondary Education and Transitional Services for Handicapped Youth Program is authorized by section 626 of Part C of the Education of the Handicapped Act, as amended by the Education of the Handicapped Amendments of 1983, Pub. L. 98–199. This program supports research, development, demonstration, evaluation, and other types of projects that: (1) Strengthen and coordinate activities to assist in the transition to postsecondary education, vocational training, competitive employment, continuing education, or adult services for handicapped youth; and (2) stimulate the improvement and development of programs for secondary special education.

Eligible Applicants

Awards are made under this program to institutions of higher education, State educational agencies, local educational agencies, and other public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference in fiscal 1987 to applications for projects that respond to one of the priorities described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priorities.

Priority 1—Models for Cooperative Planning and Implementation of Transitional Services

This priority would support model projects for cooperative planning and implementation of transitional services for handicapped youth between State, intermediate, and local educational agencies and adult service providers. These projects would: (1) Identify systemic barriers in agencies affecting the transition of handicapped youth from school to work; (2) develop and implement innovative approaches for transitional service delivery; and (3) evaluate the effectiveness of cooperative planning and implementation efforts. Adult service providers include: vocational rehabilitation, mental health, mental retardation, and adult education agencies as well as community colleges, centers for independent living, private and public employers and other similar providers.

Projects submitted under this priority must include a planning phase which consists of cooperative planning for delivering transitional services and an implementation and evaluation phase which develops, implements and evaluates transitional services to handicapped youth. These models must be innovative approaches to the cooperative planning and implementation of transitional services to handicapped youth across agencies,

not an extension or replication of current efforts. The cooperative planning must extend beyond collaboration to new formal working commitments and agreements.

The focus of the cooperative planning phase must be to identify and address systemic barriers to effectively linking a handicapped youth exiting from school with adult service providers who can provide postsecondary training, employment, and other related services. Applicants must document the need for, and potential impact of, the project. The planning process should result in an implementation plan which: presents an analysis of systemic barriers to providing effective transitional services to handicapped youth; proposes solutions to ameliorate the systemic barriers; describes implementation procedures; and incorporates a rigorous evaluation plan. In addition, the planning process should be sufficiently documented in terms of procedures, resources required, and outcomes obtained so that others could replicate the cooperative planning process.

The implementation phase of these model projects must result in replicable approaches highlighting the procedures and resources required to coordinate and provide effective transitional services leading to employment, training and other related services for handicapped youth exiting school. These models must be rigorously evaluated to determine their effectiveness.

For further information contact: Dr. William Halloran, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone (202) 732–1112.

Priority 2—The Development, Access, and Use of Interpersonal Contacts, Relationships, and Networks by Handicapped Youth

It is increasingly apparent that school, work, community, and leisure contacts, relationships, and networks are important in the successful adjustment of handicapped youth while in school and in the transition to adult life. Such contacts, relationships, and networks may be casual (passengers on the bus), personal (family and friends), or formal (an organized club, recreation program, or service agency). All, however, when appropriately developed and used can reduce the social isolation of handicapped individuals as well as assist them in solving problems encountered day-to-day in school, work, community, and leisure settings.

This priority would support research projects that: (1) Examine factors (attitudes, contexts, behaviors, social skills, etc.) related to the development, access, or use by handicapped youth of contacts, relationships, and networks in naturally occurring school, work, community, and leisure settings; (2) develop strategies that result in improved social interaction opportunities for handicapped youth through the access and use of contacts, relationships, and networks; and (3) determine the effectiveness of those intervention and support strategies for promoting the personal development, social adjustment, and community integration of handicapped youth.

For further information contact: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

Priority 3—Models for Providing Secondary Mainstreamed Learning Disabled and Other Mildly Handicapped Students With Job-Related Training

This priority would support projects that: (1) Identify the job-related training and experience needed by mainstreamed secondary-aged learning disabled and other mildly handicapped students if they are to succesfully exit school to competitive employment and an independent adult life; (2) develop vocational/occupational intervention models providing job-related training and experience while maintaining the student's placement predominantly within general education; and (3) evaluate the effectiveness of the model using quantitative and qualitative evaluation approaches and incorporating comparison groups or cohorts into the evaluation design.

The target population for these projects are learning disabled and other mildly handicapped students at the secondary level receiving special education services within the general education class or receiving up to two hours of special education per day within a resource room class setting. It is expected that applications submitted under this priority will provide detailed information regarding the needs and problems encountered by the target population, and will describe procedures for supplementing this information base and obtaining additional baseline data within the early months of the project. It is further expected that the proposed models will be directly linked to the identified problems and needs and that the application will provide a conceptual framework based on special education, vocational education, and vocational rehabilitation research that shows the links between the identified problems and proposed intervention strategies. Finally, applications submitted under this priority must propose intervention models that are consistent with State and district requirements for obtaining a high school diploma upon graduation.

For further information contact: Dr. William Halloran, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1112.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed annual funding priorities. Written comments and recommendations may be sent to the address listed under each individual proposed priority. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues the final priorities.

All comments submitted in response to these proposed annual funding priorities will be available for public inspection, during and after the comment period, in Rooms 4094, (Priorities 1 and 3) and 3522 (Priority 2), Switzer Building, 330 "C" Street, 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.

(Authority: 20 U.S.C. 1425)

(Catalog of Federal Domestic Assistance number 84.158; Secondary Education and Transitional Services for Handicapped Youth Program

Dated: September 25, 1986.

William D. Bennett,

Secretary of Education.

