

Wednesday  
October 29, 1986

# federal register

**Briefings on How To Use the Federal Register—**  
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of this issue.



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## THE FEDERAL REGISTER WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** November 18 at 9:30 a.m.
- WHERE:** National Archives Theater, 8th and Pennsylvania Avenue NW., Washington, DC
- RESERVATIONS:** Laurice Clark, 202-523-3419.

### NEW YORK, NY

- WHEN:** December 5 at 10:00 a.m.
- WHERE:** Room 305A, 26 Federal Plaza, New York, NY
- RESERVATIONS:** Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212-264-4810.

### PITTSBURGH, PA

- WHEN:** December 8 at 1:30 p.m.
- WHERE:** Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA
- RESERVATIONS:** Kenneth Jones or Lydia Shaw  
Pittsburgh: 412-644-INFO  
Philadelphia: 215-597-1707, 1709

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# Presidential Documents

Title 3—

Executive Order 12571 of October 27, 1986

The President

## Implementation of the Comprehensive Anti-Apartheid Act

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Comprehensive Anti-Apartheid Act of 1986 (Public Law 99-440) ("the Act"), and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

**Section 1. *Implementation of the Act.*** All affected Executive departments and agencies shall take all steps necessary, consistent with the Constitution, to implement the requirements of the Act.

**Sec. 2. *Functions of the Department of State.*** The Secretary of State shall be responsible for implementing Sections 208, 302 (to the extent it relates to temporary imports), 303(b), 307(a)(2), 317, 318, 401(b)(2), 501(b), 504, 506, and 508 of the Act. Responsibility for transmitting the report required by Section 509 of the Act is delegated to the Secretary of State.

**Sec. 3. *Functions of the Department of the Treasury.*** The Secretary of the Treasury shall be responsible for implementing Sections 301, 302 (to the extent it relates to permanent imports), 303, 305, 308, 309, 310, 319, 320, 323(a)(1), and 510 of the Act.

**Sec. 4. *Functions of the Department of Commerce.*** The Secretary of Commerce shall be responsible for implementing Sections 304, 321, and 502(b) of the Act.

**Sec. 5. *Functions of the Department of Defense.*** The Secretary of Defense shall be responsible for implementing Section 322 of the Act.

**Sec. 6. *Functions of the United States Trade Representative.*** The United States Trade Representative shall be responsible for implementing Sections 323 (a)(2) and (b) of the Act and Section 402 (except for the imposition of import restrictions).

**Sec. 7. *Functions of the Agency for International Development.*** The Administrator of the Agency for International Development shall be responsible for implementing Sections 210 (to the extent of determining the existence of food shortages only) and 505 of the Act.

**Sec. 8. *Functions of the Department of Transportation.*** The Secretary of Transportation shall take the steps specified in Sections 306(a) (2) and (3).

**Sec. 9. *Definition of Strategic Minerals.*** The Secretary of State shall be responsible, in consultation with the Secretary of Commerce and the Secretary of Defense, for determining which articles are strategic minerals within the meaning of the Act.

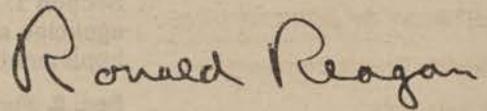
**Sec. 10. *Regulatory and Enforcement Authority.*** The head of each agency assigned functions by this Order is delegated authority under Sections 601 and 603 of the Act to the extent that they relate to functions delegated by this Order or conferred by the Act.

**Sec. 11. *Coordination and Policy Guidance.*** The Secretary of State is responsible for ensuring that implementation of the Act is effectively integrated with and is supportive of the foreign policy of the United States. In carrying out their respective functions and responsibilities, the head of each agency assigned responsibility under this Order shall consult with the heads of other affected agencies.

**Sec. 12. Inter-Agency Coordinating Committee.** An Inter-Agency Coordinating Committee on South Africa is hereby established, under the Chairmanship of the Secretary of State. The Committee shall also include the Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of Commerce, Secretary of Transportation, Secretary of Agriculture, the United States Trade Representative, and other members as appropriate. The Committee shall serve as a forum for consultations on United States policy concerning South Africa and shall monitor implementation of the Act to ensure consistency with United States policy objectives.

**Sec. 13. Reservations of Functions.** All authority not expressly delegated or granted herein is retained by the President. The President retains the authority to exercise any of the authority delegated or granted in this Order.

**Sec. 14. Effective Date.** This Order shall be effective immediately.



THE WHITE HOUSE,

October 27, 1986.

[FR Doc. 86-24645

Filed 10-28-86; 12:06 pm]

Billing code 3195-01-M

# Rules and Regulations

Federal Register

Vol. 51, No. 209

Wednesday, October 29, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1435

#### Price Support Loan Program for 1986 Through 1990 Crops of Sugar Beets and Sugarcane

**AGENCY:** Commodity Credit Corporation.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule sets forth the provisions which are applicable to the price support loan program for the 1986 through 1990 crops of sugarcane and sugar beets. This program is mandated by the Agricultural Act of 1949, as amended by the Food Security Act of 1985. Under the program, the Commodity Credit Corporation (CCC) will support prices to domestic producers of the 1986 through 1990 crops of sugar cane and sugar beets through nonrecourse loans made by CCC to sugar processors. Interested persons are invited to submit written comments on the interim rule.

**DATES:** This interim rule shall become effective on October 24, 1986. Comments must be received on or before December 29, 1986 in order to be assured of consideration.

**ADDRESS:** Interested persons should submit comments to: Director, Cotton, Grain and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be made available for public inspection in Room 3627, South Building, USDA, between the hours of 8:15 AM and 4:45 PM, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Ross D. Ballard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, at (202) 447-4704. The Regulatory Impact Analysis

describing the options considered in developing this interim rule and the impact of implementing each option is available from Thomas W. Fink, Cotton, Grain and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

#### SUPPLEMENTARY INFORMATION:

##### Rulemaking Matters

This interim rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "major" since this action may have an annual effect on the economy of \$100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this interim rule.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

The reporting and record keeping requirements of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

#### Need for Immediate Action

Some processors are or will soon be processing 1986-crop sugar beets and sugarcane. Due to the need for prompt action, it has been determined that prior notice and opportunity for public comment on the subject matter of this rule is impracticable and contrary to the public interest. Therefore, this interim rule shall become effective on the date of filing with the Federal Register. However, comments with respect to this regulation are requested and should be submitted on or before December 29, 1986 in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments require can be published in the Federal Register as soon as possible.

#### Statutory Requirements

Section 201 of the Agricultural Act of 1949, as amended by the Food Security Act of 1985 (hereinafter referred to as the "1949 Act"), requires that price support be made available for each of the 1986 through 1990 crops of sugarcane and sugar beets.

#### Major Program Provisions

The major program provisions of the loan program are as follows:

(1) *Eligible Sugar.* Sugar of the 1986 crop processed from domestically-grown sugarcane or sugar beets between July 1, 1986 and June 30, 1987, and sugar of the 1987, 1988, 1988 and 1990 crops processed during the 12-month period beginning on July 1 of the applicable year would be eligible to be pledged as price support loan collateral under this rule if the processor agrees to pay all eligible producers at least the applicable crop minimum support levels which are set forth in notices published in the Federal Register for the applicable crop year for the applicable region.

(2) *Definition of crop year.* The 1949 Act provides that price support loans must mature within the same fiscal year in which they are disbursed. Therefore, it has been concluded that the use of a traditional crop year definition is not compatible with a fair and reasonable implementation of the price support program mandated by that Act. In order to treat all producers equitably, the Department will use a definition of crop year based upon the period of time

during which sugar beets and sugarcane are processed into refined beet sugar and raw cane sugar. This would result in the phrase "crop year" being defined as a period from July 1 through June 30. This definition of crop year is consistent with the definition of crop year adopted for the sugar price support loan program in previous years.

It is acknowledged by the Department that in some unusual circumstances sugar beets may be harvested after June 30. This interim rule provides that sugar produced from such sugar beets will be considered eligible for the applicable crop year loan program rather than being considered eligible for the subsequent crop year loan program despite the fact that the processing occurs after June 30 of the applicable crop year as defined by this rule.

(3) *Availability.* A request for a price support sugar loan processed from 1986 crop sugar beets or sugarcane may be filed no earlier than October 1, 1986, and must be filed no later than June 30, 1987. The availability period for subsequent crops will be the 9-month period beginning on October 1 of the applicable crop year.

(4) *Maturity Date.* This interim rule provides a loan maturity date of the last day of the sixth month following the month in which the loan is disbursed, but no later than September 30. Notwithstanding the foregoing, CCC and the processor may agree upon an earlier or a later maturity date (but in no event later than September 30 following disbursement of the loan) if such maturity date will not impair the effectiveness of the price support program, as determined by CCC. The final date of September 30 is mandated by statute. This loan maturity period was used under the previous sugar loan program. Therefore, loans for the 1986 through 1990 crops of sugarcane or sugar beets will mature on the last day of the sixth month following the month in which the loan is disbursed. However, because of the statutory limitation, loans disbursed between April 1 and June 30 of the applicable crop year will mature on September 30.

(5) *Obligations of the processor.* Eligible processors who execute a note, security agreement, and storage agreement as prescribed by CCC, are required to pay eligible producers a minimum price for sugarcane or sugar beets delivered for processing. The minimum price applicable to the 1986 through 1990 crops, by specific regions, will be set forth in notices published in the *Federal Register* for the applicable year. This rule provides that (1) eligible processors, who elect to deliver sugar to CCC in settlement of the loan, must

remove and physically deliver the forfeited loan collateral in accordance with instructions from CCC, (2) all load out expenses shall be for the account of the processor, (3) CCC shall have the right to inspect such sugar and the storage facilities, and (4) the processor is obligated, at CCC's discretion, to store the sugar in the warehouse at which CCC accepted delivery for as long as it is deemed necessary by CCC.

(6) *Treatment of refined cane or specialty sugar.* In the event refined or specialty sugar made from raw cane sugar is delivered for purposes of settlement, the quantity of refined cane or specialty sugar will be converted to an equivalent quantity of cane sugar, raw value. This settlement procedure is consistent with settlement procedures under previous price support programs. However, processors of sugarcane who are also refiners will not be allowed to deliver refined cane sugar under the loan program at the loan rate for refined beet sugar. This approach is also consistent with the terms of the previous sugar support loan program.

(7) *Substitution.* Substitution of sugar pledged as loan collateral for other sugar of the same or a subsequent crop year will not be permitted under this rule. Under previous programs, the frequent removal of loan collateral before replacement collateral could be verified placed CCC's security interest in jeopardy.

(8) *Information on transportation and handling costs.* Price support loan rates applicable to the 1986 through 1990 crops, by specific regions, will be set forth in notices published in the *Federal Register* for the applicable year. (For the 1986 crop, see 51 FR 35012.) The notices to be published in the *Federal Register* will provide for differentials in loan rates depending upon the location of the sugar. Such location differentials are common in most of the price support programs conducted by CCC. Location differentials are generally based upon transportation costs and are essential in order to prevent distortions of ordinary market relationships as a result of the price support program. The Department has concluded that the proper location differentials can be developed only by using actual cost data for the shipment of sugar from the processor to the initial purchaser. Sugar processors will provide to CCC information concerning freight and related shipping costs if a price support loan is obtained by the processor. CCC does not intend to request information which will place an onerous burden on the processor. The information requested will be the information which is usually retained by the processor in the normal course of

business. Compliance with the request for information will be a condition of eligibility for participation in the price support loan program. As subsequent data is obtained, it will be retained for use in formulation of the subsequent crop year location differentials.

(9) *Bonding for Protection of Sugar Producers.* This rule provides that a processor making application for a sugar loan must post a bond payable to CCC, or provide other financial assurance as agreed upon by CCC, in order to protect CCC in the event that the processor does not pay producers the maximum benefits under the sugar price support program. CCC must obtain such assurance of payment by the processor of maximum program benefits as a result of the statutory requirements contained in section 401(e)(2) of the 1949 Act which provides for CCC paying sugar producers, under certain circumstances, the maximum benefits from the sugar price support program, less benefits previously received by the producers. The bond or other assurance must be in an amount equal to the applicable crop year regional support level for sugar beets or sugarcane times ten percent of the total annual quantity of sugar beets or sugarcane delivered to the processor in the previous year.

#### List of Subjects in 7 CFR Part 1435

Loan programs/agriculture, Price support programs, Sugar.

#### Interim Rule

#### PART 1435—[AMENDED]

Accordingly, the regulations at 7 CFR Part 1435 are amended as follows:

#### §§ 1435.1-1435.75 [Removed]

1. Part 1435 is amended by removing the following obsolete subparts and sections.

Subpart-Price Support Payment Program for 1977 Crop Sugarbeets and Sugarcane (§§ 1435.1-1435.14); Subpart-Price Support Loan Program for 1977 Crop Sugarbeets and Sugarcane (§§ 1435.15-1435.25); Subpart-Minimum Wage Rates for Sugarbeet and Sugarcane Fieldworkers (§§ 1435.26-1435.33); Subpart-Price Support Loan Program for 1978 Crop Sugarbeets and Sugarcane (§§ 1435.34-1435.44); Subpart-Extended 1977 Crop Sugar Loans (§§ 1435.45-1435.54); Subpart-Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane (§§ 1435.55-1435.65); and Subpart-Extended 1978 Crop Loan Loans (§§ 1435.66-1435.75).

2. Part 1435 is amended by adding "Subpart-Price Support Loan Program for 1986 Through 1990 Crops of Sugar

Beets and Sugarcane" to read as follows:

**Subpart—Price Support Loan Program for the 1986 Through 1990 Crops of Sugar Beets and Sugarcane**

- Sec.  
 1435.300 General statement.  
 1435.301 Administration.  
 1435.302 Definitions.  
 1435.303 Method of support and loan rates.  
 1435.304 Eligibility requirements.  
 1435.305 Availability, disbursement, and maturity of loans.  
 1435.306 Quantity eligible for loan.  
 1435.307 Loan maintenance and liquidation.  
 1435.308 Delivery to CCC, quality, and storage facility requirements.  
 1435.309 Processor storage agreement.  
 1435.310 Fees, charges, and bonding.  
 1435.311 Miscellaneous provisions.  
 1435.312 Applicable forms.  
 1435.313 Paperwork Reduction Act assigned numbers.

**Authority:** Sec. 201(j), Pub. L. 81-439 (7 U.S.C. 1446(j)) as amended by Sec. 901, Pub. L. 99-198, 99 Stat. 1443; Sec. 401(e), Pub. L. 81-439 (7 U.S.C. 1421(e)) as amended by Sec. 903, Pub. L. 99-198, 99 Stat. 1444; Secs. 4 and 5, Pub. L. 80-89, 82 Stat. 1070, as amended (15 U.S.C. 714b and 714c).

**§ 1435.300 General statement.**

This subpart sets forth the terms and conditions of the price support loan program for the 1986 through 1990 crops of sugar beets and sugarcane. The Commodity Credit Corporation (CCC) will offer to eligible processors nonrecourse loans which must be evidenced by notes and security agreements and secured by the pledge of eligible sugar in eligible storage. Only eligible sugar which is in eligible storage shall be accepted for delivery in settlement of the loan.

**§ 1435.301 Administration.**

(a) The Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Kansas City Management Office (referred to as "KCCO" and "KCMO", respectively), and designated State and county Agricultural Stabilization and Conservation committees (referred to as "State and county committees").

**§ 1435.302 Definitions.**

(a) "Eligible producer" means the owner of a portion or all of the sugar beets or sugarcane, including share rent landowners, at both the time of harvest and the time of delivery to the

processor, except producers determined to be ineligible as a result of the regulations governing highly erodible land and wetland conservation found at 7 CFR Part 12 or the regulations governing controlled substances violations at 7 CFR Part 796.

(b) "Eligible Storage" means a storage facility meeting the requirements set forth in § 1435.308(d) of this subpart.

(c) "Normal juice" means the undiluted juice extractable from sugarcane by a mill tandem when no maceration water is added during the milling process.

(d) "Normal juice purity" means a percentage expressing the ratio of the quantity of sucrose to the quantity of dissolved solids in normal juice.

(e) "Normal juice sucrose" means the percentage of sucrose in normal juice.

(f) "Processor" means a person or legal entity that either commercially processes sugar beets into refined sugar or processes sugarcane into raw sugar, cane syrup, or edible molasses or is a cooperatively-owned refiner of raw cane sugar which markets refined cane sugar and raw cane sugar on behalf of its members and non-member patrons, except for a person or legal entity who is determined to be ineligible as a result of the regulations governing highly erodible land and wetland conservation found at 7 CFR Part 12 or the regulations governing controlled substances violations at 7 CFR Part 796.

(g) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

(i) "Sugar" means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup, or edible molasses which: (1) is processed by a processor from domestically-produced sugar beets or sugarcane, and (2) meets the quality requirements set forth in § 1435.308(b) of this subpart.

(j) "Sugar beets of average quality" and "Sugarcane of average quality" means sugar beets and sugarcane containing a percentage of sucrose as set forth in notices published in the **Federal Register** for the applicable crop year.

(k) "Crop year" means the period from July 1 through June 30, inclusive. In referring to the crop year for a particular crop, the crop year begins on July 1 of the year of that crop. For example, the crop year for the 1986 crop begins on July 1, 1986 and is referred to as the "1986 crop year." "1986 crop" means sugar processed from domestically-produced sugar beets or sugarcane

during the 1986 crop year. 1987 through 1990 crops means sugar processed from domestically-produced sugar beets or sugarcane during each of the applicable crop years.

**§ 1435.303 Method of support and loan rates.**

(a) *Method of support.* Price support to domestic producers of the 1986 through 1990 crops of sugar beets and sugarcane processed during the applicable crop year is available through nonrecourse loans to eligible processors.

(b) *Loan rates.* The basic (weighted average) loan rates for the 1986 through 1990 crops of sugar beets and sugarcane will be set forth in notices published in the **Federal Register** for the applicable crop year. The rates will be set forth for refined beet sugar and for cane sugar, raw value, including the cane sugar, raw value, contained in refined cane sugar, sugarcane syrup, and edible molasses. In the case of refined or specialty sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the quantity of the refined or specialty sugar converted to an equivalent quantity of cane sugar, raw value.

(c) *Location differentials.* The 1986 through 1990 crop loan rates applicable to eligible sugar shall be adjusted to reflect the processing location of the sugar offered as collateral for a price support loan as set forth in Notices published in the **Federal Register** for the applicable crop year.

**§ 1435.304 Eligibility requirements.**

(a) The maximum quantity of sugar which is eligible to be pledged as collateral for price support loans by an eligible processor is that quantity of domestically-produced sugar which is equivalent to the quantity of sugar processed by the processor during the applicable crop year from sugar beets and sugarcane grown by eligible producers. Such sugar must be processed and owned by the eligible processor (or jointly owned by the eligible processor and eligible producer) pledging the sugar as collateral for loan and must be in eligible storage. For purposes of this paragraph and § 1435.306 of this subpart, sugar that is processed after June 30 of a particular crop year, but before October 1 of the subsequent crop year, from sugar beets harvested during a continuous harvest which began during the particular crop year, shall be considered as having been processed during that particular crop year.

(b) Eligible processors are those processors who, as a condition of

obtaining a CCC price support loan, agree to pay to all eligible producers who have delivered or will deliver to them for processing sugar beets or sugarcane not less than the minimum price support levels specified in notices published in the Federal Register for the applicable crop year.

**§ 1435.305 Availability, disbursement, and maturity of loans.**

(a) *Availability.* To obtain price support on eligible sugar, an eligible processor: (1) Must file a request for a price support loan, as prescribed by CCC, with the State committee of the State where such processor is headquartered or a county committee designated by the State committee; and (2) must execute a note and security agreement and storage agreement as prescribed by CCC. The request for price support may be filed no earlier than October 1 and must be filed no later than June 30 of the applicable crop year. The request for price support may include a quantity of sugar which the processor estimates will be processed after that crop year but will be considered as having been processed during that crop year in accordance with the provisions of § 1435.304(a) of this subpart. However, no loan proceeds may be disbursed for such sugar until it has actually been processed and is otherwise established as being eligible to be pledged as loan collateral.

(b) *Redeemed loan collateral.* A processor may, within the loan availability period, repledge to CCC as collateral eligible sugar that has previously served as loan collateral for a price support loan that has been repaid. In making application for such loan, the processor shall specify that the loan collateral should be treated as a quantity of eligible sugar that has previously served as loan collateral for a price support loan which has been repaid. The processor shall also designate the original price support loan with respect to which the reoffered loan collateral was originally pledged. The maturity date of the subsequent loan shall be the same as the maturity date of the original loan. Loan collateral repledged that has been previously redeemed from CCC shall not be included in determining the total cumulative quantity of sugar on which loans have been obtained for purposes of § 1435.306 of this subpart.

(c) *Disbursement of loans.* Disbursement will be made by means of checks drawn on the account of CCC.

(d) *Maturity of loans.* Except as provided in paragraph (b) of this section or unless CCC and the processor agree otherwise, loans will mature on the last

day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan. Loan maturity dates may be accelerated by CCC in accordance with § 1435.307(b)(3) of this subpart. CCC and the processor may agree upon an earlier or later maturity date (but in no event later than September 30 following disbursement of the loan) if such maturity date will not impair the effectiveness of the support program, as determined by CCC.

**§ 1435.306 Quantity eligible for loan.**

Price support loans shall not be approved for more than the quantity of sugar which an eligible processor certifies is eligible and available to be pledged as collateral for a loan. Sugar pledged as collateral for a loan is not required to be stored identity-preserved. The total cumulative quantity of sugar that may be pledged as collateral for a price support loan may not exceed the maximum quantity of sugar eligible to be pledged as loan collateral as determined in § 1435.304(a) of this subpart. The total quantity of sugar which a processor may pledge as collateral for a loan at any single time may not exceed: (1) the total eligible storage capacity less ineligible sugar in storage; or (2) the quantity of eligible sugar processed during the applicable crop year, whichever is less.

**§ 1435.307 Loan maintenance and liquidation.**

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage eligible sugar of sufficient quality and quantity to satisfy the processor's loan indebtedness to CCC. By executing a Marketing Authorization for Loan Collateral (Form CCC-681-1), the processor may request and obtain prior written approval of the loanmaking office to remove a specified quantity of the loan collateral for the purpose of delivering it to a buyer prior to repayment of the loan. The loanmaking office shall not approve such a request unless the buyer of the sugar agrees to pay to CCC an amount necessary to satisfy the processor's loan indebtedness with respect to the sugar which has been purchased. Any such approval shall not: (1) constitute a release of CCC's security interest in the sugar, or (2) relieve the processor of liability for the full amount of the loan indebtedness, including interest.

(b) *Loan Liquidation—(1) Redemption of loan collateral.* At the processor's option, a processor may, at any time prior to maturity of the loan, redeem all or any part of the loan collateral by paying to CCC the principal amount of

the loan, plus interest, applicable to the quantity of sugar redeemed.

(2) *Forfeiture of loan collateral.* (i) If a processor desires to forfeit all or any part of the loan collateral to CCC, the processor must notify in writing the appropriate loanmaking office of the processor's intent to forfeit the loan collateral and the amount of loan collateral which the processor intends to forfeit. Such notice must be delivered to the loanmaking office no later than 30 days prior to the maturity date of the loan. CCC shall not accept delivery of sugar in settlement of a price support loan in excess of the amount specified in the notice of intent to forfeit.

(ii) Notwithstanding the fact that the processor has given notice of intent to forfeit, the processor may, at any time prior to maturity of the loan, redeem the loan collateral in accordance with paragraph (b)(1) of this section.

(iii) If the processor does not redeem any amount of the loan collateral with respect to which a notice of intent to forfeit has been properly given, the unredeemed loan collateral will, without further action by CCC or the processor, be deemed to have been delivered to CCC in-store at the processor's storage facility on the day following the maturity date of the loan. Upon delivery, title and all rights and interest with respect to the sugar shall immediately vest in CCC. Delivery of eligible sugar in eligible storage will be accepted as payment in full of the principal amount of the loan, plus interest, applicable to the quantity of sugar delivered.

(3) *Acceleration of the loan maturity date.* CCC may at any time accelerate the date for repayment of the loan indebtedness, including interest. CCC will give the processor notice of such acceleration at least 10 days in advance of the accelerated loan maturity date. In the event of any such acceleration, the processor may elect to redeem or forfeit all or any part of the loan collateral in accordance with the provisions of paragraphs (b)(1) and (2) of this section. However, the required notice of intent to forfeit, as set forth in subparagraph (b)(2)(i) of this section, may be given at any time prior to the accelerated maturity date.

(4) *Foreclosure.* If the loan indebtedness, including interest, is not satisfied in accordance with the provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell it at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan, the processor shall be liable to CCC for the difference.

(5) *Loss or damage of loan collateral.* The processor shall at all times be responsible for maintaining the quality and quantity of the loan collateral in storage. Notwithstanding the foregoing, the processor shall not be liable for any damage, and CCC will bear its pro rata share of any loss, in the case of loan collateral sugar stored on a commingled basis in eligible storage as set forth in § 1435.308(d) of this subpart, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC that each of the following conditions occurred: (i) The loss or damage occurred without fault or negligence on the part of the processor; (ii) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (iii) the processor gave the loanmaking office immediate notice of such loss or damage; and (iv) the processor made no fraudulent or misleading representation in the loan documents or in obtaining the loan.

(c) *Storage costs.* Storage costs through the loan maturity date shall be borne by the borrower.

(d) *Processor incorrect certification or unauthorized removal.* If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for a price support loan is less than the loan quantity, because of incorrect certification, unauthorized removal, or unauthorized disposition, CCC may call the loan. Such determination shall result in the processor being deemed ineligible for price support through at least the crop year after the crop year in which the incorrect certification, unauthorized removal, or unauthorized disposition was discovered.

**§ 1435.308 Delivery to CCC, quality, and storage facility requirements.**

(a) The quantity of sugar which a processor may deliver to CCC in settlement of the loan shall not exceed the quantity of sugar which is shown on the note and security agreement approved by CCC minus any: (i) Quantity that was redeemed or released for removal in accordance with a Marketing Authorization for Loan Collateral (Form CCC-681-1), and (ii) Loss assumed by CCC in accordance with § 1435.307(b)(5) of this subpart.

(b) In order to be eligible to be delivered to CCC, sugar must meet the following minimum quality requirements:

(1) Refined beet or cane sugar must be: (i) Dry and free flowing; (ii) free of

excessive sediment; and (iii) free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(2) Raw cane sugar must be (i) of reasonable grain size; (ii) free from excessive color or moisture; and (iii) free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(3) Sugarcane syrup or edible molasses must be free from any objectionable color, flavor, odor, or other characteristic which would impair or prevent the use of such sugar for normal commercial purposes.

(4) Any type of sugar delivered to CCC must be free of any contamination by either natural or manmade substances and must not contain chemicals or other substances which are poisonous or harmful to humans or animals.

(c) All sugar which is delivered to CCC must be free and clear of any liens, mortgages, or other such encumbrances.

(d) Sugar may only be delivered to CCC in eligible storage. Eligible storage is any storage facility which: (1) is owned or controlled by the processor; (2) is suitable for the storage and loading out of the sugar being delivered to CCC by the processor; (3) meets CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils (7 CFR 1423); (4) is placed under a storage contract with CCC; and (5) consists of a storage structure which is determined by a representative of the county committee, or State committee if in a location not served by county committee, to afford safe storage of the sugar. If the sugar is delivered in or to an ineligible storage facility, the processor shall be responsible for all costs incurred in moving the sugar to an eligible storage facility.

(e) CCC shall, at any time, have the right to inspect the loan collateral and the storage facilities in which it is situated. The processor shall also furnish to CCC such production records as CCC considers necessary to verify compliance with the quantitative limitations set forth in §§ 1435.304 and 1435.306 of this subpart.

(f) The processor shall be liable to CCC for any damages suffered by CCC if: (1) the processor delivers ineligible sugar to CCC; or (2) the processor delivers sugar to CCC which is stored in

ineligible storage. The processor shall be liable for such damages regardless of whether CCC inspected the sugar and storage facility prior to delivery.

**§ 1435.309 Processor storage agreement.**

(a) By executing a note and security agreement, the processor agrees to store any loan collateral sugar that is forfeited to CCC on behalf of CCC under the terms and conditions specified in this subpart and any storage agreement entered into between CCC and the processor. Should the terms of the storage agreement and the terms of these regulations conflict, the terms set forth in the regulations shall be applicable.

(b) The processor shall at all times be responsible for maintaining the quality and condition of the CCC-owned sugar in storage. The processor shall be liable to CCC for any damages suffered by CCC due to the failure of the processor to load out sugar meeting the eligibility criteria set forth in § 1435.308(b) of this subpart. Notwithstanding the foregoing, the processor shall not be liable for any damage, and CCC will bear its pro rata share of any loss, in the case of CCC-owned sugar stored at a commingled basis in eligible storage as set forth in § 1435.308(d) of this subpart, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC that each of the following conditions occurred: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other acts of God; (3) the processor gave the loanmaking office immediate notice of such loss or damage; and (4) the processor made no fraudulent or misleading representation in the loan documents or in obtaining the loan.

(c) After delivery of the sugar to CCC, the processor shall store sugar delivered to CCC in the eligible storage where delivered for as long as deemed necessary by CCC after delivery of the sugar to CCC. However, if a sugar beet processor requires the storage space for other sugar during the period, the processor is required by CCC to maintain the refined beet sugar delivered to CCC in settlement of the loan in the storage where delivered, CCC will accept bagged sugar from the then current crop in substitution for the delivered bulk sugar if the sugar loan rate for the area where the bagged sugar

is stored is equal to or exceeds the loan rate for the delivered bulk sugar.

(d) The processor shall remove and physically deliver the forfeited loan collateral in accordance with written institutions from CCC. All load out expenses shall be for the account of the processor.

(e) CCC shall make monthly storage payments to the processor for the period of time the processor stores the forfeited sugar for CCC. The storage payment rate shall be as agreed upon by CCC and the processor.

#### § 1435.310 Fees, charges, and bonding.

(a) *Loan Service Fee.* A processor shall pay to CCC a loan service fee in connection with the disbursement of each loan. The amount of the service fee shall be determined and announced by the Executive Vice President, CCC, or the Executive Vice President's designee.

(b) *Interest Charges.* Each sugar loan shall bear interest at the rate applicable to such Note and Security Agreement and such subsequent increased or decreased interest rates as determined and announced by the Secretary.

(c) *Late Payment Charges.* Late payment charges, if applicable, shall be charged in accordance with 7 CFR 1403.

(d) *Bonding.* (1) Except as provided in paragraph (2), a processor making application for a sugar loan in accordance with § 1435.305 of this subpart shall post a bond or other financial assurance acceptable to CCC, that is payable to CCC in the event that the processor does not pay the producers of sugar beets or sugarcane the maximum benefits under the sugar price support program. Posting of the bond or other financial assurance shall be required prior to disbursement of any loan proceeds. The bond or other financial assurance must provide protection for an amount equal to the applicable regional support level(s) for sugar beets and/or sugarcane times 10 percent of the total annual quantity of sugar beets and/or sugarcane delivered to the processor by producers for processing in the previous year or, in the event such quantity cannot be determined, the quantity estimated by CCC that will be delivered to the processor for that crop.

(2) CCC and a processor may agree upon an alternative method of obtaining adequate financial assurance if CCC determines that such alternative method will result in adequate protection for CCC and the producer.

#### § 1435.311 Miscellaneous provisions.

(a) *Insurance.* CCC will not require the processor to insure the sugar pledged as collateral. However, if the processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest after first satisfying the processor's equity in the sugar involved in the loss.

(b) *Scheme or device.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any scheme or device whatsoever.

(c) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, 7 CFR Part 13, shall be applicable to the program in this subpart.

(d) *Liens.* Waivers of liens or encumbrances on the sugar pledged as loan security to CCC must be obtained to protect fully the interest of CCC. A lienholder, in lieu of waiving a prior lien on sugar, may execute with CCC a Lienholder's Subordination Agreement (Form CCC-864) in which the lienholder's security interest is subordinated to the rights of CCC. No liens or encumbrances shall be placed on the sugar pledged as collateral after the loan is approved.

(e) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations at 7 CFR Part 780.

(f) *Records and Information.* (1) Maintenance and Inspection of Records. ASCS, the Office of the Inspector General, USDA, and the Comptroller General of the United States shall have the right to have access to the premises of the processor in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by the examining agency to verify compliance with the requirements of this subpart. Such books, records, accounts, and other written data shall be retained by the processor for not less than three years from the loan disbursement date.

(2) *Information on Freight Costs and Related Shipping Expenses.* Any processor obtaining price support on eligible sugar must, upon the request of CCC, provide to CCC such information as CCC deems appropriate concerning freight and related shipping costs for the processor's most recent complete marketing year. By obtaining price

support, processors are deemed to have agreed to provide such information when requested by CCC.

(g) *False certification.* Any false certification, including those made for the purpose of enabling a processor to obtain a price support loan to which it is not entitled, will subject the person making such certification to liability under applicable federal civil and criminal statutes.

(h) *Handling payments and collections of less than ten dollars.* In order to avoid unreasonable administrative costs incurred in making small payments and handling small accounts, amounts of \$9.99 or less which are due to a processor will be paid only upon the processor's request. Deficiencies of \$9.99 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(i) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a loan, payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in 7 CFR Part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

#### § 1435.312 Applicable forms.

The CCC forms for use in connection with this program will be available from the appropriate State committee or designated county committee. For any CCC form that refers to program participation by producers, the term "producer" shall mean "processor" when such form is used for participation in the sugar loan program.

#### § 1435.313 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. Chapter 25 and OMB Number 0560-0093 has been assigned.

Signed at Washington, DC, on October 24, 1986.

Peter C. Myers,  
Acting Secretary.

[FR Doc. 86-24474 Filed 10-24-86; 4:20 pm]

BILLING CODE 3410-05-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 75-CE-26-AD; Amdt. 39-5451]

**Airworthiness Directives; Cessna Models T310, 320, 340, 401, and 411 Series and Models 402, 402A, 402B, 414, 421A, 421B and 421C (S/N 421C0001 Through 421C0683) Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises Airworthiness Directive (AD) 75-23-08, applicable to certain Cessna 300 and 400 Series airplanes by adding certain Model 421C airplanes to the list of airplanes affected by the inspection requirements of AD 75-23-08. Numerous reports have been received of failures of the exhaust system on the Cessna Model 421C airplanes. This action is necessary to detect incipient failure of exhaust system components on the affected airplanes.

**DATE:** Effective date: November 4, 1986.  
**Compliance:** As prescribed in the body of the AD.

**ADDRESSES:** Cessna Service Letter ME75-17 dated July 14, 1975, Cessna Service Letter ME77-1 dated January 24, 1977, and Supplement 2 thereto dated June 26, 1978, and Cessna Multi-engine Service Information Letter ME79-32 dated August 17, 1979 may be obtained from Cessna Aircraft Company Customer Services, P.O. Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Charles D. Riddle, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

**SUPPLEMENTARY INFORMATION:**

Airworthiness Directive 75-23-08, Amendment 39-3608 applicable to Cessna T310, 320, 340, 401, and 411 Series airplanes and Models 402, 402A, 402B, 414, 421, 421A, and 421B airplanes requires inspection and replacement as necessary of the exhaust system. Subsequent to the issuance of this AD, numerous reports have been received of failures of exhaust system on the Cessna Model 421C airplanes. Some of these failures resulted in damage to the airplane in the area surrounding the exhaust system failure. The 421C was not included in the existing AD due to lack of service experience when the AD was published. The FAA has determined that an inspection of the exhaust system on the 421C is necessary. Therefore, the FAA is revising AD 75-23-08 by requiring inspection of the exhaust system on certain 421C airplanes. Since the condition described is likely to exist or develop in other Cessna Model 421C airplanes of the same design, the AD would require inspection of exhaust systems on these airplanes. The FAA has determined there will be approximately 529 additional airplanes affected by the proposed AD. The cost of inspecting these additional airplanes as required by the proposed AD is estimated to be \$70 per airplane. The total cost is estimated to be \$37,030 to the private section. The cost is so small that compliance with the proposal will not have a significant financial impact

on any small entities owning affected airplanes.

Therefore I certify that this action (1) is not a major rule under the provisions of Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exist for making this amendment effective in less than 30 days.

**List of Subjects in 14 CFR Part 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.

2. By revising AD 75-23-08, Amendment 39-3609 as follows: Revise the applicability statement to read:

"CESSNA: Applies to T310, 320, 340, 401, and 411 series airplanes and Models 402, 402A, 402B, 414, 421, 421A, 421B and 421C (S/N 421C0001 through 421 C0683) airplanes, certificated in any category."

BILLING CODE 4910-13-M

Description & Part Number	Qty Per Eng	T310 P,Q,R	320 D,E,F	340	340A	401/402 A,B	414	421 A,B	421 C	Notes
<u>Overboard Exhaust Stack Assembly</u>										
0850711-33 & -31	1 L.H.	X	X			X				
0850711-34,-40,-42	1 R.H.	X	X			X				
9910299-1 (5654551-7)	1 L.H.			X	X		X			
9910299-2 (5654551-8)	1 R.H.			X	X		X			
5155156-3	1 L.H.							X		
5155156-4	1 R.H.							X		
9910300-1 (5155100-7)	1 L.H.								X	
9910300-2 (5155100-8)	1 R.H.								X	
<u>Wastegate Inlet Elbow</u>										
9910299-10	1				X		X			
<u>Wastegate Overboard Pipe</u>										
0850713-1	1	X	X			X				
5355100-64	1			X						
9910299-6 (5654551-3)	1				X		X			
<u>Wastegate Outlet Elbow</u>										
5155156-5	1							X		3
9910300-3 (5155100-20)	1								X	
<u>Turbo Shield</u>										
0850902-1	1	X	X			X				
5155154-3	1							X		
5354005-1	1			X	X		X			
<u>Couplings (One Piece)</u>										
Wye Collector Inlet NH1000897-60	2 L.H. (All) 2 R.H. (340,414) 1 R.H. (T310, 320 & 401/402)	X	X	X	X	X	X			2
Wastegate Inlet NH1000897-70	1				X		X			2
Turbine Outlet NH1000897-40	1	X	X			X				
Turbine Outlet NH1000897-50	1			X	X		X	X	X	

TABLE 11  
100 HOUR INSPECTION EXHAUST SYSTEM COMPONENTS

Description & Part Number	Qty Per Eng	T310 P,Q,R	320 D,E,F	340	340A	401/402 A,B	414	421 A,B	421 C	Notes
<u>Exhaust Stack Assy</u>										
9910379-1 L.H. Eng (Inconel 601)	1 (LH)							X		7
9910379-2 R.H. Eng (Inconel 601)	1 (RH)							X		7
9910295-11 L.H. (5155184-1)	1								X	
9910295-12 R.H. (5155184-2)	1								X	
<u>Aft Slip Joints</u>										
9910314-1 (Inconel 601)	1							X		
<u>Aft Elbows</u>										
9910299-3 L.H. (5654551-5)	1			X	X		X			1 & 4
9910299-4 R.H. (5654551-6)	1			X	X		X			1 & 4
9910301-1 (0850712-39)	1 L.H.	X	X			X				1
9910301-3 (0850712-41)	1 R.H.	X	X			X				1
9910301-5 (0850712-40)	1 L.H.	X	X			X				1
9910379-19 (Inconel 601)	1 L.H.							X		
9910379-20 (Inconel 601)	1 R.H.							X		
<u>Wye Collector Assy</u>										
9910299-8 (Inconel 601)	1				X					1,3&4
9910301-4 (0850732-3)	1 L.H.	X	X			X				1 & 2
9910301-6 (0850732-18)	1 R.H.	X	X			X				1 & 2
9910341-1 (Inconel 601)	1			X						1,3&4
9910300-6 (5155100-1)	1								X	
<u>Wastegate Inlet Elbow</u>										
9910299-5 (5654551-4)	1				X		X			
<u>Couplings (One Piece)</u>										
Wastegate Inlet NH1000897-30	1							X		6
Wye Collector Inlet NH1000897-20	2			X	X		X			5



TABLE I  
EXHAUST COUPLING APPLICABILITY CHART

		AIRCRAFT APPLICABILITY											Life Limited
Coupling Part Number	Qty Per Act+	Torque In-Lbs	T310P Q, R	320	320A B, C	320D E, F	340 340A	401/402 A, B	414	421 A, B	421 C	Location	Life Limited
NH1000897-20	4	40 *					X		X			Collector Inlet	No
NH1000897-30	2	40 **								X		Wastegate Inlet	No
NH1000897-40 or V57A4234 or 41195AA423	2	40 *	X			X		X				Turbine Outlet	No
NH1000897-50 or V57A5019 or 41195AA502	2	40 *					X		X	X		Turbine Outlet	No
51394H250 (51134-2505 Gasket)	3	35		X								Collector Inlet	Yes
B38037 Alternates: 4309AL 4309AF	3	35			X							Collector Inlet	Yes
MVT64832 Alternates: 4309AL 4309F	3	35	X			X		X				Collector Inlet	Yes
MVT68892-250 Alternate: 4301BT250	4	45					X		X			Collector (wye) Inlet	Yes
4256AB200 Alternate MVT68892-200	2	45-50					X		X	X		Wastegate Inlet 340A(414) & Wastegate Exit (421)	Yes
4356AA300	2	70-90								X		Wastegate Inlet (421)	Yes

Single Piece "V" Coupling

Multi-Segment "V" Band Clamps

\* Initial installation of single piece couplings must be made in strict adherence to the specified 40 inch-pounds torque value. However, periodic retorquing is required only if coupling shows torque values below 30 inch-pounds.  
\*\* The 24096-300-N gasket is not required at the exhaust wastegate inlet of 421, 421A, and 421B aircraft when the NH 1000897-30 Single-piece coupling is installed.

This amendment becomes effective on November 4, 1986.

Issued in Kansas City, Missouri, on October 20, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-24382 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 86-AWP-23]

#### Alteration of Control Area 1487

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the description of Control Area 1487 located in the vicinity of Anchorage, AK, by realigning the centerline to the south. The realignment coincides with the establishment of three proposed new oceanic routes. This action enhances and improves traffic flow by permitting expanded use of domestic air traffic control (ATC) procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

**EFFECTIVE DATE:** 0901 UTC, December 18, 1986.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

#### SUPPLEMENTARY INFORMATION:

##### History

On August 15, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign Control Area 1487 located in the vicinity of Anchorage, AK (51 FR 29261). The realignment provides domestic controlled airspace for three new oceanic routes. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

#### The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of Control Area 1487 located in the vicinity of Anchorage, AK, by realigning the centerline to the south. The realignment coincides with the establishment of three proposed new oceanic routes. This action enhances and improves traffic flow by permitting expanded use of domestic ATC procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

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

#### List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas.

#### Adoption of the Amendment

#### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, 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.

2. Section 71.163 is amended as follows:

#### Control 1487 [Revised]

That airspace extending upward from 5,500 feet MSL to FL 450, within the area bounded by a line beginning at lat. 58°20'00" N., long. 148°55'00" W.; to lat. 59°08'30" N., long. 147°16'00" W.; counterclockwise via the arc of a 172-mile radius centered on the Anchorage VOR/DME to lat. 60°14'10" N., long. 145°29'30" W.; thence southeast 3 nautical miles from and parallel to the U.S. coastline to lat. 54°40'00" N., long. 132°56'00" W.; to lat. 54°14'00" N., long. 134°57'00" W.; to lat. 54°00'00" N., long. 136°00'00" W.; to lat. 52°43'00" N., long. 135°00'00" W.; to lat.

58°45'42" N., long. 151°45'00" W.; to the point of beginning. The portion within Canada is excluded.

Issued in Washington, DC, on October 21, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-24384 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 86-AWP-17]

#### Alteration of Control Area 1416; California

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the description of Control Area 1416 located in the vicinity of Fortuna, CA, by realigning the centerline to the south. The realignment coincides with the establishment of three proposed new oceanic routes. This action enhances and improves traffic flow by permitting expanded use of domestic air traffic control (ATC) procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

**EFFECTIVE DATE:** 0901 U.T.C., December 18, 1986.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

#### SUPPLEMENTARY INFORMATION:

##### History

On August 15, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of Control Area 1416 located in the vicinity of Fortuna, CA, by realigning the centerline to the south (51 FR 29262). The realignment coincides with the establishment of three new oceanic routes. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in

Handbook 7400.6B dated January 2, 1986.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of Control Area 1416 located in the vicinity of Fortuna, CA. The realignment coincides with the establishment of three oceanic routes. This action enhances and improves traffic flow by permitting expanded use of domestic ATC procedures thereby allowing additional flexibility for maneuvering traffic on their assigned routes for the ocean crossing.

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

#### List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas.

#### Adoption of the Amendment

#### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, 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.

2. Section 71.163 is amended as follows:

#### Control 1416 [Revised]

That airspace bounded by a line beginning at lat. 43°46'54" N., long. 126°37'47" W.; to lat. 41°23'24" N., long. 124°45'47" W.; to lat. 40°42'43" N., long. 124°09'16" W.; to lat. 40°37'44" N., long. 124°18'37" W.; to lat. 41°17'25" N., long. 124°56'57" W.; to lat. 42°35'56" N., long. 126°45'03" W.; to the point of beginning, excluding that airspace below 5,000 feet MSL which lies outside the Continental limits of the United States.

Issued in Washington, DC, on October 21, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-24385 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

### 14 CFR Part 73

[Airspace Docket No. 86-AWA-25]

#### Alteration of Restricted Area R-6601 Fort A. P. Hill, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment increases the times of use of Restricted Area R-6601 Fort A. P. Hill, VA, in order to meet actual Department of the Army requirements for the airspace.

**EFFECTIVE DATE:** 0901 U.t.c., December 18, 1986.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9246.

#### SUPPLEMENTARY INFORMATION:

#### History

On May 19, 1986, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to increase the time of designation of Restricted Area R-6601 Fort A. P. Hill, VA, by adding the months of March, April, October and November to the period published for regular daily use (51 FR 18336). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.66 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

#### The Rule

This amendment to Part 73 of the Federal Aviation Regulations increases the time of designation for Restricted Area R-6601 Fort A. P. Hill, VA, by adding the months of March, April, October and November to the period published for regular daily use. The

previous time of designation did not meet the Department of the Army's daily requirements for R-6601, necessitating nearly continuous Notices to Airmen (NOTAM) to permit regular operations in March, April, October and November. This amendment adjusts the published times to reflect actual restricted area use.

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

#### List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

#### Adoption of the Amendment

#### PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

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

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

2. Section 73.66 is amended as follows:

#### R-6601 Fort A. P. Hill, VA [Amended]

By removing the words "0700 to 2300 EST, June 1 through September 8; and 0700 to 2300 EST, September 9 through May 31, by NOTAM issued at least 48 hours in advance." and substituting the words "0700 to 2300 local time daily, March 1 through November 30; and 0700 to 2300 local time, December 1 through February 28/29 when activated by NOTAM at least 48 hours in advance."

Issued in Washington, DC, on October 21, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-24386 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF ENERGY

Federal Energy Regulatory  
Commission

## 18 CFR Part 282

[Docket No. RM79-14]

Conservation of Power and Water  
Resources; Incremental Pricing  
Regulations Implementing the  
Incremental Pricing Provision of the  
Natural Gas Policy Act of 1978AGENCY: Federal Energy Regulatory  
Commission, DOE.ACTION: Order prescribing incremental  
pricing thresholds.

**SUMMARY:** The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the

Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: November 1, 1986.

**FOR FURTHER INFORMATION CONTACT:** Raymond A. Beirne, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426 (202) 357-8500.

## Order of the Director, OPPR

[Docket No. RM79-14]

Issued: October 24, 1986.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of November, 1986 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing thresholds for November, 1986 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

## List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beirne,  
Acting Director, Office of Pipeline and  
Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<b>Calendar Year 1985</b>												
Incremental Pricing Threshold.....	\$2.373	\$2.378	\$2.383	\$2.388	\$2.399	\$2.410	\$2.421	\$2.427	\$2.433	\$2.439	\$2.446	\$2.453
NGPA section 102 Threshold.....	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091	4.116	4.141
NGPA section 109 Threshold.....	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	2.532
130 percent of No. 2 Fuel Oil in New York City Threshold.....	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630	6.940	7.140
<b>Calendar Year 1986</b>												
Incremental Pricing Threshold.....	\$2.460	\$2.467	\$2.474	\$2.481	\$2.487	\$2.493	\$2.499	\$2.504	\$2.509	\$2.514	\$2.522	
NGPA section 102 Threshold.....	4.166	4.191	4.216	4.241	4.264	4.287	4.310	4.332	4.354	4.376	4.403	
NGPA section 109 Threshold.....	2.539	2.546	2.553	2.560	2.566	2.572	2.578	2.583	2.588	2.593	2.601	
130 percent of No. 2 Fuel Oil in New York City Threshold.....	7.370	7.930	5.040	5.290	4.680	3.980	3.800	3.190	3.310	4.020	3.320	

[FR Doc. 86-24461 Filed 10-28-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES

## Social Security Administration

## 20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the  
Aged, Blind, and Disabled; Support and  
Maintenance Assistance Based on  
NeedAGENCY: Social Security Administration,  
HHS.

ACTION: Final rules.

**SUMMARY:** These final rules provide that we will not count as income or as a resource certain support and maintenance assistance in determining eligibility for and the amount of Supplemental Security Income (SSI) payments. They reflect section

1612(b)(13) of the Social Security Act (the Act) as amended by section 2639(b) of Pub. L. 93-369, the Deficit Reduction Act of 1984. Section 1612(b)(13) provides that support and maintenance assistance, including certain home energy assistance, which is provided on or after October 1, 1984 and before October 1, 1987, will not be counted as income if it has been certified by the State as both provided on the basis of need and (1) provided in kind by a private nonprofit organization, or (2) provided in cash or in kind by an entity providing home energy whose revenues are derived on a rate-of-return basis regulated by a State or Federal governmental body, a supplier of home heating gas or oil, or a municipal utility providing home energy.

**DATES:** These rules are effective October 29, 1986; however, the statutory provisions they reflect have been in effect since October 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Harry J. Short, Office of Regulations, Social Security Administration, 6401

Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7337.

**SUPPLEMENTARY INFORMATION:** Under the law and regulations prior to May 1, 1983, the effective date of section 404 of Pub. L. 98-21 (the Social Security Amendments of 1983), support and maintenance assistance, other than certain home energy assistance which was excluded under section 128 of Pub. L. 97-377 and section 545(a) of Pub. L. 97-424, provided to an aged, blind, or disabled individual, was counted as income in determining whether he or she was eligible for SSI benefits and the amount of his or her benefit. Section 128, which was effective beginning December 18, 1982, stated that no funds provided under it could be used to reduce or deny SSI payments because of the receipt of certain home energy assistance. Section 128 expired September 30, 1983, as did interim regulations reflecting its provisions that were published July 21, 1983 (48 FR 33256). Section 545(a) of Pub. L. 97-424

added a new section 1612(b)(13) to the Act to provide that certain home energy assistance not be counted as income for SSI purposes. Section 545(a) was enacted on January 6, 1983, to be effective February 1, 1983 through June 30, 1985. Interim regulations reflecting its provisions were also published on July 21, 1983. However, section 2639 of Pub. L. 98-369, effective October 1, 1984, struck out subsection (a) of section 545. We have, therefore, removed §§ 416.1155 and 416.1156 of the interim regulations and have made corresponding changes to §§ 416.1124, 416.1161, and 416.1201 of the interim regulations to remove the references to the home energy exclusion added by section 545. Public comments which were received on the interim home energy assistance regulations are addressed in these final regulations implementing the rules on certain support and maintenance assistance.

Section 404 of Pub. L. 98-21, enacted April 20, 1983 and effective from May 1, 1983 through September 30, 1984, amended section 1612(b)(13) of the Act. Section 2639 of Pub. L. 98-369, enacted July 18, 1984 and effective from October 1, 1984 through September 30, 1987 made the same changes to section 1612(b)(13) of the Act as did section 404 of Pub. L. 98-21. The provisions of section 1612(b)(13), as amended by section 2639 of Pub. L. 98-369 provide that certain support and maintenance assistance will not be counted as income when determining an individual's eligibility for and the amount of SSI payments.

Support and maintenance, as used in this document, includes assistance in meeting the costs of home energy. Under these rules, the support and maintenance assistance must be certified in writing by the appropriate State agency as both provided on the basis of need and (1) provided in kind by a private nonprofit organization, or (2) furnished in cash or in kind by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.

In addition, any support and maintenance assistance which we do not count as income will not be considered a resource. This policy is necessary in order for us to carry out this legislative intent that this assistance not be used to reduce or deny SSI payments.

We will not count certain support and maintenance assistance provided to an SSI claimant or his or her ineligible spouse, parent, sponsor (or a sponsor's spouse) of an alien, or essential person. In addition, we will not consider this

assistance in determining a pro rata share of household operating expenses under the rules in § 416.1133. These policies are also necessary to carry out the legislative intent that certain assistance not affect an individual's SSI eligibility or payment amount. To count support and maintenance assistance provided to an individual whose income and resources are deemed to be the income and resources of the SSI claimant or to any person who lives in an SSI claimant's household would defeat the purpose of this statutory provision.

Section 2639 of Pub. L. 98-369 also applies to the Aid to Families with Dependent Children (AFDC) program. (Regulations for the AFDC program are also contained in this issue of the Federal Register.) However, for the AFDC program the exclusions are at State option rather than mandatory. In addition, a different definition of support and maintenance has been used for the AFDC program. As a result, there will be situations in which assistance will be provided to joint AFDC/SSI households and excluded only under one of the two programs. We had to determine how to treat such assistance. Under the AFDC program the State will be required to prorate the assistance furnished to a household in order to determine what portion is attributable to the AFDC members of the household. We considered a similar provision for the SSI program in cases in which assistance would be counted for SSI purposes but excluded under the AFDC program because of the different definitions of support and maintenance assistance for the two programs. We decided not to include a rule for SSI purposes. The AFDC program, which pays benefits based on the family unit, considers any income of a member of the unit as income not to the individual but to the entire unit. The SSI program pays benefits to individual claimants and therefore only considers as income cash or other items received by the SSI claimant that he or she can use to meet food, clothing, or shelter needs. Under our deeming regulations at 20 CFR 416.1161(a), we do not deem to an SSI claimant income counted or excluded in figuring the AFDC payment of an individual whose income would be deemed to the SSI claimant. Thus, if assistance is provided to a joint AFDC/SSI household and it is established that it was received by an individual other than the SSI claimant, it is not income to the SSI claimant. If it is not established that any one individual received the assistance but rather that it was received by the entire household, any income will be allocated equally among

the members to determine what portion is income to the SSI claimant. Since this is a part of determining whether the SSI claimant has income, we did not believe it was necessary to include a provision to this effect in these regulations.

#### Regulatory Provisions

The rules in § 416.1157 reflect the statutory provision regarding the exclusion of support and maintenance assistance and provide necessary definitions. We have defined "support and maintenance" assistance as cash provided to meet feed, clothing, or shelter needs or as in-kind support and maintenance as defined in § 416.1121(h), which is limited to food, clothing, or shelter. In this definition we have retained the SSI program's long standing definition of support and maintenance as food, clothing and shelter. That definition is an integral part of the program. Payments under the SSI program have always been intended to assist an individual in meeting his or her basic needs for food, clothing and shelter. Section 1612(a)(2) has always required that in-kind support and maintenance be counted as income for SSI purposes. In implementing section 1612(a)(2) of the Act we have defined in-kind support and maintenance as food, clothing and shelter. This assures that if an individual's basic need of food, clothing or shelter are being met by other sources, SSI benefits are not paid to meet the same needs. Thus, for the SSI program, the concepts of "basic needs" and "support and maintenance" are synonymous.

Since the statute provides that support and maintenance assistance includes assistance to meet the costs of home energy, the definition of support and maintenance assistance includes home energy assistance. We have defined home energy assistance as assistance related to meeting the costs of heating or cooling a home and have listed examples of such assistance.

We have defined "based on need" generally in terms of whether the support and maintenance assistance was provided for the purposes of support and maintenance for an SSI claimant rather than in terms of assistance provided to individuals with limited income. We have defined based on need in this manner since it is implicit that if the assistance is provided to an SSI claimant it is provided to an individual with limited income. We expressly limited the definition of "based on need" to voluntary assistance rather than include assistance provided on the basis of an obligation. We so limited the definition because of

congressional intent that section 1612(b)(13) of the Act, as amended by section 2639 of Pub. L. 98-369, encourage the private sector to provide assistance to individuals and families with low income.

The rules in § 416.1157 also discuss what support and maintenance assistance we do not count as income. This section states that we will not count as income certain support and maintenance assistance received by an SSI claimant, his or her ineligible spouse, parent, sponsor (or a sponsor's spouse) of an alien, or essential person. This section also states that we will not consider such assistance in determining a pro rata share of household operating expenses under § 416.1133.

We have made conforming changes in § 416.1124 to provide that we will not count as unearned income certain support and maintenance assistance. We have also revised § 416.1161 to provide that we will not count such assistance provided to an ineligible spouse, an ineligible parent or essential person. In addition, we have revised the definition of resources in § 416.1201(a), to provide that support and maintenance assistance, which we do not count as income under § 416.1157, is not a resource.

#### Comments Received Following Publication of the Proposed Rules

These regulations were published as proposed rules on May 24, 1985 (50 FR 21457). Interested parties were given 60 days to submit comments. We received letters from four sources—one State agency, a public utility, and two gas and electric trade associations—commenting on the proposed changes to the SSI regulations. We are at this time also responding to comments received following publication on July 21, 1983 (48 FR 33256) of interim changes to the SSI regulations relating solely to home energy assistance. We received letters from four sources—one State agency, two public utilities and an electric trade association—commenting on the SSI changes following that publication. Those regulations have since expired, as has the initial home energy assistance legislation. However, many of the points raised by commenters on those regulations also apply to the regulations on support and maintenance assistance (which includes home energy assistance). Several writers wrote to support the proposed rules. Others, while expressing support of the proposed rules, suggested specific changes. We have addressed all comments below. Comments regarding the proposed changes to the AFDC program regulations are discussed in the

preamble to those regulations also contained in this issue of the **Federal Register**.

*Comment:* Several writers requested that we revise the final regulations to allow for the exclusion from countable income of support and maintenance assistance, including home energy assistance, that is given in cash by a private nonprofit agency. These regulations now provide only for the exclusion of assistance that is given in kind by a private nonprofit agency. Assistance provided in cash or in kind by a supplier of home energy is not counted as income and the writers suggest that the same exclusion be extended to assistance from private nonprofit agencies.

*Response:* Section 1612(b)(13) of the Social Security Act, which these regulations implement, limits the exclusion of assistance from nonprofit organizations to assistance which is furnished in kind. Since the law is clear on this point we cannot, by regulations, go further than the law itself. We are, therefore, unable to adopt the writers' suggestions.

*Comment:* One writer interpreted the proposed regulations as requiring that cash assistance funded by a utility company but provided through a private nonprofit agency be counted as income. The writer was concerned with the impact the restriction against exclusion from income of cash furnished by private nonprofit agencies would have on programs which channel private funds, such as cash from a municipal utility company, to needy individuals through private nonprofit agencies.

*Response:* The statute provides that support and maintenance assistance based on need which is furnished by a municipal utility, a rate-of-return entity, or a supplier of home heating oil or gas, whether in cash or in kind, is excluded. This applies whether the entity furnishes the assistance directly to the recipient of the aid or whether the aid is channeled to the recipient through a private nonprofit organization.

*Comment:* Another writer pointed out that the definition of a "rate-of-return" entity incorrectly states that such an entity's rates are established by a State or Federal governmental body. He states that such State and Federal bodies (frequently called commissions) do not establish rates but rather determine whether rates established by the utilities are just and reasonable.

*Response:* The writer is correct and we have revised the definition of a rate-of-return entity by removing the reference to "established".

*Comment:* One writer suggested that we revise the definition of in-kind income (in 20 CFR 416.1102) to make clear that in-kind income includes vouchers and third-party checks. The writer further suggested that other sections of the regulations pertaining to in-kind income be similarly revised.

*Response:* Section 416.1102 of our regulations defines in-kind income as not cash but food, clothing, or shelter or something that can be used to get one of these. It seems clear that vouchers and third-party checks that can be used to get food, clothing, or shelter, are not cash, meet the definition in § 416.1102, and are, therefore, in-kind income for SSI purposes. We are, therefore, making no changes to the regulations at this time.

*Comment:* Another writer pointed out that our regulations do not define or discuss "certification" and stated that he assumes, therefore, that each State has maximum flexibility to design the certification procedure.

*Response:* The writer is correct in his assumption that "certification" is not defined in these regulations so as to provide the States with maximum flexibility in the certification process.

#### Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

#### Paperwork Reduction Act

These regulations will impose no new reporting or recordkeeping requirements requiring clearance by the Office of Management and Budget.

#### Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities since they primarily affect individuals and States. States which will be affected are those which supplement the Federal SSI benefit and those States where Medicaid eligibility is tied to SSI benefit payments. However, a regulatory flexibility analysis as required under Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

#### List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: July 21, 1986.

Dorcas R. Hardy,  
Commissioner of Social Security.

Approved: August 6, 1986.

Otis R. Bowen,  
Secretary of Health and Human Services.

#### PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart K of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614, and 1631, of the Social Security Act, as amended; sec. 211 of Pub. L. 93-66; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c, and 1383, Sec. 2639 of Pub. L. 96-369.

2. Section 416.1124 is amended by revising paragraph (c)(10), to read as follows:

#### § 416.1124 Unearned income we do not count.

(c) \* \* \*

(10) Certain support and maintenance assistance as described in § 416.1157;

#### §§ 416.1155 and 416.1156 [Removed]

3. Part 416 is amended by removing §§ 416.1155 and 416.1156.

4. A new § 416.1157 is added to read as follows:

#### § 416.1157 Support and maintenance assistance.

(a) *General.* Section 2639 of Pub. L. 96-369, effective October 1, 1984 through September 1987, amended section 1612(b)(13) to provide that certain support and maintenance assistance, which includes home energy assistance, be excluded from countable income for SSI purposes. This section discusses how we apply section 1612(b)(13).

(b) *Definitions.* For support and maintenance assistance purposes—  
“Appropriate State agency” means the agency designated by the chief executive officer of the State to handle the State’s responsibilities as set out in paragraph (c) of this section.

“Based on need” means that the provider of the assistance: (1) Does not have an express obligation to provide the assistance; (2) States that the aid is given for the purpose of support or maintenance assistance or for home energy assistance (e.g., vouchers for heating or cooling bills, storm doors); and (3) Provides the aid for an SSI claimant, a member of the household in which an SSI claimant lives or an SSI claimant’s ineligible spouse, parent, sponsor (or the sponsor’s spouse) of an alien, or essential person.

“Private nonprofit agency” means a religious, charitable, educational, or other organization such as described in section 501(c) of the Internal Revenue Code of 1954. (Actual tax exempt certification by IRS is not necessary.)

“Rate-of-return entity” means an entity whose revenues are primarily received from the entity’s charges to the public for goods or services and such charges are based on rates regulated by a State or Federal governmental body.

“Support and maintenance assistance” means cash provided for the purpose of meeting food, clothing, or shelter needs of in-kind support and maintenance as defined in § 416.1121(h). Support and maintenance assistance includes home energy assistance. Home energy assistance means any assistance related to meeting the costs of heating or cooling a home. Home energy assistance includes such items as payments of utility service or bulk fuels; assistance in kind such as portable heaters, fans, blankets, storm doors, or other items which help reduce to costs of heating and cooling such as conservation or weatherization materials and services; etc.

(c) *What assistance we do not count as income.* We do not count as income certain support and maintenance assistance received on or after October 1, 1984 and before October 1, 1987 by you or your ineligible spouse, parent, sponsor (or your sponsor’s spouse) if you are an alien, or an essential person. We also do not consider certain support and maintenance assistance in determining a pro rata share of household operating expenses under § 416.1133. We do not count that assistance which is certified in writing by the appropriate State agency to be both based on need and—

- (1) Provided in kind by a private nonprofit agency; or
- (2) Provided in cash or in kind by—
  - (i) A supplier of home heating oil or gas;
  - (ii) A rate-of-return entity providing home energy; or
  - (iii) A municipal utility providing home energy.

5. Section 416.1161 is amended by revision paragraphs (a)(17) and (b) to read as follows:

#### § 416.1161 Income of an ineligible spouse, ineligible parent, and essential person for deeming purposes.

(a) \* \* \*

(17) Certain support and maintenance assistance as described in § 416.1157(c).

(b) *For an essential person.* We include all of an essential person’s income as defined in § 416.1102, except

for support and maintenance assistance as described in § 416.1157 and income excluded under Federal laws other than the Social Security Act. (See the appendix to this subpart.)

6. The authority citation for Subpart L of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), and 1631 of the Social Security Act, as amended; Sec. 211 of Pub. L. 93-66; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), and Sec. 2639 of Pub. L. 96-369.

7. Section 416.1201 is amended by revising the last sentence in paragraph (a) to read as follows:

#### § 416.1201 Resources; general.

(a) *Resources; defined.* \* \* \* In addition, support and maintenance assistance not counted as income under § 416.1157(c) will not be considered a resource.

[FR Doc. 86-24160 Filed 10-28-86; 8:45 am]

BILLING CODE 4190-11-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Parts 274 and 277

#### School Construction Contracts or Services for Tribally Operated Previously Private Schools and School Construction Contracts for Public Schools; Information Collections

September 17, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

**SUMMARY:** The Bureau is amending its program regulations by publishing the statements concerning information collection requirements required by the Office of Management and Budget. These technical amendments are being done to conform with 5 CFR 1320 by codifying such statements as part of its rules.

**EFFECTIVE DATE:** November 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** Woodrow W. Hopper, Jr., Chief, Division of Management Research and Evaluation, Room 334-South Interior, 1951 Constitution Avenue NW., Washington, DC 20245 (Telephone number (202) 343-1942).

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act (April 1, 1981) gave the Office of Management and Budget approval authority over agency collections of information from the

public. The Office of Management and Budget requires that an agency that has collections of information contained in its regulations must publish approved OMB control numbers for such collections in the Federal Register to ensure that this information is available to the public and that it is included in the Code of Federal Regulations.

This technical amendment includes only OMB control numbers for information collection requirements in 25 CFR Part 274 and 25 CFR Part 277.

These rules are procedural in nature and therefore not subject to notice and comment requirements as provided by 5 U.S.C. 553(b).

#### List of Subjects

##### 25 CFR Part 274

Government contracts, Indians-education, Indians-self determination, School construction.

##### 25 CFR Part 277

Government contracts, Indians-education, Indians-self determination, School construction.

Accordingly, 25 CFR Part 274 and 25 CFR Part 277 are amended as set forth below:

#### PART 274—SCHOOL CONSTRUCTION CONTRACTS OR SERVICES FOR TRIBALLY OPERATED PREVIOUSLY PRIVATE SCHOOLS

1. The authority citation for Part 274 continues to read as follows:

**Authority:** Secs. 204 and 208, Pub. L. 93-638, 88 Stat. 2203, 2214-2216 and 2216-2217 (25 U.S.C. 458 and 458d).

2. A new § 274.6 is added to subpart A to read as follows:

##### § 274.6 Information collection.

The information collection requirements contained in §§ 274.13, 274.15 and 274.40 are those necessary to comply with the application requirements of the Office of Management and Budget (OMB) Circular No. A-102. The Standard Form 424 and attachments prescribed by such circular are approved by OMB under 44 U.S.C. 3501 *et seq.* and assigned approval number 0348-0006. Sections 274.13, 274.15, and 274.40 describe the types of information that would satisfy the application requirements of Circular A-102 for this school construction program.

Information necessary for an application for Federal assistance will be submitted on Standard Form 424 which may be obtained with application materials in accordance with §§ 274.13, 274.15 and 274.40. This information is collected for the purpose of applying for Federal assistance and will be used in

determining eligibility. The obligation to respond is a requirement to obtain a benefit.

#### PART 277—SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

3. The authority citation for Part 277 continues to read as follows:

**Authority:** Sec. 207, Pub. L. 93-638; 88 Stat. 2216 (25 U.S.C. 458c(b)).

4. A new § 277.5 is added to subpart A to read as follows:

##### § 277.5 Information collection.

The information collection requirements contained in §§ 277.30 and 277.33 are those necessary to comply with the application requirements of the Office of Management and Budget (OMB) Circular No. A-102. The Standard Form 424 and attachments prescribed by such circular are approved by OMB under 44 U.S.C. 3501 *et seq.* and assigned approval number 0348-0006. Sections 277.30 and 277.33 describe the types of information that would satisfy the application requirements of Circular A-102 for this school construction program. Information necessary for an application for Federal assistance will be submitted on Standard Form 424 which may be obtained with application materials in accordance with §§ 277.30 and 277.33. This information is being collected for the purpose of applying for Federal assistance and will be used in determining eligibility. The obligation to respond is a requirement to obtain a benefit.

Ross O. Swimmer,

*Assistant Secretary, Indian Affairs.*

[FR Doc. 86-24468 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-02-M

#### DEPARTMENT OF THE TREASURY

##### Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7, 19, 240, 250, and 251

[T.D. ATF-242]

##### Form Number Change for Forms 1648, 1649, and 1650

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) has combined and renumbered ATF Forms 1648, 1649, and 1650. The new number is ATF Form 5100.31. This Treasury

decision amends ATF regulations to reflect the number change by substituting the new number for the old ones. The revision will not necessitate resubmission of any forms for approval.

**EFFECTIVE DATE:** November 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** James Ficaretta or Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; (202) 566-7626.

**SUPPLEMENTARY INFORMATION:** For the convenience of industry, and in order to reduce Government paperwork, three official forms relating to label approval under the Federal Alcohol Administration Act have been combined into a single form. The three forms are: ATF Form 1648 ("Application for Certificate of Exemption from Label Approval"), ATF Form 1649 ("Application for and Certification of Label Approval Under Federal Alcohol Administration Act"), and ATF Form 1650 ("Certificate of Exemption from Label Approval Under the Federal Alcohol Administration Act"). The new form is ATF Form 5100.31, titled "Application for and Certification/Exemption of Label/Bottle Approval." Only very minor revisions have been made on the new form. Approvals already granted on the old forms shall continue to be valid. For the sake of clarity in regulations, ATF has decided to issue this Treasury decision, so that all regulations making reference to the obsolete forms may be amended to refer to the new form number.

#### Administrative Procedure Act

As authorized by Section 553 of Title 5 of the United States Code, the regulatory changes in this final rule are being made without prior notice. Public participation in these changes is deemed unnecessary, since this decision merely deletes references to obsolete forms and inserts instead the correct form reference. Therefore, ATF has determined that it is unnecessary to issue this rule with notice and public comment under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

#### Executive Order 12291

In compliance with Executive Order 12291 of February 17 1981, ATF has determined that this final rule is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries,

Federal, state, or local government agencies, or geographic regions: or

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

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 604) are not applicable to this final rule, because ATF was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule, because it imposes no requirement to collect information.

#### Drafting Information

The principal author of this document is Steven C. Simon of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects

##### 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

##### 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

##### 27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, Labeling.

##### 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Spices and flavorings, Surety bonds, Security measures, Stills, Transportation, U.S. possessions, Vinegar, Warehouses, Wine.

##### 27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Vinegar, Warehouses, Wine.

##### 27 CFR Part 250

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation, U.S. possessions, Warehouses, Wine.

##### 27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

#### Issuance

Accordingly, Parts 4, 5, 7, 19, 240, 250 and 251 of Title 27 of the Code of Federal Regulations are amended as follows:

#### PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for Part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 4.40 is amended by replacing the words "Form 1649," wherever they appear, with the words "ATF Form 5100.31."

Par. 3. Paragraph (a) of § 4.50 is amended by replacing the words "Form 1649" with the words "ATF Form 5100.31."

Par. 4. Paragraph (b) of § 4.50 is amended by replacing the second sentence with the following: "Application for exemption shall be made on ATF Form 5100.31 in accordance with instructions on the form. If the application is approved, a certificate of exemption will be issued on the same form."

#### PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 5. The authority citation for Part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

Par. 6. Paragraphs (a) and (b) of § 5.51 are amended by replacing the words "Form 1649," wherever they appear, with the words "ATF Form 5100.31."

Par. 7. Paragraph (d) of § 5.51 is amended by replacing the words "Forms 1649" with the words "ATF Forms 5100.31."

Par. 8. Paragraph (a) of § 5.55 is amended by replacing the words "Form 1649" with the words "ATF Form 5100.31."

Par. 9. Paragraph (b) of § 5.55 is amended by replacing the words "Form 1650" with the words "ATF Form 5100.31," and by replacing the words "Form 1648" with the words "that form."

#### PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 10. The authority citation for Part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 11. Section 7.31 is amended by replacing the words "Form 1649," wherever they appear, with the words "ATF Form 5100.31."

Par. 12. Section 7.41 is amended by replacing the words "Form 1649," wherever they appear, with the words "ATF Form 5100.31."

#### PART 19—DISTILLED SPIRITS PLANTS

Par. 13. The authority citation for Part 19 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5004-5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111-5113, 5171-5173, 5175, 5176, 5178-5181, 5201-5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5362, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 14. Section 19.633 is amended by replacing the words "Form 1649/5100.31," wherever they appear, with the words "ATF Form 5100.31"; and by replacing the words "Forms 1649/5100.31" in paragraph (b) with the words "ATF Forms 5100.31."

#### PART 240—WINE

Par. 15. The authority citation for Part 240 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5332, 5351, 5353, 5354, 5356-5358, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 16. Section 240.580 is amended by removing the words "Form 1649" and the comma following them, and by replacing the words "Form 1650" with the words "ATF Form 5100.31."

#### PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Par. 17. The authority citation for Part 250 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5146, 5205, 5207, 5232, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 18. Section 250.314 is amended by replacing the words "Form 1649/5100.31," wherever they appear, with the words "ATF Form 5100.31"; and by replacing the words "Forms 1649/5100.31," wherever they appear, with the words "ATF Forms 5100.31."

#### PART 251—IMPORTATION OF DISTILLED SPIRITS, WINE, AND BEER

Par. 19. The authority citation for Part 251 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5365, 5555, 5662, 6302, 7805.

Par. 20. Section 251.58 is amended by replacing the words "(Form 1649)," in the first sentence, with the words "on ATF Form 5100.31"; by removing the words "(Form 1649)" from the second sentence; and by replacing the words "(Form 1650)," in the second sentence, with the words "on ATF Form 5100.31."

Par. 21. The second sentence of § 251.59 is amended by removing the words "(Form 1649)," and by replacing the words "(Form 1650)" with the words "on ATF Form 5100.31."

Par. 22. Section 251.204 is amended by replacing the words "Form 1649/5100.31," wherever they appear, with the words "ATF Form 5100.31"; and by replacing the words "Forms 1649/5100.31," wherever they appear, with the words "ATF Forms 5100.31."

Signed: September 16, 1986.

W.T. Drake,  
Acting Director.

Approved: October 14, 1986.

Michael H. Lane,  
Acting Assistant Secretary (Enforcement).  
[FR Doc. 86-24473 Filed 10-28-86; 8:45 am]

BILLING CODE 4810-31-M

#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 935

##### Approval of Permanent Program Amendments for the State of Ohio

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letter dated July 10, 1986, the Ohio Department of Natural Resources, Division of Reclamation, submitted proposed amendments to Ohio's regulatory program at Ohio Administrative Code (OAC) 1501:13-9-06. These are Ohio's use of explosives rules. OSMRE published a notice in the Federal Register on August 14, 1986, inviting public comment on the adequacy of the proposed amendments (51 FR 29112). The public comment period closed on September 15, 1986.

After providing an opportunity for public comment and conducting a thorough review of the program amendments and the public comments received, the Director of OSMRE has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving these program amendments. The Federal rules at 30 CFR 935 which codify decisions on the Ohio program are being amended to implement this decision.

EFFECTIVE DATE: October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

##### SUPPLEMENTARY INFORMATION:

##### I. Background

The Ohio program was approved effective August 16, 1982, by the notice published in the August 10, 1982 Federal Register. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio

program can be found in the August 10, 1982 Federal Register (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

##### II. Discussion of Amendments

By letter dated July 10, 1986, the Ohio Department of Natural Resources, Division of Reclamation (ODNR), submitted proposed amendments to the use of explosives rules at OAC 1501:13-9-06. The proposed amendments consist of the following:

(1) 1501:13-9-06(A)(4) defines a "certified mine foreman";

(2) 1501:13-9-06(A)(5) requires any certified blaster responsible for blasting operations to give direction and on-the-job training to uncertified persons on the blasting crew;

(3) 1501:13-9-06(A)(7) requires that copies of the blasting plan and the permit map be kept at the permit site or at the mine office closest to the permit site;

(4) 1501:13-9-06(C)(2) extends the time in which a permittee or permit applicant must conduct a preblast survey and prepare a written report to forty-five days;

(5) 1501:13-9-06(C)(5) requires the permittee to give the resident or owner of a dwelling or structure a copy of any preblast survey performed by the permittee without the written request of the resident or owner;

(6) 1501:13-9-06(E)(4) requires the certified blaster to define the limits of danger from flyrock; it also requires the certified mine foreman to keep people out of the blasting area until it is all clear;

(7) 1501:13-9-06(E)(5) requires the preblast warning signal to be repeated if the blast does not occur within two minutes of the signal;

(8) 1501:13-9-06(E)(6) requires all permit applications submitted after January 1, 1988, to contain standard warning and all-clear signals;

(9) 1501:13-9-06(F)(2)(a) prohibits blasting within three hundred feet of public water towers, public reservoir dams, transmission lines, tunnels or major oil and gas distribution pipelines, except where written permission is obtained from the controlling authorities or owners on a prescribed form;

(10) 1501:13-9-06(F)(2)(b) prohibits blasting within 500 feet of an active underground mine unless permission is obtained on a prescribed form;

(11) 1501:13-9-06(F)(13) requires all seismic measuring systems used to prove compliance with the ground vibration limits to have an upper-end

flat-frequency response of at least 200 hertz and a lower-end flat-frequency response no higher than 5 hertz;

(12) 1501.13-9-06(G)(3)(n) requires a statement of the type of blasting machine or other power source, and types of trunklines and downline systems used, if not readily apparent from other information in the blast record;

(13) 1501.13-9-06(G)(3)(v) deletes the requirement to describe any misfired explosive charge;

(14) 1501.13-9-06(G)(4) requires when using bulk explosives, completion of data in the blast record as soon as the quantity of bulk explosives is determined; and

(15) miscellaneous corrections of typographical errors.

On August 14, 1986, OSMRE published an announcement of the receipt of the amendments and invited public comment on the adequacy of the proposed amendments (51 FR 29112). The notice stated that a public hearing would be held only if requested. A request for a hearing was made and later withdrawn; therefore, a hearing was not held. The comment period closed on September 15, 1986. One public comment was received.

### III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on August 14, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

#### *Ohio Administrative Code*

1501.13-9-06 (A)(4) and (A)(7) define a certified mine foreman as a foreman who has a valid blaster certification, and require copies of the blasting plan and permit map be kept at the permit site or mine office closest to it, respectively. There are no Federal counterparts to these State provisions; however, they are not inconsistent with SMCRA and the Federal provisions in 30 CFR Chapter VII. Section 1501.13-9-06(A)(5) which requires any certified blaster responsible for blasting operations to give direction and on-the-job training to the blasting crew is no less effective than the Federal regulation at 30 CFR 850.13(a)(2).

1501.13-9-06(C)(2) sets forth the time in which the permittee must conduct a

preblast survey and prepare a written report. The Federal regulations at 30 CFR 816.62(b) require the operator to promptly conduct the survey and to promptly prepare the written report. Ohio's rule allows the permittee forty-five days for this. The Director finds this timeframe to conduct the survey and to prepare the written report to be reasonable. Therefore, he finds the Ohio revisions no less effective than the Federal regulations.

1501.13-9-06(C)(5) states that if the permittee conducts a preblast survey of a dwelling or structure without a written request for one from the resident or owner, the permittee shall provide the resident or owner with a copy of the survey. There is no Federal counterpart to this Ohio amendment. However, the Director finds that these provisions are not inconsistent with the requirements of SMCRA and 30 CFR Chapter VII.

1501.13-9-06(E)(4) requires the certified blaster to define the limits of danger from flyrock on the permit area. It further requires the certified mine foreman to keep all persons out of the blast area until the all-clear has been signaled and checked. 1501.13-9-06(E)(5) requires the preblast warning signal to be repeated if the blast does not occur within two minutes of the signal, and 1501.13-9-06(E)(6) requires all permit applications submitted after January 1, 1988, to contain a standard warning and all-clear signal. The Director finds that these requirements are no less effective than the Federal regulations at 30 CFR 816.66(c).

1501.13-9-06(F)(2) requires permission to blast within 300 feet of public facilities or within 500 feet of an active underground mine be obtained in writing on a prescribed form. The Director finds that while there are no specific counterpart Federal regulations to these requirements in the Ohio program, they are no less effective than the general requirements concerning the use of explosives, 30 CFR 816.61-68.

1501.13-9-06(F)(13) sets forth the standards which all seismic measuring systems used to prove compliance with ground vibration limits must meet. The Director finds these standards no less effective than the Federal regulations at 30 CFR 816.67.

1501.13-9-06(G) sets forth specific requirements for the blasting record to include the type of blasting machine and blasting information specific to the amount of bulk explosives used. This section also deletes the requirement to describe any misfired explosives charge as do the Federal rules. This section is no less effective than the Federal regulations at 30 CFR 816.68, and the Director so finds.

### IV. Public Comments

Comments were received from an energy supply and service company in Ohio. The commenter expressed concern that the proposed amendments would place additional burdens on operators and create an adverse environment between the United Mine Workers of America (UMWA) and operators. The Director finds that the amendments amplify and expand some of the Ohio use of explosives rules but do not increase the burden on the operator.

The commenter pointed to a seeming contradiction between 1501.13-9-06(B) and 13-9-06(F). Section 13-9-06(B) requires an anticipated blast design be submitted to the regulatory authority before blasting within 500 feet of an active or abandoned coal mine. Section 13-9-06(F) requires blasting to be conducted in a manner to prevent adverse impacts to any underground mine and adds a further safeguard of obtaining written permission to blast within 500 feet of an active underground mine. The Director finds this is a reasonable requirement since miners and others are likely to be in and around active coal mines, and the other provisions of 13-9-06 (B) and (F) adequately prevent damage to abandoned underground mine workings.

The commenter has addressed comments to 1501.13-9-06(B)(1)(b) which was not amended by the Ohio submission of July 10, 1986. The comments are, therefore, outside the scope of this rulemaking.

The commenter requests the ODNr define "active" in the phrase "active underground mine," in section 1501.13-9-06(F)(2)(b). The word "active" replaces the previously used term "underground mine not totally abandoned." The OSMRE believes that "active underground mine" is a commonly used term whose meaning is readily apparent. Therefore, the Director has no reason to require ODNr to amend its rule to include a definition of "active."

The commenter has addressed comments to 1501.13-9-06(2)(b) regarding the obtaining of permission from all State and Federal regulatory authorities concerned with the health and safety of underground miners. This portion of this section of the Ohio regulations was not amended by the Ohio submission of July 10, 1986. ODNr has merely added a requirement that the permissions be given on a form prescribed by the Chief, ODNr. Therefore, the comment is outside the scope of this rulemaking.

The commenter objects to having a potential situation arise where one certified mine foreman acting as a certified blaster must report to another certified mine foreman. The Director interprets the amendment as providing an additional safety check of the blasting area before allowing people to re-enter and does not believe that this additional safety feature would create any problems.

The commenter also sought clarification of the terms "communication or high voltage transmission tower" and "major oil or gas distribution pipeline." The Director believes these terms are self-explanatory and finds no basis to require ODNR to amend its rule to include definitions of "communication or high voltage transmission tower" or "major oil or gas distribution pipeline."

#### V. Director's Decision

The Director, based on the above findings, is approving the use of explosives rules as submitted to OSMRE on July 10, 1986. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments.

#### VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule 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 rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

#### List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 23, 1986.

James W. Workman,  
Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

#### PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 935 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. In Part 935, § 935.15 is amended by adding a new paragraph (y) as follows:

§ 935.15 Approval of regulatory program amendments.

\* \* \* \* \*

(y) The following amendment submitted to OSMRE on July 10, 1986, is approved effective October 29, 1986. Ohio Administrative Code, Section 1501:13-9-06, use of explosives.

[FR Doc. 86-24427 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-05-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Office of the Secretary

#### 42 CFR Part 1003

##### Medicare and Medicaid Programs; Fraud and Abuse; Correction

AGENCY: Office of the Secretary, HHS; Office of the Inspector General (OIG).

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published September 30, 1986, that established a new 42 CFR Chapter V—"Office of Inspector General—Health Care, Department of Health and Human Services."

FOR FURTHER INFORMATION CONTACT: Joel Schaer (202) 472-5270.

SUPPLEMENTARY INFORMATION: On September 30, 1986, a new Chapter V—"Office of Inspector General—Health Care, Department of Health and Human Services"—was published in the Federal Register (51 FR 34764) to specifically reflect the OIG's fraud and abuse authority and responsibilities under Medicare and Medicaid. In establishing the new Chapter V, several technical amendments addressing the OIG's civil

money penalty authorities, originally published in the Federal Register on September 13, 1985 (50 FR 37370), were inadvertently omitted in the recodification package.

To correct these omissions in 42 CFR Part 1003, we are making the following corrections:

#### § 1003.100 [Corrected]

A. Page 34777: In column 2, § 1003.100(a), in the fourth line, the citation "1320a-7c" is corrected to read as "1320a-7(c)."

#### § 1003.106 [Corrected]

A. Page 34779: In column 1, § 1003.106(c)(1), in the sixth line, "§ 1003.103" is corrected to read as "§§ 1003.103 and 1003.104."

B. Page 34779: In column 1, § 1003.106(c)(2), in the sixth line, "§ 1003.103" is corrected to read as "§§ 1003.103 and 1003.104."

#### § 1003.115 [Corrected]

A. Page 34780: In column 1, § 1003.115(b)(5), in the second line after the word "Medicare", the words "and Medicaid" are added.

#### § 1003.116 [Corrected]

A. On page 34780: In column 2, § 1003.116(b)(1)(ii), which was corrected to read § 1003.116(b)(2)(ii) at 51 FR 37577, October 23, 1986, is further corrected in the first line after the word "Medicare", by adding the words "and Medicaid".

(Catalog of Federal Domestic Assistance Programs, No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance Program; and No. 13.744, Medicare—Supplementary Medical Insurance Program)

Dated: October 22, 1986.

Barbara S. Wamsley,  
Acting Deputy Assistant Secretary for Management Analysis and Systems.  
[FR Doc. 86-24446 Filed 10-28-86; 8:45 am]  
BILLING CODE 4150-04-M

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

#### 43 CFR Part 1780

[Circular No. 2589; WO-150-06-4830-11]

##### Advisory Committees; Appointment and Reappointment to District Advisory Councils, etc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

**SUMMARY:** The final rulemaking amends Subpart 1784 of the title to redefine the conditions under which members may be reappointed to district advisory councils; delete the section on the California Desert Conservation Area Advisory Committee because it terminated and its functions were assumed by the California Desert District Advisory Council in 1981; correct the section of the regulations on frequency of appointments to district advisory councils to conform with the section on member service; and provide that a person occupying the position of the elected official of general purposes government may be permitted, at the discretion of the Secretary of the Interior, to remain on the council upon departing from elective office if there is another vacant position for which he or she is qualified.

**EFFECTIVE DATE:** November 28, 1986.

**ADDRESS:** Any suggestions or inquiries should be sent to: Director (150), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:**

David S. Johnson, (202) 343-2054.

**SUPPLEMENTARY INFORMATION:** A proposed rulemaking to amend provisions of the existing regulations in 43 CFR Part 1780, Advisory Committees, was published in the *Federal Register* on May 29, 1986 (51 FR 19367), inviting public comment for a period of 60 days.

The Department of the Interior received 2 comments, 1 from a State Office of the Bureau of Land Management, and 1 from an individual who currently serves on a District Advisory Council.

The first comment stated that, while the proposed rulemaking correctly explained that the functions of the California Desert Conservation Area Advisory Committee, which terminated on December 31, 1981, were taken over by the California Desert District Advisory Council, it omitted a statement of the Council's additional functions. These functions are set forth in section 601(g) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1781(g)). The functions have been fully stated in a provision added in the final rulemaking.

The same comment suggested that the current practice of maintaining the California Desert District Advisory Council with not less than 15 members be continued and that this requirements be formally stated in the final rulemaking. This comment has also been adopted. Because it performs the dual functions of advisory on multiple use of public lands and on matters relating to

management of the unique California Desert Conservation Area, it is important that this particular District Advisory Council include a full complement of 15 citizens to perform the work essential to these 2 functions.

The second comment suggested that § 1784.3(b)(1) of the proposed rulemaking is insufficiently flexible. This provision stated that a member of a council appointed on the basis of his or her status as an elected official of general purpose government to comply with section 309(a) of FLPMA shall leave the council upon departure from public office. The comment urged that the provision be amended to allow such a member to remain on the council at the discretion of the Secretary of the Interior if such member is qualified to represent one of the other major citizens' interests concerning the problems relating to land use planning or public land management, as provided in section 309(a) of FLPMA (43 U.S.C. 1739(a)). This suggestion has been adopted in the final rulemaking.

An editorial change has been made in § 1784.3(b) to make it clear that, for the purpose of reappointment eligibility, the 3-year term of a member of a district advisory council shall be deemed to begin on January 1 of the first year of the term, regardless of when the appointment is actually made. This clarification of intent is necessary to ensure that late appointments will not interfere with the regular turnover of council memberships.

Other editorial changes have been made as necessary.

The principal author of this final rulemaking is David S. Johnson of the Division of Congressional Affairs, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this final 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 rulemaking 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.). The final rulemaking will not affect the economy to the extent of \$100,000,000 per year, and will impose no new restrictions on commercial operations of any size.

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

#### List of Subjects in 43 CFR Part 1780

Administrative practice and procedure, Advisory committees, Public lands.

Under the provisions of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.), and 5 U.S.C. Appendix I, Part 1780, Group 1700, Subchapter A, Chapter II, Title 43 of the Code of Federal Regulations is amended in Subpart 1784 as set forth below:

J. Steven Griles,  
*Assistant Secretary of the Interior.*  
October 6, 1986.

#### Group 1700—Program Management

#### PART 1780—COOPERATIVE RELATIONS

#### Subpart 1784—Advisory Committees

1. The authority for Part 1780 continues to read as follows:

Authority: 5 U.S.C. Appendix I, 43 U.S.C. 1701 et seq.).

#### § 1784.0-3 [Amended]

2. Section 1784.0-3, paragraph (b) is revised to read as follows:

\* \* \* \* \*

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), requires establishment of advisory councils representative of major citizen interests concerned with resource management planning or the management of public lands.

#### § 1784.3 [Amended]

3. Section 1784.3, paragraph (b), is revised to read as follows:

\* \* \* \* \*

(b) Appointment to district advisory councils shall be for 3-year terms, on the established staggered-term basis, with as near as possible to one-third of each council subject to appointment each year. An appointment shall be considered effective, for the purpose of reappointment eligibility as defined in paragraphs (b) (3), (4), and (5) of this section, on January 1 of the first year of the term, regardless of the date the appointment is actually made. Terms and appointment are governed by the following:

(1) The term of the member of a council who has been appointed on the basis of his status as an elected official of general purpose government serving the people of the district for which the council is established shall end upon that person's departure from such elective office if such departure occurs before his or her term of appointment or reappointment to the council would otherwise expire. However, the Secretary, in his discretion, may permit the member to complete the term in another vacant position on the council, provided that the member is qualified to represent one of the other categories of major citizens' interests set forth in the charter of the council;

(2) A vacancy occurring by reason of removal, resignation, death, or departure from elective office shall be filled for the balance of the vacating member's term using the same method by which the original appointment was made;

(3) A person who has served a 3-year term on a council may, at the discretion of the Secretary, be reappointed to a second consecutive 3-year term;

(4) A person who has served an appointed term of less than 3 years on a council to fill a vacancy occurring for reasons described in paragraph (b)(2) of this section, if 3 years had elapsed since the completion of that person's last 3-year term before being appointed to the vacancy, may, at the discretion of the Secretary, be reappointed to 2 consecutive 3-year terms;

(5) A person who has served 2 consecutive 3-year terms on a council may be reappointed no earlier than 3 years after his or her last date of membership on that council. However, the Secretary may waive this 3-year waiting period and reappoint that person to a 1-year term, upon determining that the member's continued or renewed service on the council is in the public interest and critical to the effective functioning of the council, and the responsible district manager has certified that these conditions have been met.

#### § 1784.6-3 [Removed]

4. Section 1784.6-3 is removed and reserved.

#### § 1784.6-4 [Amended]

5. In § 1784.6-4, this first sentence of paragraph (b) is revised to read as follows:

#### § 1784.6-4 District advisory councils.

(b) The Secretary or his designee shall appoint 15 members to serve on the California Desert District Advisory Council, and not less than 10 nor more

than 15 members to serve on each of the other councils in accordance with the provisions of § 1784.3(b) of this title. \* \* \*

6. In § 1784.6-4, paragraphs (d) and (e) are redesignated (e) and (f), respectively, and new paragraph (d) is added to read as follows:

(d) In addition to the functions assigned by paragraph (c) of this section, the California Desert District Advisory Council advises the California Desert District Manager with respect to the implementation of the comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area.

#### § 1784.6-5 [Amended]

7. Section 1784.6-5(f) is removed.  
[FR Doc. 86-24396 Filed 10-28-86; 8:45 am]  
BILLING CODE 4310-84-M

### 43 CFR Public Land Order 6627

[AA-320-06-4220-10; M-32820]

#### Montana; Withdrawal of Public Land for Bureau of Reclamation Material Site

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order withdraws 170 acres of public land from surface entry and mining for 20 years for the Bureau of Reclamation to protect a critical material site. The land has been and will remain open to mineral leasing.

**EFFECTIVE DATE:** October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-657-6090.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Bureau of Reclamation as a material site.

#### Montana Principal Meridian

T. 7 N., R. 1 E.,  
Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ .

The area described contains 170 acres in Broadwater County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

**J. Steven GILES,**

*Assistant Secretary of the Interior.*

October 21, 1986.

[FR Doc. 86-24434 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-84-M

### 43 CFR Public Land Order 6626

[AA-320-06-4220-10; W-15857]

#### Withdrawal of Public Lands for Parting of the Ways Historical Site

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order withdraws 40 acres of public land from surface entry and mining to protect the Parting of the Ways historical site. The land has been and remains open to mineral leasing.

**EFFECTIVE DATE:** October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Tamara Gertsch, BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-772-2089.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a Bureau of Land Management historical site.

#### Sixth Principal Meridian

T. 26 N., R. 104 W.,  
Sec. 4, E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The area described contains 40 acres in Sweetwater County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

J. Steven Griles,

Assistant Secretary of the Interior.

October 21, 1986.

[FR Doc. 86-24435 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-84-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 9

#### Floodplain Management and Protection of Wetlands; Exemption

AGENCY: Federal Emergency  
Management Agency.

ACTION: Final rule.

**SUMMARY:** This rule exempts from the floodplain management requirement stated in 44 CFR Part 9 the placement of families in existing resources under Temporary Relocation Assistance provided under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

**EFFECTIVE DATE:** This rule is effective November 28, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Karen Forbes, Office of Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW., Room 713, Washington, DC 20472 (202) 646-3807.

**SUPPLEMENTARY INFORMATION:** On June 5, 1986, FEMA published a proposed rule in the Federal Register (51 FR 20535, June 5, 1986). Three responses were received. One commentator supported the use of existing resources in a floodplain for temporary housing purposes since it does not have a significant or long term effect on floodplain management.

Another commentator takes issue with the proposed exemption of the assistance under CERCLA from all eight floodplain management requirements in 44 CFR Part 9 Floodplain Management and Protection of Wetlands. The commentator suggested that two steps in the floodplain management process determination of the floodplain location

(Step 1), and identification and selection of non-floodplain alternatives (Step 3), could be required without compromising the delivery of Temporary Relocation Assistance.

However, the proposed regulation for the Temporary Relocation Assistance Program published in the Federal Register on June 10, 1986, addresses the concerns raised by the commentator without specifically requiring that Steps 1 and 3 of the floodplain management process be carried out. While § 220.13 of the Temporary Relocation Assistance rule begins by stating the exemption from all eight steps in 44 CFR Part 9, it goes on to require "... efforts shall be made to use existing resources outside of the floodplain when possible and families shall be notified in writing when they are referred by FEMA to existing resources in the floodplain. Also, referrals shall not be made to existing resources in the floodplain within communities which are not participating in the National Flood Insurance Program."

It should also be noted that the rule in no way prevents the carrying out of Steps 1 and 3. Because the proposed rule for Temporary Relocation Assistance program sufficiently addresses the concerns raised by the commentator, his suggested change to this rule is unnecessary.

Another comment was reviewed but it dealt with Disaster Temporary Housing and therefore was not considered.

FEMA has determined that the placement of families in existing resources under Temporary Relocation Assistance (CERCLA) should be exempt from the review process because:

(1) The need for temporary relocation is often immediate and the review process would significantly delay placement;

(2) FEMA's use of existing resources in the floodplain does not cause degradation of the floodplain;

(3) Non-use of existing resources in a floodplain could result in use of resources which would be more expensive;

(4) Temporary relocation usually lasts for a short period of time.

#### Environmental Considerations

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500 through 1508), FEMA has prepared an environmental assessment covering the issuance of these regulatory changes. FEMA has determined that there will be no significant impact caused by issuance of this regulation, and an environmental

impact statement will not be prepared. A finding of no significant impact has been issued. Copies of the environmental assessment and finding are available from the Office of Disaster Assistance Programs, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, and from the Rules Docket Clerk.

#### Executive Order 12291 "Federal Regulations"

This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of \$100 million or more.

This rule will not have a significant economic impact on small entities within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analyses will be prepared.

This rule does not call for the collection of any information.

#### List of Subjects in 44 CFR Part 9

Federal Emergency Management Agency, Floodplains.

Accordingly, Chapter I, Part 9 of Title 44, Code of Federal Regulations, is amended as follows:

#### PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

1. The authority citation for Part 9 continues to read:

Authority: E.O. 11988, E.O. 11990, Reorganization Plan No. 3, 1978; E.O. 12127, E.O. 12148, 42 U.S.C. 5201.

#### § 9.5 [Amended]

2. The introductory paragraph of § 9.5(c) is amended by adding in the parenthetical phrase at the end of the third sentence the following: "except as noted".

\* \* \* \* \*

3. Section 9.5 is amended by adding new paragraph (c)(14) to read:

(c) \* \* \*

\* \* \* \* \*

(14) Placement of families in existing resources and Temporary Relocation Assistance provided to those families so placed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510.

Dated: October 24, 1986.

Julius W. Becton, Jr.,

Director.

[FR Doc. 86-24426 Filed 10-28-86; 8:45 am]

BILLING CODE 6718-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Family Support Administration**

**45 CFR Part 233**

**Aid to Families With Dependent Children; Disregard of Support and Maintenance Assistance Based on Need**

**AGENCY:** Family Support Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** These regulations amend the interim final home energy regulations published July 12, 1983 (48 FR 33302) to reflect the changes in section 402(a)(36) of the Social Security Act as amended by section 2639 of Pub. L. 98-369 (effective October 1, 1984 through September 30, 1987). The regulations provide that, at State option, support and maintenance assistance (including home energy assistance) furnished on or after October 1, 1984 and before October 1, 1987 which has been certified by the State as both provided on the basis of need and (1) furnished in kind by a private nonprofit organization, or (2) furnished in cash or in kind by an entity providing home energy whose revenues are derived on a rate-of-return basis regulated by a State or Federal governmental body, or any supplier of home heating gas or oil, or a municipal utility providing home energy may be excluded as income and resources in the Aid to Families With Dependent Children program.

**DATES:** These final regulations are effective October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Levering, Room B-442, Transpoint Building, 2100 Second Street SW., Washington, DC 20201, telephone (202) 245-2637.

**SUPPLEMENTARY INFORMATION:**

**Timing and Form of Regulations**

On July 21, 1983, interim final regulations for the Aid to Families With Dependent Children (AFDC) Program were published in the *Federal Register* (48 FR 33302-33305) relating to the disregard of home energy assistance. The interim regulations were amended by proposed regulations published in the *Federal Register* on May 24, 1985 (50 FR 21472-21474) relating to the disregard of support and maintenance assistance, which includes home energy assistance.

**Discussion of Statutory Provisions**

Section 545 of Pub. L. 97-424 added section 402(a)(36) to the Social Security Act which provided that, at State option,

certain home energy assistance received from February 1, 1983 through June 30, 1985 may be excluded in the AFDC Program.

Section 404 of Pub. L. 98-21 (the Social Security Amendments of 1983), enacted on April 20, 1983, amended section 402(a)(36) as added by section 545 of Pub. L. 97-424. Section 402(a)(36) as amended by section 404 provided for the exclusion of certain support and maintenance assistance, at State option, including assistance received to assist in meeting the costs of home energy. Section 404 was effective from May 1, 1983 through September 30, 1984. We informed States of the statutory provisions of section 404 of Pub. L. 98-21 in Action Transmittal SSA-AT-84-8 dated May 1, 1984.

Section 2639 of Pub. L. 98-369 (the Deficit Reduction Act of 1984) was enacted on July 18, 1984, and became effective October 1, 1984. Section 2639 repealed both section 545 of Pub. L. 97-424 and section 404 of Pub. L. 98-21. In addition, section 2639 amends section 402(a)(36) of the Social Security Act for the period October 1, 1984 through September 30, 1987. Section 2639 of Pub. L. 98-369 is identical to section 404 of Pub. L. 98-21 except for the effective dates.

**Discussion of Regulation Provisions**

These final regulations do not implement section 404 of Pub. L. 98-21 as discussed in the proposed rules since the provision is no longer in effect. The regulations implement only changes enacted by section 2639 of Pub. L. 98-369. The regulations provide that, at State option, support and maintenance assistance (including home energy assistance) furnished from October 1, 1984 through September 30, 1987 which has been certified by the State as both provided on the basis of need and (1) provided in kind by a private nonprofit organization; or (2) provided either in cash or in kind by a supplier of home heating gas or oil, a municipal utility providing home energy, or an entity providing home energy whose revenues are derived on a rate-of-return basis regulated by a State or Federal governmental body may be excluded from income and resources.