[FR Doc. 86-23125 Filed 10-10-86; 8:45 am]

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H.R. 1246/Pub. L. 99-450

Colorado River Floodway Protection Act. (Oct. 8, 1986; 100 Stat. 1129; 9 pages) Price: $1.00

H.R. 5506/Pub. L. 99-451

To amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken. (Oct. 8, 1986; 100 Stat 1138; 2 pages) Price: $1.00

H.R. 5521/Pub. L. 99-452

To extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository

Institutions Act of 1982. (Oct. 8, 1986; 100 Stat. 1140; 1 page) Price: $1.00

H.J. Res. 547/Pub. L. 99-453

To designate October 1986 as "Polish American Heritage Month." (Oct. 8, 1986; 100 Stat. 1141; 1 page) Price: $1.00

H.J. Res. 611/Pub. L. 99-454

To designate the period of December 1, 1986, through December 7, 1986, as "National Aplastic Anemia Awareness Week." (Oct. 8, 1986; 100 Stat. 1142; 1 page) Price: $1.00

H.J. Res. 721/Pub. L. 99-455

To designate the week of October 12, 1986, through October 18, 1986, as "National Job Skills Week." (Oct. 8, 1986; 100 Stat. 1143; 1 page) Price: $1.00

S. 1766/Pub. L. 99-456

To designate the Cumberland terminus of the Chesapeake and Ohio Canal National Historical Park in honor of J. Glenn Beall, Sr. (Oct. 8, 1986; 100 Stat. 1144; 1 page) Price: $1.00

S. 2294/Pub. L. 99-457

Education of the Handicapped Act Amendments of 1986. (Oct. 8, 1986; 100 Stat. 1145; 33 pages) Price: $1.25

S.J. Res. 202/Pub. L. 99-458

Designating October 1986 as "American Liver Foundation National Liver Awareness Month." (Oct. 8, 1986; 100 Stat. 1178; 2 pages) Price: $1.00

S.J. Res. 245/Pub. L. 99-459

Designating "National Epidermolysis Bullosa Awareness Week." (Oct. 8, 1986; 100 Stat. 1180; 1 page) Price: $1.00

S.J. Res. 318/Pub. L. 99-460

Designating November 1986 as "National Diabetes Month." (Oct. 8, 1986; 100 Stat. 1181; 1 page) Price: $1.00

S.J. Res. 368/Pub. L. 99-461

To designate the month of October 1986, as "National Spina Bifida Month." (Oct. 8, 1986; 100 Stat. 1182; 1 page) Price: $1.00

S.J. Res. 406/Pub. L. 99-462

To designate October 4, 1986, as "National Outreach to the Rural Disabled Day." (Oct. 8, 1986; 100 Stat. 1183; 1 page) Price: $1.00

H.J. Res. 749/Pub. L. 99-463

Waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the Ninety-ninth Congress. (Oct. 9, 1986; 100 Stat. 1184; 1 page) Price: $1.00

H.J. Res. 750/Pub. L. 99-464

Making further continuing appropriations for the fiscal year 1987, and for other purposes. (Oct. 9, 1986; 100 Stat. 1185; 9 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1985 Compilation and Parts 100 and 101)	14.00	[5] Jan. 1, 1986
4	11.00	Jan. 1, 1986
5 Parts:		
1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
53–209	14.00	Jan. 1, 1986
210–299	21.00	Jan. 1, 1986
300–399	11.00	Jan. 1, 1986
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	9.50	Jan. 1, 1986
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
1500–1899	7.00	Jan. 1, 1986
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	7.00	Jan. 1, 1986
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1986
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	8.50	Jan. 1, 1986
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1986
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	7.00	Jan. 1, 1986
300–399	20.00	Jan. 1, 1986
400–End	15.00	Jan. 1, 1986

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	18.00	Jan. 1, 1986
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
1–149	15.00	Apr. 1, 1986
150–399	25.00	Apr. 1, 1986
400–End	6.50	Apr. 1, 1986
19	29.00	Apr. 1, 1986
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
1300–End	6.50	Apr. 1, 1986
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	21.00	July 1, 1986
29 Parts:		
0–99	16.00	July 1, 1986
100–499	7.00	July 1, 1986
500–899	24.00	July 1, 1986
900–1899	9.00	July 1, 1986
1900–1910	21.00	July 1, 1985
1911–1919	5.50	[2] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
0–199	16.00	July 1, 1985
200–699	8.50	July 1, 1986
700–End	17.00	July 1, 1986
31 Parts:		
0–199	11.00	July 1, 1986
200–End	16.00	July 1, 1986

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[3] July 1, 1984
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1–189	13.00	July 1, 1985
190–399	23.00	July 1, 1986
400–629	15.00	July 1, 1985
630–699	13.00	July 1, 1986
700–799	15.00	July 1, 1986
800–End	16.00	July 1, 1986
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	11.00	July 1, 1986
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	15.00	July 1, 1986
39	12.00	July 1, 1986
40 Parts:		
1–51	21.00	July 1, 1986
52	27.00	July 1, 1986
53–80	23.00	July 1, 1985
61–80	10.00	July 1, 1986
81–99	18.00	July 1, 1985
100–149	23.00	July 1, 1986
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	22.00	July 1, 1986
425–699	13.00	July 1, 1985
700–End	8.00	July 1, 1985
41 Chapters:		
1, 1–1 to 1–10	13.00	[4] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[4] July 1, 1984
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7	6.00	[4] July 1, 1984
8	4.50	[4] July 1, 1984
9	13.00	[4] July 1, 1984
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18, Vol. I, Parts 1–5	13.00	[4] July 1, 1984
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1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	7.50	July 1, 1986
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
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43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
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45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
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20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.