These final regulations are contained in §§ 233.20 and 233.53. Section 233.20 is amended by revising subparagraph (a)(3)(xvi) to require that support and maintenance assistance (including home energy assistance) be treated in accordance with the rules set forth in § 233.53. Section 233.53 contains the State plan requirements and definitions governing the treatment of support and maintenance assistance (including home

energy assistance) under the AFDC program.

**Discussion of Comments**

Comments were received from twelve interested parties regarding the proposed rules on the disregard to support and maintenance assistance, and comments were received from seven interested parties regarding the earlier interim rules on the disregard of home energy assistance. The commenters include several State welfare agencies, three utility companies, two gas and electric trade associations, and a community action agency. These comments are discussed below:

*Comment:* One commenter asked whether Quality Control would consider it an error if support and maintenance or home energy assistance was not counted as income by a State after October 1, 1983, but the State plan has not been amended to include the disregard provision.

*Response:* Quality Control regulations contain a definition of permissible State practice which is used in determining erroneous payments. The regulations define permissible State practice as State written policy instructions that are consistent with the State plan or in the absence of written instructions, the State plan. Consequently, an amendment must be submitted to incorporate optional disregard provisions into the State plan. Otherwise, payments computed using the disregard would be overpayments (to the extent not covered by other disregards available under the plan) under the Quality Control system because the State's practice would be inconsistent with its plan.

*Comment:* Two commenters asked what effect these regulations will have on State operated energy assistance programs such as the Low Income Home Energy Assistance Program (LIHEAP).

*Response:* The regulations implement section 402(a)(36) of the Social Security Act. Therefore, they do not affect how assistance from State operated energy assistance programs is considered. With respect to the LIHEAP program, section 2605(f) of Pub. L. 97-35 and implementing regulations at 45 CFR 233.20(a)(4)(ii)(1) prohibit counting LIHEAP benefits as income or resources (see 51 FR 9191 March 18, 1986).

*Comment:* Two commenters expressed concern that the regulations do not explain what procedures should be used to certify that support and maintenance assistance and home energy assistance is based on need, or which types of assistance should be

considered under the disregard provision.

*Response:* States have maximum flexibility under these regulations to establish certification procedures, and elect the types and amounts of support and maintenance assistance (including home energy assistance) to be disregarded.

*Comment:* One commenter recommended that we revise the definition of "rate-of-return entity" to more accurately describe the function of a State or Federal governmental body. The commenter pointed out that the State or Federal governmental body does not establish rates. Rather, the governmental body determines whether the rates established by the utility are just and reasonable.

*Response:* We agree. The definition of "rate-or-return entity" in § 233.53(b) has been amended to reflect this recommendation.

*Comment:* Several commenters recommended that the regulations be amended to allow cash assistance from private non-profit organizations to be disregarded, and to make the disregard provisions mandatory rather than optional.

*Response:* These two recommendations cannot be adopted because they are inconsistent with the statute. Section 402(a)(36) of the Social Security Act clearly states that support and maintenance assistance provided by private non-profit organizations may be disregarded only if the assistance is furnished in kind. Further, the statute specifies that the disregard of support and maintenance assistance is optional in the AFDC program.

*Comment:* One commenter asked whether States are now required to count as income in-kind benefits provided by an individual to an AFDC applicant or recipient.

*Response:* These regulations permit States to disregard cash and in-kind benefits which would otherwise have to be counted. The regulations do not require any change in existing disregard policies. For example, under a separate AFDC policy, in-kind benefits from any source may be disregarded at State option. These regulations do not effect this longstanding policy.

*Comment:* One commenter felt that support and maintenance assistance should be disregarded from the point of receipt through the certifying State agency's completion of the exclusion process. The commenter also asked that States not incur errors under the Quality Control system regardless of whether the assistance is later determined to meet the disregard criteria.

*Response:* There is no authority under section 402(a)(36) of the Social Security Act to disregard support and maintenance assistance which does not meet all the conditions of the provision. One condition is that the State agency must certify that the assistance is based on need, and was furnished in an allowable form by one of the designated sources.

*Comment:* One commenter objected to allowing States to count assistance provided to joint AFDC/SSI households because section 402(a)(24) of the Social Security Act prohibits counting income and resources of SSI recipients under the AFDC program.

*Response:* If the assistance was furnished only to the SSI recipient, none of the assistance would be counted. However, if the assistance was furnished to the entire AFDC/SSI household, part of it belongs to the AFDC recipients. To ensure that only that portion of the assistance which is attributed to the AFDC recipients would be counted, these regulations require that States which do not disregard support and maintenance assistance must prorate such assistance when it is provided to joint AFDC/SSI households.

#### Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

#### Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, the reporting or recordkeeping provisions that are included in these final regulations have been approved by OMB under control number 0960-0252. These provisions are the State plan requirements in § 233.20(a)(3)(xvi) and 233.53.

#### Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect State governments and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 98-345, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of sections 1102 of the Social Security Act, as amended, 42 U.S.C. 1302, and section 2639 of Pub. L. 96-369.

(Catalog of Federal Domestic Assistance Program 13.806, Public Assistance Maintenance Assistance (State Aid))

#### List of Subjects in 45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance, Grant programs—social programs, Public assistance programs, Reporting requirements.

Dated: June 11, 1986.

Wayne A. Stanton,  
Administrator, Family Support  
Administration.

Approved: August 6, 1986.

Otis R. Bowen,  
Secretary of Health and Human Services.

#### PART 233—[AMENDED]

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 233 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

#### § 233.20 [Amended]

1a. Section 233.20 is amended by revising paragraph (a)(3)(xvi) to read as follows:

#### § 233.20 Need and amount of assistance.

(a) \* \* \*

(3) \* \* \*

(xvi) For AFDC, provide that in considering the availability of income and resources, support and maintenance assistance (including home energy assistance) will be taken into account in accordance with § 233.53.

2. Section 233.53 is revised to read as follows:

#### § 233.53 Support and maintenance assistance (including home energy assistance) in AFDC.

(a) *General.* Section 2639 of Pub. L. 98-369 provides that, at State option, certain support and maintenance assistance (including home energy assistance) furnished from October 1, 1984, through September 30, 1987 may be excluded from income and resources.

(b) *Definitions.* The following definitions are limited to the support and maintenance assistance provisions of this section.

"Appropriate State agency" means the agency designated by the chief executive officer of the State to handle the State's responsibilities with respect to support and maintenance assistance under paragraph (c) of this section.

"Based on need" means that the assistance is given to or on behalf of an applicant or recipient for the purpose of support and maintenance (including home energy) and meets the

criteria established by the State for determining the need for such assistance.

"In kind assistance" means assistance furnished in any form except direct cash payments to an applicant or recipient or direct payments to an applicant or recipient through other financial instruments which are convertible to cash.

"Private, nonprofit organization" means a religious, charitable, educational, or other organization such as described in section 501(c) of the Internal Revenue Code of 1954. (Actual tax exempt certification by IRS is not necessary).

"Rate-of-return entity" means an entity whose revenues are primarily received from the entity's charges to the public for goods or services, and such charges are based on rates regulated by a State or Federal governmental body.

"Support and maintenance assistance" means any assistance designed to meet the expenses of day to day living. Support and maintenance assistance includes home energy assistance. Home energy assistance means any assistance related to meeting the cost of heating or cooling a home. Home energy assistance includes such items as payments for utility service or bulk fuels; assistance in kind such as portable heaters, fans, blankets, storm doors, or other items which help reduce the costs of heating and cooling such as conservation or weatherization materials and services; etc.

(c) *Requirements for State Plans.* If a State elects to exclude from income and resources support and maintenance assistance, the State plan for AFDC must as specified below:

(1) Provide that an appropriate State agency will certify that support and maintenance assistance is based on need (as defined in paragraph (b) of this section), and that such certification will be accepted for purposes of determining eligibility for and the amount of payments under the AFDC program.

(2) Provide that in joint AFDC/SSI households, support and maintenance assistance furnished to the household which is not excluded under this paragraph will be prorated on a reasonable basis to determine the amount provided to the AFDC assistance unit. The State plan must describe the method that will be used to prorate the assistance in these circumstances.

(3) Provide that the types and amount of support and maintenance assistance that are excluded when received by an AFDC applicant or recipient will also be excluded in determining the income and resources of a parent, stepparent,

spouse or alien sponsor whose income is considered available to an AFDC applicant or recipient.

(4) *From October 1, 1984 through September 30, 1987*, provide that the State may exclude from income and resources, support and maintenance assistance (as defined in paragraph (b) of this section) which the appropriate State agency certifies is based on need, if the assistance is furnished by:

(i) A supplier of home heating gas or oil, regardless of whether the assistance is in cash or in kind; or

(ii) A municipal utility providing home energy, regardless of whether the assistance is in cash or in kind; or

(iii) A rate-of-return entity which provides home energy, regardless of whether the assistance is in cash or in kind; or

(iv) A private nonprofit organization, but only if such assistance is in kind.

(5) Provide that, if the State elects to exclude from income and resources any support and maintenance assistance, the State plan must:

(i) Describe the criteria that will be used to determine the need for the assistance;

(ii) Identify the types and amounts of assistance which will be excluded; and

(iii) Provide that any limitations will be made on a reasonable basis.

\* \* \* \* \*

[FR Doc. 86-24161 Filed 10-28-86; 8:45 am]

BILLING CODE 4190-11-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 15

[FCC 86-369]

#### Identification Requirements for Equipment Covered Under the Equipment Authorization Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission eliminates the filing requirements for grantees of equipment authorizations desiring to add additional model and type number of electrically identical equipment to their original grant. The Commission also amends its Rules to give additional information to the public on its equipment authorization program. This is a Commission initiated action to clarify the equipment authorization rules and remove a filing requirement it finds unnecessary and burdensome.

**EFFECTIVE DATE:** November 28, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Charles Cobbs, Office of Engineering and Technology, tel: (301) 725-1585.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order adopted August 7, 1986, and released September 11, 1986.

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

#### Summary of Order

The Commission discontinues the filing requirement for grantees equipment authorizations desiring to add additional model and type numbers to their original grant for electrically identical equipment, as specified under § 2.933 of the Rules. Commission experience has shown this requirement to be unnecessary. Requests for additional model or type numbers are usually made because of changes in cabinet color or style or other insignificant modifications that do not affect the capability of the equipment to comply with the relevant technical standards.

The subject Order also gives additional information on the equipment authorization program by amending §§ 2.936, 2.939, and 2.967 of the Rules.

#### Ordering Clauses

Accordingly, it is ordered, That, under the authority contained in sections 4(i), 302, 303(r) of the Communications Act of 1934, as amended, Parts 2 and 15 of the Rules are amended as shown below.

#### List of Subjects

##### 47 CFR Part 2

Communications equipment, Equipment, Identification.

##### 47 CFR Part 15

Communications equipment, Reporting requirements.

#### PART 2—[AMENDED]

A. Part 2 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 4, 302, 303, 307, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, unless otherwise noted.

2. In § 2.933, paragraph (a) is revised to read as follows:

**§ 2.933 Change in identification of equipment.**

(a) A new application for equipment authorization shall be filed whenever there is a change in the identification of the equipment with or without a change in design, circuitry or construction. However, for electrically identical equipment, a change in type or model number will not be considered to be a change in identification, and will not require a new application for equipment authorization.

3. In § 2.936, paragraphs (b) and (c) are revised to read as follows:

**§ 2.936 FCC Inspection.**

(b) The record of design drawings and specifications required by § 2.938(a).  
 (c) The record of the procedures used for production inspection and testing required by § 2.938(a)(2).

4. In § 2.939 paragraph (a)(1) is revised to read as follows:

**§ 2.939 Revocation or withdrawal of equipment authorization.**

(a) \* \* \*  
 (1) For false statements or representations made either in the application or in materials or response submitted in connection therewith or in records required to be kept by § 2.938.

5. In § 2.967, paragraph (c) is revised as follows:

**§ 2.967 Changes in type approved equipment.**

(c) If the Commission authorizes the change(s) requested, it may require the assignment of new identification pursuant to §§ 2.925 and 2.926 of this Chapter.

6. The authority citation for § 2.1001 is removed.

7. In § 2.1001, paragraph (d) is revised as follows:

**§ 2.1001 Changes in type accepted equipment.**

(d) If the Commission authorizes the changes requested, it may require the assignment of a new FCC Identifier.

8. In § 2.1035, paragraph (a) and paragraph (c)(1) are revised as follows:

**§ 2.1035 Abbreviated procedure for identical or private label equipment.**

(a) Application for certification of a private label equipment which is

essentially identical to previously certificated equipment shall be filed on FCC Form 731. Items that do not apply shall be so noted.

(c) \* \* \*  
 (1) The name and FCC Identifier of the previously certificated receiver. If the original grant of authorization was made before May 1, 1981, name and model number shall be submitted.

**PART 15—[AMENDED]**

B. Part 15 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 15 is revised to read as follows:

Authority: Secs. 4, 302, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303; Interpret or apply Sec. 301, 48 Stat. 1081; 47 U.S.C. 301, unless otherwise noted.

2. The authority citation for § 15.46 is removed.

3. In § 15.46, paragraphs (a) and (b) are revised as follows:

**§ 15.46 Photographs required.**

(a) For a receiver attach a photograph showing the general appearance of the receiver and the controls available to the user. If this photograph does not show the required identification in sufficient detail so that the name and FCC Identifier can be read, attach a second photograph giving this detail. If the device is a TV receiver and the channel readout provision is not clear on these photographs attach an additional photograph clearly showing the channel readout provision.

(b) For a device other than a receiver, attach a sufficient number of photographs to clearly show the exterior appearance, the construction, the component placement on the chassis and the chassis assembly. The exterior views shall show the overall appearance, the antenna used with the device, the controls available to the user, and the required identification label in sufficient detail so that the name and FCC Identifier can be read.

4. In § 15.48, paragraphs (a), (b), (c) introductory text and paragraph (c)(1) are revised as follows:

**§ 15.48 Private label device—Multiple listing of a device.**

(a) When the same or essentially the same device will be marketed under more than one trade name (as in the case of private label equipment), certification or type approval must be requested separately for each such additional trade name.

(b) If certification for additional trade name is requested in the initial application, a statement shall be included describing how these additional devices differ from the basic device that was measured and stating that the report of measurements submitted for the basic device, applies also to the additional devices.

(c) If certification for additional trade name(s) is requested after the basic device has been certificated, the application may, in lieu of the report of measurement, be accompanied by a statement including:

(1) The name of FCC Identifier of the device for which measurements are on file with the Commission. If the original grant of authorization was made before May 1, 1981, name and model number of the device shall be submitted.

5. In § 15.143, paragraph (a) is revised to read as follows:

**§ 15.143 Report of measurements.**

(a) Specific identification of the device that was measured including name and address of manufacturer, the name of the applicant for certification, FCC Identifier, if different, the trade name if any, the model number, and serial number, if any.

William J. Tricarico,  
 Secretary.

[FR Doc. 86-24397 Filed 10-28-86; 8:45 am]  
 BILLING CODE 6712-01-M

**47 CFR Part 42**

[CC Docket No. 84-283]

**Common Carrier Services; Preservation of Records of Communication Common Carriers; Correction**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On September 15, 1986, the Commission published a Report and Order in this proceeding concerning amendment of Part 42, "Preservation of Records of Communication Common Carriers", 51 FR 32651. An error was detected in § 42.6 and is corrected by amendment herein.

**EFFECTIVE DATE:** October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Debra Weber or John T. Curry (202) 634-1861.

**List of Subjects in 47 CFR Part 42**

Reporting and recordkeeping requirements.

**PART 73—[AMENDED]**

Part 42 of Title 47 of the CFR is amended as follows:

Part 42 Preservation of Records of Communication Common Carriers.

1. The authority citation for Part 42 continues to read as follows:

Authority: Section 4(i), 48 Stat. 1066, as amended, 47 U.S.C. 154(i).

2. Section 42.6 is revised to read as follows:

**§ 42.6 Retention of telephone toll records.**

Each carrier that offers or bills toll telephone service shall retain for a period of 18 months such records as are necessary to provide the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Each carrier shall retain this information for toll calls that it bills whether it is billing its own toll service customers for toll calls or billing customers for another carrier.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-24398 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 74**

[MM Docket No. 83-523; FCC 86-409]

**Amendment of the Commission's Rules and Regulations in Regard to the Instructional Television Fixed Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action disposes of petitions for partial reconsideration of the decisions made in *Memorandum Opinion and Order* in MM Docket 83-523 (*ITFS Reconsideration Order*), FCC 86-66, released March 14, 1986, (51 FR 9796; March 21, 1986) which confirmed most of the rule modifications adopted for the ITFS service in *Second Report and Order* in MM Docket 83-523 (*ITFS Order*), 101 FCC 2d 49 (1985). The petitions requested that further rule modifications adopted in the *ITFS Reconsideration Order* be reconsidered and repealed. One subject modification permits nonlocal ITFS applicants to amend their applications *pro forma* to

substitute local parties, thereby preventing dismissal during the local priority period. The other modification awards two preference points to any ITFS applicant which is mutually exclusive with another and is seeking its first ITFS facilities in the area where it has applied.

**EFFECTIVE DATE:** November 12, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Bruce Romano, tele: 202-632-9356.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order* in MM Docket 83-523, FCC 86-409, and released October 3, 1986.

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

**Summary of Memorandum Opinion and Order**

1. This *Memorandum Opinion and Order* considers petitions for reconsideration filed by several parties regarding the *ITFS Reconsideration Order*. Petitioners insist that the Commission should not have permitted nonlocal ITFS applicants the opportunity to amend their applications by substituting local parties as applicants without losing their cut-off status. They argue that this procedure violates the Commission's cut-off rules and the cut-off local applicants' rights, violates the commissions' rule regarding major and minor amendments, and does not accomplish the desired results. Other petitioners contend that the new rule adopted to favor applicants with no ITFS facilities over those with one or more ITFS channels in the area, where the two are mutually exclusive, unfairly and unwisely prejudices those parties which were pioneers in the field and have already demonstrated their ability to provide ITFS service.

2. The Commission rejects petitioners arguments regarding the amendment provision for nonlocal applicants. It states that it has justified the limited exception to its normal procedures that the rule provides.

3. The Commission agrees with petitioners regarding the two point preference for new facilities. To eliminate the unfairness that would

penalize a party with one channel, and award three channels to a new party, it eliminates the new rule. To maintain the desired preference for applications for new channels over other modifications of facilities, existing rule § 74.913(b)(3)(i) is clarified by a note which states that the two-point preference awarded under that section (for applications that would result in the total acquisition of four or fewer channels by the applicant) is not available to applicants seeking modifications of their facilities, other than the addition of new channels.

**Ordering Clauses**

4. Accordingly, It Is Ordered, That the petitions to deny filed on behalf of the first two groups of parties listed in footnote one, above, Are Denied.

5. It Is Further Ordered, That the petitions to deny filed by C, D, E Are Granted In Part, to the extent indicated herein.

6. It Is Further Ordered, That Part 74 of the Commission's Rules and Regulations Are Amended, effective November 12, 1986, as set forth in Appendix A, under authority contained in 47 U.S.C. 2, 4(i), and 303.

**List of Subjects in 47 CFR Part 74**

Experimental, auxiliary, and special broadcast and other program distribution services, Television broadcasting.

**Rule Changes****PART 74—[AMENDED]**

7. Part 74 of Title 47 of the Code of Federal Regulations is amended as follows:

1. the authority citation for Part 74 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 74.913 is amended by removing paragraph (b)(3)(ii); redesignating paragraph (b)(3)(i) as (b)(3); and adding new Note 3, to read as follows:

**§ 74.913 Selection procedure for mutually exclusive ITFS applications.**

\* \* \* \* \*

Note 3: Subparagraph (b)(3) above does not apply to applications for modification of facilities other than the addition of channels. Federal Communications Commission. William J. Tricarico, Secretary.

[FR Doc. 86-24400 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 97

[PR Docket No. 85-105; FCC 86-427 M.S.]

**Amateur Radio Service; Amendment To Permit Automatic Control of Amateur Stations****AGENCY:** Federal Communications Commission.**ACTION:** Petitions for reconsideration granted in part and denied in part. Final rules.

**SUMMARY:** Part 97 is amended to permit certain amateur stations, retransmitting digital packet communications of VHF and above, to be operated under automatic control while retransmitted third-party traffic. Such stations must use the ARRL AX.25 (or compatible) packet protocol. The rule amendments are necessary so that amateur operators can take advantage of contemporary technology. The effect of the rule amendments is to permit the retransmission of third-party traffic in packet networks.

**EFFECTIVE DATE:** November 24, 1986.**ADDRESS:** Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order, adopted October 6, 1986, and released October 16, 1986. The complete text of this Commission decision including the rule amendments is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision including the rule amendments may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

**Summary of Memorandum Opinion and Order**

1. In January, 1986, Part 97 was amended authorizing amateur stations transmitting digital communications on VHF and above to be operated under

automatic control. Twenty-one petitions seeking reconsideration were filed. Petitioners want to retransmit third-party packet radio communications when an amateur station is under automatic control, and also want automatic control to be authorized below VHF. Part 97 it amended to except from the general requirement for the presence of the station control operator, whenever third-party traffic is being transmitted, at intermediate retransmitting stations in a packet network using the ARRL AX.25 packet protocol. In making the exception, the Commission acknowledged the safeguard assurances by the petitioners for that protocol.

The Commission also said that control operators capable of monitoring ARRL AX.25 packet protocol transmissions must alert the responsible control operator of any intermediate retransmitting station under automatic control of any misuse of the station so that prompt corrective action will be taken. Consideration of automatic control for amateur stations transmitting digital communications below VHF was deferred until its feasibility can be determined.

The amended rules are set forth at the end of this document.

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the amended rules will not have a significant impact on a substantial number of small entities because such entities may not use the Amateur service for business communications. See 47 CFR 97.110.

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

4. The Memorandum Opinion and Order and the rule amendments are issued under the authority of 47 U.S.C. 145(i) and 303(r).

5. A copy of the Memorandum Opinion and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

6. It is ordered that Part 97 is amended as shown at the end of this document. It is further ordered that the petitions for

reconsideration are granted insofar as they are consistent with the action ordered in the Memorandum Opinion and Order and are denied in all other respects. It is further ordered that the rule amendments shall become effective November 24, 1986.

**List of Subjects in 47 CFR Part 97**

Amateur radio, Radio, Digital communications.

William J. Tricarico,  
Secretary.**Amended Rules****PART 97—[AMENDED]**

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

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

Authority: 28 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.80 (b) is revised to read as follows:

**§ 97.80 Operation under automatic control.**

\* \* \* \* \*

(b) No amateur station may be operated under automatic control while transmitting third-party traffic, except and amateur station retransmitting digital packet radio communications on frequencies 50 MHz and above. Such stations must be using the American Radio Relay League, Inc. AX.25 Amateur Packet-Radio Link-Layer Protocol, Version 2.0 October, 1984 (or compatible). The retransmitted messages must originate at an amateur station which is under local or remote control.

\* \* \* \* \*

3. Section 97.114(b)(4) is revised to read as follows:

**§ 97.114 Third-party traffic.**

\* \* \* \* \*

(b) \* \* \*

(4) Third-party traffic from an amateur station under automatic control, except under the conditions specified in § 97.80(b).

\* \* \* \* \*

[FR Doc. 86-4399 Filed 10-28-86; 8:45 am]  
BILLING CODE 6712-01-M

# Proposed Rules

Federal Register

Vol. 51, No. 209

Wednesday, October 29, 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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

#### Leakage Rate Testing of Containments of Light-Water-Cooled Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission is proposing to amend its regulations to update the criteria and clarify questions of interpretation in regard to leakage rate testing of containments of light-water-cooled nuclear power plants. The proposed rule would aid the licensing and enforcement staff by eliminating conflicts, ambiguities, and lack of uniformity in the regulation of the inservice inspection program.

**DATE:** Comment period expires January 26, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

**ADDRESSES:** Mail written comments to: U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. weekdays

Copies of draft regulatory guide MS 021-5 may be obtained from the Nuclear Regulatory Commission, Document Management Branch, Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** Mr. E. Gunter Arndt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7893.

#### SUPPLEMENTARY INFORMATION:

##### Background

Appendix J of 10 CFR Part 50 was originally issued for public comment as a proposed rule on August 27, 1971 (36

FR 17053); published in final form on February 14, 1973 (38 FR 4385); and became effective on March 16, 1973. The only amendment to this appendix since 1973 was a limited one, on Type B (penetration) test requirements that was published for comment on January 11, 1980 (45 FR 2330); published in final form September 22, 1980 (45 FR 62789); and became effective on October 22, 1980.

This revision of Appendix J has been in preparation for some time. It will provide greater flexibility in applying alternative requirements due to variations in plant design and reflects changes based on: (1) Experience in applying the existing requirements; (2) Advances in containment leak testing methods; (3) Interpretive questions; (4) Simplifying the text; (5) Various external/internal comments since 1973; and (6) Exemption requests received and approved.

The proposed revision is for the purpose of updating the existing regulation. Other related, longer term, and broader issues are currently under review by the NRC staff, such as containment function, degree of integrity required, and validation of that integrity under conditions other than postulated in this rule. In order to better understand its function and scope, assumptions inherent in Appendix J are presented as follow:

1. Certain levels of radiation exposure at the plant site boundary shall not be exceeded under (a) operating or (b) design basis accident conditions.

2. Certain levels of radiation exposure to plant operating personnel shall not be exceeded under (a) operating or (b) design basis accident conditions.

3. All four exposure levels (1a, 1b, 2a, 2b) may be different, but can be calculated.

4. Defense-in-depth will be used for protection against these levels of exposures. As the final barrier, a containment system is required in order to maintain any or all of these exposure limits.

5. The required degree of containment system leaktightness for design basis accidents can be (a) calculated, (b) specified, (c) built, (d) maintained, (e) inspected.

6. A generic inspection program can be defined that verifies the required leaktightness of the containment following construction and periodically throughout plant life.

7. NRC regulations should require such an inspection program, and define the test requirements and acceptance criteria.

8. A standard loss-of-coolant accident is assumed as the design basis accident. Since the containment isolation system is an engineered safety feature, only safety grade systems and components are relied upon to define the containment boundary that must be exposed to the containment pneumatic test pressure for the integrated leak rate test. In addition, all safety grade systems are assumed to be subject to a potential single active failure, and must be locally leak rate tested accordingly.

9. Pneumatic testing to peak calculated accident pressure is adequate without testing for, or at, accident temperatures or radiation levels.

10. Shielding tests need not be performed.

11. Periodic testing provides adequate confidence in the level of containment system integrity. Continuous monitoring of all individual isolation barriers is not necessary.

The scope of this revision to Appendix J is limited to corrections and clarifications, and excludes new criteria. However, this notice also addresses related, broader, longer term activities. Following is information of some of these other related activities that are not reflected in this proposed rulemaking.

In order to better identify the availability of containment leakage integrity, concepts of "continuous containment leakage monitoring" (such as negative containment operating pressure) and "relatively frequent gross containment integrity check" (such as a low pressure pumpup just prior to operation to check for openings) are under consideration by the NRC staff. These would identify large breaches of the containment system boundary, during or just prior to, normal operating conditions. It should be noted they would only test the normal operating containment atmosphere boundary, not the Appendix J, post-accident boundary including isolation valves. Comments on these or alternative concepts, and what effect, if any, they would have on the proposed Appendix J requirements, are also being solicited in the following section of this preamble.

Past practice has been to implement the provisions of Appendix J by means of licensees' technical specifications.

Currently, a Technical Specification Improvement Project (TSIP) is underway to reevaluate the NRC's philosophy and utilization of the technical specifications. While the proposed revision described herein assumes implementation of Appendix J by licensee's technical specifications, the work of the TSIP may lead to some changes in this form of implementation.

Another program is presently being conducted to identify current NRC regulatory requirements that have marginal importance to safety and to recommend appropriate actions to modify or to eliminate these unnecessary requirements. A Federal Register notice was published on October 3, 1984, to announce the initiation of the program (49 FR 39066). As a part of the program, regulatory requirements associated with containment leaktightness are being evaluated. The risk and cost effectiveness of containment leaktightness requirements will be examined to determine their value with respect to plant safety and possible alternative requirements.

Any resulting changes to existing regulations will be made through normal rulemaking procedures, including ACRS review and public comment. Comments on the questions posed in this notice will also provide early, useful input to these associated activities.

#### Invitation To Comment

Comments from all interested persons on all aspects of this revision and on the risk and cost effectiveness of containment leaktightness in general are requested by the comment expiration date in order that: (1) The final revision will reflect consideration of all points of view; and (2) The staff's assessment of the risk importance of containment leaktightness can benefit from such comments. Especially requested are comments which address the following questions:

- (1) The extent to which these positions in the proposed rule are already in use;
- (2) The extent to which those in use, and those not in use but proposed, are desirable;
- (3) Whether there continues to be a further need for this regulation;
- (4) Estimates of the costs and benefits of this proposed revision, as a whole and of its separate provisions;
- (5) Whether present operating plants or plants under review should be given the opportunity to continue to meet the current Appendix J provisions if the proposed rule (reflecting consideration of public comments) becomes effective;

(6) If the existing rule or its proposed revision were completely voluntary, how many licensees would adopt either version in its entirety and why;

(7) Whether (a) all or part of the proposed Appendix J revisions would constitute a "backfit" under the definition of that term in the Commission's Backfit Rule, and (b) there are parts of the rule which do not constitute backfits, but which would aid the staff, licensees, or both;

(8) Since the NRC is planning a broader, more comprehensive review of containment functional and testing requirements in the next year or two, whether it is then still worthwhile to go forward with this proposed revision as an interim updating of the existing regulation;

(9) The advisability of referencing the testing standard (ANSI/ANS 56.8) in the regulatory guide (MS 021-5) instead of in the text of Appendix J;

(10) The value of collecting data from the "as found" condition of valves and seals and the need for acceptance criteria for this condition;

(11) Whether the technical specification limits on allowable containment leakage should be relaxed and if so, to what extent and why, or if not, why not;

(12) What risk-important factors influence containment performance under severe accident conditions, to what degree these factors are considered in the current containment testing requirements, and what approaches should be considered in addressing factors not presently covered;

(13) What other approaches to validating containment integrity could be used that might provide detection of leakage paths as soon as they occur, whether they would result in any adjustments to the Appendix J test program and why;

(14) What effect "leak-before-break" assumption could have on the leakage rate test program. Current accident assumptions use instantaneous complete breaks in piping systems, resulting in a test program based on pneumatic testing of vented, drained lines. "Leak-before-break" assumptions presume that pipes will fail more gradually, leaking rather than instantly emptying.

(15) How to effectively adjust Type A test results to reflect individual Type B and C test results obtained from inspections, repairs, adjustments, or replacements of penetrations and valves in the years in between Type A tests. Such an additional criterion, currently outside the scope of this proposed revision, would provide a more meaningful tracking of overall

containment leaktightness on a more continuous basis than once every several years. The only existing or proposed criterion for Type B and C tests performed outside the outage in which a Type A test is performed is that the sum of Type B and C tests must not exceed 60% of the allowable containment leakage. Currently being discussed by the NRC staff are:

a. All Type B and C tests performed during the same outage as a Type A test, or performed during a specified time period (nominally 12 months) prior to a Type A test, be factored into the determination of a Type A test "as found" condition.

b. If a particular penetration or valve fails two consecutive Type B or C tests, the frequency of testing that penetration must be increased until two satisfactory B or C tests are obtained at the nominal test frequency. Concurrently, existing requirements to increase the frequency of Type A tests due to consecutive "as found" failures are already being relaxed in the proposed revision of Appendix J. Instead, attention would be focused on correcting component degradation, no matter when tested, and the "as found" Type A test would reflect the actual condition of the overall containment boundary.

c. Increases or decreases in Type B or C "as found" test results (over the previous "as left" Type B or C test results) shall be added to or subtracted from the previous "as left" Type A test result.

If this sum exceeds  $0.75 L_n$  but is less than  $1.0 L_n$ , measures shall be taken to reduce the sum to no more than  $0.75 L_n$ . This will not be considered a reportable condition.

If this sum exceeds  $1.0 L_n$ , measures shall be taken to reduce the sum to no more than  $0.75 L_n$ . This will be considered a reportable condition.

The existing requirements that the sum of all Type B and C tests be no greater than  $0.60 L_n$  shall also remain in effect.

#### Major Changes

The following are the major changes proposed in this rulemaking.

1. *Level of detail.* The level of detail addressed in the proposed revision of Appendix J has been limited. This revision of the regulation defines general containment system leakage test criteria.

2. *Editorial.* For increased clarity, an expanded and revised Table of Contents and set of definitions has been provided, conforming to current usage. The text has also been revised to conform to "plain English" objectives.

3. *Interpretations.* Some changes have been made to resolve past questions of interpretation (e.g., definitions of "containment isolation valves").

4. *Greater flexibility.* A major problem with Appendix J has been the lack of a provision for dealing with plants already built where design features are incompatible with Appendix J requirements (e.g., air lock testing). As a result, provision has been made in this revision for consideration by the NRC staff of alternative leakage test requirements when necessary.

5. *Type A test pressure.* The option of performing periodic reduced pressure testing in lieu of testing at full calculated accident pressure has been dropped. This change reflects the opinion that extrapolating low pressure leakage test results to full pressure leakage test results has turned out to be unsuccessful. Reasonable argument can be made for low pressure testing. However, the NRC staff believes that the peak calculated accident pressure (a) has always been the intended reference test pressure, (b) is consistent with the typical practice for NRC staff evaluations of accident pressure for the first 24 hours in accordance with Regulatory Guides 1.3 and 1.4, (c) provides at least a nominal check for gross low pressure leak paths that a low pressure leak does not provide for high pressure leak paths, (d) directly represents technical specification leakage rate limits, and (e) provides greater confidence in containment system leaktight integrity. For these reasons, the full, rather than reduced, pressure has been retained as the test pressure.

6. *Type A test frequency.* The test frequency has been uncoupled from the 10-year inservice inspection period used by the ASME Boiler & Pressure Vessel Code for mechanical systems. A different time base is used, but the frequency has remained essentially the same.

7. *Type A test duration.* The duration has been dropped from the test criteria in Appendix J. It is considered as part of the testing procedures, and is a function of the state of the testing technology and the level of confidence in it.

8. *Type A test "as is" clarification.* Appendix J originally noted in III.A.1(a) that the containment was to be ". . . tested in as close to the 'as is' condition as practical." This is re-emphasized and clarified by the explicit requirements that have been added to measure, record, and report "as found" and "as left" leakage rates.

9. *Type A test allowable leakage rate prorating.* Seventy-five percent of the allowable leakage rate represents the

"as left" Type A test acceptance criterion, leaving 0.25 of the allowable leakage rate as a margin for deterioration until the time of the next regulatory scheduled Type A test, when the "as found" leakage rate criterion is 1.0 of the allowable leakage rate.

10. *Quantification of allowable leakage rates.* It should be noted that no change has been made to the way in which the allowable test leakage rates are quantified. The regulation still refers to the individual plant technical specifications for these values. Debate continues, however, on what these values should be and whether they can be generically specified, rather than individually specified for each site and plant.

11. *Refocusing of corrective actions.* When a reportable problem is identified, a Corrective Action Plan is to be submitted. It identifies the problem to the NRC staff, and notes the cause, what was or will be done to correct it, and what will be done to prevent its recurrence.

Increased local leakage testing frequency may be necessary. Appendix J originally addressed increased test frequency only for Type A tests. This revision applies adjustment of test frequency directly to identified problem areas.

12. *The final paragraph of the proposed amendment specifies a date by which an implementation schedule must be submitted, rather than by which it must be implemented.* This is because the ease with which licensees will be able to implement all the provisions of the amendment will be highly plant specific depending on plant design, outage and testing schedules, and amount of technical specification changes needed.

The separate views of Commissioner Frederic M. Bernthal follow:

The public should be aware of the fact that the Commission for over a year has attempted to adapt the Backfit Rule to all rulemaking, even rulemaking that has nothing to do with changes to powerplant hardware and the original intent of the Rule.

This rulemaking and the accompanying analysis illustrates the difficulty. When applied to human-factors rules, updating antiquated rules, and certain other rulemaking, the Backfit Rule continues to exact NRC resources wholly disproportionate to any conceivable benefit to the public. The record already shows cases where the Commission has been forced to sidestep a strict reading of the cost-benefit requirements and the ". . . substantial increase in overall protection . . ." threshold of the Backfit

Rule, when it nevertheless finds broad agreement that a rulemaking is in the public interest (e.g. in the case of conversion of non-power reactors from HEU to LEU).

The public may therefore wish to comment directly on the question of whether the Commission should continue its attempts to apply the Backfit Rule to all rulemaking, or whether the Rule should be revoked as it applies to rulemaking activity per se.

Alternatively, the public may wish to consider whether the Commission should amend the Backfit Rule to waive the "substantial increase" provision, and to indicate explicitly that non-monetary benefits may be weighed by the Commission in the cost-benefit balance, when such considerations are found by the Commission to be in the public interest.

#### **Finding Of No Significant Environmental Impact: Availability**

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal Action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. There will be no radiological environmental impact offsite, but there may be an occupational radiation exposure onsite of about 3.0 man-rem per year of plant operation for inspection personnel (about 0.4% increase). Alternatives to issuing this revision were considered and found not acceptable. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Mr. E. Gunter Arndt, Office of Nuclear Regulatory Research.

U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443-7893.

#### **Paperwork Reduction Act Statement**

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

## Regulatory Analysis

The Commission has prepared a draft regulatory analysis on the proposed revision. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection and copying in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The Commission requests public comment on the draft analysis. Comments may be submitted to the NRC as indicated under the **ADDRESSES** heading.

## Backfit Analysis

The Commission has prepared a backfit analysis on the proposed revision. The analysis is required under 10 CFR Part 50, § 50.109, as of October 21, 1985, for the management of backfitting for power reactors. The analysis is available for inspection and copying in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The Commission requests public comment on the analysis. Comments may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The analysis does not conclude that there is a substantial increase in the overall protection of the public health and safety or the common defense and security to be derived from the backfit. It does conclude, however, that the direct and indirect costs of implementation are justified due to better, more uniform tests and test reports, greater confidence in the reliability of the test results, fewer exemption requests, and fewer interpretive debates. For these reasons, which are presented in greater detail in the backfit analysis, the Commission has decided to proceed with publication of the proposed rule for comment. The Commission's decision regarding promulgation of the rule, even though it may not provide a substantial increase in the overall protection of the public health and safety or the common defense and security, is tentative pending receipt of public comments on this issue.

## Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or

the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

## List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

## Related Regulatory Guide

The notice of availability of a draft regulatory guide on the same subject "Containment System Leakage Testing" (MS 021-5) is also being published elsewhere in this **Federal Register**. The draft regulatory guide contains specific guidance on acceptable leakage test methods, procedures, and analyses that may be used to implement these requirements and criteria.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

## PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

**Authority:** Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2262); secs. 201, 202, 206, 88 Stat. 1242, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 94-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Appendix J to Part 50 is revised to read as follows:

## Appendix J—Leakage Tests for Containments of Light-Water-Cooled Nuclear Power Plants

### I. Introduction

### II. Definitions

### III. General Leak Test Requirements

#### A. Type A Test

1. Preoperational Test
2. Periodic Test
3. Test Frequency
4. Test Start and Finish
5. Test Pressure
6. Pretest Requirements
7. Verification Test
8. Acceptance Criteria
9. Retesting
10. Permissible Periods for Testing

#### B. Type B Test

1. Frequency
2. Pressure
3. Air Locks
4. Acceptance Criteria

#### C. Type C Test

1. Frequency
2. Pressure/Medium
3. Acceptance Criteria
4. Valves That Need Not Be Type C Tested

### IV. Special Leak Test Requirements

#### A. Containment Modification or Maintenance

#### B. Multiple Leakage Barriers or Subatmospheric Containments

### V. Test Method, Procedures, and Analyses

#### A. Type A, B, and C Test Details

#### B. Combination of Periodic Type A, B, and C Tests

### VI. Reports

#### A. Submittal

#### B. Content

### VII. Application

#### A. Applicability

#### B. Effective Date

### I. Introduction

One of the conditions of all operating licenses for light-water-cooled power reactors as specified in § 50.54(o) of this part is that primary containments meet the leak test requirements set forth in this appendix. The tests ensure that (a) leakage through the primary containments or systems and components penetrating these containments does not exceed allowable leakage rates specified in the Technical Specifications and (b) inservice inspection of penetrations and isolation valves is performed so that proper maintenance and repairs are made during their service life. This appendix identifies the general requirements and acceptance criteria for preoperational and subsequent periodic leak testing.<sup>1</sup>

<sup>1</sup> Specific guidance concerning acceptable leakage test method, procedures, and analyses that may be used to implement these requirements and criteria will be provided in a regulatory guide that is being issued in draft form for public comment with the designation MS 021-5. Copies of the regulatory guide may be obtained from the Nuclear Regulatory Commission, Document Management Branch, Washington, DC 20555.

## II. Definitions

### Acceptance Criteria

Standards against which test results are to be compared for establishing the functional acceptability of the containment system as a leakage limiting boundary.

### "As Found" Leakage Rate

The leakage rate prior to any needed repairs or adjustments to the leakage barrier being tested.

### "As Left" Leakage Rate

The leakage rate following any needed repairs or adjustments to the leakage barrier being tested.

### Containment Integrated Leak Rate Test (CILRT)

The combination of a Type A test and its verification test.

### Containment Isolation System Functional Test

A test to verify the proper performance of the isolation system by normal operation of the valves. For automatic containment isolation systems, a test of the automatic isolation system performed by actuation of the containment isolation signals.

### Containment Isolation Valve

Any valve defined in General Design Criteria 55, 56, or 57 of Appendix A "General Design Criteria for Nuclear Power Plants," to this part.

### Containment Leak Test Program

The comprehensive testing of the containment system that includes Type A, B, and C tests.

### Containment System

The principal barrier, after the reactor coolant pressure boundary, to prevent the release of quantities of radioactive material that would have a significant radiological effect on the health of the public. It includes:

- (1) The primary containment, including access openings and penetrations,
- (2) Containment isolation valves, pipes, closed systems, and other components used to effect isolation of the containment atmosphere from the outside environs, and
- (3) Those systems or portions of systems that by their functions extend the primary containment boundary to include their system boundary.

This definition does not include boiling water reactors' (BWR) reactor buildings or pressurized water reactors' (PWR) shield buildings. Also excluded from the provisions of this appendix are the interior barriers such as the BWR Mark II drywell floor and the drywell perimeters of the BWR Mark III and the PWR ice condenser.

### $L_a$ (weight percent/24 hr)

The maximum allowable Type A test leakage rate in units of weight percent per 24-hour period at pressure  $P_{ac}$  as specified in the Technical Specifications.

### $L_{am}$ (weight percent/24 hr)

The measured Type A test leakage rate in units of weight percent per 24-hour period at

pressure  $P_{ac}$ , obtained from testing the containment system in the state as close as practical to that that would exist under design basis accident conditions (e.g., vented, drained, flooded, or pressurized).

### Leak

An opening that allows the passage of a fluid.

### Leakage

The quantity of fluid escaping from a leak.

### Leakage Rate

The rate at which the contained fluid escapes from the test volume at a specified test pressure.

### Maximum Pathway Leakage Rate

The maximum leakage rate that can be attributed to a penetration leakage path (e.g., the larger, not total, leakage of two valves in series). This generally assumes a single active failure of the better of two leakage barriers in series when performing Type B or C tests.

### Minimum Pathway Leakage Rate

The minimum leakage rate that can be attributed to a penetration leakage path (e.g., the smallest leakage of two valves in series). This is used when correcting the measured value of containment leakage rate from the Type A test ( $L_{am}$ ) to obtain the overall integrated leakage rate and generally assumes no single active failure of redundant leakage barriers under these test conditions.

### Overall Integrated Leakage Rate

The total leakage rate through all leakage paths, including containment welds, valves, fittings, and components that penetrate the containment system, expressed in units of weight percent of contained air mass at test pressure per 24 hours.

### $P_{ac}$ (psig)

The calculated peak containment internal pressure related to the design basis loss-of-coolant accident as specified in the technical specifications.

### Periodic Leak Test

Test conducted during plant operating lifetime.

### Preoperational Leak Test

Test conducted upon completion of construction of a primary or secondary containment, including installation of mechanical, fluid, electrical, and instrumentation systems penetrating these containment systems, and prior to the time containment integrity is required by the Technical Specifications.

### Primary Containment

The structure or vessel that encloses the major components of the reactor coolant pressure boundary as defined in § 50.2(v) of this part and is designed to contain accident pressure and serve as a leakage barrier against the uncontrolled release of radioactivity to the environment. The term "containment" as used in this appendix refers to the primary containment structure and associated leakage barriers.

### Structural Integrity Test

A pneumatic test that demonstrates the capability of a primary containment to withstand a specified internal design pressure load.

### Type A Test

A test to measure the containment system overall integrated leakage rate under conditions representing design basis loss-of-coolant accident containment pressure and systems alignments (1) after the containment system has been completed and is ready for operation and (2) at periodic intervals thereafter. The verification test is not part of this definition—see CILRT.

### Type B Test

A pneumatic test to detect and measure local leakage through the following containment penetrations:

- (1) Those whose design incorporates resilient seals, gaskets, sealant compounds, expansion bellows, or fitted with flexible metal seal assemblies.
- (2) Air locks, including door seals and door operating mechanism penetrations that are part of the containment pressure boundary.

### Type C Test

A pneumatic test to measure containment isolation valve leakage rates. *Verification Test*

Test to confirm the capability of the Type A test method and equipment to measure  $L_a$ .

## III. General Leak Test Requirements

### A. Type A Test

(1) Preoperational Test. A preoperational Type A test must be conducted on the containment system and must be preceded by:

- (a) Type B and Type C tests,
- (b) A structural integrity test.

(2) Periodic Test. A periodic Type A test must be performed on the containment system.

(3) Test Frequency. Unless a longer interval is specifically approved by the NRC staff, the interval between the preoperational and first periodic Type A tests must not exceed three years, and the interval between subsequent periodic Type A tests must not exceed four years. If the initial fuel loading is delayed so that the three-year interval between the first preoperational test and the first periodic test is exceeded, another preoperational test will be necessary. If such an additional preoperational Type A test or an additional Type A test required by Section III.A.8 or IV.A. of this appendix is performed, the Type A test interval may be restarted.

(4) Test Pressure. The Type A test pressure must be equal to or greater than  $P_{ac}$  at the start of the test but must not exceed the containment design pressure and must not fall more than 1 psi below  $P_{ac}$  for the duration of the test, not including the verification test. The test pressure must be established relative to the external pressure of the containment. This may be either atmospheric pressure or the subatmospheric pressure of a secondary containment.

(5) Pretest Requirements. Closure of containment isolation valves for the Type A

test must be accomplished by normal operation and without any preliminary exercising or adjustments for the purpose of improving performance (e.g., no tightening of valve after closure by valve motor). Repairs of malfunctioning or leaking valves must be made as necessary. Information on valve leakage that requires corrective action prior to, during, or after the test (see Section V.B.) must be included in the report submitted to the Commission as specified in Section VI of this appendix.

(6) Verification Test. A leakage rate verification test must be performed after a Type A test in which the leakage rate meets the criterion in III.A.(7)(b)(ii). The verification test selected must be conducted for a duration sufficient to establish accurately the change in leakage rate between the Type A and verification tests. The results of the Type A test are acceptable if the sum of the verification test imposed leakage and the containment leakage rate calculated from the Type A test ( $L_{am}$ ) does not differ from the leakage rate calculated from the verification test by more than  $\pm 0.25 L_m$ .

(7) Acceptance Criteria.

(a) For the preoperational Type A Test, the "as left" leakage rate must not exceed  $0.75L_m$ , as determined by a properly justified statistical analysis. The "as found" leakage rate does not apply to the preoperational test.

(b) For each periodic Type A test, the leakage rate, as determined by a properly justified statistical analysis, must not exceed:

- (i)  $L_m$ , for the "as found" condition,
- (ii)  $0.75L_m$ , for the "as left" condition.

(c) In meeting these Type A test acceptance criteria, isolation, repair, or adjustment to a leakage barrier that may affect the leakage rate through that barrier is permitted prior to or during the Type A test provided:

(i) All potential leakage paths of the isolated, repaired, or adjusted leakage barrier are locally leak testable, and

(ii) the local leakage rates are measured before and after the isolation, repair, or adjustment and are reported under Section VI of this appendix.

(iii) All changes in leakage rates resulting from isolation, repair, or adjustment of leakage barriers subject to Type B or Type C testing are determined using the minimum pathway leakage method and added to the Type A test result to obtain the "as found" and "as left" containment leakage rates.

(d) The effects of isolation, repair, or adjustments to the containment boundary made after the start of the Type A test sequence on the Type A test results must be quantified and the appropriate analytical corrections made (this includes tightening valve stem packing, additional tightening of manual valves, or any action taken that will affect the leakage rates).

(8) Retesting.

(a) If, for any periodic Type A test, the as found leakage rate fails to meet the acceptance criterion of  $1.0L_m$ , a Corrective Action Plan that focuses attention on the cause of the problem must be developed and implemented by the licensee and then submitted together with the Containment Leak Test Report as required by Section VI of this appendix. The test schedule applicable to subsequent Type A tests (III.A.(3)) shall be

submitted to the NRC staff for review and approval. An as left Type A test that meets the acceptance criterion of  $0.75L_m$  is required prior to plant startup.

(b) If two consecutive periodic as found Type A tests exceed the as found acceptance criterion of  $1.0L_m$ :

(i) Regardless of the periodic retest schedule of III.A.(3), a Type A test must be performed at least every 24 months (based on the refueling cycle normally being about 18 months) unless an alternative leakage test program is acceptable to the NRC staff on some other defined basis. This testing must be performed until two consecutive periodic "as found" Type A tests meet the acceptance criterion of  $1.0L_m$  after which the retest schedule specified in III.A.(3) may be resumed.

(ii) Investigation as to the cause and nature of the Type A test failure might indicate that an alternative leakage test program such as more frequent Type B or Type C testing may be more appropriate than the performance of two consecutive successful Type A leakage tests. The licensee may then submit a Corrective Action Plan and an alternative leakage test program proposal for NRC staff review. If this submittal is approved by the NRC staff, the licensee may implement the corrective action and alternative leakage test program in lieu of one or both of the Type A leakage tests required by Section III.A.(8)(b)(i).

(9) Permissible periods for testing. The performance of Type A tests must be limited to periods when the plant facility is secured in the shutdown condition under the administrative controls and safety procedures defined in the license.

B Type B Test

(i) Frequency.

(a) Type B tests, except tests for air locks, must be performed on containment penetrations during shutdown for refueling or at other convenient intervals but in no case at intervals greater than 2 years. If opened following a Type A or B test, containment penetrations subject to Type B testing must be Type B tested prior to returning the reactor to an operating mode requiring containment integrity.

(b) For containment penetrations employing a continuous leakage monitoring system that is at a pressure not less than  $P_{ac}$ , leakage readings of sufficient sensitivity to permit comparison with Type B test leak rates must be taken at intervals specified in the Technical Specifications. These leakage readings must be part of the Type B reporting of VI.A. When practical, continuous leakage monitoring systems must not be operating or pressurized during Type A tests. If the continuous leakage monitoring system cannot be isolated, such as inflatable air lock door seals, leakage into the containment must be accounted for and the Type A test results corrected accordingly.

(2) Pressure. Type B tests must be conducted, whether individually or in groups, at a pneumatic pressure not less than  $P_{ac}$  except as provided in paragraph III.B.(3)(b) of this section or in the Technical Specifications.

(3) Air Locks.

(a) Initial and periodic tests. Air locks must be tested prior to initial fuel loading and at least once each 6-month interval thereafter at an internal pressure not less than  $P_{ac}$ . Alternatively, if there have been no air lock openings within 6 months of the last successful test at  $P_{ac}$ , this interval may be extended to the next refueling outage or airlock opening (but in no case may the interval exceed 2 years). Reduced pressure tests must continue to be performed on the air lock or its door seals at 6-month intervals. Opening of the air lock for the purpose of removing air lock testing equipment following an air lock test does not require further testing of the air lock.

(b) Intermediate tests must be conducted as follows:

(i) Air locks opened during periods when containment integrity is required by the plant's Technical Specifications must be tested within 3 days after being opened. For air lock doors opened more frequently than once every 3 days, the air lock must be tested at least once every 3 days during the period of frequent openings. Air locks opened during periods when containment integrity is not required by the plant's Technical Specifications need not be repeatedly tested during such periods. However, they must be tested prior to the plant requiring containment integrity. For air lock doors having testable seals, testing the seals fulfills the intermediate test requirements of this paragraph. In the event that this intermediate testing cannot be done at  $P_{ac}$ , the test pressure must be as stated in the Technical Specifications.

(ii) Whenever maintenance other than on door seals has been performed on an air lock, a complete air lock test at a test pressure of not less than  $P_{ac}$  is required, if that maintenance involved the pressure retaining boundary.

(iii) Air lock door seal testing or reduced-pressure testing may not be substituted for the initial or periodic full-pressure test of the entire air lock required in paragraph III.B.(3)(a) of this Section.

(4) Acceptance Criteria.

(a) The sum of the as found or as left Type B and C test results must not exceed  $0.60L_m$  using maximum pathway leakage and including leakage rate readings from continuous leakage monitoring systems.

(b) Leakage measurements are acceptable if obtained through component leakage surveillance systems (e.g., continuous pressurization of individual or clustered containment components) that maintain a pressure not less than  $P_{ac}$  at individual test chambers of those same containment penetration during normal reactor operation. Similar penetrations not included in the component leakage surveillance system are still subject to individual Type B tests.

(c) An air lock, penetration, or set of penetrations that fails to pass a Type B test must be retested following determination of cause and completion of corrective action. Corrective action to correct the leak and to prevent its future recurrence must be developed and implemented.

(d) Individual acceptance criteria for all air lock tests must be stated in the Technical Specifications.

#### C. Type C Test

(1) Frequency. Type C tests must be performed on containment isolation valves during each reactor shutdown for refueling or at other convenient intervals but in no case at intervals greater than 2 years.

##### (2) Pressure/Medium.

(a) Containment isolation valves unless pressurized with a qualified water seal system must be pressurized with air or nitrogen at a pressure not less than  $P_{ac}$ .

(b) Containment isolation valves, that are sealed with water from a qualified seal system, must be tested with water at a pressure not less than  $1.10 P_{ac}$ .

##### (3) Acceptance Criteria.

(a) The sum of the as found or as left Type B and C test results must not exceed  $0.60L_m$  using maximum pathway leakage and including leakage rate readings from continuous leakage monitoring systems.

(b) Leakage from containment isolation valves that are sealed with water from a seal system may be excluded when determining the combined Type B and C leakage rate if:

(i) The valves have been demonstrated to have leakage rates that do not exceed those specified in the Technical Specifications, and

(ii) The installed isolation valve seal system inventory is sufficient to ensure the sealing function for at least 30 days at a pressure of  $1.10 P_{ac}$ .

##### (4) Valves That Need Not Be Type C Tested.

(a) A containment isolation valve need not be Type C tested if it can be shown that the valve does not constitute a potential containment atmosphere leak path during or following an accident, considering a single active failure of a system component.

(b) Other valves may be excluded from Type C testing only when approved by the NRC staff under the provisions of paragraph VII.A.

#### IV. Special Leak Test Requirements

##### A. Containment Modification or Maintenance

Any modification, repair, or replacement of a component that is part of the containment system boundary and that may affect containment integrity must be followed by either a Type A, Type B, or Type C test. Any modification, repair, or replacement of a component subject to Type B or Type C testing must also be preceded by a Type B or Type C test. The measured leakage from this test must be included in the report to the Commission required by Section VI of this appendix. Following structural changes or repairs that affect the pressure boundary, the licensee shall demonstrate whether or not a structural integrity test is needed prior to the next Type A test. The acceptance criteria of paragraph III.A.(7), III.B.(4), or III.C.(3) of this appendix, as appropriate, must be met. Type A testing of certain minor modifications, repairs, or replacements may be deferred to the next regularly scheduled Type A test if local leakage testing is not possible and visual (leakage) examinations or nondestructive examinations have been conducted. These shall include: Welds of

attachments to the surface of the steel pressure retaining boundary; Repair cavities the depth of which does not penetrate the required design steel wall by more than 10%; Welds attaching to the steel pressure retaining boundary penetrations the nominal diameter of which does not exceed one inch.

##### B. Multiple Leakage Barrier or Subatmospheric Containments

The primary reactor containment barrier of a multiple barrier or subatmospheric containment shall be subjected to Type A test to verify that its leakage rate meets the requirements of this appendix. Other structures of multiple barrier or subatmospheric containments (e.g., secondary containments for boiling water reactors and shield buildings for pressurized water reactors that enclose the entire primary reactor containment or portions thereof) shall be subject to individual tests in accordance with the procedures specified in the technical specifications.

#### V. Test Methods, Procedures, and Analyses

##### A. Type A, B, and C Test Details

Leak test methods, procedures, and analyses for a steel, concrete, or combination steel and concrete containment and its penetrations and isolation valves for light-water-cooled power reactors must be referenced or defined in the Technical Specifications.

##### B. Combination of Periodic Type A, B, and C Tests

Type B and C tests are considered to be conducted in conjunction with the periodic Type A test when performed during the same outage as the Type A test. The licensee shall perform, record, interpret, and report the tests in such a manner that the containment system leak-tight status is determined on both an as found basis and an as left basis, i.e., its leak status prior to this periodic Type A test together with the related Type B and C tests and its status following the conclusion of these tests.

#### VI. Reports

##### A. Submittal

1. The preoperational and periodic Type A tests, including summaries of the results of Type B and C tests conducted in conjunction with the Type A test, must be reported in a summary technical report sent not later than 3 months after the conduct of each test to the Commission in the manner specified in § 50.4. The report is to be titled "Containment Leakage Test."

2. Reports of periodic Type B and C tests conducted at intervals intermediate to the Type A tests must also be submitted to the NRC in the manner specified in § 50.4 and at the time of the next Type A test submittal. Reports must be submitted to the NRC Regional Administrator within 30 days of completion of any Type B or C tests that fail to meet their as found acceptance criteria.

##### B. Content

A Type A test Corrective Action Plan, when required under paragraph III.A.(8) of this appendix, must be included in the report. Any corrective action required for those Type

B and C tests included as a part of the Type A test sequence must also be included in the report.

#### VII. Application

##### A. Applicability

The requirements of this appendix apply to all operating nuclear power reactor licensees as specified in § 50.54(o) of this part unless it can be demonstrated that alternative leak test requirements (e.g., for certain containment designs, leakage mitigation systems, or different test pressures not specifically addressed in this appendix) are demonstrated to be adequate on some other defined basis. Alternative leak test requirements and the basis for them will be made a part of the plant Technical Specifications if approved by the NRC staff.

##### B. Effective Date

This appendix is effective (30 days after publication of the final rule). By (insert a date 180 days after the effective date of this revision), each licensee and each applicant for an operating license shall submit a plan to the Director of the Office of Nuclear Reactor Regulation for implementing this appendix. This submittal must include an implementation schedule, with a final implementation no later than (insert a date 48 months after the effective date of this revision). Until the licensee finally implements the provisions of this revision, the licensee shall continue to use in their entirety the existing Technical Specifications and the Appendix J on which they are based. Thereafter, the licensee shall use in their entirety this revision and the Technical Specifications conforming to this revision.

Dated at Washington, DC, this 22d day of October, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86-24496 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 86-CE-49-AD]

##### Airworthiness Directives; Beech 99 and 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Beech 99 and 100 Series airplanes. The proposal would require inspection and replacement of rivets which attach each elevator outboard hinge to the stabilizer. Loose

or sheared rivets have been found in ten instances. Replacement of the rivets with bolts as specified in Beech Service Bulletin No. 2132 will prevent a loose hinge bracket and possible loss of the hinge attachment. Hinge failure will result in loss of elevator control and could cause loss of the airplane.

**DATE:** Comments must be received on or before December 4, 1986.

**ADDRESSES:** Beech Service Bulletin No. 2132 issued April, 1986, applicable to this AD may be obtained from Beech Aircraft Corporation, 9709 East Central, Post Office Box 85, Wichita, Kansas 67201; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-49-Ad, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

**FOR FURTHER INFORMATION CONTACT:** Mr. Don Campbell, FAA, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4409.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

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

##### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel,

Attention: Airworthiness Rules Docket No. 86-CE-49-Ad, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

#### Discussion

The elevator outboard hinge bracket attaches to a rib on the horizontal stabilizer by means of four rivets on Beech 99 and 100 Series airplanes. Ten reports have been received since 1980 of the bracket attachment becoming loose due to sheared or loose rivets. In some cases, only one rivet remained holding the hinge in place. There have been seven instances on the 99 Series, and three on the 100 Series.

Beech has issued Service Bulletin No. 2132, calling for inspection to detect looseness of the outboard hinge. The service bulletin instructs that loose or sheared rivets be replaced by close tolerance bolts. Because of the history associated with these hinges, the FAA has determined that repetitive inspection of the rivets alone is not sufficient to ensure continued airworthiness. Therefore, since an unsafe condition exists or is likely to develop on other airplanes of the same type design, the FAA is proposing an Airworthiness Directive (AD) applicable to Beech 99 and 100 series airplanes which will require, within a specific time period, replacement of rivets with bolts in the elevator outboard hinge attachment, as instructed in Beech Bulletin No. 2132. Until the rivets are replaced with bolts, the AD will also require interim inspections specified in Beech Service Bulletin No. 2132.

The FAA has determined that there are approximately 624 airplanes affected by the proposed AD. The cost of inspection and modifying these airplanes as required by the proposed AD is estimated to be \$400 per airplane. The total cost is estimated to be \$249,600 to the private sector. The cost of the replacement hinge brackets is not included. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the

location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### The Proposed Amendment

#### PART 39—[AMENDED]

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

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

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

2. By adding the following new AD:

Beech: Applies to Models 99, 99A, A99A, B99 and C99 (Serial Numbers U-1 thru U-240); 100 and A100 (Serial Numbers B-1 thru B-247); and B100 (Serial Numbers BE-1 thru BE-137), airplanes certificated in any category.

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

To detect looseness of the elevator outboard hinge attachment to the stabilizer and prevent loss of integrity of the hinge attachment, accomplish the following:

(a) Upon the accumulation of 1000 hours total time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, which ever comes later, and thereafter at intervals not to exceed 100 hours TIS for Model 99 Series or 150 hours TIS for Model 100 Series airplanes, visually inspect each elevator outboard hinge attachment as follows:

(1) Hold the elevator steady at the trailing edge.

(2) Push up and down on the elevator leading edge and visually inspect for movement of the elevator hinge bearing bracket.

(b) If movement of the hinge bearing bracket is detected in (a)(2) above, prior to further flight, replace the hinge attach rivets with bolts in accordance with the instructions in Beech Service Bulletin No. 2132, dated April, 1986.

(c) Unless previously required by paragraph (b) of this AD, on all airplanes with more than 1000 hours total TIS, within the next 600 hours TIS after the initial inspection required by paragraph (a) of this AD, install bolts in place of the four hinge attach rivets in accordance with the instructions in Beech Service Bulletin No. 2132 dated April, 1986.

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

(f) The repetitive inspection intervals, required by this AD may be adjusted up to 10 percent of the specified interval so as to coincide with other scheduled maintenance.

(g) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas, 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, 9709 East Central, Post Office Box 85, Wichita, Kansas 67201; or the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 20, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-24383 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 102 and 125

[Docket Nos. 76P-0329 and 76P-0330]

#### Termination of Withdrawal of Two Proposed Rules on Food Products

**AGENCY:** Food and Drug Administration.

**ACTION:** Termination of withdrawal of two proposals.

**SUMMARY:** The Food and Drug Administration (FDA) is reversing its decision to withdraw two proposed rules regarding percentage ingredient labeling for infant foods and specification of common or usual names for infant and junior foods. The two proposed rules were among 16 pre-1977 proposed rules that FDA withdrew by a notice published in the *Federal Register* of April 25, 1986. The withdrawal of the 14 remaining pre-1977 proposals was effective on April 25, 1986.

**FOR FURTHER INFORMATION CONTACT:** Louis B. Brock, Center for Food Safety and Applied Nutrition (HFF-302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0162.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of April 25, 1986 (51 FR 15653), FDA announced the withdrawal of several proposed rules that relate to various food products. The agency's decision to withdraw these proposals was based on its limited resources to complete these rulemaking proceedings and on the likelihood that these proposals had become outdated in the time that has elapsed since their publication. Interested persons were given until June 24, 1986, to comment.

One letter from the Center for Science in the Public Interest (CSPI) was

received. CSPI opposed the agency's decision to withdraw the proposed rules regarding percentage ingredient labeling for infant foods (Docket No. 76P-0329) and specification of common or usual names for infant and junior foods (Docket No. 76P-0330). Based on CSPI's comment, the agency is reversing its decision to withdraw these two proposals, is reinstating the proposals (both dated September 7, 1976, 41 FR 37593, 37595), and will further consider these matters.

FDA received no comments on the agency's decision to withdraw the other 14 proposals. Therefore, the withdrawal of these proposals became effective April 25, 1986.

Dated: October 22, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-24394 Filed 10-28-86; 8:45 am]

BILLING CODE 4160-01-M

#### 21 CFR Part 150

[Docket No. 86N-0019]

#### Fruit Jelly and Fruit Preserves and Jams; Termination of Consideration of Codex Standard

**AGENCY:** Food and Drug Administration.

**ACTION:** Advance notice of proposed rulemaking; termination of consideration.

**SUMMARY:** The Food and Drug Administration (FDA) is terminating consideration of amending the U.S. standards of identity and establishing U.S. standards of quality and fill of container based on the Codex Standard for Jams (Fruit Preserves) and Jellies (Codex Standard 79-1981) because there is neither sufficient interest nor need to warrant proposing amendment of the U.S. standards of identity or establishment of U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams.

**FOR FURTHER INFORMATION CONTACT:** Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0118.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of March 17, 1986 (51 FR 9063), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability of, and need for, amending the U.S. standards of quality and fill of container for fruit jelly and fruit

preserves and jams in 21 CFR 150.140 and 150.160, respectively. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission. FDA requested comments by May 16, 1986.

Five letters, each containing one or more comments, were received from a manufacturer, trade associations, and an importer in response to the advance notice of proposed rulemaking. The manufacturer and trade associations opposed any change in the U.S. standards. The importer suggested amending the U.S. standards of identity for fruit jelly and fruit preserves and jams to: (1) Include permitting the use of all recognized fruits and those vegetables suitable in making fruit preserves and jams; (2) establish new classifications of fruit jellies, jams, and preserves based on the amount of fruit contained in the product; and (3) establish compositional requirements for the first named fruit in multiple fruit products. The importer did not submit any data or information in support of these suggested amendments.

Having considered the comments received, FDA has concluded that, all this time there is no sufficient interest, basis, and need to warrant proposing amendment of the U.S. standards of identity and establishment of U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams under the authority of section 40 of the Federal Food, and Drug and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of amending the U.S. standards of identity and establishing U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams based on the Codex standard. This action is without prejudice to further consideration of amending the U.S. standards of identity and establishing U.S. standards of quality and fill of container for fruit jelly and fruit preserves and jams upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 17, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-24395 Filed 10-28-86; 8:45 am]

BILLING CODE 4160-01-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1254

#### Use of Privately Owned Microfilm Equipment to Copy Records in the National Archives and Presidential Libraries

**AGENCY:** National Archives and Records Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Archives and Records Administration (NARA) is proposing to limit the use of privately-owned or leased microfilm equipment to copy records in the National Archives and in the Presidential Libraries. This proposed rule provides specific criteria for approving requests to use microfilm equipment, and it establishes procedures for microfilming the records. The proposed rule will affect individuals and organizations that wish to microfilm archival records. It will also affect Federal agencies that wish to microfilm their records after transfer to the National Archives.

**DATE:** Comments must be received by December 29, 1986.

**ADDRESS:** Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NARA), Washington, DC 20408.

**FOR FURTHER INFORMATION:** Adrienne C. Thomas or Nancy Allard at 202-523-3214 (FTS 523-3214).

**SUPPLEMENTARY INFORMATION:** Making microfilm or microfiche copies of archival records can assist NARA in fulfilling its mission to preserve historically valuable Federal records and to make them available to the public. After records have been microfilmed, additional copies are produced from the microfilm, not from the original records. This ability to produce additional copies easily without further wear and tear on the original records and to place the microfilm in a variety of locations allows greater access to archival records by those who could not conveniently visit the facility housing the original records. The use of microfilm copies also prevents damage to the original records resulting from repeated handling, thereby helping to preserve the original records. The

existence of a microfilm copy also provides insurance against the loss of valuable information should an original record be damaged or destroyed. While the long term life of a record may be adversely affected by the handling and exposure to light necessary during the microfilming process, the cited benefits of microfilming often outweigh possible damage. For these reasons, NARA for many years has had an active microfilm publication program to film certain series of records having high research interest.

NARA has also allowed researchers to microfilm original archival records. NARA regulations in 36 CFR 1254.70 currently allow the director of a National Archives unit for a Presidential Library to permit persons to use their own microfilm equipment in NARA research rooms. Although microfilm produced by researchers can result in benefits to NARA, this is not always the case. Some researchers use microfilming as an alternative to electrostatic reproduction of selected records pertinent to their particular research project. The microfilm in those cases is intended only for the use of the particular researcher, and it does not eliminate the need for other researchers to use the original records. Moreover, improper handling during microfilming with privately owned equipment can damage the original records as sometimes occurs through use of personal copiers. NARA recently banned the use of personal electrostatic copiers in NARA research rooms because of concern about possible damage to the records.

While NARA is also concerned about possible damage to records that may occur during microfilming by researchers, a complete ban on privately owned microfilm equipment would negate the cited benefits of microfilm reproductions, and probably result in many more outside requests for microfilm copies from the NARA lab. Because outside requests are given priority by the NARA lab over internal NARA requests for microfilming, NARA's long range microfilm reproduction program would suffer under such a total ban.

Therefore, the best policy appears to be to ensure that the potential benefits of privately produced microfilm are realized. The use of microfilm as a substitute for personal electrostatic copiers where the intent is to provide reproductions of records only for the use of an individual researcher does not outweigh the potential for damage to the records to be microfilmed. However, when somebody produces a microfilm copy of records that will be generally

available to the public, thereby furthering NARA's efforts to provide access to historically important information efforts and to preserve the original records, the benefits of microfilming may outweigh the possible risk to the records.

After reviewing our policy on the use of privately owned microfilm equipment, we have decided to revise our regulations to ensure that privately produced microfilm provides the maximum benefits to NARA and to the public. Accordingly, this proposed rule establishes the conditions under which NARA will allow a limited number of privately owned microfilm cameras and related equipment to be used to film archival records for microfilm publications. NARA will provide handling instructions to minimize damage to the records.

Individuals and organizations will no longer be allowed to bring in their microfilm equipment to film records solely for their own use. Less than five percent of the researchers using microfilm equipment are doing so for their own use. These researchers may continue to microfilm records using only 35mm hand-held cameras with natural lighting under existing research room rules; tripods, lighting apparatus, and related equipment will not be permitted in NARA research rooms.

Persons, organizations, and Federal agencies must outline each proposed microfilming project in a letter requesting permission to use their microfilming equipment. Requests must be received by the April 1 preceding the start of the fiscal year (October 1) in which the project will begin. This lead time is necessary for NARA to evaluate the requests, and, for approved requests, to determine microfilm preparation costs, to hire staff to do the microfilm preparation, and to evaluate and schedule any preservation work that must be done in NARA's preservation lab or by contract.

Permission may be granted if the records are in a suitable physical state and if in the judgment of NARA the request will further NARA's efforts to preserve and to make historically valuable information available to the public. NARA will not approve requests to film records already filmed or planned as a NARA microfilm publication. Section 1254.94 of the proposed rule lists the criteria for granting requests.

When a request to microfilm records is approved, NARA will determine the fees for microfilm preparation. Preparing records for a microfilm publication includes the following steps: (1) Proper

arrangement of the records must be verified after withdrawn items are reviewed and refiled when appropriate; (2) The records must be screened for possible restrictions; (3) Classified records must be declassified; (4) Fasteners must be removed; and (5) Preservation needs such as document flattening or mending must be completed before filming. NARA normally requires prepayment of fees; however, when a body of records will require extensive preparation, NARA will negotiate a payment schedule with the requester.

The requester must provide NARA with a silver halide duplicate negative made from the camera original negative of the microfilm. The person or organization filming the records must produce the original camera negative without reproducing any of the requester's editorial material with the exception of targets which contain no information identifying the person, organization, or agency producing the film. As the National Archives must have a copyright-free film that may later be duplicated for distribution or converted to a NARA microfilm publication, if the person or organization producing the film needs to reproduce targets throughout the film, then the person or organization must either (1) agree in writing that their own targets will not be covered by a copyright or (2) agree to film uncopyrighted targets that will be supplied by the National Archives in NARA format target sheets. Other editorial material can be added to the master negative later by the requester, if desired, after a duplicate negative has been reproduced and provided to NARA. The NARA duplicate may contain no splices. NARA may choose to distribute and, after two years, sell copies of this microfilm, with or without NARA editorial material.

These procedures will apply only to NARA archival records. Records in the Federal Records Centers remain in the custody of the originating Federal agency. Persons or organizations who wish to microfilm these records should contact the Center director for procedures governing the microfilming of those records.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

#### List of Subjects in 36 CFR Part 1254

Archives, Records.

For the reasons set forth in the preamble, NARA proposes to amend

Chapter XII of Title 36 of the Code of Federal Regulations as follows:

#### PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101-2118.

2. Section 1254.70 is revised to read as follows:

##### § 1254.70 NARA copying services.

(a) The copying of records will be done by personnel of the National Archives and Records Administration with equipment belonging to NARA. NARA reserves the right to make a duplicate, at NARA expense, of any material copied. Such duplicates may be used by NARA to make additional copies for others.

(b) In order to preserve the original records, records which are available on microfilm will not be copied by other means as long as a legible copy (electrostat, photograph, or microfilm) can be made from the microfilm.

3. Subpart F is added to read as follows:

##### Subpart F—Microfilming Archival Records

Sec.

1254.90	General.
1254.92	Requests to microfilm records.
1254.94	Criteria for granting the requests.
1254.96	Microfilm preparation.
1254.98	Equipment standards.
1254.100	Microfilming procedures.
1254.102	Rescinding permission.

##### Subpart F—Microfilming Archival Records

##### § 1254.90 General.

(a) This subpart establishes rules and procedures governing the use of privately owned and agency owned or leased microfilm equipment to film archival records and donated historical materials in the National Archives Building, the Pickett Street facility, the Washington National Records Center, the National Archives Field Branches, and the Presidential Libraries.

(b) Persons or organizations wishing to microfilm Federal agency records in the custody of a Federal Records Center should contact the director of the Center about procedures for obtaining permission to film those records.

##### § 1254.92 Requests to microfilm records.

(a) Requests to microfilm archival records in the National Archives Building, the Washington National Records Center, the Pickett Street facility, or the National Archives Field Branches must be made in writing to the

Assistant Archivist for the National Archives (NN), NARA, Washington DC 20408. Requests to microfilm records or donated historical materials in a Presidential Library must be made in writing to the Assistant Archivist for Presidential Libraries (NL), NARA, Washington DC 20408.

(b) Requests to use privately owned and agency owned microfilm equipment during a fiscal year (October 1 to September 30) must be submitted by the preceding April 1. NARA will notify the requester of its decision by July 1 preceding the fiscal year.

(c) The request must include:

(1) A description of the records to be copied which includes the following elements;

(i) Agency of origin or, for donated historical materials, title of the collection;

(ii) Title of series or file segment;

(iii) Date span; and

(iv) Estimated volume in number of pages or cubic feet.

(2) The estimated amount of time that the microfilm copying project will take and the date that the requester would like to begin the project.

(3) A description of the equipment that will be used for copying including:

(i) The name of the manufacturer and model number; and

(ii) The type of light source to be employed (fluorescent, tungsten, or electronic flash) and if electronic flash (i.e., strobe) or fluorescent, whether the light source is filtered for ultraviolet rays.

(4) A statement of the procedures which will be followed to ensure that all pages are copied, that the images on the microfilm are legible, and that the microfilm is properly processed. At a minimum, the procedures should meet the requirements specified in Part 1230 of this Chapter regarding the microfilming of permanent records.

(5) An explanation of how the project will help to preserve and to make available to the public the historically valuable records of the Government or otherwise to benefit the public.

(6) If the requester proposed to reproduce the microfilm records for public distribution, the requester must agree to credit the National Archives or the particular Presidential Library having custody of the original documents. The credit must appear at the beginning of each roll or unit of a microfilm publication and in any publicity material or descriptions of the publication.

(i) If the original documents are Federal records in the National Archives, the requester must agree to

include on the film at the beginning of each roll or fiche of the microfilm publication this statement: "The documents reproduced in this publication are among the records of the (name of agency) in the custody of the National Archives of the United States. No copyright is claimed in these official U.S. Government records."

(ii) If the original documents are donated historical materials in a Presidential Library, the requester must agree to include on the film at the beginning of each roll or fiche of the microfilm publication this statement: "The documents reproduced in this publication are donated historical materials from (name of donor) in the custody of the (name of Presidential Library). All literary rights have been dedicated to the public."

(7) If the person or organization producing the film needs to reproduce targets throughout the film, the person or organization must either:

(i) Agree in writing to film uncopyrighted targets that will be supplied by NARA or NARA formal target sheets.

#### § 1254.94 Criteria for granting the requests.

(a) NARA will evaluate the requests on the basis of the extent to which completion of a proposed project would further NARA's efforts to preserve and to make available to the public the historically valuable records of the Government.

(b) NARA will normally approve only requests to microfilm a complete body of records, such as an entire series or a major continuous segment of a very large series which is reasonably divisible. Microfilming a complete body of records means that all documents within the file unit(s) to be microfilmed will be consecutively copied, from the first to the last page, not skipping any pages in between except for pages that are exact duplicates or blank pages that are not included in a pagination scheme.

(c) NARA will normally approve only requests which include assurances that the project will adhere to the specifications in Part 1230 of this Chapter which concern microfilm stock standards, index placement, and microfilm processing for permanent records.

(d) NARA will normally approve only requests which specify that NARA will receive a silver halide duplicate negative made from the camera original negative of the microform record created in accordance with Part 1230 of this chapter. The duplicate negative microform will contain only reproductions of archival records or

donated historical materials and copyright-free targets; other editorial material prepared by the requester, including an introduction, may be added to the negative retained by the producer only after a duplicate negative containing no splices is provided to NARA. NARA may use this duplicate negative microform to duplicate and make available for research use microform copies in lieu of the original records. After a period of two years, NARA may also sell copies of the microform. NARA may choose to add its own editorial material to the microform copies which NARA distributes or sells.

(e) NARA will not approve any request that does not include all of the information required by § 1254.92.

(f) NARA will normally not approve requests to microfilm records:

(1) Which have previously been microfilmed and made available to the public;

(2) Which have been approved for microfilming by another party;

(3) Which NARA plans to film as a NARA microfilm publication; or

(4) Which relate closely to other records previously microfilmed or approved for microfilming by NARA.

(g) NARA will normally not approve requests to microfilm the following categories of records:

(1) Records which included documents with general or specific restrictions on access that preclude their reproduction;

(2) Records which include documents which are known to be protected by copyright;

(3) Records of high intrinsic value which may be handled only by authorized NARA personnel;

(4) Records in vulnerable physical condition;

(5) Records having a high research demand and which would have to be denied to others for an extended period of time during the microfilming process; and

(6) Oversize records, bound volumes, and other formats that cannot be safely handled or filmed without special equipment.

(h) NARA will normally not approve requests from persons or organizations who have failed to produce usable microfilm or to honor commitments made in previous requests, or who have had a previous permission to microfilm records rescinded because of their conduct.

(i) NARA will not approve requests to microfilm records in NARA facilities in which there is insufficient space available for private microfilming. NARA will not move records from a facility lacking space for private

microfilming to another NARA facility for that purpose.

#### § 1254.96 Microfilm preparation.

(a) As part of its evaluation of a request to microfilm records, NARA will determine the amount of microfilm preparation that NARA must do before the records can be microfilmed and the estimated cost of such preparation. Microfilm preparation includes:

(1) Verifying or correcting the arrangement of records after withdrawn items are reviewed and refiled when appropriate;

(2) Screening the records for possible restrictions on use;

(3) Declassifying security classified records;

(4) Removing document fasteners; and

(5) taking any document conservation actions that must be accomplished in order to film the records, such as document flattening or mending.

(b) NARA will inform the requester of the fees for microfilm preparation in the letter of approval. Payment of fees will be made in accordance with § 1258.14 of this Chapter. When a body of records will require extensive microfilm preparation, a different payment schedule may be established in the discretion of NARA.

#### § 1254.98 Equipment standards.

(a) Equipment must be designed for the microfilming of documents in roll form or standard fiche form and be operable from a table top. Only planetary type camera equipment may be used. Rotary equipment or any type of automatic feed device may not be used.

(b) The power consumption of the equipment normally must not exceed 1.2 kilowatts. Power normally available is 115 volts, 60 hz. Requests for electricity exceeding that normally available must be made at least 90 days in advance.

(c) Equipment having clamps or other devices to exert pressure upon or to affix the records to any surface in a way that might damage the record may not be used.

(d) The equipment must not use a heat generating light source in close enough proximity to the records to result in their physical distortion. All sources of ultraviolet light must be filtered.

#### § 1254.100 Microfilming procedures.

(a) Equipment used must conform to the equipment standards in § 1254.98.

(b) Records must be handled in accordance with the training and instructions provided by NARA personnel so that documents are not

damaged during copying and that their original order is maintained.

(c) Records from only one file unit may be microfilmed at a time.

(d) Records may not be left unattended on the copying equipment or elsewhere.

(e) Under normal microfilming conditions, actual copying time per sheet must not exceed 30 seconds.

(f) Any lights used with the camera must be turned off when the camera is not in actual operation.

(g) Microfilm equipment may be operated only in the presence of the research room attendant or a designated NARA employee.

(h) The equipment normally should be in use each working day that it is in a NARA facility. The director of the NARA facility (as defined in § 1252.2) will decide when equipment must be removed because of lack of regular use. The equipment must be promptly removed upon request of the facility director.

(i) NARA assumes no responsibility for loss or damage to microfilm equipment or supplies left unattended.

(j) NARA will inspect the microfilm output at scheduled intervals during the project to verify that the processed film meets the microfilm preparation and filming standards required by Part 1230 of this Chapter. If the processed film does not meet the standards, NARA may require that the records be refiled.

(k) The person or organization producing the microfilm will provide NARA with a silver halide duplicate negative of the filmed records (see § 1254.94(d)) upon completion of the project when 1,000 or fewer images are filmed. When the project involves more than 1,000 images, a silver halide duplicate negative of the first completed roll or segment of the project reproducing this image count will be provided to NARA for evaluation; subsequent completed segments of the project, in quantities approximating 10,000 or fewer images, will be provided to NARA within 30 days after filming.

#### § 1254.102 Rescinding permission.

NARA may, at any time, rescind permission to microfilm records:

(a) If the person or organization fails to comply with the microfilming procedures in § 1254.100;

(b) If inspection of the processed microfilm reveals persistent problems with the quality of the filming or processing;

(c) If the person or organization fails to proceed with the microfilming or project as indicated in the request; or

(d) If the microfilming is having an unanticipated adverse effect on the condition of the records or the space set aside in the NARA facility for microfilming.

Dated: October 10, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-24437 Filed 10-28-86; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Region II Docket No. 68; A-2-FRL-3101-8]

#### Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for the State of New Jersey

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** This notice announces the Environmental Protection Agency's (EPA's) proposed approval of a request from the State of New Jersey to revise the air quality designation with respect to sulfur dioxide of a part of Warren County, located in the Northeast Pennsylvania—Upper Delaware Valley Interstate Air Quality Control Region. Such designations are required by section 107(d) of the Clean Air Act and may be revised at the request of a state. Currently, Warren County is designated as "better than national standards" with respect to ambient levels of sulfur dioxide. However, New Jersey has recently conducted air quality studies using EPA-approved dispersion models and found that ambient sulfur dioxide standards are violated on certain sections of elevated terrain within the county. These studies and similar studies prepared by others led to New Jersey's request for redesignation.

**DATE:** Comments must be received on or before November 28, 1986.

**ADDRESSES:** All comments should be addressed to: Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the State's request are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency  
Air Programs Branch, Room 1005,  
Region II Office, Jacob K. Javits

Federal Building, 26 Federal Plaza,  
New York, New York 10278

State of New Jersey, Department of  
Environmental Protection, Division of  
Environmental Quality, John Fitch  
Plaza, CN 027, Trenton, New Jersey  
08625.

**FOR FURTHER INFORMATION CONTACT:**  
William S. Baker, Chief, Air Programs  
Branch, U.S. Environmental Protection  
Agency, Region II Office, Jacob K. Javits  
Federal Building, 26 Federal Plaza, New  
York, New York 10278, (212) 264-2517.

**SUPPLEMENTARY INFORMATION:** Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

On April 30 and June 26, 1986 the New Jersey Department of Environmental Protection (NJDEP) submitted a request to revise the air quality designation for parts of Warren County from "better than national standards" to "does not meet national standards" with respect to ambient levels of sulfur dioxide. The specific areas proposed for redesignation are the Town of Belvidere, the entire Townships of Harmony, White, and Oxford, and that portion of Liberty Township south of the Universal Transverse Mercator Grid system (UTM) coordinate N4522 and west of UTM coordinate E505, and that portion of Mansfield Township west of UTM coordinate E505. Warren County is located in the northwestern part of New Jersey in the Northeast Pennsylvania—Upper Delaware Valley Interstate Air Quality Control Region.

The technical analysis submitted by the State in support of the redesignation request is based on EPA Guidelines and is further supported by a number of other studies. These have been prepared by the State of New Jersey, the Pennsylvania Power and Light Company (PP&L), as well as the Warren Energy Resource Company which proposes to construct a resource recovery facility in Warren County. While there are differences in these analyses, EPA has concluded that they present strong evidence that ambient sulfur dioxide standards are being violated on certain sections of elevated terrain within Warren County.

The modeling predicts violations of the twenty-four hour primary standard and the three-hour secondary standard on some sections of elevated terrain in Warren County. EPA is basing its decision to propose approval of the State's request based on guideline modeling and the preponderance of evidence from the other modeling analyses which show violations of the short-term ambient sulfur dioxide standards.

#### Proposed Action

EPA is today proposing to approve NJDEP's request for redesignation of portions of Warren County. New Jersey's request has been found to meet the requirements of Sections 107 and 171 of the Clean Air Act.

Section 171(2) of the Clean Air Act defines a "nonattainment area" for a given pollutant as one which is shown by monitoring data, or calculated by air quality modeling, to exceed any of the national ambient air quality standards for that pollutant. If New Jersey's request for redesignation is finally approved by EPA, a portion of Warren County will be designated based on modeling as "does not meet national standards" with respect to sulfur dioxide.

Interested persons are invited to comment on the subject proposal and on whether it meets Clean Air Act requirements. Comments received by November 28, 1986 will be considered in EPA's final decision. All comments received will be available for inspection in the Region II Office of EPA, at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(42 U.S.C. 7401-7642)

Dated: July 14, 1986.

Christopher J. Daggett,  
Regional Administrator.

[FR Doc. 86-24438 Filed 10-28-86; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 21 and 94

[Gen. Docket No. 86-383; RM-4838; FCC 86-414]

#### Common Carrier; Emission Mask Standard for Digital Termination Systems (DTS)

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rules.

**SUMMARY:** The FCC has adopted a Notice of Proposed Rulemaking (Notice) which sets forth for review the emission mask regulations that are applicable to the Digital Termination System (DTS) equipment specified in §§ 21.106(a)(3) and 94.71(c)(3) of the Commission's Rules. This action was taken in response to a Petition for Rulemaking filed by Local Digital Distribution Company (LDD) on June 12, 1984. After review of that Petition and other supporting and opposing views, the FCC concluded that a rulemaking is needed to confirm that the reduced cost and enhanced performance of Digital Termination System (DTS) equipment, which would result from relaxing the present emission mask, can be achieved without a significant increase in interference to adjacent channels.

**DATES:** Comments are due on or before December 1, 1986. Reply comments must be received on or before December 16, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Donald L. McClure, Domestic Facilities Division, Common Carrier Bureau (202) 634-1774.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking, Gen Docket No. RM-4838, adopted September 30, 1986, and released October 10, 1986.

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

#### Summary of Notice

On June 12, 1984, Local Digital Distribution Company ("LDD") filed a Petition for Rulemaking requesting that the Commission institute a rulemaking

proceeding looking towards modification for the spectral emission limitations applicable to Digital Termination System ("DTS") equipment specified in §§ 21.106(a)(3) and 94.71(c)(3) of the Commission's rules. The proposed mask closely comports with the mask employed in the point-to-point microwave services, but contains some modifications thereto to account for the 1500 KHz and 800 KHz to 2 MHz subchannel bandwidth equipment authorized to provide Digital Electronic Message Service (DEMS).

In reaching its decision to institute the rulemaking proceeding, the FCC considered competing arguments and concluded, inter alia, that: The present emission mask is based on a proposal that was never implemented; the emission mask employed in the digital point-to-point microwave services may have application in the DEMS, if properly modified; and that the institution of a rulemaking proceeding, looking towards the adoption of the proposed less stringent emission mask will serve the public interest through the enhanced performance and reduced cost of DTS equipment. Also, the FCC has requested comment on the respective interference analyses and assumptions relied upon by LDD and other parties who supported and/or opposed the Petition for Rulemaking, and on possible cost reductions that should be realized in the manufacture of DTS equipment that complies with the proposed emission mask.

#### Ex Parte Contacts

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

#### Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because it does not impose a more severe emission mask regulation, but a less severe standard that should promote the further development of the Digital Electronic Message Service (DEMS).

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 1, 1986, and reply comments on or before December 16, 1986. All relevant and timely comments will be considered by

the Commission before final action is taken in this proceeding.

#### Authority

Accordingly, pursuant to the authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, we hereby give Notice of our intent to adopt the rule provisions set forth in below. The Secretary shall cause a copy of the Notice to be sent to the Chief, Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a) 1981.

#### List of Subjects

##### 47 CFR Part 21

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

##### 47 CFR Part 94

Communications equipment, Radio, Reporting and recordkeeping requirements.

Part 21 of Title 47 of the Code of Federal Regulations is to be amended as follows:

#### PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 21.106(a)(3) is revised to read as follows:

##### § 21.106 Emission limitations.

(a) \* \* \*

(3) For Digital Termination System channels used in the Digital Electronic Message Service:

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Electronic Message Service channel by more than 50 percent of the Digital Electronic Message Service channel bandwidth up to and including 50 percent plus the subchannel bandwidth (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band): As specified by the following equation but in no event less than  $50 + 10 \log N$  decibels:

(in the 10,500–10,680 MHz band)

$$A = 50 + 0.0333 (F - 0.5B) + 10 \log N$$

(in the 17,700–19,700 MHz band)

$$A = 50 + 0.06 (F - 0.5B) + 10 \log N$$

Where:

A = Attenuation (in decibels) below output power level contained within the Digital Electronic Message Service channel for a given polarization.

B = Bandwidth of Digital Electronic Message Service channel (in kHz).

F = Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Electronic Message Service channel (in kHz).

N = Number of active subchannels of the given polarization within the Digital Electronic Message Service channel.

(ii) In any 4 kHz band within the authorized Digital Electronic Message Service band, the center frequency of which is removed from the center frequency of the channel by more than the subchannel bandwidth (in the frequency band 10,550–10,680 MHz) or 500 kHz (in the 17,000–19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation, but in no event less than 80 decibels:

$$A = 80 + 10 \log N$$

(iii) In any 4 kHz band the center frequency of which is outside the authorized Digital Electronic Message Service band:

At least  $43 + 10 \log$  (means output power in watts) decibels.

\* \* \* \* \*

Part 94 of Title 47 of the Code of Federal Regulations is to be amended as follows:

#### PART 94—PRIVATE OPERATIONAL—FIXED MICROWAVE SERVICE

1. The authority citation for Part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082; 47 U.S.C. 154, 303.

2. Section 94.71(c)(3) is revised to read as follows:

##### § 94.71 Emission and bandwidth limitations.

(c) \* \* \*

(3) For Digital Transmission System channels:

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Transmission System channel by more than 50 percent of the Digital Transmission System channel bandwidth up to and including 50 percent plus the subchannel bandwidth (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band): As specified by the following equation but in no event less than  $50 + 10 \log N$  decibels:

(in the 10,500–10,680 MHz band)

$$A = 50 + 0.333 (F - 0.5B) + 10 \log N$$

(in the 17,700–19,700 MHz band)

$$A = 50 + 0.06 (F - 0.5B) + 10 \log N$$

Where:

A = Attenuation (in decibels) below output power level contained within the Digital Transmission System channel for a given polarization.

B = Bandwidth of Digital Transmission System channel (in kHz).

F = Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Transmission System channel (in kHz).

N = Number of active subchannels of the given polarization within the Digital Transmission System channel.

(ii) In any 4 kHz band within the authorized Digital Transmission System band, the center frequency of which is removed from the center frequency of the channel by more than the subchannel bandwidth (in the frequency band 10,550–10,680 MHz) or 500 kHz (in the 17,700–19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation, but in no event less than 80 decibels:

$$A = 80 + 10 \log N$$

(iii) In any 4 kHz band the center frequency of which is outside the authorized Digital Transmission System band:

At least  $43 + 10 \log$  (mean output power in watts) decibels.

\* \* \* \* \*

William J. Tricarico,  
Secretary.

[FR Doc. 86-24401 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 67

[CC Docket No. 80-286]

#### MTS and WATS Market Structure; Central Office Equipment In Categories 6 and 8; Extension of Comment Reply Period

AGENCY: Federal Communications Commission.

ACTION: Order inviting comments; Extension of Reply commit period.

**SUMMARY:** In this proceeding addressing MTS and WATS market structure, the Federal-State Joint Board, in its Order Inviting Comments and Request for Data, FCC86]-1 (released May 7, 1986), set out certain issues with regard to Category 6 and Category 8 Central Office Equipment and asked for comments on those issues. Four of the parties to this proceeding requested that the time for filing reply comments on these issues be extended from October 10, 1986, until November 10, 1986. They asserted that the completion of the data base and the preparation of summary

information relevant to these issues would not be accomplished until after or just before the established data for filing comments, and that therefore the submission of comments reflecting a meaningful evaluation and analysis of this data would not be possible without an extension. The Deputy Chief, Common Carrier Bureau, in his Order, grants an extension until October 24, 1986, stating that his extension will allow adequate time for the preparation of reply comments while at the same time avoiding a delay of this proceeding.

**DATE:** Reply comments are now due by October 24, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Wilson, or Cindy Schonhaut, Accounting and Audits Division, Federal Communications Commission, Washington, DC 20554 (202) 632-7500.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order in CC Docket No. 86-286, adopted by the Deputy Chief, Common Carrier Bureau, on October 6, 1986, and released on October 8, 1986. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street NW., Room 140, Washington, DC, 20037, (202) 857-3800.

Federal Communications Commission.  
Carl D. Lawson,  
Deputy Chief, Common Carrier Bureau.

[FR Doc. 86-24402 Filed 10-28-86; 8:45 am]  
BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 86-379, RM-5429]

#### Radio Broadcasting Services; Frankfort, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Allan Communications, Incorporated, proposing the allotment of FM Channel 279A as that community's second FM broadcast service.

**DATES:** Comments must be filed on or before December 8, 1986, and reply

comments on or before December 23, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Nancy L. Wolf, Dow, Lohnes & Albertson, 1255-23rd Street, NW., Washington, DC 20037 (Counsel to Petitioner).

**FOR FURTHER INFORMATION CONTACT:** D. David Weston, (202) 634-6530, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-379, adopted September 25, 1986, and released October 17, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration of court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-24403 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 86-381, RM-5352]

#### Radio Broadcasting Services; Folsom, LA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests

comments on a petition filed by Folsom Community Broadcasters proposing the allotment of FM Channel 285A to Folsom, Louisiana, as the community's first FM channel.

**DATES:** Comments must be filed on or before December 8, 1986, and reply comments on or before December 23, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Charles L. Spencer, Esq., Herbert and Spencer, 701 Laurel Street, Baton Rouge, LA 70802 (Counsel to Petitioner).

**FOR FURTHER INFORMATION CONTACT:** D. David Weston (202) 634-6530, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-381, adopted September 24, 1986, and released October 17, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-24404 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

[MM Docket No. 86-380, RM-5433]

**Radio Broadcasting Services; Los Lunas, NM****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The document requests comments on a petition filed by Brasher Broadcasting Company. Action taken herein proposes the substitution of FM Channel 273C2 for Channel 272A at Los Lunas, New Mexico, and the modification of Station KBBU's construction permit to specify operation on the higher powered channel.

**DATES:** Comments must be filed on or before December 8, 1986, and reply comments on or before December 23, 1986.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Eugene L. Burke, Esq., Burke & Burke, Box 439, Falls Church, Virginia 22046, its attorney.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro (202) 634-6530, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-380, adopted September 24, 1986, and released October 17, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 86-24405 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 97**

[PR Docket No. 86-397; FCC 86-431; RM-5361]

**Amateur Radio Service; Authorization of Additional Privileges****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rules.

**SUMMARY:** The proposed rules would authorize additional privileges for Novice and Technician control operators at amateur stations in certain geographic areas. The rules are necessary so that those operators can engage in interference-free communications. The proposed rule would benefit Novice and Technician control operators by providing improved amateur radiocommunication.

**DATES:** Comments are due on or before December 22, 1986, and reply comments on or before January 21, 1987.

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

**FOR INFORMATION CONTACT:** Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC (202) 632-4964.

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's Notice of Proposed Rule Making, adopted October 6, 1986, and released October 17, 1986 (RM-5361). The full text of this decision including the proposed rule changes is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision including the proposed rule changes may also be purchased from the FCC's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M

Street, NW., Suite 140, Washington, DC 20037.

**Summary of Notice of Proposed Rule Making**

1. In response to a petition for rule making filed by Dean W. Manley, the FCC proposes to amend Part 97 to authorize additional privileges in the 40 meter band to Novice and Technician control operators at amateur stations in Alaska, Hawaii, Region 2 Pacific Insular areas and the Caribbean Insular areas. It is believed that this proposal will alleviate interference from foreign broadcast stations. It appears that the number of potential users of the specific subband requested, 7050-7075 kHz, is not enough to pose a significant problem to amateur operators in the forty-eight contiguous states.

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

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because such entities may not use the Amateur radio service for business radiocommunications. In addition, because use of the proposed additional frequencies in the 40 meter band is optional rather than mandatory, there would not be a significant impact on the manufacturers of amateur radio equipment.

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

5. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the FCC Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 22, 1986 and reply comments on or before January 21, 1987. All relevant and timely comments will be considered by the FCC before final action is taken in this proceeding.

6. The Notice of Proposed Rule Making is issued under the authority of 47 U.S.C. 154(i) and 303 (c) and (r).

7. The authority citation for Part 97 would continue to read as follows:

48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

8. A copy of the Notice of Proposed Rule Making will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

#### Ordering Clause

Rule Making petition RM-5361 filed by Dean W. Manley is granted.

#### List of Subjects in 47 CFR Part 97

Amateur Radio, Frequencies, Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-24406 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

## Notices

Federal Register

Vol. 51, No. 209

Wednesday, October 29, 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.

### AFRICAN DEVELOPMENT FOUNDATION

#### Advisory Council Meeting

TIME: 10:00 a.m.-300 p.m.  
PLACE: African Development Foundation, 1625 Massachusetts Avenue NW., Suite 600, Washington, DC 20036.  
DATE: Friday, 21 November 1986.  
STATUS: Open.

#### Agenda

1. Introduction (Mr. Fortinberry, Chairman of the Advisory Council).
2. Brief welcome remarks (Dr. Pickard, Chairman of the Board of Directors).
3. Actions taken since last Advisory Council meeting, regarding Task Force reports (Mr. Robinson).
4. Presentation on ADF projects in Africa (Office of Program and Field Operations).
5. Address to Council members and Ambassadors representing the African Diplomatic community.
6. Brief remarks by Ambassador Jose Luis Fernandes Lopes, Dean of the African Diplomatic Corps.
7. Journalist Report (Paula Hirschhoff).

Contact person for more information: Mrs. Janis McCollim, 673-3916.

Leonard H. Robinson, Jr.,  
President.

[FR Doc. 86-24472 Filed 10-28-86; 8:45 am]  
BILLING CODE 6116-01-M

### DEPARTMENT OF COMMERCE

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

DOC has submitted 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 Census of Construction Industries

Form number: Agency—various; OMB—NA

Type of request: New collection  
Burden: 180,000 respondents; 300,000 reporting hours

Needs and uses: This survey, to be conducted in FY 88, constitutes the primary source of facts about the structure and functioning of a large segment of the economy and provide essential information for government, business and the general public. The collected data provide an important part of the framework for the national accounts and serve as benchmarks for economic indicators.

Affected public: Businesses or other for-profit institutions, small businesses or organizations

Frequency: Once every five years  
Respondent's obligation: Mandatory  
OMB desk officer: Timothy Sprehe 395-4814

Agency: Bureau of the Census  
Title: 1987 Census of Manufactures  
Form number: Agency—various; OMB—NA

Type of request: New collection  
Burden: 210,000 respondents; 777,000 reporting hours

Needs and uses: The survey to be conducted in FY88 is the primary source of facts about the structure of the manufacturing sector and provides essential information for the public and private sectors. It is an important part of the framework for national accounts and serves as a benchmark for key economic indicators.

Affected public: Businesses or other for-profit institutions, small businesses or organizations

Frequency: Once every five years  
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 23, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-24484 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-07-M

### Foreign-Trade Zones Board

[Docket No. 29-86]

#### Foreign-Trade Zone 114, Peoria, IL, Application for Subzone Diamond Star Auto Manufacturing Plant; Extension of Comment Period

The period for comments on the above case, involving a special-purpose subzone for the auto manufacturing plant of Diamond Star Motor Corporation in Normal, Illinois (51 FR 32504, 9/12/86) is extended to November 18, 1986, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should be mailed to the address below and include 5 copies.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Rm. 1529, 14th & Pennsylvania, NW., Washington, DC 20230.

Dated: October 24, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-24475 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-05-M

### International Trade Administration

[A-427-602]

#### Postponement of Final Antidumping Duty Determination on Brass Sheet and Strip from France

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

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on this request, we are postponing our final

determination as to whether sales of brass sheet and strip from France have occurred at less than fair value until not later than January 5, 1987.

**EFFECTIVE DATE:** October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Paul Tambakis or Charles Wilson, (202-377-4136 or 377-5288), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230.

On March 31, 1986, we published a notice in the *Federal Register* (51 FR 11774) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether brass sheet and strip from France were being, or were likely to be, sold at less than fair value. On April 24, 1986, the International Trade Commission determined that there is a reasonable indication that imports of brass sheet and strip from France are materially injuring a U.S. industry. On August 22, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 30096). The notice stated that if the investigation proceeded normally, we would make our final determination by November 3, 1986.

On September 16, 1986, Trefimetaux S.A., respondent in this investigation, requested a postponement of the final determination until not later than the 135th day after publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act. Respondent accounts for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request.

We are postponing the date of the final determination until not later than January 5, 1987.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

October 23, 1986.

[FR Doc. 86-24476 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

**Caribbean Basin Business Promotion Council; Establishment**

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2) and 41 CFR Part 101-6, as amended, Federal Advisory Committee Management Interim Rule, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the establishment of the Caribbean Basin Business Promotion Council is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council will draw on the expertise of its members and other sources to provide advice and make recommendations to the U.S. Government. In this role, the Council will suggest ways to promote private sector investment and trade and recommend policy changes to provide additional incentives or remove disincentives to business expansion.

The Director General of the U.S. and Foreign Commercial Service and the Assistant United States Trade Representative for Latin America, the Caribbean, and Africa will serve as joint Designated Federal Officials. The Council will consist of approximately 20 private sector members, appointed by the Secretary of Commerce to ensure a balanced representation of interests operating in the region. Approximately 10 representatives from U.S. government agencies on the CBI Task Force, headed by the United States Trade Representative, may participate as nonvoting members.

The Council will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of this notice.

Interested persons are invited to submit comments regarding the establishment of the Caribbean Basin Business Promotion Council. Comments and inquiries may be addressed to Lawrence H. Theriot, Director, Caribbean Basin Business Information Center, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, phone (202) 377-0703.

Dated: October 23, 1986.

Alexander H. Good,

*Director General U.S. and Foreign Commercial Service.*

[FR Doc. 86-24411 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-01-M

[C-357-004]

**Carbon Steel Wire Rod From Argentina; Preliminary Results of Countervailing Duty, Administrative Review, and Proposed Revised Suspension Agreement**

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

**ACTION:** Notice of preliminary results of countervailing duty administrative review and proposed revised suspension agreement.

**SUMMARY:** The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on carbon steel wire rod from Argentina. The review covers the period September 27, 1982 through December 31, 1982 and four programs.

As a result of the review, the Department is proposing a revised suspension agreement that more clearly specifies the scope of the agreement and includes renunciation of a program, not included in the original suspension agreement, that was subsequently found countervailing in other investigations involving products from Argentina. We invite interested parties to comment on these preliminary results and proposed revised suspension agreement.

**EFFECTIVE DATE:** OCTOBER 29, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Paul J. McGarr 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 September 27, 1982, the Department of Commerce ("the Department") published in the *Federal Register* (47 FR 42393) an agreement suspending the countervailing duty investigation on carbon steel wire rod from Argentina and announced its intent to conduct an administrative review of the suspension agreement. We began this review of the suspension agreement under our old regulations. On October 10, 1985, after the promulgation of our new regulations, the petitioners, Atlantic Steel Co., Continental Steel Co., Georgetown Steel Corp., Raritan River Steel Co., and North Star Steel Texas, Inc., requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of the suspension agreement. 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 Argentine carbon steel wire rod. The term "carbon steel wire rod" refers to a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound. Such rod is currently classifiable under item 607.17 of the Tariff Schedules of the United States ("TSUS").

Industria Argentina de Aceros, S.A. ("ACINDAR"), is the only known exporter of Argentine wire rod to the United States. The review covers the period September 27, 1982 through December 31, 1982 and four programs: (1) The reembolso; (2) Post-shipment financing of exports under Circular OPRAC 1-9; (3) Pre-export financing; and (4) Incentives for exports from southern ports.

#### Analysis of Programs

##### (1) Reembolso

Under the terms of the suspension agreement, the Argentine government agreed not to provide any reembolso overrebatos on exports of carbon steel wire rod to the United States. The Department determined that during the period covered by the original investigation the portion of the reembolso that constituted an allowable rebate of indirect taxes was 7.6 percent of the f.o.b. invoice price of the exported product. The Argentine government complied with this requirement on shipments of low carbon wire rod to the United States, but the Department found during verification that ACINDAR received reembolso payments in excess of 7.6 percent on shipments of high carbon wire rod to the United States.

The agreement covers shipments of carbon steel wire rod, currently classifiable under TSUS item 607.17. This classification includes both low and high carbon wire rod. The Argentine system of tariff classification is modeled on the Brussels Tariff Nomenclature (BTN), where low carbon wire rod and high carbon wire rod are classified separately. Low carbon wire rod is classified in category 73.10; high carbon wire rod is classified in category 73.15,

which consists of special steels and high carbon steels in a wide variety of shapes and types.

To comply with its understanding of the terms of the suspension agreement, the Government of Argentina readjusted the amount of the reembolso payable on its tariff item 73.10 to 7.6 percent and provided the Department with a copy of the Ministry of Economy's Resolution 284/82 to that effect. Because ACINDAR had exported only low carbon wire rod to the United States during the period of investigation (calendar year 1981), the investigation covered only that product. In adjusting the reembolso to cover the low carbon wire rod exported by ACINDAR, the Argentine government believed it was covering all of the merchandise subject to the suspension agreement.

We have therefore preliminarily determined to revise the suspension agreement specifically to clarify that the scope of the suspension agreement includes both low carbon and high carbon steel wire rod. To comply with the revised suspension agreement, the Argentine Ministry of Economy shall issue a resolution establishing for high carbon wire rod a rate of reembolso not to exceed 7.6 percent of the f.o.b. invoice price. The revised suspension agreement is appended to this notice.

##### (2) Circular OPRAC 1-9 Financing

In the final affirmative countervailing duty determinations on cold-rolled carbon steel flat-rolled products (49 FR 18006, April 26, 1984) and oil country tubular goods (49 FR 46564, November 27, 1984) from Argentina, we found countervailable a program not included in the original suspension agreement. This program, post-shipment financing for exports under Circular OPRAC 1-9, provides short-term preferential loans to exporters and is shipment-specific. The proposed revised suspension agreement includes a provision whereby the Central Bank of Argentina prohibits the use of such financing on exports of carbon steel wire rod to the United States.

##### (3) Other Programs

We examined the following programs and preliminarily determine that exporters of carbon steel wire rod did not use them during the period of review: (a) Pre-export financing, and (b) incentives for exports from southern ports.

#### Preliminary Results of Review

As a result of our review, we

preliminarily determine that because of a misunderstanding concerning the scope of the suspension agreement, the Government of Argentina did not fully comply with the terms of the reembolso agreement with respect to the reembolso during the period of review. We therefore propose revising the suspension agreement to clarify that the scope of the agreement includes both low and high carbon steel wire rod. The proposed revised suspension agreement also includes an additional program, post-shipment financing of exports under Circular OPRAC 1-9, found countervailable in the final determinations of two other Argentine cases.

Interested parties may submit written comments on these preliminary results and proposed revised suspension agreement by November 14, 1986 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held on November 14, 1986. 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 this administrative review, including the results of its analysis of any issues raised in any such written comments or at a hearing.

This administrative review, proposed revised suspension agreement, and notice are in accordance with sections 704 and 751(a)(1) of the Tariff Act (19 U.S.C. 1671c and 1675(a)(1)) and §§ 355.10 (50 FR 32556, August 13, 1985) and 355.31 (19 CFR 355.31) of the Commerce Regulations.

Dated: October 23, 1986.

Gilbert B. Kaplan,  
Deputy Assistant Secretary, Import  
Administration.

#### Revised Suspension Agreement—Carbon Steel Wire Rod from Argentina

Pursuant to section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Commerce Regulations, the Government of the United States through its Department of Commerce ("the Department") and the Government of Argentina through its Ministry of Economy ("the Ministry") enter into the following revised suspension agreement ("the agreement"), on the basis of which the Department revises the suspension agreement that became effective on September 27, 1982 (47 FR 42395) with respect to carbon steel wire rod from Argentina. The agreement shall be in accordance with the terms and provisions set forth below.

**A. Scope of the Agreement**

The Agreement applies to all carbon steel wire rod, both high carbon and low carbon, manufactured in Argentina and exported, directly or indirectly, from Argentina to the United States (hereinafter referred to as the "subject product"). The term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

**B. Basis of the Agreement**

1. The Ministry hereby agrees to eliminate completely the amount of the net bounty or grant determined by the Department to exist with respect to the subject product. The elimination of the net bounty or grant shall be accomplished for all exports of the subject product made on or after October 30, 1982. The Ministry agrees that:

(a) It will not provide to manufacturers, producers, or exporters of the subject product, either directly or indirectly, any reimbursement payment constituting a bounty or grant, as determined by the Department;

(b) The Central Bank shall not provide, either directly or indirectly, preferential dollar-indexed pre-export financing and that the Ministry shall submit documentation that the Central Bank prohibits such financing on any exports of the subject product; and

(c) The Central Bank shall not provide, either directly or indirectly, post-financing for exports under Circular OPRAC 1-9 and that the Ministry shall submit documentation that the Central Bank prohibits such financing on any exports of the subject product.

2. The Ministry certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits eliminated by the agreement.

3. The elimination of these benefits does not constitute an admission by the Ministry that such benefits are bounties or grants within the meaning of the U.S. countervailing duty law.

**C. Monitoring of the Agreement**

1. The Ministry agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The Ministry shall immediately provide copies of any resolutions, decrees on legislation governing the changes in the level of reimbursement payments or of the indirect taxes rebated by these payments on any exports of the subject product as soon as such changes occur.

3. The Ministry shall notify the Department if any exporters of the subject product transship the subject product through third countries or apply for or receive, directly or indirectly, the benefits of the programs described in paragraph B.1 regarding the manufacture, production or export of the subject product.

4. The Ministry agrees to notify the Department of the volume and value of exports of the subject product within 45 days from the end of each calendar quarter.

5. The Ministry shall certify to the Department within 45 days from the end of each calendar quarter whether it continues to be in compliance with the agreement by eliminating the net bounty or grant referred to in paragraph B.1 and whether it has substituted any new or equivalent benefits for the benefits eliminated by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation of issuance of a countervailing duty order.

6. The Ministry shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

7. The Ministry shall notify the Department if it decides to alter or terminate its obligations with respect to any of the terms of the agreement.

8. The Department shall notify the Ministry of any subsequent determination in this proceeding as a result of information provided by the Ministry with respect to the monitoring of the agreement.

9. The agreement shall remain in effect until the conditions of section 751(c) of the Act are met, unless the Department determines that paragraph D of the agreement applies.

**D. Violation of the Agreement**

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 740(i) shall apply.

**E. Effective Date**

The effective date of the agreement will be the date of publication of the final results of the current administrative review in the *Federal Register*. The provisions of paragraph B.1. a-c apply with respect to exports of the subject product on or after the effective date. No applications may be made after the effective date of this agreement for the benefits described in paragraph B on the subject product exported from Argentina before the effective date.

Signed in Washington, DC, on this \_\_\_\_ day of \_\_\_\_, 1986.

For the Argentine Ministry of Economy,  
Roberto Jorge Frasiati,  
*Minister-Counselor, Embassy of the Argentine Republic.*

I have determined that the provisions of paragraph B completely eliminate the bounties or grants that the government of Argentina is providing with respect to carbon steel wire rod exported directly or indirectly from Argentina to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(c) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

U.S. Department of Commerce.

Gilbert B. Kaplan,

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 86-24498 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

**Albert Einstein College of Medicine; Decision on Application for Duty-Free Entry of Scientific Instrument**

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

Docket number: 86-200. Applicant: Albert Einstein College of Medicine, Bronx, NY 10461. Instrument: Optical Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 18923.

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 provides exceptional stability and optical resolution, erect imaging, and movable stage and objectives. The National Institutes of Health advises in its memorandum dated September 15, 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. 86-24477 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

**Dartmouth College et al., Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes**

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 Part 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 and

Constitution Avenue NW., Washington DC.

Docket Number: 86-275. Applicant: Trustees of Dartmouth College, Hanover, NH 03755. Instrument: Electron Microscope, Model JEM-2000 FX/SIP/DP with Accessories. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 51 FR 28859. Instrument ordered: March 28, 1986.

Docket Number: 86-276. Applicant: Boston University School of Medicine, Boston, MA 02118. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 51 FR 28859. Instrument Ordered: April 14, 1986.

Docket number: 86-281. Applicant: University of Colorado Health Sciences Center, Denver, CO 80262. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended Use: See notice at 51 FR 29149. Instrument ordered: February 5, 1986.

Docket number: 86-284 Applicant: Louisiana State University Medical Center, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 29150. Instrument ordered: June 26, 1986.

Docket number: 86-287 Applicant: National Cancer Institute, Fredrick, MD 21701. Instrument: Electron Microscope (Top Entry with 35 mm Camera & High Intensity TV Camera), Model H-7000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 51 FR 29150. Instrument ordered: August 7, 1985.

Docket number: 86-289. Applicant: Veterans Administration Medical Center, Birmingham, AL 35233. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi Corporation, Japan. Intended use: See notice at 51 FR 30525. Instrument ordered: March 20, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument

or at the time of receipt of application by the U.S. Customs Service.

Leonard E. Mallas,  
Acting Director, Statutory Import Programs Staff.

[FR Doc. 86-24478 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

#### Department of Energy; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket number: 86-069R. Applicant: U.S. Department of Energy, Argonne, IL 60439. Instrument: Mass Spectrometer, Model 261 with Accessories. Manufacturer: Finnigan MAT GmbH, West Germany. Original notice of this resubmitted application was published in the *Federal Register* of January 28, 1986.

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 provides an external reproducibility of 0.03% for 2.0 microgram loadings of uranium, an abundance sensitivity of 2.0 ppm, and interchannel calibration of six multicollector cups to within 10 ppm. The National Bureau of Standards advises in its memorandum dated September 16, 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. 86-24479 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

#### San Diego State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational,

Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket number: 86-214.

Applicant: San Diego State University, San Diego, CA 92182.

Instrument: Chlorophyll Fluorescence System with Accessories.

Manufacturer: Heinz Walz, West Germany.

Intended use: See notice at 51 FR 22098.

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 provides in situ measurements of chlorophyll fluorescence in a background of full sunlight. The National Institutes of Health advises in its memorandum dated September 15, 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. 86-24480 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

#### University of Georgia; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket Number: 86-208. Applicant: University of Georgia, Athens, GA 30613. Instrument: Mass Spectrometer, Model MMZAB/SE. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: See notice at 51 FR 21202.

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 provides a mass range to 12,000 amu at an accelerating potential of 10,000 volts and resolution to 100,000 in the FAB mode. The National Institutes of Health advises in its memorandum dated September 15, 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. 86-24481 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

#### University of New Mexico; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket number: 85-196. Applicant: University of New Mexico, Albuquerque, NM 87131. Instrument: Mass Spectrometer, Model #354 with Accessories. Manufacturer: VG Instruments, United Kingdom. Intended Use: See notice at 50 FR 26396.

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, was being manufactured in the United States at the time the instrument was ordered (February 14, 1985).

Reasons: The foreign instrument can analyze very small samples of strontium and neodymium (1.0 microgram and 300 nanograms, respectively) with a guaranteed external precision of 0.003%, using computer-controlled multiple detectors with dynamic calibration. The National Bureau of Standards advises in its memorandum dated September 16, 1986 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-24482 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DS-M

#### Yale University; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket Number: 86-181. Applicant: Yale University, New Haven, CT 06511. Instrument: Reflex Microscope with Counting Interface. Manufacturer: Reflex Measurement Ltd., United Kingdom. Intended use: See notice at 51 FR 22098.

Comments: None received.

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

Reasons: The foreign instrument can digitize shape coordinates in three dimensions without physical contact for specimen sizes up to 150 square millimeters with a horizontal precision of 0.005 millimeters. The National Institutes of Health advises in its memorandum dated September 15, 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 Program Staff.

[FR Doc. 86-24483 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-05-M

#### National Bureau of Standards

##### National Voluntary Laboratory Accreditation Program; Publication NVLAP Directory Supplement

**AGENCY:** National Bureau of Standards, Commerce.

**ACTION:** Publication of NVLAP directory supplement.

**SUMMARY:** The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the third quarter of 1986.

**FOR FURTHER INFORMATION CONTACT:** Harvey W. Berger, Manager, Laboratory Accreditation, ADMIN A531, National Bureau of Standards, Gaithersburg, MD 20899 (301) 921-3431.

**SUPPLEMENTARY INFORMATION:** This supplement to the 1985-86 NVLAP Directory of Accredited Laboratories (NBSIR 86-3315) is published pursuant to section 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period July 1, 1986, through September 30, 1986.

	TIM	CON	CAR	STO	ACO	CPL	DOS	SEA	ECT	Totals
Initial accreditations.....						1	1		14	+16
Renewed accreditation.....		1								+1
Terminations.....	1		1	1			1			-4
Balance.....	37	30	21	9	8	6	42	1	14	168

The laboratories awarded initial accreditations are.

#### Commercial:

Standard T Chemical Technical Center

#### Products:

Chicago Heights, IL, L.G. Hering, 312-755-1223

*Dosimetry:*

Washington Public Power Supply  
System  
Richland, WA, David B. Ottley, 509-  
377-8048

*Electromagnetics:*

Underwriters Laboratories  
Melville, NY, Louis Okin, 516-271-  
6200  
RETLIF Testing laboratories  
Ronkonkoma, NY, Walter A. Poggi,  
516-737-1500  
EMACO  
San Diego, CA, Herbert K. Mertel,  
619-578-1480  
Norand EMC Test Lab  
Cedar Rapids, IA, Michael W.  
Howard, 319-369-3539  
Dash, Straus & Goodhue  
Boxborough, MA, Glen Dash, 617-263-  
2862  
Amador  
Almelund, MN, Daniel D. Hoolihan,  
612-583-3322  
Communication Certification Lab  
Salt Lake City, UT, William S. Hurst,  
801-972-6146  
MET Electrical Testing  
Baltimore, MD, Robert D. Johnson,  
301-354-2200  
GTE Evaluation & Support Dept  
Lexington, KY, Clifford Eugene Jones,  
606-223-3061  
AT&T Informations Systems EMC Lab  
Holmdel, NJ, D. N. Heirman, 201-834-  
3566  
D.L.S. Electronic Systems  
Glenview, IL, Donald L. Sweeney,  
312-699-9060  
Continental Testing Labs  
Fern Park, FL, Joe Sini, 305-831-2700  
Elite Electronic Engineering  
Downers Grove, IL, James C. Klouda,  
312-495-9770  
R&B Enterprises, West Conshohocken,  
PA,  
Finbarr M. O'Conner, 215-825-1960  
The laboratory whose accreditation  
was renewed is:

*Concrete:*

Engineering Testing Laboratory  
Akron, OH, Pawan Khaitan, 216-375-  
2740  
The laboratories whose accreditations  
were terminated are:

*Insulation:*

Hardwood Plywood Manufacturers  
Association, Reston, VA

*Carpet:*

Underwriters Laboratories, Melville, NY

*Stove:*

Pacific Inspection and Research,  
Redmond, WA

*Dosimetry:*

EPA Nuclear Radiation Assessment  
Division, Las Vegas, NV  
TIM—Insulation LAP  
CON—Concrete LAP  
CAR—Carpet LAP  
ACO—Acoustical Testing Services LAP  
STO—Stove LAP  
CPL—Commercial Products LAP (Paint,  
Paper, Mattresses)  
DOS—Dosimetry LAP  
SEA—Seals and Sealants LAP  
ECT—Electromagnetic Compatibility  
and Telecommunications

Dated: October 17, 1986.

Raymond Kammer,

Acting Director.

[FR Doc. 86-24412 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-13-M

### National Oceanic and Atmospheric Administration

#### Coastal Zone Management; Federal Consistency Appeal by Chevron, U.S.A. From an Objection by the California Coastal Commission

**AGENCY:** National Oceanic and  
Atmospheric Administration,  
Commerce.

**ACTION:** Filing of appeal.

On September 10, 1986, Chevron U.S.A. Inc. filed a notice of appeal with the Secretary of Commerce under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(B). The appeal is taken from a September 9, 1986 vote to object by the California Coastal Commission to Chevron's proposed production platform (Platform Gail) for OCS P-0205 to be located on the Outer Continental Shelf approximately 6 miles north of Anacapa Island. Anacapa Island is part of the Channel Islands National Marine Sanctuary and is located 14 miles southwest of Ventura, California. The Commission objected to Chevron's proposed platform for various reasons. Some of the Commissioners objected because of the risk of oil spills which would harm sensitive marine and coastal resources including the nearby endangered California brown pelican breeding area; danger to vessel navigational safety; interference with commercial fishing; and adverse visual impacts. Other Commissioners objected because, in their view, the Chevron plan contained excessive mitigation measures that could create a precedent that other oil companies would be unable to meet, thus creating a de facto moratorium on future offshore oil and gas development.

Chevron has appealed to the Secretary on the grounds that its Development and production Plan for Platform Gail is both "consistent with the objectives and purposes of the CZMA" or "otherwise necessary in the interest of national security."

An initial review of the documents submitted has raised a preliminary question of whether the California Coastal Commission has filed its objection in a timely manner. This issue is under review now.

In the meantime, while this preliminary matter is being considered, public comments are invited on the issues raised by this appeal as set out in regulations at 15 CFR 930.121 and 930.122. Comments are due within 30 days of the publication of this notice. Comments should be sent to: Daniel W. McGovern, General Counsel, National Oceanic and Atmospheric Administration, Washington, DC 20235. Copies of the comment also should be sent to the parties: Richard J. Harris, Chevron, U.S.A. Inc., P.O. Box 5050, San Ramon, CA 94583, and Michael Wornum, California Coastal Commission, 631 Howard Street, Fourth Floor, San Francisco, CA 94105.

**FOR ADDITIONAL INFORMATION CONTACT:** Katherine A. Pease, Attorney/Adviser, Office of the General Counsel, 1825 Connecticut Avenue NW., Suite 607, Washington, DC 20235 (202) 673-5220. (Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: October 24, 1986.

Daniel W. McGovern,  
General Counsel.

[FR Doc. 86-24487 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-08-M

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Adjustment of the Import Control Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Brazil

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 30, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

**Background**

On March 21, 1986 a notice was published in the *Federal Register* (51 FR 9875) which established import restraint limits for certain categories of cotton, wool and man-made fiber textiles and textile products, including man-made fiber yarn in Category 604, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987. The limit for Category 604 is currently filled.

CITA has determined that trade problems involving this category that have arisen during the past several years are attributable, in part, to the absence of certain flexibility adjustments provided for under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and August 29, 1985 between the Governments of the United States and the Federative Republic of Brazil. Application of these adjustments during those agreement years results in a corrected limit of 507,240 pounds for the category during the current agreement year. Application of the increases in previous agreement years also results in adjustments in charges for overshipments. Consequently, in the letter which follows this notice the CITA Chairman directs the Commissioner of Customs to correct the Category 604 limit to 507,240 pounds for the current agreement year and to deduct 76,660 pounds from imports currently charged to this corrected limit. As a result, Category 604 will reopen for 49,660 pounds.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

October 24, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

October 24, 1986.

Commissioner of Customs,  
Department of the Treasury, Washington, DC  
20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of

March 18, 1986, which directed you to prohibit entry of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Brazil and exported during the agreement year which began on April 1, 1986 and extends through March 31, 1987.

Effective on October 30, 1986, the directive of March 18, 1986 is hereby amended to include an adjusted limit of 507,240 pounds<sup>1</sup> for man-made fiber textile products in Category 604. You are further directed, also effective on October 30, 1986, to deduct 76,660 pounds from imports currently charged to this limit.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

[FR Doc. 86-24410 Filed 10-28-86; 8:45 am]

BILLING CODE 3510-DR-M

**DEPARTMENT OF EDUCATION****Intergovernmental Advisory Council on Education Executive Committee, Cancellation of Meeting**

**AGENCY:** Intergovernmental Advisory Council on Education Executive Committee.

**ACTION:** Cancellation of closed meeting.

**SUMMARY:** Notice is hereby given of the cancellation of the Intergovernmental Advisory Council Executive Committee meeting, October 30, 1986, in Phoenix, Arizona, as published in the *Federal Register* on Wednesday, October 15, 1986, Volume 5, No. 199, Page 36741.

Dated: October 23, 1986. Signed at Washington, DC.

Peter R. Greer,

Deputy Under Secretary.

[FR Doc. 86-24370 Filed 10-28-86; 8:45 am]

BILLING CODE 4000-01-M

**Office of Special Education and Rehabilitative Services****Arbitration Panel Decision Under the Randolph-Sheppard Act**

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard Act.

**SUMMARY:** Notice is hereby given that on October 7, 1985, an arbitration panel rendered a decision in the matter of

<sup>1</sup> The limit has not been adjusted to account for any imports exported after March 31, 1986.

Gary D. Brewer, vendor, vs. the Michigan Department of Labor, Commission for the Blind, State Licensing Agency (Docket No. R-S/84-1). This panel was convened by the Secretary of the Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner Gary D. Brewer on October 15, 1983. Under this section of the Act, a blind licensee dissatisfied with the State's operation or administration of the vending facility program may request a full evidentiary hearing from the State Licensing Agency. If the licensee is dissatisfied with the State agency decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute.

A synopsis of the panel's decision is appended. The full text of the decision can be obtained from the contact listed below.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth Arroyo, Acting Chief, Vending Facility Branch, Division for Blind and Visually Impaired, Rehabilitation Services Administration, Room 3232, Mary E. Switzer Building, Department of Education, 330 C Street, SW., Washington, DC 20202, Area Code (202) 732-1303 or TTY (202) 732-1298.

Dated: October 24, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

**Synopsis of Arbitration Panel Decision**

A blind vendor, Gary D. Brewer, grieved a determination by the Michigan Department of Labor, Commission for the Blind, State Licensing Agency (SLA). The grievant had been employed at the time he was assigned a vending facility, and the SLA considered this a violation of the provisions of the Randolph-Sheppard Act (20 U.S.C. 107 *et. seq.*) for the assignment of vending facilities to blind vendors.

The vendor was employed at the Michigan School for the Blind as a House Parent where he participated in supervision, training and care of students. Between 1971 and 1981, more severely handicapped children entered the school. The care of those children was very stressful, resulting in physical and mental problems to the grievant.

At the suggestion of the school counselor, grievant applied for and was accepted for training in the Business Enterprise Program. He obtained a leave of absence from the school and successfully completed a six-week training program followed by two weeks on-the-job training to qualify him to

operate a vending facility in a public building.

The grievant was assigned a facility. One week later, he was notified by the Manager of the Business Enterprise Program for the Michigan Commission for the Blind that his appointment was terminated because he had been employed at the time of his appointment.

The vendor retained counsel and pursued his grievance consistent with the procedural requirements of the Randolph-Sheppard Act at 20 U.S.C. 107 *et seq.* and the Department's revised Interim Policies and Procedures for Randolph-Sheppard Arbitrations.

The arbitration panel unanimously held that the vendor, because of the difficulties he suffered from his job at the School for the Blind was, "in need of employment" under the criteria established by the Randolph-Sheppard Act, 20 U.S.C. 107a (b). The Panel directed that the vendor be placed on the list of the State's potential vendors, and accrue seniority from the time he completed his vending facility training.

Arbitration panel decisions do not necessarily represent the views of the Department of Education.

[FR Doc. 86-24493 Filed 10-28-86; 8:45 am]  
BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[Docket No. ERA C&E 86-50; OFP Case No. 61063-9326-20 thru 31-22]

#### Order Granting to Consumers Power Company Exemptions From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

**AGENCY:** Economy Regulatory Administration, DOE.

**ACTION:** Order granting exemption.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act") to Consumers Power Company (Consumers or "the petitioner"). The permanent exemption permits the use of natural gas as the primary energy source for twelve combined cycle turbine generators to be installed at their Midland, Michigan powerplant based on the lack of an alternative fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. The final exemption order and detailed

information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION SECTION**, below.

**DATES:** The order shall take effect on December 29, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through Doe, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, 100 Independence Avenue, SW, Room GA-093, Washington, DC 20585, Telephone: (202) 252-9624

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue SW, Washington, DC 20585, Telephone: (202) 252-6947

**SUPPLEMENTARY INFORMATION:** On July 29, 1986, Consumers petitioned ERA under section 212 of FUA and 10 CFR 503.32 for a permanent exemption to permit the use of natural gas in twelve new combined cycle gas turbine generators. The petition for exemption is based on the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

#### NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

#### Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on July 29, 1986 (51 FR 27073), commencing a 45-day public comment period which was extended an additional 30 days on September 9, 1986 (51 FR 34826).

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded

an opportunity to request a public hearing. No comments were received and no hearing was requested.

#### Order Granting Permanent Exemption

Based upon the entire record of this proceeding, ERA has determined that Consumers has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.32(b). Therefore, pursuant to section 212 of FUA, ERA hereby grants a permanent exemption to Consumers to permit the use of natural gas as the primary energy source for the combined cycle turbine generators to be installed at its Midland, Michigan powerplant.

Pursuant to section 702(c) of the act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, DC on October 15, 1986.

Robert L. Davies,

Director, Office of Fuels Program Economic Regulatory Administration.

[FR Doc. 86-24447 Filed 10-28-86; 8:45 am]

BILLING CODE 6450-01-M

#### [ERA Docket No. 86-58-NG]

#### Natural Gas Imports; CanadianOxy Marketing Inc.; Application To Import Natural Gas From Canada

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 19, 1986, of the application of CanadianOxy Marketing Inc. (CanadianOxy) for blanket authorization to import from Canada up to 140 MMcf of natural gas per day, not to exceed a total of 100 Bcf during a two-year term beginning on the date of first delivery. The Canadian gas would be purchased from CanadianOxy's Canadian parent, Canadian Occidental Petroleum Ltd., and a variety of other suppliers located in Canada. The Canadian gas would be sold in the U.S. spot market to local distribution companies, electric utilities, pipelines, and industrial and commercial end-users. CanadianOxy would import the gas for its own account or as an agent for both Canadian suppliers and U.S.

purchasers. The firm requests expedited action by the ERA on its request including dispensing with the procedures of providing an opportunity for additional comments. CanadianOxy intends to use existing facilities to transport the imported gas, and proposes informing the ERA of its first transaction and filing quarterly reports to the ERA. The quarterly reports would be filed within 30 days following each calendar quarter and would show the details of each transaction including: parties, price, volume, transporters, term of the agreements, take-or-pay or make-up provisions, if any, points of entry and markets served.

The Application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 28, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Chuck Boehl, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6050  
Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667

**SUPPLEMENTARY INFORMATION:** The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that the import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

**Public Comment Procedures**

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to this proceeding and to have written comments considered as a basis for any decision on the applicant must,

however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. They must be filed no later than 4:30 p.m., November 28, 1986.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CanadianOxy's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

Issued in Washington, DC, October 20, 1986.

**Robert L. Davies,**

*Director, Office of Fuels Programs, Economic Regulatory Administration.*

[FR Doc. 86-24458 Filed 10-28-86; 8:45 am]

BILLING CODE 6450-01-M

**Federal Energy Regulatory Commission**

[Docket Nos. EL86-55-000 et al.]

**Hydroelectric Applications, Chitina Electric, Inc., et al.; Applications Filed With the Commission**

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

- 1 a. Type of Application: Declaration of Intention.
  - b. Project No: EL86-55-000.
  - c. Date Filed: September 4, 1986.
  - d. Applicant: Chitina Electric, Inc.
  - e. Name of Project: Chitina Project.
  - f. Location: At Trout Lake, on an unnamed tributary of the Copper River on Chitina Native Lands near Chitina, Alaska.
  - g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).
  - h. Contact Person:  
Martin Finnesand, Project Manager and General Member, Chitina Electric, Inc., Box 31, Chitina, AK, (907) 823-2223  
Earle Ausman, P.E., 2735 East Tudor Road, Suite 201, Anchorage, AK 99507
  - i. Comment Date: November 28, 1986.
  - j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 20-foot-long and 2-foot-high timber-earth diversion structure; (2) Trout Lake, an existing natural reservoir with negligible storage capacity at surface elevation 568 feet m.s.l.; (3) a 21-inch-diameter and 1800-foot-long penstock; (4) a powerhouse containing a 55 kW Francis turbine; and (5) appurtenant facilities. Applicant estimates the average annual generation would be 130,000 kWh.
- When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize

surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: Project energy will be utilized for consumption by residents of the Village of Chitina through the distribution system of Chitina Electric, Incorporated, which is not interconnected outside the State of Alaska.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. Type of Application: Major License (Under 5 MW).

b. Project No.: 9248-000.

c. Date Filed: May 30, 1985.

d. Applicant: Town of Telluride, Colorado.

e. Name of Project: San Miguel.

f. Location: On the San Miguel River, near Telluride, in San Miguel County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. James M. Craft, Town of Telluride, P.O. Box 397, Telluride, CO 81435, (303) 728-4338

Mr. Don Pope, HDI, Inc., 10394 West Chatfield Avenue, Suite 108, Littleton, CO 80127, (303) 728-4338

i. Comment Date: December 15, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 9-foot-high, 100-foot-long gravity diversion weir across the San Miguel River at elevation 8,610 feet msl; (2) a 2-acre pool with a gross storage area of 6.5 acre-feet at a normal pool elevation of 8,617 feet msl; (3) a 54-inch-diameter, 7,000-foot-long buried welded steel penstock; (4) a 36 feet by 46 feet reinforced concrete powerhouse located at elevation 8,070 feet msl containing a single vertical shaft Pelton turbine-generator unit with a rated capacity of 4,600 kW, operating under a head of 520 feet and a maximum hydraulic capacity of 120 cfs, and producing an estimated average annual generation of 16.7 GWh; and (5) a 60-foot-long, 12.5-kV underground transmission line interconnecting the project to a San Miguel REA line. Applicant estimates project cost at \$4,500,000 and intends to sell project power to local utilities.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. Type of Application: Minor License.

b. Project No.: 6726-001.

c. Date Filed: October 29, 1984.

d. Applicant: San Juan Hydro, Inc.

e. Name of Project: Lucky Chance Pipeline.

f. Location: On the North Fork of Henson Creek, near Lake City, in Hinsdale, County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Gary J. Wysocki, P.O. Box 256, Lake City, CO 81235, (303) 944-2610

i. Comment Date: December 15, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 15-foot-high, 20-foot-wide concrete dam containing a gated intake structure and located at elevation 10,180 feet U.S.G.S datum; (2) an existing pool with a surface area of 0.142 acres and negligible storage capacity; (3) a proposed partially buried 32-inch-diameter, 4,000-foot-long welded steel penstock; (4) a 15 feet by 30 feet powerhouse containing a single turbine-generator unit with a rated capacity of 1,200 kW, operating under a head of 400 feet and a hydraulic capacity of 50 cfs, and producing an estimated average annual generation of 5.04 GWh; (5) a 4-foot-wide, 17-foot-long tailrace returning flows to the North Fork of Henson Creek; and (6) a 14.4-kV tap transmission line. Applicant estimates total project cost at \$400,000. The project would be partially located on U.S. Bureau of Land Management lands and project power would be sold to Colorado Ute Electric Association.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 10083-000.

c. Date Filed: September 15, 1986.

d. Applicants: The Townsend Company.

e. Name of Project: Buckhorn Hydro Project.

f. Location: On the Cape Fear River near Corinth, in Chatham and Lee Counties, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

David G. Townsend, The Townsend Company, G-16 The Villages, Carrboro, NC 27510, 919-933-9686

J. LeRoy Townsend, P.O. Box 1572, Lumberton, NC 28359, 919-739-6303

i. Comment Date: December 15, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing 1100-foot-long and 15-foot-high Buckhorn Dam; (2) an existing reservoir with 1600 acre-feet of storage at an

elevation of 153 msl; (3) a proposed reinforced concrete powerhouse housing three 1,000-kW generators for a total installed capacity of 3,000 kW; (4) a new tailrace; (5) a proposed 12.4-kV or equivalent transmission line approximately 1-mile long; and (6) appurtenant facilities. The Applicant estimates that the average annual generation would be 12,995 MWh. All project energy would be sold to Carolina Power and Light Company. The dam and reservoir and project lands are currently owned by Carolina Power and Light Company, Raleigh, North Carolina.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit—A preliminary permit, is issued, does not authorize construction. The Applicant seeks issuance of preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be \$35,000.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 10017-000.

c. Date Filed: June 13, 1986.

d. Applicant: Walker River Associates.

e. Name of Project: Bridgeport Hydro Project.

f. Location: On East Walker River in Mono County, California: Section 34, T6N, R25E, MDB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Raymond Murphy, Walker River Associates, 3106 Fillmore Street, San Francisco, CA 94123.

i. Comment Date: December 15, 1986.

j. Description of Project: The proposed project would be located on lands of the Toiyabe National Forest and would consist of: (1) Bridgeport Dam, 63 feet high and 900 feet long; (2) Bridgeport Reservoir with a capacity of 57,000 acre-feet; (3) a penstock utilizing the existing outlet works; (4) a powerhouse to contain a turbine-generator unit rated at 1,000 kW and operating under a 43-foot head; (5) a tailrace returning flow to East Walker River; (6) a transmission line, one mile long, connecting to a 13-kV transmission line of the Southern California Edison Company; and (7) appurtenant facilities. The Applicant

estimates that the average annual output would be 3,400,000 kWh. The Applicant estimates that at the cost of studies under the preliminary permit would be \$30,000.

k. Purpose of Project: Project energy would be sold to the Bridgeport Public Utility District and/or the Southern California Edison Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 10076-000.

c. Date Filed: September 3, 1986.

d. Applicant: Enercan Construction, Inc.

e. Name of Project: Mount Morris Dam.

f. Location: On the Genesee River in Livingston County, New York.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Glenn T. Herdman, Branch Manager, Enercan Construction, Inc., 4545 Haskell Road, Cuba, NY 14727, (716) 968-1487.

i. Comment Date: December 4, 1986.

j. Description of Project: The project would utilize the existing U.S. Army Corps of Engineers' Mount Morris Dam and consist of: (1) A proposed powerhouse with an installed generating capacity of 18 MW; (2) 8 proposed 800-foot-long, 60-inch-diameter, steel penstocks; (3) a proposed 7,000-foot-long, 34.5-kV transmission line; and (4) appurtenant facilities. The Applicant estimates the average annual energy generation to be 48 GWh.

k. Purpose of Project: The Applicant intends to sell the power produced at the site to the Rochester Gas and Electric Corporation. Applicant estimates the cost of the studies under the permit would be \$180,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

7 a. Type of Application: Transfer of License.

b. Project No.: 3819-003.

c. Date Filed: September 9, 1986.

d. Applicant: STS Energenics Ltd., Inc. (Transferor) and Goose Bay Hydroelectric Limited Partnership (Transferee).

e. Name of Project: Mt. Elbert Water Power.

f. Location: Mt. Elbert Conduit, near Leadville, in Lake County, Colorado.

g. Filed Pursuant to: Federal Power Act, Part 1, Section 8.

h. Contact Persons:

Mr. Granville J. Smith, II, STS Energenics Ltd., Inc., 2929-C Eskridge Road, Fairfax, VA 33031

Mr. Dell E. Keehn, Mt. Elbert Energy, Inc., 2020 Skyline Tower, 10900 NE. Fourth Street, Bellevue, WA 98004

i. Comment Date: November 17, 1986.

j. Description of Project: STS Energenics Ltd., Inc. (formerly Energenics Systems, Inc.) (Licensee) was issued a license for the Mt. Elbert Water Power Project on November 18, 1982.

Licensee proposes to transfer the license to Goose Bay Hydroelectric Limited Partnership. The project is located at the U.S. Bureau of Reclamation's Mt. Elbert Conduit in Section 20, Township 9 South, Range 80 West. The project consists of a penstock, a powerhouse containing a 2,800 kW turbine-generator unit, and a 350-foot-long transmission line. Project power shall be sold to the Public Service Company of Colorado.

k. This notice also consists of the following standard paragraphs: B, C and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 10086-000.

c. Date Filed: September 17, 1986.

d. Applicants: Brewster Grist Mill Co.

e. Name of Project: Brewster River Water Power.

f. Location: On Brewster River, near town of Jeffersonville, in Lamoille County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. David Albright, Brewster Grist Mill Co., RFD Box 285, Jeffersonville, Vermont 05464, (802) 644-2987.

i. Comment Date: December 29, 1986.

j. Description of Project: The proposed project would consist of: (1) A new 10-foot-high, 60-foot-long concrete dam at crest elevation 520 feet msl, creating a reservoir with negligible storage capacity; (2) a concrete intake structure; (3) a 3-foot-diameter, 300-foot-long steel penstock; (4) a concrete powerhouse containing a single generating unit with a rated capacity of 55 kW; (5) a 5-foot-long tailrace; and (6) a 400-foot-long transmission line connecting to the existing Central Vermont Public Service Corporation line.

The estimated average annual energy production is 200,000 kWh. The project power would be sold to Central Vermont Public Service Corporation. The applicant estimates that the cost of the work to be performed under the preliminary permit would be \$10,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

9 a. Type of Application: Transfer of License.

b. Project No.: 3013-003.

c. Date Filed: August 8, 1986.

d. Applicant: Quidnick Reservoir Company, Inc. and Natick Hydroelectric Associates.

e. Name of Project: Natick Dam.

f. Location: On the Main Branch of the Pawtuxet River in Kent County, Rhode Island.

g. Filed Pursuant to: Section 9 of the Federal Power Act 791(a)-825(r).

h. Contact Person: Mr. Christopher J. Malliet, Cook Associates, Inc., 4 Water Street, P.O. Box 450, Chester, Ct 06412, (203) 526-4911.

i. Comment Date: November 27, 1986.

j. Description of Transfer: On July 6, 1983, a minor license was issued to the Quidnick Reservoir Association to construct, operate, and maintain the Natick Dam Project No. 3013. Quidnick Reservoir Company, Inc. intends to sell its interest in the project to the Natick Hydroelectric Associates. For that reason, the Quidnick Reservoir Company, Inc. and the Natick Hydroelectric Associates filed a request that the project license be transferred to the Natick Hydroelectric Associates.

k. This notice also consists of the following standard paragraphs: B and C.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 10030-000.

c. Date Filed: July 7, 1986.

d. Applicant: Baldwin Hydro Corporation.

e. Name of Project: Baldwin-TM Power Project.

f. Location: In Nez Perce National Forest, on Twentymile Creek, in Idaho County, Idaho. Township 28 N and Range 6E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: C. C. Warnick, Vice President, 3197 Lundquist Lane, Moscow, ID 83843, (208) 882-5619.

i. Comment Date: December 5, 1986.

j. Competing Application: Project No. 9995, Date Filed: May 19, 1986.

k. Description of Project: The proposed project would consist of: (1) A diversion dam approximately 10 feet high and 25 feet long at an approximate elevation of 4,250 feet msl; (2) a steel penstock 12,088 feet long and two feet in diameter leading to; (3) a reinforced concrete powerhouse containing a turbine/generator unit with a capacity of 1,490 kW operating at 1,210 feet of hydraulic head; (4) a tailrace approximately 50 feet long; and (5) a transmission line approximately 250 feet long. The applicant estimates that the average annual energy generation would be 8,000 MWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be \$150,000.

1. Purpose of Project: The applicant intends to sell the power generated at the proposed facilities to Washington Water Power Company or Pacific Power and Light Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 10019-000.

c. Date Filed: June 17, 1986.

d. Applicant: Scoggins Hydro Energy, Inc.

e. Name of Project: Scoggins Water Power Project.

f. Location: On the Scoggins Creek near the town of Forest Grove, Washington, County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Stephen F. Anderson, President, Scoggins Hydro Energy, Inc., 7155 S.W. Gable Parkway, Portland, OR 97225, (503) 292-0464.

i. Comment Date: December 29, 1986.

j. Description of Project: The proposed project would utilize the Bureau of Reclamation's Scoggins Dam and Reservoir having a normal water surface elevation of 304 feet msl and would consist of: (1) A new subsurface powerhouse located near the existing outlet works containing two turbine/generator units having a total installed capacity of 1500 kW operating at 182 feet of hydraulic head; and (2) a new 3200-foot-long transmission line. The applicant estimates that the average annual energy generation would be 4,150 MWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be \$25,000.

k. Purpose of Project: The applicant intends to sell the power generated at the proposed facilities to West Oregon Electric Cooperative Inc., or Forest Grove Light and Power Department.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

12 a. Type of Application: Major License.

b. Project No.: 9704-000.

c. Dated Filed: December 23, 1985.

d. Applicant: Wyeth Hydro-Electric Corporation.

e. Name of Project: Wyeth Hydroelectric Corporation.

f. Location: On Gorton and Grays Creeks, in T2N, R8E in the Mt. Hood National Forest near Cascade Locks in Hood River County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Cary D. Bachman, Van Ness, Feldman, Sutcliffe and Curtis, 1050 Thomas Jefferson

Street, N.W., Seventh Floor, Washington, D.C., (202) 331-9400.

i. Comment date: December 26, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) Two 6-foot-high diversion-intake structures on Gorton Creek at elevations of 1,424 feet and 1,400 feet and one 6-foot-high diversion-intake structure at elevation 1,255 feet on Grays Creek; (2) a 30-inch-diameter, 7,200-foot-long penstock on Gorton Creek and a 16-inch-diameter, 7,200-foot-long penstock on Grays Creek; (3) a powerhouse containing 5 generating units with a combined rated capacity of 4,000 kW; (4) a two-acre afterbay containing a 6-foot-wide spillway; (5) a 200-foot-long open tailrace connecting the afterbay and Gorton Creek; and (6) a substation with a 100-foot-long, 115-kV tap line to an existing Bonneville Power Administration transmission line. The applicant estimates that the average annual energy generation would be 12.5 million kWh. The estimated cost of the project is \$6,420,821.

k. Purpose of Project: The project power would be sold.

l. This notices also consists of the following standard paragraphs: A3, A9, B, C, and D1.

13 a. Type of Application: Amendment of License.

b. Project No.: 5285-004.

c. Dated Filed: June 19, 1986.

d. Applicant: City of Logan, Utah.

e. Name of Project: Logan No. 2 Hydro Project.

f. Location: On Logan River in Cache County, Utah: Sections 27, 28, 29, 31 & 32, T12N, R2E, SLB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Honorable Newel G. Daines, Jr., Mayor, City of Logan, P.O. Box 527, 61 West First North, Logan, UT 84321.

i. Comment Date: December 5, 1986.

j. Description of Project: The proposed amendment of license involves lands in the Cache National Forest and would incorporate two developments: an old existing one, including the dam, and a new small one for required bypass flows from the same dam; the old development consists of: (1) Logan Third Dam, 31.5 feet high and 108 feet long; (2) a reservoir of about 40 acre-feet; (3) a radial-gated intake structure; (4) a precast concrete pipeline, 78 inches in diameter and 8,800 feet long, connecting to a surge tank and a steel penstock, 72 inches in diameter and 375 feet long; (5) a powerhouse with an installed capacity of 1,300 kW under a 95-foot head; (6) a tailrace and bypass facility returning flow to the Logan River; (7) a transmission line and substation and (8)

appurtenant facilities; the new development consists of: (9) a slide-gated intake structure; (10) a steel penstock 24 inches in diameter and 100 feet long; (11) a propeller turbine-generator unit rated at 50 kW under a 24-foot head; (12) an outlet to the river (13) a transmission line connection and (14) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6,300,000 kWh and 386,000 kWh, respectively.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notices also consists of the following standard paragraphs: A4, B, and C.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9998-000.

c. Date Filed: May 27, 1986.

d. Applicant: North Fork Power.

e. Name of Project: St. Anthony Canal.

f. Location: On the Henry's Fork Snake River near the town of St. Anthony, Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ted Sorenson, 550 Linden Drive, Idaho Falls, ID 83401, (208) 522-8069.

i. Comment Date: December 15, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing diversion dam approximately 800 feet long and 8 feet high; (2) an existing 2-acre reservoir with a normal maximum water surface elevation of 4,996 feet msl; (3) an existing 30-foot-wide diversion canal which is proposed to be widened to 80 feet leading to; (4) a new power plant containing four turbine/generator units having a total installed capacity of 800 kW operating at 13 feet of hydraulic head; (5) a new 400-foot-long, 14-kV transmission line; and (6) appurtenant facilities. The diversion dam is owned jointly by St. Anthony Union Canal Company and the Twin Groves Canal Company. The applicant estimates the average annual energy production to be 5.5 GWh. The approximate cost of the studies under the permit would be \$10,000.

k. Purpose of Project: Applicant proposes to sell the power generated at the proposed facility to Utah Power and Light Company, Inc.

l. This notices also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

15 a. Type of Application: Transfer of License.

b. Project No.: 7178-006.

c. Date Filed: September 22, 1986.

d. Applicants: Ronald F. and Carlene A. Ott, and Arbuckle Mountain Hydro Partnership.

e. Name of Project: Arbuckle Mountain Hydro Project.

f. Location: On Middle Fork Cottonwood Creek in Shasta County, California near the Town of Platina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ronald F. Ott, Owner, Arbuckle Mountain Hydro Project, 3074 Brent Road, Redding, California 96002.

i. Comment date: December 8, 1986.

j. Description of the Proposed Transfer of License: Ronald F. and Carlene A. Ott propose to transfer the license of Arbuckle Mountain Hydro Partnership of facilitate project construction. The construction of the Arbuckle Mountain Hydro Project has not been completed due to lack of funds. Transferee has proposed to construct, operate, and utilize the full output of the project in accordance with the license.

k. This notice also consists of the following standard paragraphs: B and C.

16 a. Type of Application: New Minor License.

b. Project No.: 2484-001.

c. Date Filed: August 4, 1986.

d. Applicants: Village of Gresham.

e. Name of Project: Upper Red Lake Dam.

f. Location: On the Red River near Herman, Shawano County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Scott Nordin, Norbin-Pedersen Associates, Ltd., N. 1941, Hwy. "47-55", Shawano, WI 54166, (715) 526-2827.

i. Comment date: December 26, 1986.

j. Description of Project: The existing project consists of: (1) An approximate 316-foot-long concrete dam; (2) a reservoir with a surface area of 215 acres and a storage capacity of 1,300 acre-feet; (3) a 650-foot-long steel penstock with a 6-foot-diameter from the dam to the surge tank, a 5-foot-diameter by 45-foot steel penstock from the surge tank to the powerhouse and a 4-foot-diameter by 60-foot steel penstock from the surge tank to the powerhouse; (4) a powerhouse containing two generating units rated 159-kW and 264-kW respectively, producing an average annual output of 2.15 GWh; and (5) appurtenant facilities. The project energy would be used by the Village of Gresham. The project is owned by the Village of Gresham.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

17 a. Type of Application: Minor License.

b. Project No.: 10025-000.

c. Date Filed: June 30, 1986.

d. Applicants: Glen Hydro, Inc.

e. Name of Project: Mascoma No. 2 Hydro.

f. Location: On the Mascoma River, near City of Lebanon, in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Thomas B. Cronmiller, Sulloway Hollis & Soden, 9 Capital Street, Concord, New Hampshire 03301. (603) 224-2341.

i. Comment date: December 26, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 125-foot-long, 14.8-foot-high rock-filled timber-crib dam to be reconstructed as a concrete gravity dam with a normal operating pondage level at 461.3 feet m.s.l., owned by the City of Lebanon; (2) an existing impoundment with a surface area of 30 acres and a gross storage capacity of 170 acre-feet; (3) a new concrete intake structure to be an integral part of a powerhouse at the south abutment of the dam; (4) a new 25 feet by 25 feet concrete powerhouse containing two turbine-generator units with a combined installed capacity of 400 kW at a head of 17 feet; (5) a new 150-foot-long tailrace; (6) a new 150-foot-long, 13.2-kV overhead transmission line connecting to the existing Granite State Electric Company distribution system. The applicant estimates and average annual generation of 1.6 million kWh.

k. Purpose of Project: The Project power would be sold to Granite State Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

18 a. Type of Application: Exemption (5MW or Less).

b. Project No.: 10032-000.

c. Date Filed: July 7, 1986.

d. Applicant: Linweave, Inc.

e. Name of Project: Crocker Mill Project.

f. Location: Second Level Canal of the Connecticut River in Hampden County, Massachusetts.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Persons:

Mr. Robert Belsky, President,  
Linweave, Inc., 10 Linweave Drive,  
Holyoke, MA 01041, (413) 536-6410.

Mr. Leslie J. Goldman, Ms. June P. Broadstone, Skadden, Arps, Slate, Meagher & Flom, 919 Eighteenth St., NW, Washington, DC 20006, (202) 46 3-8700.

i. Comment Date: December 5, 1986.

j. Description of Project: The Crocker Mill project is presently licensed as FERC Project No. 2758.

The applicant is proposing to redevelop the project by retiring the

existing 280-kW generator unit and installing a new 575-kW generator unit with associated new equipment. This will not alter the existing facilities or the mode of operation of the project.

The applicant will utilize all the existing project works, which include: (1) A gated intake with trashracks; (2) a 225-foot-long, 10-foot-diameter steel penstock; (3) two 230-foot-long, 10-foot-diameter brick-line tailrace tunnels; (4) a concrete outlet structure; and (5) a 200-foot-long, 600-volt transmission line. The existing double runner Francis turbine also will remain. The turbine-generator unit is located in the 350-foot-long, 300-foot-wide Crocker Mill building.

The redeveloped project will increase the average annual generation from 1,758,000 kWh to 3,500,000 kWh.

k. Purpose of Project: Project power would be sold to the Fitchburg Gas & Electric Light Company.

l. This notice also consists of the following standard paragraphs: B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the exemptee priority of control, development, and operation of the project under the terms of exemption from licensing, and protects the exemptee from permit or license applicants that would seek to take or develop the project.

#### Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued,

does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable

statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife

Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's

comments must also be sent to the Applicant's representatives.

Dated: October 24, 1986. Signed at Washington, DC.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 86-24462 Filed 10-28-86; 8:45 am]

BILLING CODE 6717-01-M

### Office of Hearings and Appeals

#### Cases Filed During Week of September 26 Through October 3, 1986

During the Week of September 26 through October 3, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of

Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

October 17, 1986.

#### LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 26 through Oct. 3, 1986]

Date	Name and location of applicant	Case No.	Type of submission
May 1, 1986	Southwestern States Marketing Corp. Abilene, TX.	KRZ-0046	Interlocutory. If granted: The Proposed Remedial Order issued jointly to Southwestern States Marketing Corporation and Kenneth Walker would be amended to withdraw all allegations against Southwestern States Marketing Corporation for the period prior to January 1978.
Sept. 30, 1986	Economic Regulatory Administration (RFB Petroleum), Houston, TX.	KRR-0014	Modification/rescission. If granted: The Remedial Order issued to RFB Petroleum (Case No. HRO-0135) would be modified regarding the over-charge calculations.
Oct. 2, 1986	Total Petroleum, Inc., Washington DC	KEF-0133	Implementation of special refund procedures. If Granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the August 5, 1986 Consent Order which the DOE entered into with Total Petroleum, Inc.
Oct. 3, 1986	Ashcraft & Gerel, Washington, DC	KFA-0058	Appeal of an information request denial. If granted: The September 2, 1986 Freedom of Information Request Denial issued by the Nevada Operations Office would be rescinded, and Ashcraft & Gerel would receive access to records relating to documents discussed in the case of <i>Allen v. United States</i> .
Oct. 3, 1986	Pennzoil Company, Washington, DC	KRD-0310	Motion for discovery. If granted: Discovery would be granted to Pennzoil Company in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to Pennzoil (KRO-0310).

#### REFUND APPLICATIONS RECEIVED

[Week of Sept. 26 to Oct. 3, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
9/15/86	Farstad/Lockrem Oil Co.	RF261-4
9/26/86	Swayze Folding Box Company	RF270-66
9/26/86	L.V.L., Inc.	RF270-67
9/26/86	Monumental Motor Tours, Inc.	RF270-78
9/26/86	Utah Transit Authority	RF272-7
9/26/86	Tenneco/Red Longo Service	RF7-145
9/26/86	Tenneco/Spartan Oil Co., Inc.	RF7-146
9/26/86	LARCO/Allan's Sinclair	RF112-196
9/26/86	Husky/Beeline Auto Center	RF161-96
9/26/86	Macmillian/Aromalene Oil Company	RF217-4
9/26/86	Consumers/Aromalene Oil Company	RF223-2
9/26/86	Conoco/Lee's Conoco	RF220-414
9/26/86	Conoco/Carlisle Conoco	RF220-413
9/26/86	Conoco/10th St. Conoco	RF220-411
9/26/86	Conoco/B&B Service, Inc.	RF220-410
9/26/86	Conoco/Quality Oil Company	RF220-409
9/26/86	Conoco/Kittrell's Conoco	RF220-408
9/26/86	Conoco/Speedy's Conoco	RF220-407
9/26/86	Conoco/Wheelock Oil Company	RF220-406
9/29/86	King/Petroleum Trading & Transport	RF256-4
9/26/86	Bretton and Maine Corporation	RF271-15
9/26/86	J.B. Hunt Transport, Inc.	RF270-65
9/26/86	Gulf/Owen's Gulf	RF40-3433

#### REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 26 to Oct. 3, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
9/26/86	Gulf/Benton's Triangle Gulf	RF40-3434
9/26/86	Gulf-Meyer's Gulf Service Center	RF40-3435
10/1/86	Gulf/Louis Nardello Company	RF40-3436
10/1/86	APCO/Twin City Co., Inc.	RF83-152
10/3/86	Conoco/Stewart Oil Company	RF220-415
10/3/86	Marine/Fred Nixon Service Station	RF257-7
10/1/86	Gulf/Perovich & Son Fuel	RF260-6
10/1/86	Gulf/Perovich & Son Fuel	RF259-4
10/1/86	Bay Rapid Transit Co.	RF270-93
10/1/86	Usher Transport, Inc.	RF270-92
10/1/86	Diamond Cab of Delaware, Inc.	RF270-91
10/1/86	Gulf/Perovich & Son Fuel	RF260-5
10/1/86	Gulf/Perovich & Son Fuel	RF260-7
10/2/86	Chicago Tribune	RF270-90
10/2/86	Merchants Delivery Service, Inc.	RF270-96
10/2/86	Port Huron Area School District	RF270-95
10/2/86	Brink's Inc.	RF270-94
10/2/86	Gulf/Tom's Goods, Inc.	RF40-3437
10/3/86	Gulf/Ciffs Southland Gulf	RF40-3442
10/3/86	Gulf/Hope Mills Oil Co.	RF40-3441
10/3/86	Gulf/M. Brock & Son Fuel Oil	RF40-3440
10/3/86	Gulf/Schenck Fuels, Inc.	RF40-3439
10/3/86	Gulf/Blue Ridge Enterprises	RF40-3438
10/3/86	Lykes Bros. Steamship Co., Inc.	RF271-19
10/3/86	Farrell Lines, Inc.	RF271-20

#### REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 26 to Oct. 3, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
10/3/86	Independent Bus Garage Co., Inc.	RF270-97
10/3/86	Rockland Coaches, Inc.	RF270-98
10/3/86	Dudley Transcontinental Movers, Inc.	RF270-99
10/3/86	The Standard Products Co.	RF270-100
10/3/86	Rolen, Inc.	RF270-101
10/3/86	Union Trucking Co.	RF270-102
10/3/86	Continental Baking Co.	RF270-103
10/3/86	88 Transit Lines, Inc.	RF270-104
10/3/86	Wells Bus Service, Inc.	RF270-105
10/3/86	Triangle Transportation Co.	RF270-106
10/3/86	J.G.F. Trucking Co.	RF270-107
10/3/86	Yellow Freight System, Inc.	RF270-108
10/3/86	Mark Lines, Inc.	RF270-109
9/29/86	Mobil Refund Applications	RF225-10289 through
10/3/86		RF225-10328 through
9/29/86	Marathon Refund Applications	RF250-1425 through
10/3/86		RF250-1463

[FR Doc. 86-24460 Filed 10-28-86; 8:45 am]

BILLING CODE 6450-01-M

## Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Department of Energy.

**ACTION:** Notice of implementation of special refund procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the procedures for refunding to adversely affected parties the \$134,874 obtained as a result of consent orders between the DOE and the following firms:

Inman Oil Company of Salem, Missouri.

Leo's-Winstead's, Inc. of Blue Springs, Missouri.

The funds are being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

**DATE AND ADDRESS:** Comments must be filed on or before November 28, 1986. Comments should refer to the appropriate case number: HEF-0097 for Inman, and HEF-0114 for Leo's. Address comments to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline A. MacDonald, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

**SUPPLEMENTARY INFORMATION:** In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision explains tentative procedures that the DOE has formulated to distribute the \$134,874, plus accrued interest, that the DOE obtained under the terms of consent orders with Inman Oil Company, Inc. and Leo's-Winstead's, Inc. Inman and Leo's provided these funds to settle all claims and disputes with the DOE regarding the manner in which each firm applied the Federal price regulations to its sales of petroleum products. The Inman consent order covered the firm's sales between January 1, 1979, and July 31, 1979; the Leo's consent order covered the firm's sales between November 1, 1973, and April 30, 1974. Firms or individuals that purchased petroleum products from Inman or Leo's during these time periods may be eligible to receive a portion of the consent order funds.

DOE audit records identify 37 Inman customers and 15 Leo's customers that the firms' alleged pricing violations may have injured. In the Proposed Decision, OHA suggests that a portion of the consent order funds be distributed to these identified customers, provided that they can prove injury. To receive a refund, OHA proposes that an identified purchaser submit a statement verifying that it was an Inman or Leo's customer and is willing to rely on the data in the audit files. Those applying for refunds greater than \$5,000 would need to prove that they did not pass along the alleged overcharges to their own customers.

The audit files indicate that DOE officials were unable to identify certain customers that Inman and Leo's allegedly overcharged in their sales of motor gasoline. The Proposed Decision also describes a tentative process by which these unidentified customers might apply for refunds. Tentatively, an unidentified purchaser would need to submit a monthly schedule of the gallons of motor gasoline it purchased from Inman or Leo's during the period covered by the appropriate consent order. Like an identified purchaser, an unidentified customer claiming a refund greater than \$5,000 would need to submit detailed proof of injury.

If the Proposed Decision described above is approved, OHA will notify the public and solicit refund applications. While refund applications cannot be accepted until the refund procedures are finalized, OHA does welcome written suggestions regarding the proposed procedures. Comments should be submitted in duplicate within 30 days of this notice's publication. All comments received will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 20, 1986.

Richard T. Tedrow,

Deputy Director, Office of Hearings and Appeals.

### Proposed decision and Order of the Department of Energy

#### Implementation of Special Refund Procedures

##### Names of Petitioners:

Inman Oil Co.,  
Leo's-Winstead's Inc.

##### Dates of Filing:

October 13, 1983  
October 13, 1983

##### Case Numbers:

HEF-0097  
HEF-0114

October 20, 1986.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. See 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Inman Oil Company (Inman) and Leo's-Winstead's Inc. (Leo's). This Proposed Decision and Order outlines tentative procedures which the OHA has established to distribute funds received pursuant to those consent orders.

#### I. Background

Inman and Leo's are both "reseller-retailers" of petroleum products as that term was defined in 10 CFR 212.31. Inman is located in Salem, Missouri; Leo's is located in Blue Springs, Missouri. DOE audits of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart F. Subsequently, each firm signed a separate consent order with the DOE. Each consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, each consent order states that the subject firm does not admit that it violated the regulations. A brief discussion of other pertinent matters covered by the consent orders follows.

The DOE audit of Inman alleged that between January 1, 1979, and July 31, 1979, Inman committed possible pricing violations in its sales of motor gasoline. The consent order, signed June 23, 1980, settled all disputes between the DOE and Inman regarding the audit's allegations. In the consent order, Inman agreed to pay \$19,000, in four installments, into an interest-bearing escrow account for ultimate distribution by the DOE. Of this amount, \$5,764 represented alleged overcharges to Inman customers identified in the audit. The remaining \$8,486 represented overcharges to as yet unidentified customers. Inman paid the first installment on July 1, 1980, the second on December 30, 1980, and the third on June 30, 1981. Inman has not yet paid the final installment.<sup>1</sup>

The DOE audit of Leo's alleged that between November 1, 1973, and April 30, 1974, the firm committed possible pricing violations in its sales of motor gasoline, No. 1 and No. 2 fuel oil. The consent order, signed on September 3, 1981, resolved a May 23, 1979 Proposed Remedial Order (PRO) which recommended remedial action against Leo's for its alleged overcharges. In signing the consent order, Leo's agreed to deposit \$115,874, in 24 equal monthly installments, into an interest-bearing escrow account for later distribution by the DOE. The \$115,874

<sup>1</sup> As of September 30, 1986, the Inman escrow account contained \$25,281, including accrued interest.

represented 63.666 percent of the total amount Leo's allegedly overcharged its customers. Leo's paid the first installment on schedule on September 14, 1981, but was delinquent in its payments after April, 1982. Subsequently, ERA and Leo's negotiated a revised payment schedule.<sup>2</sup> In the negotiations, Leo's agreed to resume regular payments until it had paid the full \$115,874 stipulated in the consent order.<sup>3</sup>

## II. Proposed Refund Procedures

The DOE procedural regulations set forth general guidelines for OHA to follow in devising a plan to distribute funds received following an enforcement proceeding. 10 CFR Part 205, Subpart V. These guidelines, known as Subpart V, may be used to compensate persons possibly injured by a firm's alleged violations of the Mandatory Petroleum Price Regulations. The Subpart V process is used to determine both who the firm's alleged pricing violations injured, and the amount of their injuries. For a detailed description of Subpart V procedures, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

In past Subpart V proceedings, we have distributed consent order funds in two stages. We plan to adopt a similar approach in the Inman and Leo's cases. In the first stage, we will provide refunds to Inman and Leo's customers who can show that they were injured by the firms' alleged pricing violations. In the second stage, we will consider plans to distribute any funds that remain after all first-stage claims have been paid. See, e.g., *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

**A. Presumptions Used to Formulate Refund Procedures.** In the first stage of this refund proceeding, we must consider whether refund applicants were injured by the alleged overcharges, or, alternatively, whether they passed through the overcharges to their own customers. To help determine the level of a purchaser's injury without incurring inordinate expenses, we plan to adopt three rebuttable presumptions and two findings regarding injury, discussed below. DOE procedural regulations specifically authorize the use of presumptions and findings in refund cases. See 10 CFR 205.282(e).

The first presumption is that the alleged overcharges injured Inman or Leo's customers claiming small refunds. Without this presumption, each applicant would have to sort through records dating as far back as 1973 to gather proof that it absorbed the alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, we have decided that in this case, as in numerous similar cases, applicants claiming refunds under \$5,000 will not need to submit detailed proof of injury. See *Texas Oil & Gas Corp.*; *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

The second presumption is that Inman's and Leo's alleged overcharges did not injure spot purchasers. Spot purchasers, because they were not obliged by contract to purchase fixed volumes from Inman or Leo's, had considerable discretion as to when and where they bought their petroleum products. Thus, a spot purchaser would not have bought from Inman or Leo's at an increased price unless it knew it could pass through all the costs to its own customers. See *Vickers*, 8 DOE 85,396-97. A spot purchaser, therefore, will not receive a refund unless it presents evidence to rebut this presumption and establish the extent of its injury.

The final presumption is that the alleged pricing violations did not injure consignee agents. See *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*). A consignee is under contract with a refiner to sell petroleum products in the refiner's name at prices that the refiner sets. The contract guarantees that the consignee's sales commission remains fixed regardless of whether the refiner raises its prices. *Id.* at 88,200. Thus, under normal circumstances, a refiner's alleged pricing violations would not have injured a consignee. There are, however, exceptional circumstances in which alleged overcharges may have injured consignees. For example, a consignee's sales volumes, and consequently its commission revenues, may have dropped because the refiner's prices were significantly higher than market average prices. *Id.* See also *Gulf Oil Corp./C. F. Canter Oil Co., Inc.*, 13 DOE ¶ 85,388 at 88,962 (1986) (*Canter*). Nevertheless, unless a consignee can prove otherwise, we will presume that the alleged overcharges did not injure it.

In addition to these three presumptions, we propose to find that end users—those who used Inman's or Leo's products rather than reselling them—were injured by the alleged overcharges. Since end users were not subject to price controls, they were not required to keep records showing whether or not they passed through Inman's or Leo's cost increases to their own customers. Thus, an analysis of the impact of the alleged overcharges on end users is beyond the scope of this proceeding.

Finally, we propose to find that public utilities, agricultural cooperatives, or other firms whose prices are regulated by government agencies or cooperative agreements need not submit detailed proof of injury. Such firms would have routinely passed through price increases to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. Such firms applying for refunds should submit plans explaining both how their customers will benefit from a refund, and how they will alert the appropriate regulatory body or membership group to monies received. Such firms should note, however, that their sales to nonmembers will be treated the same as sales by any other reseller.

The findings and rebuttable presumptions discussed above will apply equally to the Inman and Leo's customers identified in the DOE audit, and to those purchasers whom the audits did not identify. The methods for refunding money to identified and unidentified customers are explained below.

**B. Refunds to Identified Purchasers.** As in previous cases, we will use the information in the audit files to distribute part of the consent order funds. In the Inman case, the audit files identify 37 customers and the portion of the escrow account to which each is entitled. These are listed in Appendix 1. In the Leo's case, the audit files identify fifteen first purchasers, one Leo's subsidiary, and several company-owned service stations as allegedly overcharged. Leo's subsidiary (Warren Enterprises) and the company-owned service stations will not be eligible for refunds, since refunding money to these firms would amount to returning consent order funds to Leo's. Appendices 2 and 3 list the remaining identified purchasers. One, Earl's Service, sold on consignment. As explained previously, this consignee will not receive a refund unless it can prove injury. The remaining Leo's identified purchasers and the Inman identified purchasers may apply for refunds as described below.

In applying for a refund, an identified customer should submit written confirmation that it purchased petroleum products from either Inman or Leo's and is willing to rely on the data in the audit files. An identified reseller or retailer claiming a refund greater than \$5,000 must submit detailed proof that it absorbed the alleged overcharges. Generally, we require such a firm to demonstrate: (i) That it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices. Alternatively, such a firm may choose to limit its claim to \$5,000. See *Vickers*, 8 DOE at 85,396. See also *Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (*Ada*).

**C. Refunds to Other Purchasers.** The audit files identify all purchasers whom Leo's allegedly overcharged for No. 1 and No. 2 fuel oil. However, the files specifically note that DOE officials were unable to identify all of the customers whom Inman and Leo's allegedly overcharged for motor gasoline. These as yet unidentified motor gasoline purchasers may apply for refunds under a volumetric method.

The volumetric method presumes that the alleged pricing violations were spread equally among all gallons of motor gasoline that Inman and Leo's sold during the respective consent order periods. Under this method, a successful claimant's refund is computed by multiplying a factor known as the volumetric by the number of gallons of Inman or Leo's motor gasoline the claimant purchased. The Inman volumetric is \$0.0042 per gallon; the Leo's volumetric is \$0.0096 per gallon.<sup>4</sup> These figures represent the average

<sup>4</sup> To compute the Inman volumetric, we divided the \$19,000 principal amount by the estimated 4,500,000 gallons of motor gasoline that Inman sold during the consent order period.

To compute the Leo's volumetric, we divided the \$105,377 allotted to unidentified purchasers by the 10,951,553 gallons of motor gasoline that Leo's sold to unidentified purchasers during the consent order period.

<sup>2</sup> See October 23, 1985 memorandum of telephone conversation between Allan Finkel, of ERA's Settlements Division, and OHA staff analyst Sharon Dennis.

<sup>3</sup> As of September 30, 1986, the Leo's escrow account contained \$125,974, including accrued interest.

dollar refund an applicant may receive per gallon of Inman or Leo's motor gasoline it purchased.

A claimant applying for a refund by the volumetric method must submit a monthly schedule of the number of gallons of motor gasoline it purchased from Inman between January 1, 1979, and July 31, 1979, or from Leo's between November 1, 1973, and April 30, 1974. Like identified purchasers, unidentified resellers or retailers of Inman or Leo's products whose claims exceed \$5,000 must submit the detailed proof of injury discussed in section B above.

All applicants should know that, as in previous cases, only claims for at least \$15 plus interest will be processed. We have adopted this minimum because the cost of processing claims for smaller amounts outweighs the benefits of restitution. See, e.g., *Uban Oil Co.*, 9 DOE at 85,225. See also 10 C.F.R. § 205.286(b).

In the unlikely event that valid claims exceed the funds in the escrow accounts, claims will be prorated. If funds remain after these first stage proceedings, we will solicit proposals for distributing the balance of the accounts.

**D. Summary of Refund Application Procedures.** Through the above procedures, we believe we will be able to distribute the Inman and Leo's consent order funds as equitably and efficiently as possible. The information each applicant must provide, if these proposed procedures are adopted, is summarized below:

(1) If the applicant was identified in the audit files, it should submit a statement verifying that it purchased petroleum products from Inman or Leo's and is willing to rely on the information in the audit files. Identified purchasers are listed in the Appendices.

(2) If the applicant was not identified in the audit files, it must submit a monthly schedule of the number of gallons of motor gasoline it purchased from Inman between January 1, 1979, and July 31, 1979, or from Leo's between November 1, 1973, and April 30, 1974.

(3) All resellers and retailers of Inman or Leo's products whose claims exceed \$5,000 must submit proof, as explained in this Proposed Decision, that they absorbed and were injured by the alleged overcharges.

(4) Each applicant must indicate whether it has received a refund, from any source, for the alleged overcharges identified in the ERA audits underlying this proceeding.

(5) If the applicant's firm has changed ownership since the consent order period, the applicant must provide the names and addresses of the previous owners. In addition, the applicant must either state the reasons why it should receive the refund instead of the other owners, or provide a signed statement from the other owners indicating that they do not claim a refund.

(6) Each applicant must indicate whether it is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its

current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. See 10 CFR 205.9(d).

It is therefore ordered that: The refund amounts remitted to the Department of Energy by Inman Oil Company and Leo's-Winstead's Inc. pursuant to the consent orders executed on June 23, 1980, and September 3, 1981, respectively, will be distributed in accordance with the foregoing decision.

Appendix 1.—INMAN OIL CO., CASE NO.: HEF-0097

First purchasers	Share of settlement
Barrath Oil, 802 Union West, Union, MO 63084.....	\$118.90
Cooper Oil Co., Inc., Karsch Boulevard, De Sota, MO 63020.....	172.95
Don Heil, Post Office Box 127, Salem, MO 65560.....	204.16
University of Missouri, Rolla, MO 65401.....	161.50
Sherer Grocery and Service Station, Route 2, Frederickton, MO 63645.....	126.54
Cooper's Oil, Waynesville, MO 65583.....	94.65
MFA Service Station, Junction Highway 19-32 & 2, Salem, MO 65560.....	112.81
MFA Service Station, Potosi, MO 63664.....	40.66
Satterfields' Boss Store, Boss, MO 65440.....	235.52
Clyde Nixon's Service Station, Highway 21 East, Potosi, MO 63664.....	396.21
MFA Oil Co., Rolla, MO 65401.....	40.95
Anderson Conoco, Vichy, MO 65580.....	163.45
B.P. Service Station, Potosi, MO 63664.....	20.95
Jarvis Station, Potosi, MO 63664.....	125.90
Hamilton and Sons, Inc., 19th & Sharp Avenue, Rolla, MO 65401.....	534.86
7-11 Store, 1326 Daphnia, Times Beach, MO.....	264.16
Hocker Service Station, West Rolla Road, Salem, MO 65560.....	720.43
7-11 Store, 7th and Jefferson, Lebanon, MO 65536.....	827.83
7-11 Store, Salem, MO 65560.....	38.31
7-11 Store, Arnold, MO 63010.....	* 11.89
Ernie Middleton, Salem, MO 65560.....	40.66
Don Stuce, Mineral Point, Potosi, MO 65401.....	43.37
Chilton Oil Co., 510 South Main, Salem, MO 65560.....	81.84
Rolla Public Schools, 6th and Ann, Rolla, MO 65401.....	40.19
Vienna Quick Shop, Vienna, MO 65582.....	51.33
Forrest City Conoco, Highway I-44, St. James, MO 65559.....	42.42
Holsum Bakers, West 10th and Bishop, Rolla, MO 65401.....	81.61
Ozark Truck Port, V Highway, Rolla, MO 65401.....	40.42
Eminence Oil Co., Eminence, MO 65466.....	81.23
M.E. Johnson Service Station, Annapolis, MO 63620.....	83.01
Missouri Energy, Co., Inc., 304 East High, Potosi, MO 65401.....	505.21
MFA Service Station, Freeburg, MO 65035.....	39.95
Stoney Point Station, Highway 8, Potosi, MO 63664.....	54.67
Delmer Feeler, Argyle, MO 65001.....	39.95
Twin City MFA, Festus, MO 63028.....	40.97
Fred Aron, Salem, MO 65560.....	42.48
Hopkins Oil Co., Route 1 Cadet, Potosi, MO 63664.....	41.59
Total.....	\$5,763.53

\* These figures do not include interest.  
\* As explained in the Decision, we do not intend to process claims for less than \$15.

APPENDIX 2.—LEO'S-WINSTEAD'S, INC., CASE NO.: HEF-0114

First purchasers	Share of settlement
Earl's Service #, (Station No. 61), 1044 Osage, Kansas City, KS 66105.....	\$995.82
Quick Trip No. 187, County Rd. 45 and Lake crest Rd., Parkville, MO 64152.....	475.89

APPENDIX 2.—LEO'S-WINSTEAD'S, INC., CASE NO.: HEF-0114—Continued

First purchasers	Share of settlement
McCall's 4428 Main Street, Kansas City, MO 64111.....	1,852.24
Wingert Oil, Post Office Box 212, Ottawa, KS 66067.....	695.48
Home Oil, 605 Cherry, Belton, MO 64012.....	940.32
Marcum Liberty Distributing Co., 124 Florence, St. Joseph, MO 64504.....	912.16
Intercity Excavation Co., 5300 Lewis, Kansas City, MO 64129.....	607.88
Butler Manufacturing Co., 700 Karnes, Kansas City, MO 64108.....	1,122.82
Botsford Ready-Mix Co., 4701 Coal Mine Road, Kansas City, Mo. 64130.....	552.14
Hamilton Hauling Co., Inc., 5420 E 10th Street, Kansas City, MO 64127.....	121.67
Total.....	\$8,301.33

\* These figures do not include accrued interest.  
\* This firm sold on consignment for Leo's. As explained in the Decision, consignees will not receive refunds unless they can prove injury.

APPENDIX 3.—LEO'S-WINSTEAD'S, INC., CASE NO.: HEF-0114

First purchasers—addresses unknown	Share of settlement
Interstate Trucking.....	\$24.91
Keith Hudson/Keith's Service.....	1,889.44
L.J. Mobry.....	198.03
Mike Flaysik.....	57.36
R&W Transport.....	50.29
Total.....	\$2,195.12

\* These figures do not include accrued interest.

[FR Doc. 86-24459 Filed 10-28-86; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Proposed Post-1989 Power Allocations From Salt Lake City Area Integrated Projects; Corrections

In Federal Register, Volume 51, No. 176, September 11, 1986, make the following corrections:

On page 32365: In Appendix A, fifth column entitled "Capacity (MW)," second line (APPA), change "27.274" to "27.275;" sixth line (Electrical District #3), change "8.630" to "8.631;" seventh line (Electrical District #4), change "4.897" to "4.896;" ninth line (Electrical District #5-P), change "2.948;" to "2.947."

In Appendix A, sixth column entitled "Energy (MWH)," first line (Ak-Chin Indian Community), change "9,374.538" to "9,373.538;" fourth line (Colorado River Commission), change "49,518.834" to "49,519.834;" fifth line (Colorado River Irr./Power), change "1,010.293" to "1,011.293;" sixth line (Electrical District #3), change "19,062.541" to "19,063.541;" ninth line (Electrical District #5-P), change "6,511.426" to "6,510.426;" tenth line (Electrical District #6), change "13,793.632" to "13,794.632."

On page 32366: In Appendix A, fifth column entitled "Capacity (MW)," first line (Electric District #7), change "4.808" to "4.807;" second line (Maricopa County MWCD No. 1), change "5.749" to "5.748;" third line (Ocotillo WCD), change "1.161" to "1.162;" eighth line (Salt River Project), change "103.221" to "103.220."

In Appendix A, sixth column entitled "Energy (MWH)," first line (Electrical District #7), change "10,619.670" to "10,618.670;" second line (Maricopa County MWCD No. 1), change "12,698.071" to "12,697.071;" third line (Ocotillo WCD), change "2,564.685" to "2,565.685;" fifth line (Roosevelt Irr. Dist.), change "11,560.055" to "11,561.055;" sixth line (Roosevelt Water Cons. Dist.), change "5,222.408" to "5,221.408;" eighth line (Salt River Project), change "227,998.470" to "227,995.470;" ninth line (San Carlos Irr. Project), change "3,017.035" to "3,018.035."

On page 32366: In Appendix B, fourth column entitled "Energy (MWH)," thirty-seventh line (Plains G & T), change "372,746.899" to "372,746.898."

In Appendix B, sixth column entitled "Energy (MWH)," thirty-ninth line (San Isabel EA), change "1,187.602" to "1,186.602."

On page 32368: In Appendix C, sixth column entitled "Energy (MWH)," eighth line (Holy Cross E.A.), change "9,902.367" to "9,092.367;" ninth line (La Plata E.A.) change "9,902.367" to "9,092.367;" tenth line (Navajo Tribal Ut Ath) change "9,902.367" to "9,092.367;" fourteenth line (Yampa Valley E.A.) change "9,902.367" to "9,092.367."

Issued at Golden, Colorado, October 17, 1986.

William H. Clagett,  
Administrator.

[FR Doc. 86-24448 Filed 10-28-86; 8:45 am]  
BILLING CODE 6450-01-M

PSD permit grants approval to construct a 1350 ton per day resource recovery facility to be located in Long Beach, California. The permit is subject to certain conditions, including an allowable emission rate as follows:

Pollutant	Averaging Period	Emission Rate
Lead	3-hour	0.08 lbs/hr
Mercury	3-hour	0.12 lbs/hr
Fluoride (as HF)	3-hour	1.1 lbs/hr
SO <sub>2</sub>	3-hour	the more stringent of: 17 lbs/hr or 70 ppm, dry, at 12% CO <sub>2</sub>
	8-hour	12 lbs/hr or 26 ppm, dry, at 12% CO <sub>2</sub>

**FOR FURTHER INFORMATION:** Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of a baghouse, a lime slurry dry scrubber, flue gas recirculation, and ammonia injection.

#### Date

The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 1, 1986.

David P. Howekamp, Director,  
Air Management Division, Region 9.  
[FR Doc. 86-24440 Filed 10-28-86; 8:45 am]  
BILLING CODE 6560-50-M

#### Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Enercan Resources, Inc.

[A-9-FRL-3102-4; EPA Project Number LA 84-02]

**AGENCY:** Environmental Protection Agency (EPA), Region 9.  
**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on January 8, 1986, the Environmental Protection Agency issued a PSD permit under EPA's Federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct an 1800 ton per day resource recovery facility to be located in Compton, California. The permit is subject to certain conditions, including an allowable emission rate (3-hour average) as follows: Lead—0.26 lbs/hr;

mercury—0.12 lbs/hr; fluoride (as HF)—0.32 lbs/hr; and for SO<sub>2</sub>, the more stringent of 13.9 lbs/hr or 26 ppm, dry, corrected to 12% CO<sub>2</sub>.

**FOR FURTHER INFORMATION:** Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of a cyclone, baghouse, and a calcium hydroxide/sodium hydroxide slurry dry scrubber for each boiler.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 1, 1986.

David P. Howekamp,  
Director, Air Management Division, Region 9.  
[FR Doc. 86-24441 Filed 10-28-86; 8:45 am]  
BILLING CODE 6560-50-M

[A-9-FRL-3102-6; EPA Project Number SD 84-01]

#### Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to North County Resource Associates

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on September 4, 1986 the Administrator of the Environmental Protection Agency issued an order denying petitions of review filed pursuant to 40 CFR 124.19 regarding a PSD permit issued by the EPA to the applicant named above. The PSD permit was issued on April 2, 1985 under EPA's Federal regulations 40 CFR 52.21 and is effective as of September 4, 1986. The PSD permit grants approval to construct a 33 megawatt, 1000 ton per day resource recovery facility in San Marcos, San Diego County, California. The permit is subject to certain conditions, including an allowable emission rate as follows: SO<sub>2</sub> at 95.9 lbs/hr or 70 ppm (2-hour average), whichever is more stringent, and 41.1 lbs/hr or 30 ppm (8-hour average), whichever is more stringent; NO<sub>x</sub> at 197 lbs/hr of 200 ppm, whichever is more stringent; lead at 0.45 lbs/hr or 0.0004 gr/dscf, whichever is more stringent; mercury at 0.13 lbs/hr; and fluorides at 1.3 lbs/hr.

#### ENVIRONMENTAL PROTECTION AGENCY

[A-9-FRL-3102-5; EPA Project No. LA 83-01]

#### Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to the City of Long Beach, CA

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on October 23, 1985, the Environmental Protection Agency issued a PSD permit under EPA's Federal regulations 40 CFR 52.21 to the applicant named above. The

**FOR FURTHER INFORMATION:** Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of a dry scrubber and baghouse for the control of SO<sub>2</sub>, lead, mercury, and fluorides; and staged combustion for NO<sub>x</sub> control.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 6, 1986.

Carl C. Kohnert,  
Acting Director.

[FR Doc. 86-24439 Filed 10-28-86; 8:45 am]

BILLING CODE 5560-50-M

[A-9-FRL-3102-2; [EPA Project Number NC 84-02]

**Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Pacific Gas and Electric Co.**

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on August 29, 1985, the Environmental Protection Agency issued a PSD permit under EPA's Federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct a geothermal-electric power plant to be located in Lake County, California. The permit is subject to certain conditions, including an allowable emission rate for H<sub>2</sub>S at 11.25 lbs/hr.

**FOR FURTHER INFORMATION:**

Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of an operating Stretford process unit, an H<sub>2</sub>O<sub>2</sub> catalyst system, drift controls on the cooling towers, and during power plant outages, the use of a turbine bypass.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of

Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 1, 1986.

David P. Howekamp,  
Director, Air Management Division,  
[FR Doc. 86-2443 Filed 10-28-86; 8:45 am]  
BILLING CODE 5560-50-M

[A-9-FRL-3102-3; EPA Project Number NV 84-01]

**Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to R.R. Donnelley and Sons Co.**

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on June 21, 1985, the Environmental Protection Agency issued a PSD permit under EPA's Federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct a commercial printing facility to be located in the Stead area, northwest of Reno, NV. The permit is subject to certain conditions, including an allowable emission rate as follows: For SO<sub>2</sub>—51.0 lbs/hr; for hydrocarbons—1365 lbs/hr (30-day average) from the rotogravure presses, and 194 lbs/hr (30-day average) from the offset presses.

**FOR FURTHER INFORMATION:** Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of an activated carbon absorption system and a condensation/filter system.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 1, 1986.

David P. Howekamp,  
Director, Air Management Division, Region 9,  
[FR Doc. 86-24442 Filed 10-28-86; 8:45 am]  
BILLING CODE 5560-50-M

[A-9-FRL-3102-1; EPA Project Number NV 83-01]

**Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to White Pine County**

**AGENCY:** Environmental Protection Agency (EPA), Region 9.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on August 6, 1986 the Environmental Protection Agency issued a PSD permit under EPA's Federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct a 1500 MW coal-fired electric utility steam generating plant and associated facilities to be located approximately 48 miles north of Ely, Nevada. The permit is subject to certain conditions, including an allowable emission rate (for each of the two boilers) as follows: SO<sub>2</sub>—0.19 lbs/10<sup>6</sup> Btu (30-day average) with at least 84% control efficiency and 1490 lbs/hr (24-hour average), CO—383 lbs/hr (30-day average), NO<sub>x</sub>—0.55 lbs/10<sup>6</sup> Btu when firing bituminous coal or 0.45 lbs/10<sup>6</sup> Btu when firing sub-bituminous coal (30-day average), TSP—0.02 lbs/10<sup>6</sup> BTU or 160.9 lbs/hr, fluoride—24 lbs/hr, and mercury at 0.05 lbs/hr (.006 grams per second).

**FOR FURTHER INFORMATION CONTACT:** Copies of the permit are available for public inspection upon request; address request to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

**SUPPLEMENTARY INFORMATION:** Best Available Control Technology (BACT) requirements include the use of a fabric filter baghouse, lime spray absorption/drying flue gas desulfurization system, combustion controls and "Lo No<sub>x</sub>" burners.

**DATE:** The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by December 29, 1986.

Dated: October 1, 1986.

David P. Howekamp,  
Director, Air Management Division, Region 9,  
[FR Doc. 86-24444 Filed 10-28-86; 8:45 am]  
BILLING CODE 5560-50-M

[PF-464; FRL-3099-9]

**Pesticide Tolerance Petitions; Roussel Uclaf of Paris, France, et al.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces the filing of pesticide petitions proposing the establishment of tolerances for residues of certain pesticide chemicals in or on certain agricultural commodities.

**ADDRESS:** By mail, submit comments identified by the document control

number [PF-464] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460  
In person, bring comments to: Information Services Section (TS-757C), Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/telephone No.	Address
George LaRocca, PM-15.	Rm. 204, CM #2, 703-557-2400.	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202 Do.
Arturo Castillo, PM-17.	Rm. 207, CM #2, 703-557-2690.	Do.

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide petitions (PP) as follows proposing the establishment of tolerances, or exemption from the requirement of a tolerance, for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *PP 6F3436*. Roussel Uclaf of Paris, France. U.S. Agent: Hoechst-Roussel Agri-Vet Company, Route 202-206 North, Somerville, NJ 08876. Proposes to amend 40 CFR 180.422 by establishing tolerances for the combined residues of the insecticide tralomethrin (1R,3S)[(1'P<sup>2</sup>)(1',2',2',2'-tetrabromoethyl)]-2,2-

dimethylcyclopropanecarboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester and its major metabolites, deltamethrin (1R,3R)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester and *trans*-deltamethrin (1S,3R)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester calculated as parent, in or on the following agricultural commodities:

Commodities	Parts per million
Broccoli.....	0.50
Broccoli, Chinese (gai lan).....	3.50
Broccoli, raab (rapini).....	3.50
Brussels sprouts.....	3.50
Cabbage.....	.10
Cabbage, Chinese (bok choy, napa).....	3.50
Cabbage, Chinese mustard (gai choy).....	3.50
Cauliflower.....	3.50
Collards.....	3.50
Kale.....	3.50
Kohlrabi.....	3.50
Lettuce, head.....	.50
Lettuce, leaf.....	2.50
Mustard greens.....	3.50
Sunflower seeds.....	.05 (N)
Rape greens.....	3.50

The proposed analytical method for determining residues is gas chromatography. (PM-15).

2. *PP 6F3434*. Fermone Chemicals, Inc., P.O. Box 2316, Glendale, AZ 85311. Proposes to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for the insect Pheromone 3,7,11-trimethyl-2,6,10-dodecatriene-1-ol in or on the agricultural commodity corn. (PM-17).

Authority: 21 U.S.C. 346a.

Dated: October 16, 1986.

James W. Akerman,  
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-24131 Filed 10-29-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/45A; FRL-3098-7]

**Preliminary Determination To Cancel Registrations of Dinocap Products; Notification of Requirement To Submit Federal Application for Registration, Intent To Deny Registrations and Availability of Technical Support Document and Draft Notice of Intent To Cancel**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Preliminary Determination.

**SUMMARY:** This Notice sets forth EPA's preliminary determination regarding the continued registration of pesticide products containing dinocap and sets

forth the Agency's assessment of the risks and benefits associated with the pesticidal uses of dinocap. On January 9, 1985, EPA issued a Notice of Initiation of Special Review of Registrations of Products containing Dinocap based on teratogenicity concerns. This Notice announces the Agency's preliminary determination to cancel most of the registrations of dinocap if changes are not made to the terms and conditions of registration. In addition, this Notice announces the availability of the Dinocap Technical Support Document and Draft Notice of Intent to Cancel. The Technical Support Document and accompanying scientific reviews constitute the technical documents in support of the action.

**DATE:** Written comments must be received on or before December 29, 1986.

**ADDRESS:** Submit three copies of written comments, bearing the document control number "OPP-30000/45A" by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person bring comments to: Room 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA

Information submitted in any comment concerning this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked CBI may be publicly disclosed by EPA without prior notice to the submitter. The dinocap public docket, which contains all non-CBI written comments and the corresponding index, will be available for public inspection and copying in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Paul N. Parsons, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 1020, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1632)

Copies of the Dinocap Technical Support Document and draft Notice of Intent to Cancel are available from the contact person at the address given above.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Dinocap is the common name for a mixture of 2,4-dinitro-6-octylphenol crotonate (70-72%) and 2,6-dinitro-6-octylphenol crotonate (28-30%). Dinocap is most commonly sold under the trade names Karathane®, Mildex®, and Dikar®, the latter of which is a mixture of dinocap and mancozeb. Dinocap is available as a 2 to 25 percent wettable powder, 0.5 to 2 percent dust, 10 to 37 percent liquid, and 0.125 to 0.5 percent aerosols. Dinocap is registered for use as a fungicide to control powdery mildew diseases. Registered in the mid-1950's, dinocap also has limited use as a miticide. About 500,000 to 550,000 pounds of active ingredient are applied annually in the United States.

About 92 percent of the annual use of dinocap is application to apples which occurs from early spring to late summer. An estimated 30 percent of the U.S. apple acreage and up to 80 percent of certain varieties is treated. It is also applied to grapes, oranges, grapefruit, peaches, cherries, tomatoes, melons, cucurbits and floral crops. Its home garden use accounts for less than 1 percent of all dinocap use. Greenhouse use is negligible.

Rohm and Haas is the basic producer of technical dinocap. There are approximately 80 federally registered products containing dinocap, 20 intrastate products, and 4 special local needs registrations issued pursuant to FIFRA section (24(c)).

Following discussions with the Agency, in November 1984, Rohm and Haas, the sole manufacturer of dinocap, voluntarily suspended until April 1, 1985, the sale and distribution of their dinocap products based on tests which showed that this pesticide caused teratogenic effects in rabbits when ingested. At that time, the manufacturer began conducting exposure studies and teratology-related studies to determine whether the product could be safely used during the next spray season.

On January 9, 1985, EPA issued a Notice of Initiation of Special Review of Registrations of Pesticide Products containing dinocap and a document detailing the bases for the Agency's decision (also called Position Document 1 or PD 1, 50 FR 1116). The Agency determined that pesticide products containing dinocap met or exceeded the risk criteria in 40 CFR 162.11(a)(3)(ii)(B).

That section provided that a Special Review (previously known as a Rebuttable Presumption Against Registration or "RPAR") would be conducted if the use of a pesticide produced a "chronic or delayed toxic effect in test animals". The risk criteria set forth in 40 CFR 162.11(a)(3)(ii)(B) have been superseded by new criteria set forth in 40 CFR 159.7. Dinocap also exceeds the new criteria, and thus, a Special Review would have been commenced if the new criteria had been in place when the Special Review was initiated in 1985. The Special Review was initiated based on laboratory studies in rabbits demonstrating dinocap's potential to produce teratogenic effects. The Agency determined that dermal and inhalation exposure of dinocap may present significant risks to pregnant women who apply the product. On April 9, 1985, the Agency announced that it would temporarily allow the continued use of dinocap based on findings that showed that dermal exposure to dinocap did not cause birth defects in rabbits and the skin penetration of dinocap is low. The Agency also announced that it would continue the Special Review on dinocap and require the registrant to conduct additional toxicology and exposure studies and place protective clothing requirements on the label. In the PD-1, EPA solicited comments on the risks and benefits associated with all the uses of dinocap. Since the time the PD-1 was issued, additional toxicology and exposure data have been submitted, reviewed and used to develop the proposed regulatory decision.

Based on information received in public comments, as well as on additional analyses performed since the Special Review process began, EPA has made a preliminary determination to propose cancellation of registrations of products containing dinocap unless certain modifications are made by registrants to the terms and conditions of registration. EPA's position and a summary of the rationale underlying that position are set forth in summary in this Notice. The basis for EPA's action is explained more fully in the dinocap Technical Support Document. Copies of the Technical Support Document are available upon request from the contact person listed at the beginning of this Notice. The Technical Support Document also contains references, background information, and other information pertinent to the registration of pesticide products containing dinocap.

In addition, copies of a draft Notice of Intent to Cancel Registrations of Dinocap Products are also available

from the contact person listed above. Preparation of the draft Notice of Intent to Cancel is required by 40 CFR 154.31(b)(1). This draft Notice is being forwarded to the Scientific Advisory Panel and the Secretary of Agriculture to permit their review of the Agency's action. The draft Notice of Intent to cancel, along with the Dinocap Technical Support Document and other notices and analyses prepared pursuant to 40 CFR 154.31 will be sent to all registrants and applicants for registration of pesticide products containing dinocap. The draft Notice of Intent to Cancel is not now legally effective but is intended only to provide a basis for comment by the SAP, U.S. Department of Agriculture, registrants and the public. The draft Notice contains the draft provisions regarding disposition of existing stocks, compliance by intrastate producers, and procedures for requesting a cancellation or denial hearing after issuance of a final notice of intent to cancel. Comments on the draft Notice of Intent to Cancel, this Notice, and the Technical Support Document must be filed within 60 days of the issuance of this Notice.

##### II. Legal Background

###### A. The Statute

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 et seq.). Before a product can be registered it must be shown that it can be used without "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)), that is, without causing "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 of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard for registration, then the Administrator may cancel this registration under section 6 of FIFRA.

###### B. The Special Review Process

The Special Review process, formerly called the Rebuttable Presumption Against Registration (RPAR), is a mechanism by which the Agency collects information on the risks and benefits associated with the uses of pesticides to determine whether any use

causes unreasonable adverse effects to human health or the environment. The Special Review process is currently governed by 40 CFR Part 154.

Through the Special Review process the Agency (1) announces and describes the Agency's risk concerns regarding pesticidal use based on certain risk criteria, (2) establishes a public docket, (3) proposes a regulatory decision, (4) solicits comments from the public on the proposed decision and issues concerning the Special Review, (5) responds to significant comments from the Secretary of Agriculture and the Scientific Advisory Panel, and (6) makes a final regulatory decision based on a balancing of risks and benefits associated with a pesticide's use.

Issuance of this Notice means that potential adverse effects and benefits associated with the use of pesticide products containing dinocap have been assessed and that the Agency has preliminarily determined that, unless the terms and conditions of registration are modified as proposed in this Notice, the risks from exposure to dinocap outweigh the benefits of its continued use.

### III. Summary of Risk and Benefit Determinations and Proposed Regulatory Actions

#### A. Risk Concerns

Rohm and Haas submitted to the Agency two oral teratology studies involving dinocap. In the first study, (Costlow and Kane, 1984a) teratogenic effects were observed in the offspring of New Zealand rabbits administered technical dinocap by gavage; teratogenic effects were observed at 3 mg/kg/day, the lowest dose tested. The teratogenic effects observed in this study were primarily neural tube and skull malformations. In the second Rohm and Haas oral teratology study (Costlow and Kane, 1984b), effects observed at the highest dose level included decreased weight gain, decreased implantation efficiency, decreased viability index, and increased resorptions. When the two studies are considered jointly, the oral developmental toxicity no observed effect level (NOEL) is determined to be 0.5 mg/kg/day, with abnormalities of neural tube, spine, and skull observed at 3 mg/kg/day. After the initiation of the Special Review, Rohm and Haas submitted an additional teratology study, a dermal teratology study in rabbits (Costlow and Lutz, 1985). A dermal teratology study was important to the Special Review since the primary route of exposure to mixer/loaders and applicators is dermal. Thus, this study was used to recalculate risks, rather than the two oral teratology studies

discussed in the PD-1. Dermal exposure to dinocap technical dinocap during the period of organogenesis produced dermal irritation in rabbits at all dosage levels tested. The severity of the injury was proportional to the dosage level used. Of primary concern in this study was the occurrence of "neural tube or skull malformations" previously observed. The incidence of litters with "neural tube or skull malformations" was increased in all treated groups, but not statistically significantly at levels below 50 mg/kg/day. Although the incidence of "neural tube or skull malformations" in all treated groups was not greatly different from controls, the slight increase noted in all treated groups is of concern in light of effects observed in previous teratology studies.

From the newly submitted dermal teratology study in rabbits, the dermal developmental toxicity NOEL appears to be 50 mg/kg/day. Developmental toxicity in the form of reduced fetal weight and an increased incidence of skull abnormalities was observed at 100 mg/kg. The maternal NOEL for frank, systemic toxicity is 50 mg/kg. Skin irritation, however, was observed in dams at all dose levels.

The revised Agency risk assessment is now based on the endpoint of developmental toxicity rather than the more narrow definition generally associated with the term "teratogenicity".

The recently released Agency "Guidelines for the Health Assessment of Suspect Developmental Toxicants" defines developmental toxicity as including (1) death of the developing organism, (2) malformation, (3) altered growth, and (4) functional deficiency. Teratogenicity is usually considered to be synonymous with structural anomalies. Because all four manifestations of developmental toxicity are of concern, the Agency Guidelines direct that developmental toxicity risk assessments be based on the NOEL for the most sensitive manifestation. Therefore, although the dermal teratogenicity study did not clearly indicate teratogenicity at any of the dose levels tested, developmental toxicity was observed at the highest dose (100 mg/kg) and therefore an NOEL of 50 mg/kg is used in the Agency's revised risk assessment for dermal exposures.

Rohm and Haas also submitted a pharmacokinetic study in female rabbits (DiDonato and Longacre, 1985). The doses used were the same as those employed in the dermal teratology study. Dermal absorption varied from 3.8 percent to 9.2 percent of the applied

dose, with the greatest absorption occurring after exposure to the wettable dust formulation. Of the technical dinocap, the material used in the dermal teratology study discussed above, 5.1 percent of the applied dose was absorbed.

A dermal penetration study of dinocap in rhesus monkeys was also submitted (Wester and Maibach, 1985). The overall means for percutaneous absorption, based on urinary and fecal excretion and expressed as a percentage of the applied dose was 15.7 percent.

In assessing the risks presented by the use of dinocap, EPA considered dermal exposure from the agricultural and home uses of dinocap; inhalation exposure was not considered because it is only a small component of total applicator exposure, and does not affect margins of safety (MOS) significantly. Even if residues are as high as tolerance levels, there are adequate margins of safety (>100) for the risks of developmental toxicity associated with eating dinocap-treated commodities. To estimate dietary risks, EPA used the maximum single serving size for a dinocap-treated commodity, 0.60 ug/kg (for pumpkins and squash), based on the U.S.

Department of Agriculture's market basket survey, and assumed a 0.5 mg/kg/day oral NOEL based on the oral teratology studies discussed in the PD-1 and dinocap residues tolerance level. This affords a margin of safety of 833. No new information has come to the Agency's attention to indicate that dietary risks from the use of dinocap should be of concern. Thus, it is the exposure from handling and applying dinocap for agricultural and home garden uses that was and is the primary concern. Based on the number of treated acres and agricultural census data, it is believed that there are about 16,570 applicators, of whom about 825 are women. These exposures and the assumptions used to estimate them are discussed at length in the Technical Support Document. Table 1 summarizes these exposures.

Risks presented by developmentally toxic pesticides, such as dinocap, are expressed as "margins of safety". The margin of safety is a safety criterion to assess hazard and is defined as the ratio of the no observed effect level to exposure. Generally, the Agency becomes concerned when the margin of safety for a particular use is less than 100. Margins of safety greater than 100 provide reasonable assurance that persons are unlikely to be at risk, taking into consideration the uncertainty resulting from extrapolation of animal

data to humans, and the variations in sensitivity among humans.

The rabbit dermal developmental toxicity study demonstrated a NOEL of 50 mg/kg/day; and, assuming that 5.1 percent of the applied dose is absorbed dermally, based on the rabbit pharmacokinetic study, the actual absorbed dose at the developmental toxicity NOEL would be:

$$50 \text{ mg/kg/day} \times 5.1\% = 2.55 \text{ mg/kg/day} \text{ (equation 1)}$$

From the dermal penetration study in monkeys, EPA calculated that 15.7 percent of the applied dose is absorbed. Assuming that the dermal pharmacokinetics of dinocap in monkeys are similar to humans, then the

absorbed dosages for mixer/loader/applicator are:

$$(\text{Table 1 exposure in mg/kg/day}) \times 15.7\% \text{ (equation 2)}$$

Developmental toxicity NOEL at actual absorbed dose (equation 1)

Mixer/loader-applicator absorbed dosages (equation 2)

The developmental toxicity MOS is calculated using the ratio:

As noted earlier, MOS's less than 100 generally are not considered adequate. Based on review of all data and comments, the risk criterion for developmental toxicity is exceeded by all uses of dinocap except liquid

products applied to peaches and apricots, wettable powders packaged in water soluble packaging for use on peaches and apricots, and all homeowner uses.

TABLE 1.—MIXER/LOADER AND APPLICATOR EXPOSURE TO DINOCA (IN MG/KG/DAY)

Crop	Formulation	Mixer/loader	Applicator	Combined
Peaches/Apricots.....	Liquid.....	0.013-0.02	0.093-0.14	0.11-0.18
	Wettable powder.....	0.047-0.070	0.093-0.14	0.14-0.21
	WP-WSB <sup>1</sup> .....	0.008-0.011	0.093-0.14	0.10-0.15
Pears.....	Liquid.....	0.063-0.15	0.44-1.05	0.50-1.2
	Wettable Powder.....	0.22-0.53	0.44-1.05	0.66-1.8
	WP-WSB.....	0.036-0.086	0.44-1.05	0.48-1.1
Apples.....	Liquid.....	0.051-0.063	0.35-0.44	0.40-0.50
	Wettable Powder.....	0.18-0.22	0.35-0.44	0.53-0.68
	WP-WSB.....	0.029-0.036	0.35-0.44	0.38-0.48
Grapes.....	Liquid.....	0.083-0.21	0.58-1.5	0.66-1.7
	Wettable Powder.....	0.30-0.77	0.58-1.5	0.88-2.3
	WP-WSB.....	0.047-0.12	0.58-1.5	0.63-1.6
Field Cucurbits.....	Liquid.....	0.080	0.076	0.16
	Wettable Powder.....	0.28	0.076	0.36
	WP-WSB.....	0.046	0.076	0.12
Field Roses.....	Liquid.....	0.025-0.033	0.18-0.23	0.21-0.26
	Wettable Powder.....	0.088-0.12	0.18-0.23	0.27-0.35
	WP-WSB.....	0.014-0.019	0.18-0.23	0.19-0.25
Greenhouse Uses.....	Liquid.....	0.011-0.017	0.15-0.23	0.16-0.25
	Dust.....			0.015-0.08
Homeowner Garden.....	Liquid.....			0.056-0.22
Homeowner Turf.....	Liquid.....			0.015-0.08

<sup>1</sup> WP-WSB = Wettable powder in water-soluble bag.

<sup>2</sup> Geometric mean (range).

TABLE 2.—APPLICATOR MARGINS OF SAFETY (MOS'S)

Crops	Formulation	Mixer/Loader	Applicator	Combined	
		MOS's	MOS's	MOS's	MOS's
Peaches/Apricots.....	Liquid.....	1249-812	175-116	147-101	
	Wettable Powder.....	345-232	175-116	116-77	
	WP-WSB <sup>1</sup> .....	2030-1476	175-116	162-108	
Pears.....	Liquid.....	258-108	37-15	32-14	
	Wettable Powder.....	74-31	37-15	25-10	
	WP-WSB.....	451-189	37-15	34-15	
Apples.....	Liquid.....	318-258	46-37	41-32	
	Wettable Powder.....	90-74	46-37	31-25	
	WP-WSB.....	560-451	46-37	43-34	
Grapes.....	Liquid.....	197-79	28-12	24-10	
	Wettable Powder.....	58-21	28-12	19-7	
	WP-WSB.....	343-135	28-12	26-10	
Field Cucurbits.....	Liquid.....	203	214 (4060-9)	102	
	Wettable Powder.....	58	214 (4060-9)	45 (58-8)	
	WP-WSB.....	353	214 (4060-9)	135 (325-9)	
Field Roses.....	Liquid.....	650-492	90-71	77-62	
	Wettable Powder.....	185-116	90-71	60-46	
	WP-WSB.....	1160-855	90-71	85-65	
Greenhouse Uses.....	Liquid.....	1476-955	108-71	102-65	
	Dust.....			2900-738	
Homeowner Garden.....	Liquid.....			10151-1934	
Homeowner Turf Grass.....	Liquid.....			1015	

<sup>1</sup> Wettable powder/water soluble packaging.

## B. Determination of Benefits

### 1. Scope and Method

EPA has conducted an analysis to assess the benefits associated with the continued use of dinocap. The methodology and results of this analysis are described in more detail in the Dinocap Technical Support Document.

Approximately 92 percent of the dinocap annually used in the United States is used on apples (480,000 lb ai); 4 percent (20,000 lb ai) is used on pears; about 3 percent (13,000 lb ai) is used on grapes. The other use sites together comprise less than 1 percent of the dinocap market.

Two sites were selected for a thorough benefits analysis. Apples were selected and analyzed because of the high percentage of dinocap applied to the crop. Ornamentals were reviewed because of concern about possible exposure to applicators, especially home gardeners. Additional sites were not thoroughly reviewed because of the lower economic importance attributed to the small market share for dinocap and the low percentage of the acreage treated. These sites include pears, grapes, peaches, citrus, cherries (nonbearing) and cucurbits (squash, cucumber, and melons).

### 2. Apples

Approximately 30 percent of the United States apple acreage is treated with about 480,000 pounds active ingredient, mostly in the East and North Central regions. Dinocap is applied to apple foliage usually as a spray or infrequently as a dust. The principal application method is by airblast sprayers.

If the registrations of dinocap were cancelled for use on apples, the estimated total annual short term cost increase for the United States apple production would be \$3.9 million (range of \$1.2 to \$6.7 million). This impact would be regionally distributed as follows: Northwest—\$25,000; North Central \$883,000; and East—\$3.0 million.

On the average, total variable production costs per impacted acre would increase less than 1 percent in the Northwest and 5 percent or less in the North Central and East regions, based on recent production budgets.

Specifically, costs per acre treatment for impacted acreage would increase by: Northwest \$6.37; North Central—\$5.25; and East—\$6.76. Based on these estimates, the average number of acres per farm by region, and regional ranges in the number of dinocap treatments per season among alternative recommended spray schedules, the total annual cost increase to a "typical" impacted grower

would be: Northwest—\$170-\$690; North Central—\$530-\$1310; East \$1030-\$2310. This is a minor economic impact.

The unavailability of dinocap would not affect the quantity or quality of apples produced. Since no apple output effects are expected if dinocap were cancelled, consumers would have the same quantity of apples available in the market. Short term retail apple prices may increase slightly because of production cost increases, but such effects would be partially offset by the availability of other fruits.

### 3. Ornamentals and Home Uses

Dinocap is used to a very limited extent (less than 2,000 lb ai annually) for control of powdery mildew diseases of several ornamentals. Dinocap can be applied to home gardens as well as to indoor plants and to commercial operations of both greenhouse and field grown ornamentals. For home and garden use, dinocap has a negligible market share and is often sold as a component in multiple active ingredient, all purpose products.

For either home and garden or commercial use, the availability of numerous substitutes will allow equal or better powdery mildew disease control with the only impact of a cancellation being a possible increase in treatment costs. The cost impacts for powdery mildew control in the home and garden market would be negligible.

## C. Risk Benefit Analysis

There are three basic options for regulating the uses of dinocap:

Option 1—Continuation of registration without changes,

Option 2—Continuation of registration with modifications to the terms and conditions of registration, and

Option 3—Cancellation of registration.

Adoption of option 1 would be appropriate only when the Agency has concluded that the level of risk is acceptable 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 the Agency has concluded that the risks from a use outweigh the benefits of that use and that these risks cannot be mitigated to an acceptable level when compared to the benefits by any measures short of cancellation.

Option 2 is appropriate when the risks of a pesticide's 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. EPA has considered various modifications for regulating the uses of dinocap; these modifications are evaluated fully in the Technical Support Document, and are summarized here.

1. *Require use of water-soluble packaging for wettable powder formulations.* This option would require all wettable powder products containing dinocap to be packaged in water-soluble packaging. This option would increase margins of safety for mixer/loaders by an approximate factor of 6 (see Table 2) to levels greater than 100, but would have no effect on applicator risk.

2. *Require use of additional protective clothing for applicators.* This option would require applicators to also wear disposable, full body, chemical-resistant protective suits, chemical-resistant gloves, and hats. Full body covering would reduce applicator exposure to dinocap by more than an order of magnitude. This option, coupled with the requirement that wettable-powder formulations be packaged in water-soluble bags, would provide margins of safety of over 100 for all categories of mixers, loaders, and applicators. However, full protective covering is impractical for many application situations.

3. *Use of enclosed vehicles for ground boom, airblast and mist blower applications.* This option requires all ground boom, air blast, and mist blower applications to be made from small vehicles (e.g., a pickup truck) with enclosed cabs. It would also require workers to wear chemical-resistant gloves when exiting the vehicle or while repairing equipment. This option reduces applicator exposure by over an order of magnitude. This option, coupled with the requirement that wettable-powder formulations be packaged in water-soluble bags, would provide increased margins of safety, to over 100, for all categories of mixers, loaders, and applicators. This option may not be feasible in all application situations.

4. *Require commercial formulations to be classified for restricted use.* Two of the options above are dependent upon users reading and complying with label requirements. To provide additional assurance that risk reduction measures are complied with, all commercial formulations could be classified for restricted use. Commercial formulations include all formulations of dinocap except those for home garden and lawn use by homeowners.

5. *Require commercial formulations to be restricted for use only in the physical presence of a certified applicator.* To provide even greater assurance that

label provisions are complied with, commercial formulations could be classified for restricted use with the additional proviso that certified applicators must be physically present while the products are in use. This option assures that the person who received the certification training is actually on site.

6. *Require a teratogenicity warning on the label.* Under this option, all formulation product labels would be required to bear the statement, "Use of this product may be hazardous to your health. This product has been determined to cause birth defects in laboratory animals." Use of this statement might encourage users to follow use directions carefully and motivate them to use appropriate protective clothing and equipment.

7. *Reduce application rates.* For some uses of dinocap the highest label rates pose unreasonable risks, while the lowest label rates do not, e.g., liquid formulations for use on field cucurbits and greenhouse uses. This option would remove the higher application rates from the label. Removing the higher application rates from the labels of some uses would substantially reduce the risks from these uses of dinocap. The risk reduction is directly proportional to any reduction in application rates. However, data are not available to determine if lower application rates would provide acceptable control.

8. *Change the composition of dinocap.* At this time, Rohm and Haas is developing a new, purer version of technical dinocap. Current dinocap is about 80 percent pure, the remainder being poorly characterized reaction products. The new technical material is about 95 percent pure. There is some preliminary evidence, based on the teratogenicity screening test developed at Research Triangle Park, North Carolina, that the purified (99 percent) isomers of dinocap are not teratogenic or developmentally toxic. Rohm and Haas has begun an oral rabbit teratology study using the new technical dinocap, and expects to complete it in early 1987. While it is not possible at this time to consider reformulation of dinocap as a regulatory option, it is possible that this new material will not pose unreasonable risks when the benefits of its use are considered. The Agency urges registrants to submit all available data on the developmental and other risks associated with the impurities of dinocap, and on the risks associated with purified forms of dinocap.

#### D. Conclusions

The Agency proposes to allow continued registration, with modifications, of all products containing the active ingredient dinocap that are registered for use in home gardens and on home lawns. Although there is already an adequate margin of safety for mixers, loaders, and applicators exposed to these product uses, the Agency believes that the addition of a teratogenicity warning statement will assure user compliance with label directions and precautions. For liquid products for use on peaches and apricots, and wettable powder products already packaged in water soluble packaging for use on peaches and apricots, there are also adequate margins of safety. However, these products for use on peaches and apricots are also used on crops of concern, and so any risk reduction requirements for those uses will also apply to use on peaches and apricots. Continuation of the remaining dinocap product registrations without modification is not an acceptable alternative. For the remaining registrations of dinocap (i.e. use on pears, apples, grapes, field cucurbits, greenhouse uses, field roses, and peaches and apricots), the Agency has determined that continuation of such uses without modification would pose risks of developmental toxicity to mixer/loaders and applicators, and these risks would be unreasonable in comparison to the small benefits associated with these uses of dinocap. Therefore, EPA has determined that continuation of these registrations without modification would cause unreasonable adverse effects on the environment.

EPA has also evaluated requiring modifications of the terms and conditions of registration to change application practices and to change product labeling. A full discussion of these alternatives is presented in the Technical Support Document that accompanies this Notice. For all uses the Agency has determined that the modifications will adequately reduce risks to a point where, taking into account the impact of those changes on the benefits of the products, the benefits will outweigh the risks of the use.

If the registrations of dinocap were cancelled for most uses, the risks of developmental toxicity to mixer/loaders and applicators would be eliminated. The short-term economic impact of cancellation for use on the major crop, apples, would range from \$1.2 million to \$6.7 million, with an average of \$3.9 million. This is considered a minor

impact, but the economic impacts could increase if pest resistance to alternative pesticides accelerates in the absence of dinocap. However, the Agency believes that the risks of continued use can be reduced by the proposed label modifications such that even these small benefits would exceed the reduced risks. Thus, cancellation is not necessary if registrants modify their labels as proposed below.

#### E. Proposed Regulatory Actions

The Agency proposes to cancel all products containing the active ingredient dinocap that are registered for use on pears, apples, grapes, field cucurbits, greenhouse uses, field roses, and peaches and apricots unless the following changes are made to product labels:

1. All wettable powder formulations be packaged in water soluble bags.

2. All ground boom, airblast and mist blower applications must be made from enclosed cabs. Applicators must wear long-sleeved shirts and long pants, and will also be required to wear chemical resistant gloves when exiting the vehicle or while repairing equipment.

3. Products are classified for restricted use, with the additional requirement that certified applicators be physically present while the application is taking place.

4. Products are required to bear a teratogenicity warning statement.

The Agency proposes to cancel all products containing the active ingredient dinocap that are registered for use on home gardens and home lawns unless the following change is made to product labels:

Products are required to bear a teratogenicity warning statement.

These options provide adequate margins of safety, taking into consideration risks and benefits, for all categories of mixers, loaders, and applicators. The restricted use and teratogenicity warning statements provide further assurance that risk reduction measures will be followed. The Agency requests comments on the feasibility of these proposals, especially concerning the feasibility of using enclosed cabs in all field application situations. The cost of the proposed options is considered to be small. Water soluble packaging for wettable powder formulations is already being used for many dinocap products. The Agency believes enclosed vehicles are already available to most dinocap applicators. The cost to States and dinocap mixer/loaders and applicators of obtaining certification should be small since there are fewer than 17,000 dinocap

applicators nationwide and many of them are already certified.

#### IV. Procedural Matters

##### A. Referral to the Secretary of Agriculture and the Scientific Advisory Panel

As required by FIFRA sections 6(b) and 25(d), and 40 CFR 154.31(b), EPA has transmitted copies of a draft Notice of Intent to Cancel based on this Notice, together with the support documents, to the Secretary of Agriculture and the Scientific Advisory Panel for comment. EPA will publish any comments received from the Secretary or the Panel, and EPA's responses, in the Notice of Final Determination.

##### B. Intrastate Products

Pursuant to 40 CFR 162.17, EPA hereby notifies the producers of all potentially affected intrastate dinocap products that they are required to submit a complete application for Federal registration. These applications must be submitted within 60 days of the date on which this Notice is published in the Federal Register or the date on which the intrastate producer receives a copy of this Notice, whichever is later. If an intrastate producer fails to submit a timely application, EPA will consider his Notice of Intent to Apply as an application for Federal registration for purposes of the review described below.

In addition, for purposes of FIFRA section 3(c)(6), this Notice also constitutes a Notice of Intent to Deny registration of pesticide products containing dinocap for all uses for which cancellation is proposed. The statute provides applicants with a 30-day period in which to correct an application to make it acceptable for registration. The changes in the terms and conditions of use of dinocap products subject to this Notice that would make such products acceptable for registration are described in Unit III.E, above. Intrastate producers may, however, if they choose, submit applications for registration with additional terms and conditions on use that they believe would satisfy the statutory standard for registration.

EPA will review all applications submitted. If EPA decides, based on comments received in response to this Notice, to issue a final notice allowing continued use of dinocap products under circumstances different from those proposed in this Notice, EPA will notify intrastate applicants and producers of that decision and allow them at least 30 days in which to make changes that would allow EPA to approve the application. If the application has not been corrected in the prescribed manner

within the period allowed, the application may be denied. On the other hand, if EPA issues a final notice cancelling the registrations of dinocap products enumerated herein, that notice will also include a final Notice of Denial for all applications for Federal registration of intrastate pesticide products containing the uses of dinocap subject to that Notice.

Under FIFRA section 3(c)(6), the issuance of a denial entitles an applicant, or other interested person with the concurrence of the applicant, to request an adjudicatory hearing to challenge the denial decision.

#### V. Public Comment Opportunity

The Agency is providing a 60-day period for the public to comment on this Notice and on the Dinocap Technical Support Document. The Agency is particularly soliciting comments on the feasibility of the use of enclosed cabs to apply dinocap. Comments must be submitted by December 29, 1986. All comments and information should be submitted in triplicate to the address given in this Notice under **ADDRESS**. The comments and information should bear the identifying notation OPP-30000/45A. All comments, information, and analyses which come to the attention of EPA may serve as a basis for final determination of regulatory action during the Special Review.

#### VI. Public Docket

The Agency has established a public docket (OPP-30000/45A) for the Dinocap Special Review. This public docket will include (1) this Notice; (2) any other notices pertinent to the dinocap Special Review; (3) non-CBI documents and copies of written comments or other materials submitted to the Agency in response to this Notice, and any other documents regarding dinocap submitted at any time during the Special Review process by any person outside government; (4) a transcript of all public meetings held by the Agency for the purpose of gathering information on dinocap; (5) memoranda describing each meeting held during the Special Review process between Agency personnel and any person outside government; and (6) a current index of materials in the public docket.

Dated: October 14, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-23999 Filed 10-28-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180704; FRL-3101-1]

#### Emergency Exemptions; Sodium Chlorate, etc.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has granted specific exemptions for the control of various pests in the 10 States listed below and one quarantine exemption to the California Department of Food and Agriculture. Also listed are crisis exemptions initiated by four States. These exemptions, issued during the month of August, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

**DATES:** See each specific, quarantine, and crisis exemption for its effective dates.

**FOR FURTHER INFORMATION CONTACT:** See each specific exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460  
Office location and telephone number: Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806)

**SUPPLEMENTARY INFORMATION:** EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of sodium chlorate on dry edible beans as a harvest aid; August 26, 1986 to January 1, 1987. (Jim Tompkins)
2. Florida Department of Agriculture and Consumer Services for the use of fluzifop-p-butyl on celery and head lettuce to control grasses; August 20, 1986 to July 31, 1987. (Jim Tompkins)
3. Minnesota Department of Agriculture for the use of sodium chlorate on dry edible beans as a desiccant; August 13, 1986 to October 1, 1986. (Jim Tompkins)
4. Montana Department of Agriculture for the use of fluralinate on alfalfa grown for seed to control grasshoppers; August 27, 1986 to August 31, 1986. Montana had initiated a crisis exemption for this use. (Libby Pemberton)
5. New Mexico Department of Agriculture for the use of monocrotophos on field corn to control

Banks grass mites; August 8, 1986 to August 31, 1986. (Gene Asbury)

6. New York State Department of Environmental Conservation for the use of sodium chlorate on dry edible beans as a harvest aid; August 26, 1986 to October 31, 1986. (Jim Tompkins)

7. North Carolina Department of Agriculture for the use of metalaxyl on peppers to control phytophthora; August 8, 1986 to September 30, 1986. North Carolina had initiated a crisis exemption for this use. (Jim Tompkins)

8. Oklahoma Department of Agriculture for the use of monocrotophos on field corn to control Banks grass mites and two-spotted spider mites; August 18, 1986 to August 31, 1986. Oklahoma had initiated a crisis exemption for this use. (Gene Asbury)

9. Texas Department of Agriculture for the use of monocrotophos on field corn to control Banks grass mites; August 1, 1986 to August 31, 1986. (Gene Asbury)

10. Texas Department of Agriculture for the use of cyromazine on peppers to control vegetable leafminers; August 22, 1986 to June 30, 1987. (Jim Tompkins)

11. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of aluminum tris(O-ethylphosphonate) on cultivated ginseng to control *Phytophthora cactorum*; August 12, 1986 to September 2, 1986. Wisconsin had initiated a crisis exemption for this use. (Libby Pemberton)

12. EPA issued a quarantine exemption to the California Department of Food and Agriculture for the use of diazinon on home garden crops to control Japanese beetles; issued August 20, 1986 and effective from September 25, 1986 to September 24, 1989. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; final determination was published in the *Federal Register* of January 15, 1986 (51 FR 1842). (Libby Pemberton)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on August 22, 1986, for the use of 2-carbomethoxy-1-methylvinyl dimethyl phosphate, alpha isomer and related compounds (CAS 298-01-1) on pumpkins to control the cotton melon aphid and black bean aphid. Since it was anticipated that this program would be needed for more than 15 days, California requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1986. (Libby Pemberton)

2. Georgia Department of Agriculture for the use of sodium chlorate on southern peas as a desiccant. Since it was anticipated that this program would

be needed for more than 15 days, Georgia requested a specific exemption to continue it. The need for this program is expected to last until November 15, 1986. (Jim Tompkins)

3. Oklahoma Department of Agriculture on August 8, 1986, for the use of monocrotophos on field corn to control Banks grass mites and two-spotted spider mites. The need for this program has ended. (Gene Asbury)

4. Texas Department of Agriculture on August 27, 1986, for the use of permethrin on kale, mustard greens, and turnip greens to control cabbage loopers. Since it was anticipated that this program would be needed for more than 15 days, Texas requested a specific exemption to continue it. The need for this program is expected to last until March 31, 1987. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: October 16, 1986.

Douglas D. Camp, Jr.

Director, Office of Pesticide Programs.

[FR Doc. 86-24209 Filed 10-28-86; 8:45 am]

BILLING CODE 6560-50-M

#### Science Advisory Board, Radiation Advisory Committee's National Survey Design Subcommittee; Cancellation of Open Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the meeting of the Radiation Advisory Committee's National Radon Survey Design Subcommittee that was scheduled to be held on October 31, 1986 at the U.S. Environmental Protection Agency, South Conference Area Room No. 2, Washington Information Center, Waterside Mall, 401 M Street SW., Washington, DC, has been cancelled.

The meeting was cancelled because the Agency program office was unable to provide sufficient information to hold the meeting. The meeting is being rescheduled to allow the Agency additional time.

For further information please contact Mrs. Kathleen W. Conway, Executive Secretary, Science Board on (202) 382-2552.

Dated: October 24, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86-24555 Filed 10-28-86; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Teresa Brown, Barling, AR.	BPH-841218MB	86-395
B. Martha L. Demaree, Barling, AR.	BPH-850520MC	
C. Betsy Keith Pilgrim, Barling, AR.	BPH-850531ML	
D. Aguilar Broadcasting Company, Barling, AR.	BPH-850531NZ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

##### Issue Heading Applicant(s)

1. Air Hazard, B and D.
2. Comparative, All Applicants.
3. Ultimate, All Applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan. Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86-24407 Filed 10-28-86; 8:45 am]

BILLING CODE 6712-01-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-4-GA-3; S.C.-5]

##### Georgia and South Carolina Radiological Emergency Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plans.

SUMMARY: For operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans.

Since FEMA has a responsibility for reviewing the State and local governments' plans, the State of Georgia and the State of South Carolina have submitted their radiological emergency plans to the FEMA Regional Office.

These plans support a nuclear power plant which impacts on Georgia and South Carolina, and include those of local governments near Georgia Power Company's Vogtle Electric Generating Plant located in Burke County, Georgia.

**DATES:** Georgia—September 25, 1986; South Carolina—September 30, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Major P. May, Regional Director, FEMA Region IV, 1371 Peachtree St. NE., Atlanta, GA 30309, 404/347-2400.

**NOTICE:** In support of the Federal requirement for emergency response plans, FEMA has a final Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness", 45FR42341, "Annex D (Plant Vogtle) to the Georgia Radiological Emergency Base Plan", and the "Vogtle Electric Generating Plant Site-Specific, Part 7, South Carolina Operational Radiological Emergency Response Plan" were received by the Federal Emergency Management Agency Region IV Office.

Included are radiological emergency response plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zones of Plant Vogtle. Plans are included for Burke County, Georgia and for Allendale, Aiken and Barnwell Counties, South Carolina.

Copies of the plans are available for review at the FEMA Region IV Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 2009 pages in the documents; reproduction fees are \$0.10 a page payable with the request for copy.

Comments on the plan may be submitted in writing to Mr. Major P. May, Regional Director, at the above address within thirty days of this Federal Register Notice.

FEMA Rule CFR 350.10 also calls for a public meeting prior to approval of the plans. This meeting was held in accordance with FEMA Rule CFR 350.10 at the auditorium of the Burke County

Office Park, Waynesboro, Georgia, at 6:00 p.m., June 12, 1986.

Major P. May,

Regional Director.

[FR Doc. 86-24425 Filed 10-28-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-774-DR]

**Amendment to Notice of a Major-Disaster Declaration; Michigan**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Michigan (FEMA-774-DR), dated September 18, 1986, and related determinations.

**DATED:** October 20, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

**NOTICE:** The notice of a major disaster for the State of Michigan, dated September 18, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 18, 1986:

Clinton and Ionia Counties for Public Assistance.

The Kent County municipalities of Sand Lake Village and Walker City for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-24422 Filed 10-28-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-779-DR]

**Amendment to Notice of a Major-Disaster Declaration; Missouri**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Missouri (FEMA-779-DR), dated October 14, 1986, and related determinations.

**DATED:** October 22, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Sewall H.E. Johnson, Disaster

Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

**NOTICE:** The notice of a major disaster for the State of Missouri, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986:

Boone, Callaway, Cole, Franklin, Gasconade, Montgomery, Saline, and Warren Counties for Individual Assistance.

Howard, Moniteau, and Osage Counties as adjacent areas for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-24423 Filed 10-28-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-778-DR]

**Amendment to Notice of a Major-Disaster Declaration; Oklahoma**

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Oklahoma (FEMA-778-DR), dated October 14, 1986, and related determinations.

**DATED:** October 20, 1986.

**FOR FURTHER INFORMATION CONTACT:**

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

**NOTICE:** The notice of a major disaster for the State of Oklahoma, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986: Kay, Payne, and Rogers Counties as adjacent areas for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-24424 Filed 10-28-86; 8:45 am]

BILLING CODE 6718-01-M

**FEDERAL MARITIME COMMISSION****Ocean Freight Forwarder License;  
Reissuance of License**

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/address	Date reissued
1683-R...	Pacific Steamship Agency, Inc., dba R.B. Abbott & Co., Inc., 1050 Green Street, San Francisco, CA 94133.	October 1, 1986.

**Robert G. Drew,**

*Director, Bureau of Tariffs.*

[FR Doc. 86-24388 Filed 10-28-86; 8:45 am]

BILLING CODE 6730-10-M

**Ocean Freight Forwarder License;  
Revocations**

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.: 2523

Name: Richard R. Lyle dba Searace International

Address: P.O. Box 260, Long Beach, CA 90801

Date Revoked: September 6, 1986

Reason: Failed to maintain a valid surety bond

License No.: 2510

Name: United American Tank Container, Inc.

Address: 333 North Belt/E. No. 1100, Houston, TX 77060

Date Revoked: September 8, 1986

Reason: Surrendered license voluntarily

License No.: 2933

Name: Boaz Export Crating Company

Address: 15135 Jacintoport Blvd., Channelview, TX 77530

Date Revoked: September 12, 1986

Reason: Surrendered license voluntarily

License No.: 556

Name: Triangle Forwarding Corp.

Address: 53 Park Place, Suite 710, New York, NY 10007

Date Revoked: September 15, 1986

Reason: Surrendered license voluntarily

License No.: 2921

Name: Columbia Industries Corporation

Address: 1616 South Amphlett Blvd., San Mateo, CA 94402

Date Revoked: September 18, 1986

Reason: Failed to maintain a valid surety bond

License No.: 2854

Name: Fred Jaime, dba Bluesea Cargo  
Address: 7370 N.W. 36th Street, Miami, FL 33122

Date Revoked: September 20, 1986

Reason: Failed to maintain a valid surety bond

License No.: 2484

Name: Speedway International, Inc.  
Address: 3520 Long Beach Blvd., Long Beach, CA 90867

Date Revoked: September 20, 1986

Reason: Failed to maintain a valid surety bond

License No.: 78

Name: Gulf Florida Terminal Company  
Address: P.O. Box 2481, Tampa, FL 33601-2481

Date Revoked: September 24, 1986

Reason: Surrendered license voluntarily

License No.: 2895

Name: Interport Systems, Inc.  
Address: 433 Hegeneberger Road, Oakland, CA 94621

Date Revoked: September 24, 1986

Reason: Requested revocation voluntarily

License No.: 2728

Name: Hasman & Baxt of Florida, Inc.  
Address: 1515 N.W. 82nd Ave., Miami, FL 33126-1019

Date Revoked: September 27, 1986

Reason: Failed to maintain a valid surety bond

License No.: 1756

Name: David B. Grant  
Address: 341 Lyme Street, Hartford, CT 06112

Date Revoked: October 8, 1986

Reason: Requested revocation voluntarily

**Robert G. Drew,**

*Director, Bureau of Tariffs.*

[FR Doc. 86-24389 Filed 10-28-86; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL RESERVE SYSTEM****Bank of New England Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company**

The Company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The

listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 14, 1986.

A Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation.* Boston, Massachusetts; to acquire through its subsidiary, Intermediate Corporation, Boston, Massachusetts, the successor by merger of The Conifer Group, Inc., Worcester, Massachusetts, and thereby indirectly acquire Berkshire Bank and Trust Company, Pittsfield, Massachusetts; Guaranty Bank and Trust Company, Worcester, Massachusetts; Essexbank, Peabody, Massachusetts; Union National Bank, Lowell Massachusetts; Bank of Cape Cod, Falmouth, Massachusetts; Plymouth-Home National Bank,

Brockton, Massachusetts; Patriot Bank, National Association, Boston, Massachusetts; and Hampshire National Bank of South Hadley, South Hadley, Massachusetts. In connection with this application, Intermediate Corporation, has applied to become a bank holding company by merging with The Conifer Group, Inc.

In connection with this application, Applicant also proposes to acquire Conifer Life Insurance Company, Phoenix, Arizona, and thereby engage in the underwriting, through reinsurance, of credit life and credit accident and health insurance that is directly related to extensions of credit by the banking subsidiaries of The Conifer Group Inc., pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the Commonwealth of Massachusetts.

Board of Governors of the Federal Reserve System, October 23, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24390 Filed 10-28-86; 8:45 am]

BILLING CODE 6210-01-M

#### Signet Banking Corporation; Amendment of Application to Engage de Novo in Nonbanking Activities

This notice amends a previous Federal Register document (FR Doc. 86-22146), published at page 35052 of the issue for Wednesday, October 1, 1986.

Under the Federal Reserve Bank of Richmond, the entry for Signet Banking Corporation is amended to read as follows:

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Signet Banking Corporation*, Richmond, Virginia; to engage *de novo* through its subsidiary, Corporate Finance Advisors, Inc., Richmond, Virginia, in providing: (i) advice in connection with questions related to structuring and arranging for loan syndications, interest rate "swap," interest rate "cap" and similar transactions; (ii) advice in connection with merger, acquisition/divestiture and financing transactions for nonaffiliated financial institutions and nonfinancial institutions, (iii) valuations of nonaffiliated financial institutions and nonfinancial institutions; and (iv) the rendering of fairness opinions in connection with merger, acquisition and similar transactions for nonaffiliated financial institutions and nonfinancial institutions.

In addition, the deadline for submitting comments regarding this

application has been changed to November 13, 1986.

Board of Governors of the Federal Reserve System, October 23, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24392 Filed 10-28-86; 8:45 am]

BILLING CODE 6210-01-M

#### Westbank Corporation et al.; Formations of, Acquisition by, and Mergers, of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 18, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Westbank Corporation*, West Springfield, Massachusetts; to acquire 100 percent of the voting shares of Chicopee Co-operative Bank, Chicopee, Massachusetts. Comments on this application must be received by November 19, 1986.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *PNB Financial Corporation*, Warrenton, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples National Bank or Warrenton, Warrenton, Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Tennessee State Bancshares, Inc.*, Gatlinburg, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Tennessee State Bank, Gatlinburg, Tennessee.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Metropolitan Bancorporation, Inc.*, Bloomington, Minnesota; to acquire 89.22 percent of the voting shares of Metropolitan Bank of Plymouth, Plymouth, Minnesota.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Southwest Bancshares, Inc.*, Hermitage, Missouri; to acquire 90 percent of the voting shares of Buffalo Bank, Buffalo, Missouri; First National Bank, Republic, Missouri; Citizens State Bank of Polk County, Bolivar, Missouri; and Humansville Bank, Humansville, Missouri.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Broadway Bancshares, Inc.*, San Antonio, Texas; to acquire 100 percent of the voting shares of Heights National Bank, San Antonio, Texas. Comments on this application must be received by November 19, 1986.

Board of Governors of the Federal Reserve System, October 23, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24391 Filed 10-28-86; 8:45 am]

BILLING CODE 6210-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Health Resources and Services Administration

##### Application Announcement for Nurse Anesthetist Traineeship Grants and Professional Nurse Traineeship Grants and Proposed Funding Preference for Nurse Anesthetist Traineeship Grants

##### Correction

In FR Doc. 86-21830 beginning on page 34260 in the issue of Friday, September 26, 1986, make the following correction: On page 34261, in the first column, in the first complete paragraph, the ninth line should read: "before October 27, 1986".

BILLING CODE 1505-01-M

**National Institutes of Health****Biomedical Research Technology Review Committee; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee (BRTRC), Division of Research Resources (DRR), December 4, 1986, 9:00 a.m., Conference Room 4, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on December 4 from 2:00 p.m. to approximately 4:00 p.m. during which time there will be comments by the Director, DRR; a status report on the Biomedical Research Technology Program; a discussion on small grants review guidelines; status of supercomputer program; and status of PROPHET II. Attendance will be limited to space available.

In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 9:00 a.m. on December 4 until 2:00 p.m. for the review, discussion, and evaluation of individual research grant applications. The 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 privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, MD 20892, (301) 496-5545, will provide a summary of the meeting and a roster or committee members upon request. Dr. Caroline Holloway, Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, MD 20892, (301) 496-5411, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13[371, Biotechnology Research, National Institutes of Health])

Dated: October 21, 1986.

**Betty J. Beveridge,**

*NIH Committee Management Officer.*

[FR Doc. 86-24377 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

**Environmental Health Sciences Review Committee; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on December 8-9, 1986, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina. This meeting will be open to the public on December 8 from 9:00 a.m. to approximately 10:30 for general discussion. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 8, from 10:30 a.m. to adjournment on December 9, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun or Carol Shreffler, Executive Secretaries, Environmental Health Sciences Review Committee National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826, will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: October 21, 1986.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 86-24376 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

**Cancer Preclinical Program Project Review Committee; Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Preclinical Program Project Review Committee, National Cancer Institute, National Institutes of Health, December 4, 1986, Holiday Inn Hotel, 8120 Wisconsin Avenue, Bethesda,

Maryland 20814. This meeting will be open to the public on December 4, from 8:30 a.m. to 9:15 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 4th, from approximately 9:15 a.m. until adjournment for the review, discussion and evaluation of 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and roster of committee members, upon request.

Dr. Edwin M. Bartos, Executive Secretary, Cancer Preclinical Program Project Review Committee, National Cancer Institute, Westwood Building, Room 836, National Institutes of Health, Bethesda, Maryland 20892 (301-496/7565) will furnish substantive program information.

Dated October 21, 1986.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 86-24378 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Child Health and Human Development; Amended Notice of Meeting of the Mental Retardation Research Committee**

Notice is hereby given of a change in the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, November 19-20, 1986, Conference Room A, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland, which was published in the Federal Register on October 14, 1986 (51 FR 36606).

This committee was to have convened on November 19, 1986, at 9:00 a.m. This has been changed with the open portion of the meeting from 8:00 p.m. to 9:00 p.m. on November 18. The meeting will be closed from 9:00 p.m. to 10:00 p.m. and

on November 19 from 9:00 a.m. to adjournment.

Dated: October 21, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-24381 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

### National Institute of Dental Research; Meeting Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research (NIDR), on December 3-5, 1986, in Conference Room 117, Building 30, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to recess on December 3 and from 9:00 a.m. to 12:00 Noon on December 4, to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:00 p.m. to recess on December 4 and from 9:00 a.m. to adjournment on December 5 for the review, discussion, and evaluation of individual programs and projects conducted by the NIDR, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Abner Notkins, Director of Intramural Research, NIDR, NIH, Building 30, Room 132, Bethesda, MD 20892 (telephone 301-496-1483) will provide a summary of the meeting, roster of committee members and substantive program information.

Dated: October 21, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-24379 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

### Recombinant DNA Advisory Committee Working Group on Definitions; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of a Recombinant DNA Advisory Committee Working Group on Definitions at the Marriott Hotel, Kenwood Room, 5151 Pooks Hill Road, Bethesda, Maryland 20814, on December 5, 1986, from approximately 9:00 a.m. to adjournment

at approximately 5:00 p.m. to discuss the definitions of "deliberate release" and "recombinant DNA" under the NIH Guidelines for Research Involving Recombinant DNA Molecules. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Definitions, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland telephone (301) 496-6051.

Dated: October 22, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 86-24380 Filed 10-28-86; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-070-07-4351-11]

#### Off-Road Designations; Montana

**AGENCY:** Bureau of Land Management, Butte District Office, Interior.

**ACTION:** Notice of off-road vehicle designation decision.

#### SUMMARY:

##### Decision

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as limited to off-road motorized vehicles use pursuant to the provisions of 43 CFR 8342.1.

Affected by the designation are approximately 14,750 acres of public lands in the Garnet Resource Area. The lands are managed under the Garnet Resource Management Plan dated September 1985. They are located in Powell County and are part of the Warm Springs Creek Road Management Area and the Indian Creek/Gallagher Creek Walk-in Hunting Area.

Included are all public lands east of the Brock Creek and Windy Rock roads including public lands in the following sections:

Township 11 North, Range 10 West,

Sections 14, 24, 26 and 34;

Section 15: E½;

Section 22: E½;

Section 28: S½SE¼.

Township 10 North, Range 10 West,

Sections 1, 2, 10, 12 and 24;

Section 4: NE¼.

Township 11 North, Range 9 West,

Sections 18, 20, 28, 30 and 34.

Township 10 North, Range 9 West,

Sections, 4, 6, 9 and 18.

All public lands in the Warm Springs road closure are closed to all motorized vehicles except for authorized administrative uses from April 1 through November 30. All public lands east of the Hoodoo Mountain fire road are closed to all motorized vehicles except for authorized administrative uses from September 1 through November 30. Included are public lands in the following sections:

Township 12 North, Range 10 West,

Sections 25, 26, 27, 33, 34 and 35.

Township 11 North, Range 10 West,

Sections 1, 2, 3, 10, 11 and 12.

Township 11 North, Range 9 West,

Section 6.

Detailed maps showing the location of the above-described designations are available from the offices listed below.

**ADDRESS:** for further information about these designations, contact either of the following Bureau of Land Management offices:

District Manager, Butte District Office,  
P.O. Box 3388, Butte, Montana 59702,  
Phone (406) 494-5059

Area Manager, Garnet Resource Area,  
3255 Fort Missoula Road, Missoula,  
Montana 59801, Phone (406) 329-3914

James A. Moorhouse,

District Manager, Butte District Office.

[FR Doc. 86-24469 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-DN-M

[CA-940-06-4212-13; CA 16173]

**California; Exchange of Public and Private Lands in Trinity and Shasta Counties and Opening Order; Correction**

In the Federal Register for Thursday, August 28, 1986, Vol. 51, No. 167, page 30716, beginning with the first line of the third column, change the description of land in Sec. 28 to read as follows:

Sec. 28, A 10-acre parcel of land in the NE $\frac{1}{4}$  (described by metes and bounds).

Dated: October 22, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86-24368 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-40-M

[CO-030-07-4212-13; C-42670]

**Realty Action; Exchange Public Lands in Montezuma County, CO**

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716):

New Mexico Principal Meridian,

T. 35 N., R. 13 W.,

Sec. 8, NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

Including the surface estate only (no minerals), and containing 40 acres.

In exchange for these lands, the United States will acquire the following described private lands and public easement in Montezuma County from Dr. Louis C. Duddleston:

New Mexico Principle Meridian,

T. 35 N., R. 13 W.,

Sec. 8, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .

Including the surface estate only (no minerals) and containing 40 acres:

And an easement for public non-motorized use, 30 feet in total width, located along the west side of NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 8, T. 35 N., R. 13 W.

The purpose of the exchange is to obtain non-Federal lands for use in Federal programs in the vicinity of the Weber Mountain Wilderness Study Area. The exchange and easement acquisition are consistent with the Bureau's planning for the lands involved. The public interest will be well served by making the exchange and acquiring the public easement. The value of the lands to be exchanged are approximately equal.

The exchange will involve only the surface estate (no minerals) and be consummated subject to valid existing rights which may apply to both the offered and selected lands.

Additional information about the exchange, including the environmental assessment, is available for review at the Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401.

For a period of 45 days from the date of this notice, interested parties may submit comments or claims to the Montrose District Manager. Any adverse comments or claims will be evaluated

by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: October 21, 1986.

Robert S. Schmidt,

Acting District Manager.

[FR Doc. 86-24470 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-JB-M

[NM-030-07-4212-14]

**Realty Action; Sale of Public Lands Socorro County, NM**

The following described parcels of public land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) (FLPMA) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning efforts, and the public interest will be served by offering this land for sale.

**Sale Method**

Parcels 1 through 7 will be offered as direct sales (43 CFR 2711.3-3). Parcels 8 and 9 will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1). On parcels 10 and 11 the bidding will be modified to allow bids from designated bidders only (43 CFR 2711.3-2).

Parcel No.	Serial No.	Legal description	Acreage	Appraised value	Method of sale
1	NM 61173	T. 4 S., R. 1 E., Sec. 6, Lot 29	0.08	\$2.50	Direct.
2	NM 64785	T. 4 S., R. 1 E., Sec. 5, Lot 29	4.16	12.50	Do.
3	NM 64786	T. 4 S., R. 1 E., Sec. 5, Lot 30	0.63	2.50	Do.
4	NM 63907	T. 2 S., R. 1 E., Sec. 18, Lots 31, 32, 33, 38 thru 41, incl. 43, 45, and 46; T. 2 S., R. 1 E., Secs. 18 and 19, Lots 42 and 44.	27.30	70.00	Do.
5	NM 63906	T. 2 S., R. 1 E., Sec. 19, Lot 36	0.71	2.50	Do.
6	NM 64765	T. 2 S., R. 1 E., Sec. 31, Lot 7	8.81	4,400.00	Do.
7	NM 64790	T. 4 S., R. 1 E., Sec. 8, Lot 49	1.22	5.00	Do.
8	NM 64767	T. 3 S., R. 1 E., Sec. 31, Lot 55	25.54	19,200.00	Competitive.
9	NM 64781	T. 2 S., R. 1 E., Sec. 30, Lots 31 and 32	5.36	7,900.00	Do.
10	NM 66318	T. 4 S., R. 1 E., Sec. 8, Lot 51	0.05	2.50	Modified Competitive.
11	NM 66324	T. 4 S., R. 1 E., Sec. 8, Lot 53	00.04	2.50	Do.

**Sale Procedures**

All bidders must be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any state or of the United States. Bids must be made by the principal or his duly qualified agent.

Sealed bids for parcels 8 through 11 will be considered only if received in the Socorro Resource Area Office, 198 Neel Avenue, NW., Socorro, New Mexico 87801 before 10:00 a.m. on January 6, 1987, the date of the opening. Bids of

less than fair market value will be rejected as required by FLPMA.

Each sealed bid must be accompanied by postal money order, bank draft or cashier's check made payable to the Department of Interior, Bureau of Land Management, for not less than 10

percent or more than 30 percent of the amount of the bid. The sealed bid envelope must be marked in the lower left-hand corner as follows:

"Public Sale Bid Parcel \_\_\_\_\_  
Serial No. \_\_\_\_\_  
Sale Held (date) \_\_\_\_\_"

The highest qualifying bid for each parcel will establish the sale price for the parcel. If two or more envelopes are received containing valid bids of the same amount for the same parcel, the determination of which is to be considered the highest designated bid will be by supplemental biddings. In such a case the high bidders will be allowed to submit oral or sealed bids as designated by the Authorized Officer.

The successful bidder will be required to pay the remainder of the sale price prior to expiration of 180 days from the date of the sale. Failure to submit the full sale price within the above specified time limit will result in cancellation of the sale of the specific parcel and the deposit will be forfeited and disposed of as other receipts of sale.

All bids will be either returned, accepted, or rejected within 30 days of the sale date. Parcels not sold on the day of the sale will be offered for sale every first Tuesday of each month, same time and place, on a competitive sealed bid basis until sold or until July 6, 1987.

Parcels 1 through 7 will be offered directly to the listed occupants not less than 60 days from date of this notice. If unsold, they will be offered for sale by the competitive procedure.

*Parcel 1*—Tranquilino Lopez, 305 Grant Ave., Socorro, NM 87801

*Parcel 2*—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87103

*Parcel 3*—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87103

*Parcel 4*—Middle Rio Grande Conservancy District, P.O. Box 581, Albuquerque, NM 87103

*Parcel 5*—County of Socorro, P.O. Box I, Socorro, NM 87801

*Parcel 6*—State of New Mexico, Department of Game & Fish, 1480 N. Main Street, Las Cruces, NM 88005

*Parcel 7*—County of Socorro, P.O. Box I, Socorro, NM 87801

Parcels 10 and 11 will be offered as modified competitive sales to the designated bidders who are the known accessible landowners. Only bids from the following designated bidders will be accepted on parcels 10 and 11:

*Parcel 10*—Mr. Glen Kendall, P.O. Box 1303, Socorro, NM 87801; and Ms. Marilyn O'Sullivan, 1625 Escalante, SW., Albuquerque, NM 87014.

*Parcel 11*—Mr. Orlando Armijo, Route 1, Box 706E, Alamogordo, NM 88310;

Ralph and Sophie Pina, 3581 Moccasin Avenue, San Diego, CA 92117; and Estate of Josephine Salazar, c/o Peter Salazar, Executor, 113 West Opp Street, Wilmington, CA 90477.

#### Terms and Conditions

Terms and conditions applicable to the sale are:

1. The patents, when and if issued, will contain a reservation to the United States for ditches and canals.

2. All minerals will be reserved to the United States together with the right to prospect for, mine and remove the minerals.

3. All patents will be issued subject to valid existing rights.

4. Parcels 1 through 4, 8 and 11 lie within a 100-year floodplain and the patents will contain land use as required by Executive Order 11988.

5. Parcels 2, 4 and 6 have been identified as falling within wetland categories and the patents will contain restrictions as required by Executive Order 11990.

6. On parcel 1, the patent will be issued subject to verbal agreement between Tranquilino Lopez and Ernest Zamora providing Ernest Zamora and/or his successors in interest right of access across the land therein described.

7. On parcel 6, the patent will be issued with a reservation to the United States for a drainage ditch known as Escondida Drain and all appurtenances thereto, constructed by the United States.

8. On parcel 8, the patent will be issued subject to existing county road constructed by the County of Socorro under authority of R.S. 2477 (43 U.S.C. 932) and made of record under Serial Number 66347.

9. On parcel 9, the patent will be issued with a reservation to the United States for a right-of-way 50 feet in width for Range Improvement Project No. 4124, Arroyo del Coyote Pipeline, constructed under Cooperative Agreement. The patent will also be issued subject to existing county road constructed by the County of Socorro under authority of R.S. 2477 (43 U.S.C. 932) and made of record under Serial Number NM 66347 and subject to existing access road connecting the County road to the northeast boundary of Small Holding Claim 4487 Tract 4.

Supplementary Information: Additional information concerning the land, terms and conditions of sale, and bidding instruction may be obtained from the Socorro Resources Area Office at the above address, or by calling Rocky Curnutt, Lois Bell, or Chella Herrerra, (505) 835-0412. For a period of

45 days from the date of this notice, interested parties may submit comments regarding the proposed action to the Socorro Resource Area Manager.

Comments must reference specific parcel numbers. Adverse comments received on specific parcels will not affect the sale of any other parcel. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Upon publication in the Federal Register the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this notice of realty action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the Federal Register of a termination of the segregation, or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any or all offers, or withdraw any land or interest in land for sale, if in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Dated: October 22, 1986.

H. James Fox,  
District Manager.

[FR Doc. 86-24436 Filed 10-28-86; 8:45 am]  
BILLING CODE 4310-FB-M

#### Fish and Wildlife Service

**Koyukuk National Wildlife Refuge and Northern Unit of Innoko National Wildlife Refuge Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review, Alaska**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service has prepared, for public review, a draft Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review (CCP/EIS/WR) for Koyukuk National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), section 3(d) of the Wilderness Act of 1964, and section 102(2)(C) of the National Environmental Policy Act of 1969. This CCP/EIS/WR

outlines two strategies for management of refuge lands, discusses the process used in their development, and outlines the possible environmental consequences of each alternative. The plan also reviews refuge lands not yet designated as wilderness as to their suitability for possible addition to the National Wilderness Preservation System.

**DATES:** Comments on the draft CCP/EIS/WR must be submitted on or before January 27, 1987, to receive consideration by the Regional Director. A public hearing will be held at 7 p.m., Wednesday, December 10, 1986, at the Noel Wien Public Library, 1215 Cowles Street, Fairbanks, Alaska. Public meetings will be held in the communities of Kaltag, Nulato, Koyukuk, Galena, Huslia, and Hughes in late November and early December. Dates, times, and places for the village meetings will be announced later.

**ADDRESS:** Remarks should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

**FOR FURTHER INFORMATION CONTACT:** William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

A draft CCP/EIS/WR has been prepared for general distribution. Copies will be sent to all organizations, agencies, and persons that have asked to participate in the public review process. Copies will be sent to all persons requesting them. Those wishing to review the draft document may obtain a copy by contacting Mr. Knauer.

Copies of the draft CCP/EIS/WR are available for public review at the above address, at the Koyukuk National Wildlife Refuge Office, Galena, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge, Department of the Interior, Room 2352, 18th and C Street, NW., Washington, DC 20240

U.S. Fish and Wildlife Service, Refuge and Wildlife, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, OR 97232

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Bldg., 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158

U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

**SUPPLEMENTARY INFORMATION:** The draft CCP/EIS/WR for the Koyukuk National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior, to fulfill the requirements of section 304 of ANILCA relating to preparation of comprehensive conservation plans. Issues addressed by the plan include fish and wildlife management, access, recreation and public use, oil and gas activities and wilderness management.

The draft plan addresses two alternatives including one that would continue current management (the no action alternative). In this alternative, the Service recommends that all refuge lands, except the existing Koyukuk Wilderness, be placed in the minimal management category. The other alternative recommends that all refuge lands outside of the Koyukuk Wilderness be recommended for wilderness designation. A preferred alternative representing the Service's preferred management strategy for the refuge is identified.

The plan also examines the general wilderness suitability of 3,686,500 acres of refuge lands outside of designated wilderness under each alternative. This complies with the requirements of section 1317(a) of ANILCA, which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all refuge lands in Alaska not yet designated as wilderness as to their suitability for preservation as wilderness, and to report his/her recommendations to the President.

A Notice of Intent to prepare the CCP/EIS/WR was published in the March 22, 1984, *Federal Register*. Other government agencies and the general public contributed to the development of this draft CCP/EIS/WR.

Dated: October 24, 1986.

**Bruce Blanchard,**

*Director, Office of Environmental Project Review.*

[FR Doc. 86-24456 Filed 10-28-86; 8:45 am]

BILLING CODE 4310-55-M

## INTERNATIONAL TRADE COMMISSION

[TA-503(a)-13 and 332-238]

### President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences; Changes in Scope of Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Change in scope of investigation.

**EFFECTIVE DATE:** October 16, 1986.

**SUMMARY:** Following receipt of a request from the Office of the U.S. Trade Representative (USTR) on September 25, 1986, the Commission has terminated that part of the above referenced investigation with regard to bicycle caliper brakes, provided for in item 732.3875 of the Tariff Schedules of the United States Annotated and the subject of USTR Case No. 86-35.

USTR terminated its review of the matter at the request of the petitioner and published notice of termination in the *Federal Register* of September 5, 1986 (51 FR 31858). The Commission published notice of institution of its investigation in the *Federal Register* of September 4, 1986 (51 FR 31733).

By order of the Commission.

Issued: October 20, 1986

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 86-24450 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

### Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Weltye Plastics Products Co., Inc. (Weltye).

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 24, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E

Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: October 24, 1986.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 86-24486 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

**Luggage Products; of Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Monarch Luggage Company, Inc. (Monarch).

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties,

unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 20, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruth J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: October 20, 1986.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 86-24451 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

**Luggage Products; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on

the basis of a consent order agreement: Kingport International Corporation (Kingport).

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 20, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: October 20, 1986.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 86-24452 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

**Luggage Products; Commission Determination Not to Review Initial Determination Finding Respondent in Default****AGENCY:** U.S. International Trade Commission.**ACTION:** Nonreview of initial determination (ID) finding respondent in default and imposing procedural sanctions.**SUMMARY:** Notice is hereby given that the Commission had determined not to review the presiding administrative law judge's (ALJ) ID finding respondent American Guard-It Manufacturing Company (Guard-It) in default in the above-captioned investigation.**FOR FURTHER INFORMATION CONTACT:** Randi S. Field Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523 0261.**SUPPLEMENTARY INFORMATION:** On May 21, 1986, complainant Lenox Inc., filed a motion (Motion No. 243-4) requesting that respondent Guard-It be found in default. On June 4, 1986, the ALJ (Judge Luckern) issued an order (Order No. 12) ordering Guard-It to show cause why a finding of default should not be made. Guard-It did not respond to Order No. 12. On September 23, 1986, the ALJ issued an ID (Order No. 40) finding respondent Guard-It in default pursuant to Commission rule 210.25 (19 CFR 210.25). The ID ruled that Guard-It has waived: (1) its right to appear in the investigation; (2) its right to be served with documents by any party; and (3) its right to contest the allegations at issue. No petitions for review of the ID were received nor were any agency comments received.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: October 23, 1986.

By order of the Commission.

**Kenneth R. Mason,**  
*Secretary.*[FR Doc. 86-24453 Filed 10-28-86; 8:45 am]  
BILLING CODE 7020-02-M

[Investigation No. 337-TA-190]

**Certain Softballs and Polyurethane Cores; Change of the Commission Investigative Attorney**

Notice is hereby given that, as of this date, Deborah S. Strauss, Esq. of the Office of Unfair Import Investigations will be the Commission investigative attorney in the above-cited investigation instead of Robert Litowitz, Esq.

The Secretary is requested to publish the Notice in the **Federal Register**.

Dated: October 22, 1986.

**Lynn I. Levine,***Acting Director, Office of Unfair Import Investigations, U.S. International Trade Commission.*

[FR Doc. 86-24454 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-354  
(Preliminary)]**Stainless Steel Pipes and Tubes From Sweden, Import Investigation****AGENCY:** United States International Trade Commission.**ACTION:** Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-354 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Sweden of stainless steel pipes, tubes, hollow bars, and blanks therefor, all the foregoing of circular cross-section, whether welded or seamless, provided for in items 610.37, 610.51, and 610.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 4, 1986.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

**EFFECTIVE DATE:** October 20, 1986.**FOR FURTHER INFORMATION CONTACT:** Daniel Leahy (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.**SUPPLEMENTARY INFORMATION:****Background**This investigation is being instituted in response to a petition filed on October 20, 1986 by the Specialty Tubing Group.<sup>1</sup>**Participation in the Investigation**Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.**Service List**

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 13, 1986 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Daniel Leahy

<sup>1</sup> The members of this group are AL Tech Specialty Steel Corporation, Allegheny Ludlum Steel Corporation, ARMCO-Specialty Steel Division, Carpenter Technology Corporation, Damascus Tubular Products, and the Trent Tube Division of Crucible Materials Corporation.

(202-523-1376) not later than November 10, 1986 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

#### Written Submissions

Any person may submit to the Commission on or before November 18, 1986 a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages on such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

#### Authority

This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: October 24, 1986.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 86-24455 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

#### [Investigation No. 332-239]

#### The Standardization of Rules of Origin; Import Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation.

EFFECTIVE DATE: October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Janis L. Summers, Esq., Office of Tariff Affairs, U.S. International Trade Commission, Washington, DC 20436, (202) 523-0326.

Background and scope of investigation: The Commission hereby

institutes investigation No. 332-239, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) following receipt of a request therefor from the Committee on Ways and Means, U.S. House of Representatives.

In his letter requesting the investigation, Committee Chairman Dan Rostenkowski noted that producers, exporters and importers have expressed concern regarding the rules of origin used to govern both tariff classification for customs purposes and the application of restrictive and preferential trade programs. Since Congress has never focused on the enactment of a uniform rule of origin for use in administering U.S. trade laws generally, it would be useful to consider the development of a standard rule for use in the United States and the possibility of establishing a uniform origin code for international use.

As requested by the Committee, this study will address the issues of (1) the need for harmonization and rationalization of rules of origin, (2) criteria which should underlie the development of a standard rule of origin suitable for domestic or international use, and (3) U.S. industry concerns regarding origin rules.

A copy of the request letter received from Ways and Means is available for public inspection in the Office of the Secretary. As requested by the Committee, the Commission will transmit its completed report to the committee not later than May 2, 1987.

Draft report available: Copies of the public version of the draft report will be made available for review by the public on or before January 8, 1987. Requests should be directed to Ms. Janis L. Summers, at the number indicated above.

Public hearing and written submissions: A public hearing will be held in room 331 of the U.S. International Trade Commission Building at 9:30 a.m. on January 23, 1987. The deadline for filing pre-hearing briefs and requests to testify is January 13, 1987. Interested persons not wishing to testify are invited to submit written statements concerning the investigation. All written statements, including post-hearing briefs, should be received by the close of business on February 12, 1987. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and

procedure (19 CFC 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Issued: October 20, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-24449 Filed 10-28-86; 8:45 am]

BILLING CODE 7020-02-M

#### INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-177]

#### National Industrial Transportation League; Petition To Institute Rulemaking on Negotiated Motor Common Carrier Rates.

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement adopted and petition to institute rulemaking denied.

SUMMARY: The Commission has adopted a policy statement holding that, in the post-Motor Carrier Act of 1980 environment, the filed rate doctrine does not necessarily bar equitable defenses. Where an undercharge claim is filed by a carrier in court based on a tariff rate and the shipper claims that a lower, negotiated but unpublished rate was understood, if the court refers the case to the Commission for determination of the availability of equitable relief, the Commission will decide whether, under all the relevant circumstances, collection of the undercharges would be an unreasonable practice. A proposal to adopt a rule declaring a negotiated (but unpublished) motor carrier rate to be the maximum reasonable rate "if the shipper acted with a good faith belief that the negotiated rate was the legally applicable rate" is denied.

EFFECTIVE DATE: November 28, 1986.

#### FOR FURTHER INFORMATION CONTACT:

Leonard L. Arnaiz, (202) 275-7831

or

Louis E. Gitomer, (202) 275-7691

#### SUPPLEMENTARY INFORMATION:

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

Authority: 5 U.S.C. 553, and 49 U.S.C. 10321, 10701(a), and 10704(b)(1).

Decided: October 14, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86-24430 Filed 10-28-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-57 (Sub-No. 17X)]

**Soo Line Railroad Company; Exemption for Abandonment Between Trout Lake and St. Ignace, MI**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts Soo Line Railroad Company from the requirements of 49 U.S.C. 10903, *et seq.*, to abandon a 27.12-mile line of railroad between Trout Lake and St. Ignace, MI, subject to standard employee protective conditions.

**DATES:** This exemption will be effective on November 28, 1986. Petitions to stay must be filed by November 13, 1986, and petitions for reconsideration must be filed by November 24, 1986.

**ADDRESSES:** Send pleadings referring to Docket No. AB-57 (Sub-No. 17X) to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
- (2) Petitioner's representative: Byron D. Olsen, 105 South Fifth Street, Soo Line Building, Suite 804, Minnesota, MN 55440

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245.

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

Decided: October 22, 1986.

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

Noreta R. McGee,

Secretary.

[FR Doc. 86-24428 Filed 10-28-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30907]

**Railroad Car Service Pooling Application; Notice of Filing and Proposed Special Rules of Procedure; Correction**

October 23, 1986.

The notice of the filing of this boxcar car service pooling application, which was served and published in the *Federal Register* on October 10, 1986 (51 FR 36483), contains an inadvertent error. In the first sentence of the third paragraph under "Description of the Transaction," the words "United States" should be deleted from the statement that participation in the pool will be open to other United States railroads.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-24429 Filed 10-28-86; 8:45 am]

BILLING CODE 7035-01-M

**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**Direct Mail of Applications and Petitions to the Regional Service Center in Dallas, TX**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of Change of Location Where Applications and Petitions are Filed.

**FOR FURTHER INFORMATION CONTACT:** For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, 425 I Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

For Specific Information: Lloyd Sutherland, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536. Telephone: (202) 633-3946.

**SUPPLEMENTARY INFORMATION:** The Immigration and Naturalization Service has four Regional Service Centers. These centers originally adjudicated various petitions and applications under delegated authority from district directors; on October 15, 1985, specific authority to adjudicate was extended to the directors of the four service centers (8 CFR 103.1(s)). Work required by the Service to be adjudicated at service centers has historically been filed with district offices and shipped from there to the centers. Believing this to be inefficient and a cause of delays, the

Service initiated a test program in the Eastern Region on January 6, 1986 to evaluate the feasibility of requiring the public to mail applications and petitions directly to service centers. In conducting this test, the Service was able to use and test its newly developed automated fee accounting and receipt entry system (FARES). Under the test program, the public was asked to mail certain applications and petitions which would normally be filed in specified districts directly to the Eastern Region Service Center. District directors in the affected offices were authorized to accept those applications and petitions only in cases of genuine emergencies.

The test included the following petitions and applications from the districts of New York and Washington, DC:

I-129B—Temporary Worker Petition  
I-506—Application to Change Nonimmigrant Status (when changing to H or L status)

I-539—Application for extension of Stay (when filed with an I-129B petition)

The direct mail test has been an unqualified success. Average processing time has been reduced by over 50% for all cases filed by direct mail. One of the key features of this new initiative has been an automated receipt mailed to each applicant one day after the case was received at the service center. This automated receipt has assured applicants that the case has been received, has provided specific information on when a decision would be made, and has eliminated a considerable amount of status inquiries. Direct mail has almost entirely eliminated emergency requests. It has also allowed affected districts to devote more resources to casework which requires interviews, such as applications for asylum or naturalization and cases involving fraud.

Letters were sent to selected applicants seeking reaction to the direct mail initiative. Ninety-seven percent of responses recommended expansion of direct mail. Based on the overall efficiency of this initiative and the enthusiastic response from the public, the direct mail initiative in the Eastern Region was expanded to include certain additional applications and petitions and all districts in the Eastern Region.

Effective December 1, 1986, except in cases of genuine emergency, the following petitions and applications shall no longer be filed at districts within the Southern Region, but shall be mailed directly to the Regional Service Center, P.O. Box 57010, Dallas, Texas 75207:

**Applications and Petitions**

- I-129B—Temporary Worker Petition  
 I-129F—Finance Petition  
 I-140—Petition for Third or Sixth Preference Classification (except when Form I-140 is filed with an I-485, Application for Adjustment of Status)  
 I-506—Application for Change of Nonimmigrant Status (when changing to H or L)  
 I-539—Application for Extension of Stay (when filed with an I-129B petition)

**District Offices***Miami, Florida*

Jurisdiction over the State of Florida and the United States immigration offices located in Freeport and Nassau, Bahamas.

*San Antonio, Texas*

Jurisdiction over the following counties in the State of Texas: Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Coke, Coleman, Comal, Concho, Coryell, Crockett, De Witt, Dimmitt, Duval, Edwards, Falls, Fayette, Frio, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Hays, Irion, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, Lampasas, La Salle, Lavaca, Lee, Live Oak, Llano, McCulloch, McLennan, McMullen, Mason, Maverick, Medina, Menard, Milam, Mills, Nueces, Reagan, Real, Refugio, Robertson, Runnels, San Patricio, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, Zapata, and Zavala.

*El Paso, Texas*

Jurisdiction over the State of New Mexico and the following counties in Texas: Brewster, Crane, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Ward, and Winkler.

*Dallas, Texas*

Jurisdiction over the State of Oklahoma and the following counties in the State of Texas: Anderson, Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Bosque, Bowie, Briscoe, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Collingsworth, Comanche, Cooke, Cottle, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Gaines, Garza, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardeman, Harison, Hartley, Haskell, Hemphill, Henderson, Hill,

Hockley, Hood, Hopkins, Houston, Howard, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Leon, Limestone, Lipscomb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Moore, Morris, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Potter, Rains, Randall, Red River, Roberts, Rockwall, Rusk, Scurry, Shackelford, Sherman, Smith, Somervell, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wichita, Willbarger, Wise, Wood, Yoakum, and Young.

*Atlanta, Georgia*

Jurisdiction over the States of Georgia, North Carolina, South Carolina, and Alabama.

*New Orleans, Louisiana*

Jurisdiction over the States of Louisiana, Arkansas, Mississippi, Tennessee, and Kentucky.

*Houston, Texas*

Jurisdiction over the following counties in the State of Texas: Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washington, and Wharton.

*Harlingen, Texas*

Jurisdiction over the following countries in the State of Texas: Brooks, Cameron, Hidalgo, Kenedy, Kleberg, Starr, and Willacy.

This notice constitutes authority for the Southern Service Center Director to accept filing fees for the petitions and applications listed above.

Dated: October 24, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-24421 Filed 10-28-86; 8:45 am]

BILLING CODE 4410-01-M

**DEPARTMENT OF LABOR****Employment and Training Administration****Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging; Charges for Meals**

**AGENCY:** U.S. Employment Service, Employment and Training Administration, Labor.

**ACTION:** Notice of annual adjustments in meal charges.

**SUMMARY:** The Director, U.S. Employment Service, announces the annual adjustment for 1986 in the allowable meal charges for furnishing three daily meals to U.S. and alien workers employed by covered agricultural and logging employers who provide such meals to their U.S. and alien workers. The adjustments are based upon Consumer Price Index (CPI) data.

**EFFECTIVE DATE:** October 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, Telephone: (202) 535-0163.

**SUPPLEMENTARY INFORMATION: Requirement of Notice**

On August 26, 1986, the Employment and Training Administration (ETA) of the Department of Labor (DOL) published in the *Federal Register* at 51 FR 30348 a final rule amending the temporary alien agricultural labor certification regulations at 20 CFR 655.202(b)(4) and 655.211(a) to increase the amount covered agricultural and logging employers may charge their U.S. and alien workers each day for meals. The final rule, which became effective September 25, 1986, also provided for annual adjustments of allowable charges based upon Consumer Price Index (CPI) data, with the first such adjustment to be made in 1986. The regulation requires the Director, United States Employment Service (USES), to make the annual adjustments and to cause a Notice to be published in the *Federal Register* each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural or logging employers for providing three daily meals to their U.S. and alien agricultural or logging workers.

Section 655.202(b)(4) provides that until a new amount is set pursuant to paragraph (b)(4), the cost shall not be more than \$4.94 per day unless the appropriate Regional Administrator (RA), ETA, has approved a higher cost pursuant to § 655.211. It further provides that each year the charge allowed by paragraph (b)(4) will be changed by the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food (CPI-U for Food) between December of the year just concluded and December of the year prior to that. Section 655.211(a) provides that the RA may permit an employer to charge workers up to \$6.17 for providing them with three meals per day. It further

provides that each year the maximum charge allowed by paragraph (a) will be changed by the 12-month percent change in the CPI-U for Food between December of the year just concluded and December of the year prior to that.

#### 1986 Annual Adjustment of Allowable Charges

As stated in the preamble published on August 26, 1986, "[t]he first such adjustments will be made and published in 1986." The 12-month percent change for the CPI-U for Food between December 1984 and December 1985 showed an increase of 2.7 percent. Accordingly, the adjusted charge allowed by 20 CFR 655.202(b)(4) is \$5.07, an increase of 2.7 percent over the previously allowed charge of \$4.94. The adjusted maximum charge the RA, pursuant to 20 CFR 655.211(a), may permit an employer to charge workers for providing them with three meals per day is \$6.34, an increase of 2.7 percent over the previously allowed maximum charge of \$6.17.

Signed at Washington, DC, this 23rd day of October, 1986.

Robert A. Schaerfl,

Director, U.S. Employment Service.

[FR Doc. 86-24346 Filed 10-28-86; 8:45 am]

BILLING CODE 4510-30-M

## NUCLEAR REGULATORY COMMISSION

### Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

**AGENCY:** Nuclear Regulatory Commission (NRC).

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision
2. The title of the information, collection: 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities
3. The form number if applicable: Not applicable
4. How often the collection is required: One time
5. Who will be required or asked to report: Licensees and applicants for operating licenses
6. An estimate of the number of responses: 42
7. An estimate of the total number of hours needed to complete the requirement or request: 6773

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable

9. Abstract: In 10 CFR Part 50, Appendix J, "Leakage Tests for Containments of Light-Water-Cooled Nuclear Power Plants," revised paragraph VII.B. would require each licensee and applicant for an operating license to submit a plan so NRC can approve a schedule for implementing the Appendix.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 22nd day of October 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-24489 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

### [Dockets Nos. 50-321 and 50-366]

#### Georgia Power Co. et al., Environmental Assessment and Finding of No Significant Impact Regarding Proposed Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating Licenses Nos. DPR-57 and NPF-5 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia (the licensees) for operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 (the facility) located in Appling County, Georgia.

#### Environmental Assessment

**Identification of Proposed Action:** The proposed action would permit the licensees to implement changes to Hatch Plant, Units 1 and 2, and Technical Specifications as described in their letter of April 15, 1986, as supplemented July 24 and September 22, 1986. The following assessment applies to Units 1 and 2.

**The Need for the Proposed Action:** The need for the proposed action is to:

- (i) Eliminate the need to analyze the control drop accident for each fuel cycle;
- (ii) Increase the availability for power production and increase the overall efficiency; and
- (iii) Make editorial corrections.

**Environmental Impacts of the Proposed Action:** The proposed action would: (a) Permit use of Banked Position Withdrawal Sequences for the first 50 percent of control rod withdrawal, (b) remove the linear mass restriction of 15.2 grams of Uranium-235 per centimeter for fuel assemblies stored in the fuel pool, (c) eliminate specific mechanical descriptions of fuel assemblies, (d) provide Maximum Average Planor Linear Heat Generation limit curves for several new fuel assemblies, and (e) make several editorial changes. The net power level is unchanged. The response of the reactor protection system under accident conditions is unchanged. Thus, post-accident radiological releases will not be greater than previously determined, nor does the proposed change otherwise affect radiological plant effluents. Occupational exposures to radiation would also be unaffected. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments.

With regard to potential nonradiological impacts, the proposed change involves systems located within the restricted area as defined in 10 CFR Part 20. No nonradiological effluents are affected, and no other environmental impact would occur. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed change.

Since we have concluded that there is no measurable environmental impact associated with the proposed changes to the TSS, any alternatives to these changes will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation.

**Alternative Use of Resources:** This action does not involve the use of resources not previously considered in connection with the Final Environmental Statements related to Operation of Hatch Unit 1 (Final Environmental Statement dated October 25, 1972) and Hatch Unit 2 (Final Environmental Statement dated March 1978).

**Agencies and Persons Consulted:** The Commission's staff reviewed the licensees' request and did not consult other agencies or persons.

#### Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact

statement for the proposed license amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated April 15, 1986, as supplemented July 25 and September 22, 1986 which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 23rd day of October 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate #2,  
Division of BWR Licensing.

[FR Doc. 86-24490 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027]

**Sequoyah Fuels Corp., Gore, OK,  
Facility; Issuance of Director's  
Decision**

Notice is hereby given that the Director of the Office of Inspection and Enforcement has taken action with regard to four Petitions for action under 10 CFR 2.206 with respect to the Sequoyah Fuels Corporation's Gore, Oklahoma facility.

By Petition dated March 21, Thomas Carpenter of the Government Accountability Project (GAP), on behalf of Native Americans for a Clean Environment Client Council and others, filed a Petition with the Commission that the Commission immediately impose an indefinite suspension of Sequoyah Fuel Corporation's (SFC's) operating license for its Gore facility. The Petition requested that the Commission take this action pending compliance of the facility with all licensing requirements, completion of an Interagency Task Force review of the accident which occurred at the facility on January 4, 1986, completion of all ongoing staff inspections and investigations, an independent inspection and review of the causes of the January 4th accident by a third party and a management study to determine the cause of alleged noncompliance by the licensee with regulatory requirements. Additionally, the Petition requested that the Office of Inspector and Auditor (OIA) undertake a review of applicable NRC regulations to determine whether

sufficient regulatory controls exist at the Gore facility and whether NRC regulations are adequate to prevent occurrences such as that of January 4th.

On June 1, 1986, the Arkansas Peace Center (APC), one of the named petitioners, filed a motion in the Sequoyah Fuels solid waste disposal proceeding to disqualify Judge Frye, the presiding officer. In its motion, APC sought, in addition to its disqualification request, the revocation of SFC's license. In this connection, APC further requested that the Commission take charge of all radioactive materials at the facility and safeguard them to minimize future hazard, order the decommissioning and dismantling of the facility and isolation of all hazardous radioactive materials from the biosphere, and begin action by issuing orders or initiating proceedings which may be required to address the "emergency" alleged to exist at the facility. On July 9, 1986, Judge Frye referred APC's motion, with the exception of the issue of disqualification, to the staff for consideration under § 2.206.

On June 13, 1986, the National Water Center (NWC), also a named petitioner in the GAP-Petition, filed with the Commission a document entitled "Motions to Reconsider" in the Sequoyah uranium hexafluoride (UF<sub>6</sub>) to uranium tetrafluoride (UF<sub>4</sub>) and solid waste disposal proceedings. In its motion NWC requested, among other things, that the Commission study and institute full formal hearings regarding the disposition of SFC by-products, based on its concern regarding airborne and waterborne effluents that have emanated from the Sequoyah Fuels facility. In a Memorandum and Order dated June 27, 1986, Judge Frye referred this portion of NWC's motion to the staff for consideration under § 2.206.

On July 3, 1986, Kathy Carter-White, on behalf of Citizens' Action for a Safe Environment (CASE), filed a petition (hereinafter CASE Petition) requesting that the Director, Office of Inspection and Enforcement, issue a temporary order staying the restart of operations of the Sequoyah Fuels facility, serve SFC with an Order to Show Cause why its license to operate the facility should not be suspended or revoked, and ultimately revoke SFC's license. As specific grounds for this request, the CASE Petition alleged that the licensee had shown itself to be unfit to operate a facility, as evidenced by its gross negligence in its operation of the Sequoyah Fuels facility, willful violations of the requirements of its license, and the making of a material false statement.

Upon consideration of the Petitions, the Director of the Office of Inspection and Enforcement has determined that the allegations raised do not provide an adequate basis for the relief requested. The reasons are fully described in the "Director's Decision under 10 CFR 2.206" (DD-86-13) which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20005, and in the local public document room for the Sequoyah Fuels facility located at the Sallisaw City Public Library, 101 E. Cherokee, Sallisaw, Oklahoma 74955. Copies of the Petition are also available for public inspection at those locations. A copy of the Director's Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated in Bethesda, Maryland, this 24th day of October 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and  
Enforcement.

[FR Doc. 86-24491 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-530A]

**Arizona Public Service Co. et al.;  
Receipt of Antitrust Information**

Arizona Public Service Company, acting on behalf of itself and the Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority, has submitted additional antitrust information in conjunction with the application for an operating license for a pressurized water reactor, known as Palo Verde Nuclear Generating Station, Unit 3, located in Maricopa County, Arizona approximately 50 miles west of Phoenix. The data submitted contain antitrust information for review, pursuant to NRC Regulatory Guide 9.3, necessary to determine whether there have been any significant changes since the construction permit review. (These data represent follow-up data to information previously submitted by the licensees and noticed in the *Federal Register* on July 14, 1986—Volume 51, No. 134, p. 25411.)

On completion of the staff antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the

Atomic Energy Act. A copy of this finding will be published in the *Federal Register* and will be sent to the Washington, DC and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the *Federal Register* notice. The results of any reevaluation that are requested will also be published in the *Federal Register* and copies sent to the Washington, DC and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and in the local public document room at the Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Any person who desires additional information regarding the matter covered by this notice, or who wishes to have views considered with respect to significant changes related to antitrust matters which have occurred since the construction permit review, should submit such requests for information or views, within 30 days of the publication of this notice in the *Federal Register*, to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, the 24th day of October, 1986.

For the Nuclear Regulatory Commission,  
**Jesse L. Funches,**  
 Director, Planning and Program Analysis  
 Staff, Office of Nuclear Reactor Regulation.  
 [FR Doc. 86-24492 Filed 10-28-86; 8:45 am]  
 BILLING CODE 7590-01-M

[Docket Nos. 50-282, 50-306; Docket No. 50-263, EA 86-164]

**Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 & 2, and Monticello Nuclear Generating Plant); Order To Show Cause**

**I**

The Northern States Power Company (Licensee) is holder of License Nos. DPR-42 and DPR-60 authorizing the Licensee to operate the Prairie Island Nuclear Generating Plant, Units 1 & 2

and License No. DPR-22 authorizing the Licensee to operate the Monticello Nuclear Generating Plant. The Licenses were issued by the Nuclear Regulatory Commission (NRC or Commission) on April 15, 1974, October 29, 1974 and January 9, 1981 respectively.

**II**

On February 9, 1981, the NRC's Office of Inspection and Enforcement issued IE Circular No. 81-02, "Performance of NRC-Licensed Individuals While On Duty," expressing NRC concern with respect to licensee efforts to maintain a professional atmosphere in the control room at operating nuclear facilities. In particular, the NRC noted that potentially distracting activities in the control room such as playing radios and TV's should be prohibited. Continuing observation of control room operation by NRC inspectors indicated that, in general, the high standards of control room professionalism discussed in IE Circular 81-02 was being met at most operating facilities. Nevertheless, NRC observations at some operating facilities indicated the need for further management attention to one of the areas described in that Circular which included continued usage of radios in the control room. Consequently, IE Information Notice No. 85-53, "Performance of NRC-Licensed Individuals While On Duty," was issued by the NRC's Office of Inspection and Enforcement on July 12, 1985 to reemphasize the need for licensees to establish and enforce a policy prohibiting distracting activities by control room personnel including the usage of radios and TV's.

In response to this Information Notice, the Licensee sent a letter dated August 19, 1985 to Executive Director for Operations (EDO) of the NRC noting that, since commencement of operations at the Monticello and Prairie Island facilities, the Licensee had permitted control room operators to have a radio playing background music. The Licensee noted that this practice has been carefully monitored by plant management to assure that the programming and loudness was such that it did not constitute a distraction to the operators. Nonetheless, the Licensee noted that, in response to the July 12, 1985 Information Notice, radios were removed from the control rooms of the Licensee's Monticello and Prairie Island facilities. The Licensee went on to note that this change produced a very negative effect on the morale of operators and noted that a number of operators had taken the step of corresponding either with the company or with the NRC to note their

dissatisfaction with the NRC's policy in this regard.

In its letter, the Licensee suggested an alternative, specifically the installation of a tape deck with a library of tapes reviewed and approved by plant management as to content and with the loudness controlled to a nondistracting level.

On September 10, 1985, the EDO responded to the Licensee's August 19, 1985 letter reaffirming the NRC's staff's position that music could potentially have a significant negative effect on the attentiveness of operators and their ability to closely monitor plant status. Thus, the Licensee's proposed alternative was rejected.

As a consequence of the Licensee's direction to remove radios from the control rooms of its Prairie Island and Monticello facilities, there followed meetings between the Licensee's management and the International Brotherhood of Electrical Workers, AFL-CIO, Local 160 (Union), whose members included control room operators at each of the Licensee's nuclear facilities. The Union argued to the Licensee's management that removal of the radios was improper and unjust. On October 8, 1985, the matter was reduced to a formal written complaint and thereafter appealed to binding arbitration on November 4, 1985. Following a hearing before a neutral Arbitrator selected from a panel submitted by the Federal Mediation and Conciliation Service, Office of Arbitration, the Arbitrator sustained the Union's grievance and directed the Licensee to return a radio forthwith to the control room of the Monticello facility. The Arbitrator's decision was issued October 1, 1986. In response to the Arbitrator's decision, the Licensee permitted re-institution of the practice of playing of a radio in the Monticello facility control room and the Arbitrator's decision could form the basis for re-instituting this practice in the Prairie Island control rooms as well. No formal advance notification of this return to past practice was made to either the Regional Administrator of Region III or the EDO.

The NRC continues to be of the view that the playing of radios, tapes, TV's, or other devices which generate an audible sound, constitute a potential hazard to safe operation of a nuclear facility. NRC licensed operators in the control rooms at nuclear power plants are responsible for assuring that the facility is operated safely and within the requirements of the facility's license, technical specifications, rules, regulations, and orders of the NRC. To be able to carry

out these highly important responsibilities, control room operators must give their full attention to the condition of the plant at all times. Operators must be alert to ensure that the plant is operating safely and must be capable of taking timely action to prevent any progress toward a condition that might be unsafe. All control room business must be conducted in such a manner that neither licensed control room operator attentiveness nor the professional atmosphere will be compromised. The playing of radios, TV's, tapes, etc. in control rooms does not enhance the operator's ability to concentrate upon licensed duties and can potentially have a significant negative effect on the attentiveness of operators and their ability to closely monitor plant status. Consequently, to assure continued protection of the public health, safety, and interest, the NRC staff believes facility operation when audible entertainment devices are in use in the control room is unacceptable.

In light of the above, I question whether operators will be sufficiently attentive to licensed responsibilities if audible entertainment devices are allowed in the control room. Accordingly, I may be unable to conclude there is reasonable assurance that the operators at the Prairie Island facility or the Monticello facility will operate the facilities in accordance with the Commission's requirements if audible entertainment devices are used in the control room.

### III

Accordingly, pursuant to sections 103, 161b., 161c., and 161o. of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED, that the Licensee show cause, as specified in Section IV of this Order, why Licenses Nos. DPR-22, DPR-42, and DPR-60 should not be modified to condition facility operation to prohibit the use of radios, tapes, TV's or other audible entertainment devices in the control rooms of the Prairie Island and Monticello facilities.

### IV

The Licensee may show cause within 25 days of the date of the Order by filing a written answer under oath or affirmation which sets forth the facts of the matter and the law on which the Licensee relies. The Licensee may answer as provided in 10 CFR 2.202(d) by consenting to the entry of an order in substantially the form proposed in this Order to Show Cause. Upon failure of the Licensee to file an answer within the

specified time, the Director of the Office of Inspection and Enforcement may issue without further notice an order modifying the Licenses as described in Section III.

### V

The Licensee, or other person adversely affected by this Order, may request a hearing within 25 days of the date of this Order. This request shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the request for hearing should also be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, at the same address. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the person's interest is adversely affected by this Order. If a hearing is requested by the Licensee or any person who has an interest adversely affected by this Order, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held, the issue to be considered at the hearing shall be whether the Licenses should be modified to prohibit use of audible entertainment devices such as radios, TV's, and tapes in the control rooms of the Prairie Island Monticello facilities.

Dated at Bethesda, Maryland this 20th day of October, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 24488 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-12688-MLA; ASLBP No. 87-542-01 MLA]

### Radiology Ultrasound Nuclear Consultants, P.A. (Strontium 90 Applicator); Hearing

October 23, 1986.

Atomic Safety and Licensing Board Panel before Administrative Judge: Charles Bechhoefer.

Notice is hereby given that the Nuclear Regulatory Commission, by Order dated October 9, 1986, has granted the request of Radiology Ultrasound Nuclear Consultants, P.A. ("RUNC") for a hearing on the NRC Staff's July 25, 1986 denial of RUNC's application to amend its byproduct materials license (No. 29-06760-08) to authorize the use of strontium 90 plaque applicators for the treatment of malignant skin lesions. The Commission authorized an informal

hearing, which is to be conducted by the undersigned Presiding Officer. The parties to this proceeding are limited to RUNC and the NRC Staff.

Further details are provided in the Presiding Officer's Memorandum and Order dated October 23, 1986. As there set forth, this informal adjudication may be decided entirely on the basis of the parties' filings, together with relevant documents. In addition, the Presiding Officer has discretion to entertain oral presentations from the parties. Any oral presentation will be held in the vicinity of the Applicant's business location (i.e., Freehold, N.J.) or at such other location as may be agreed upon by the parties and approved by the Presiding Officer.

Members of the public are invited to submit statements with regard to the application, comparable to limited appearance statements permitted under 10 CFR 2.715(a). If an oral presentation is held, members of the public will be afforded the opportunity to make oral limited appearance statements. In any event, written statements may be submitted. Written statements, or requests to make oral statements if an oral presentation is to be held, should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, 1717 H Street, NW., Washington, DC 20555. A copy of such a statement or request should also be served on the Presiding Officer.

Dated at Bethesda, Maryland, this 23rd day of October, 1986.

Charles Bechhoefer,

Administrative Judge Presiding Officer.

[FR Doc. 86-24497 Filed 10-28-86; 8:45 am]

BILLING CODE 7590-01-M

### PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

#### Mainstem Passage Advisory Committee; Meeting

**AGENCY:** The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

**ACTION:** Notice of meeting.

*Status:* Open.

**SUMMARY:** The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee of the Mainstem Passage Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Discussion of mainstem passage model development.

- Discussion of transport benefit ratios.

- Subcommittee report on FISHPASS model sensitivity analysis results.

- Section 400 draft amendment document measures.

- Other.

- Public comment.

**DATE:** November 14, 1986. 9:00 a.m.

**ADDRESS:** The meeting will be held in the Council's Meeting Room, 850 SW Broadway, Suite 1100, Portland, Oregon.

**FOR FURTHER INFORMATION CONTACT:** Jim Ruff, 503-222-5161.

Edward Sheets,

*Executive Director.*

[FR Doc. 86-24471 Filed 10-28-86; 8:45 am]

BILLING CODE 0000-00-M

## SECURITIES AND EXCHANGE COMMISSION

### Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

October 22, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Coca-Cola Enterprises, Inc.

Common Stock, \$10 Par Value (File No. 7-9301)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 12, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 86-24419 Filed 10-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23728; File No. SR-MSE-86-8]

### Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc., Relating to the MSE Co-Specialist Evaluation Survey

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on September 30, 1986, the Midwest Stock Exchange, Incorporated ("MSE") 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 MSE is proposing to revise its Co-Specialist Evaluation Survey to be completed periodically by floor brokers to assist in the fair and accurate rating of co-specialist performance.<sup>1</sup>

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the Co-Specialist Evaluation Survey which was prepared by the Committee on Specialist

Assignment and Evaluation. Since its inception in 1977, the Survey has been continuously updated as part of MSE's ongoing commitment to maintain the quality of the MSE market.

The Survey is a subjective measure used to recognize good performance and to identify co-specialists functioning at substandard levels. Floor brokers are in a unique position to contribute to the MSE's efforts by providing evaluations of the performance of the specialist units with which they deal. It is necessary that all co-specialists meet certain standards to attract order flow to the Floor and that an accurate method be developed to insure that all co-specialists are rated fairly.

The revised Survey reflects input that has been received from floor brokers and co-specialists alike. This input has assisted the Exchange in developing questions that not only accurately reflect the various duties of a co-specialist, but also questions more easily understood by the respondents. For example, each question is followed by an explanation clarifying the various factors to be considered when determining a rating to be assigned.

Another improvement includes the expansion of the rating scale from a 1-5 range to a 1-10 range. This allows for a more concise rating due to a wider scale. However, the most important improvement is based on establishing how frequently each respondent trades with each co-specialist. Responses will be weighted according to trading frequency which will be determined by the first question. Ratings given by a broker who trades more frequently with a co-specialist will be weighted more than ratings given by a broker who trades infrequently with that particular co-specialist.

The Exchange believes that the revised Survey furthers the aforementioned goals of maintaining and improving the quality of MSE markets by providing a more accurate method of rating co-specialists' performance.

The proposed rule change is consistent with Section 6 of the Securities Exchange Act of 1934 in that the Survey is designed to promote just and equitable principles of trade by assisting in the measurement of co-specialist performance, thereby helping to ensure that co-specialists meet certain minimum standards. The proposed rule change also fosters cooperation between brokers and co-specialists on the MSE floor by permitting brokers to participate in the evaluation of the specialists units with which they deal.

<sup>1</sup> The MSE submitted with its filing a copy of its revised Co-Specialist Evaluation Survey. Copies of the Survey may be obtained through the Securities and Exchange Commission, Exchange Branch and the MSE.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Comments were solicited and received from various floor members and are reflected in the revised Survey.

**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 the 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. Copies of such filing will also be available for inspection and copying at the principle office of the MSE. All submissions should refer to the file number in the caption above and should be submitted by November 19, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 20, 1986.

Jonathan G. Katz,  
 Secretary.

[FR Doc. 86-24416 Filed 10-28-86; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.**

October 22, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

- Chieftain Development Co. Ltd.  
 Warrants (File No. 7-9302)  
 Dayco Corporation  
 Common Stock, \$1.00 Par Value (File No. 7-9303)  
 Ryland Group, Inc.  
 Common Stock, \$1.00 Par Value (File No. 7-9304)  
 Southmark Corporation  
 Common Stock, \$1.00 Par Value (File No. 7-9305)  
 Toro Company  
 Common Stock, \$1.00 Par Value (File No. 7-9306)  
 Tracor, Inc.  
 Common Stock, \$0.33 1/3 Par Value (File No. 7-9307)  
 Triangle Industries, Inc.  
 Common Stock, \$1.00 Par Value (File No. 7-9308)  
 Marantz Company, Inc. (Delaware)  
 Common Stock, \$1.00 Par Value (File No. 7-9309)  
 Toll Brothers, Inc.  
 Common Stock, \$.01 Par Value (File No. 7-9310)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 12, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,  
 Secretary.

[FR Doc. 86-24420 Filed 10-28-86; 8:45 am]

BILLING CODE 8010-01-M

**Senior Executive Service Performance Review Board; List of Members; Schedule of Bonus Awards**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Listing of personnel serving as members of the Senior Executive Service Performance Review Board and announcement of schedule for awarding bonuses.

**SUMMARY:** Public Law 95-454 dated October 13, 1978 (Civil Service Reform Act of 1978) requires each Federal Agency to publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). This notice announces the PRB membership and the schedule for awarding Senior Executive Service bonuses in the Securities and Exchange Commission. The Commission has established a PRB that is staffed by:

1. George G. Kundahl, Executive Director and PRB Chairman.
2. Daniel L. Goelzer, General Counsel.
3. Joseph I. Goldstein, Executive Assistant to the Chairman.

The Commission plans to award bonuses to Senior Executive Service members on or about December 15, 1986.

**FOR FURTHER INFORMATION CONTACT:** Kathleen A. Jackson, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 (202-272-2706).

October 22, 1986.

Jonathan G. Katz,  
 Secretary.

[FR Doc. 86-24417 Filed 10-28-86; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF STATE**

[Public Notice CM-8/1017]

**Advisory Committee on South Africa; Closed Meeting**

The Advisory Committee on South Africa will meet in a closed session on November 10, 1986. The meeting will commence at 9 a.m. and will be held in

Room 7219, Department of State, Washington, DC.

The session will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (c)(9)(B). The Committee will have access to and will discuss classified information. Disclosure of the Committee's deliberations could adversely affect the Committee's ability to function as a group in providing the Secretary of State with advice on matters of critical importance to the conduct of United States foreign policy. The purpose of the meeting will be to discuss the current situation in South Africa and to evaluate U.S. policy toward South Africa.

Requests for further information should be directed to: Ann Miller (202) 632-0190, 1730 K Street, N.W., Washington, DC 20006.

Dated: October 10, 1986.

**C. William Kontos,**

*Executive Director.*

[FR Doc. 86-24373 Filed 10-28-86; 8:45 am]

BILLING CODE 4710-26-M

#### Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 am on November 3, 1986, in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

The purpose of the meeting is to finalize preparations for the 57th Session of the Council of the International Maritime Organization (IMO) which is scheduled for 10-14 November in London. In particular, the SHC will discuss the development of the U.S. Positions dealing with, inter alia, the following topics:

- Financial Matters
- Personnel Issues
- Immunities and Privileges
- Reports of the Major Committee

Interested persons may seek information by writing: Mr. G.P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, SW., Washington, DC 20593, or by calling: 202-267-2280.

Dated: September 15, 1986.

**Richard C. Scissors,**

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 86-24374 Filed 10-28-86; 8:45 am]

BILLING CODE 4710-07-M

#### Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 20, 1986 in Room 521J of the National Aeronautics and Space Administration, 600 Independence Avenue, SW., Washington, DC. The meeting will begin at 10:00 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio astronomy and radar astronomy services. The purpose of the meeting is to review, plan and initiate preparations for the Interim Meeting of international Study Group 2 in the Fall of 1987.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard E. Shrum, State Department, Washington, DC 20520; telephone 202 647-2592.

Dated: October 6, 1986.

**Richard E. Shrum,**

*Chairman, U.S. CCIR National Committee.*

[FR Doc. 86-24371 Filed 10-28-86; 8:45 am]

BILLING CODE 4710-07-M

### DEPARTMENT OF TRANSPORTATION

#### Office of the Secretary

#### Computer Reservation Systems, Proposed Information Directives

The Department has decided to seek additional information on the airline operation of travel agent computer reservation systems (CRS's), and as part of that process, it will issue an order under section 407(a) of the Federal Aviation Act, 49 U.S.C. 1377(a) directing CRS vendors to provide special reports providing relevant information. However, the Department decided that it would be useful to consult on an informal basis with interested persons, including CRS owners, other airlines participating in CRS's and travel agency groups on possible specific information directives before issuing an order so as to maximize the value of information obtained and minimize the burden of compliance. The Department is publishing this notice to inform the

public that on October 23, 1986, the Department circulated to CRS owners and other persons who had expressed a continuing interest in CRS issues a letter with proposed information directives focusing on the following issues: (1) CRS costs and booking fees; (2) Vendor studies concerning incremental revenues; (3) CRS market shares; and (4) Vendor-agency contracts, particularly liquidated damages. After reviewing any suggestions received, the Department will open a Docket and issue its Order under section 407. Copies of the letter and draft information directives can be obtained by contracting Robert D. Young, Office of General Counsel, Litigation Division, or Shelton Jackson, Chief, Policy Analysis Division, Office of Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation, 400 7th St., NW., Washington, DC 20590; (202) 9285; 366-5403.

Dated: October 23, 1986.

**Vance Fort,**

*Deputy Assistant Secretary for Policy and International Affairs.*

[FR Doc. 86-24463 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-62-M

#### Fitness Determination of Texas National Airlines, Inc.

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Commuter Air Carrier Fitness Determination—Order 86-10-52, Order to Show Cause.

**SUMMARY:** The Department of Transportation is proposing to find that Texas National Airlines, Inc., fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

**Response:** All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, P-47, Department of Transportation, 400 7th Street, SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 14, 1986.

**FOR FURTHER INFORMATION CONTACT:** Michael Lane, Special Authorities Division, Department of Transportation, 400 7th St., SW., Washington, DC 20590 (202) 366-2341.

Dated: October 24, 1986.

Vance Fort,

*Deputy Assistant Secretary for Policy and International Affairs.*

[FR Doc. 86-24467 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-62-M

**Institution of Intra-Alaska Bush Service Mail Rates Investigation**

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order Instituting Investigation (Order 86-10-45), Docket 44445.

**SUMMARY:** The Department of Transportation is advising all interested persons that we are instituting an investigation of the intra-Alaska bush service mail rate structure. The order also proposes to make final on the service date of the order those temporary mail rates which have been in effect since January 1, 1985.

**DATES:** Information responses will be due December 15, 1986, and should be filed in Docket 44445.

Objections to the proposed final rates should be filed in Docket 38961 by November 10, 1986. Responses should be addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served on the parties listed in Appendix C to the order.

**FOR FURTHER INFORMATION CONTACT:** James E. Gardner, Fares and Rates Division, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2438

Dated: October 23, 1986.

Matthew V. Scocozza,

*Assistant Secretary for Policy and International Affairs.*

[FR Doc. 86-24464 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 44432]

**U.S.-London Gateways Case; Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-titled proceeding will be held on November 12, 1986, at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC before the undersigned administrative law judge.

The parties are directed to submit one copy to each other and four copies to the Judge of (1) any proposals for changes in the evidence request contained in the Appendix to Order 86-10-38, (2) proposed procedural dates, (3) proposed stipulations and (4) a statement of position. This material shall be submitted on or before November 8, 1986.

Dated at Washington, DC, October 24, 1986.

William A. Kane, Jr.

*Administrative Law Judge.*

[FR Doc. 86-24465 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 44432]

**U.S.-London Gateways Case; Assignment of Proceeding**

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications with respect to this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M-50, Room 9400A, Nassif Bldg, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366-2142.

Dated Washington, DC, October 24, 1986.

Elias C. Rodriguez,

*Chief Administrative Law Judge.*

[FR Doc. 86-24466 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-62-M

**Federal Aviation Administration**

**Flight Service Station at Burlington, IA; Closure**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Flight Service Station at Burlington, Iowa; Closure.

**SUMMARY:** Notice is hereby given that at 4:30 pm CST, on October 31, 1986, the Flight Service Station at Burlington, Iowa, will be closed. Thereafter services to the general aviation public at Burlington will be provided by the Fort Dodge, Iowa, Flight Service Station. This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354).

Issued in Kansas City, Missouri, on October 21, 1986.

Wayne A. Smith,

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 86-24387 Filed 10-28-86; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF THE TREASURY**

**Office of the Secretary**

Supplement to Department Circular—Public Debt Series—No. 32-86

**Notes of Series AF-1988; Interest Rates; Supplemental Notice**

Washington, October 23, 1986.

The Secretary announced on October 22, 1986, that the interest rate on the notes designated Series AF-1988, described in Department Circular—Public Debt Series—No. 32-86 dated October 16, 1986, will be 6% percent. Interest on the notes will be payable at the rate of 6% percent per annum.

Gerald Murphy,

*Fiscal Assistant Secretary.*

[FR Doc. 86-24414 Filed 10-28-86; 8:45 am]

BILLING CODE 4810-40-M

# Sunshine Act Meetings

Federal Register

Vol. 51, No. 209

Wednesday, October 29, 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).

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1

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10:00 a.m., November 6, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

Cross Margining of commodity futures, commodity options, and securities options—consideration of petition for rulemaking

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24528 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

2

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10:30 a.m., November 6, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Enforcement Matters

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24529 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

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### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., November 7, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Market Surveillance

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24530 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

4

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., November 14, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Market Surveillance

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24531 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

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### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:00 a.m., November 21, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Market Surveillance

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24532 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

6

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10:00 a.m., November 25, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

Proposed Rule 1.59—Restrictions on the activities of SRO employees who possess material, non-public information  
Second Quarter Objectives  
Application for the First Asset Corporation for registrations as a Leverage Transaction Merchant.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24533 Filed 10-27-86; 10:52 am]

BILLING CODE 6351-01-M

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### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:30 a.m., November 25, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Enforcement Matters

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean B. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24534 Filed 10-27-86; 8:45 am]

BILLING CODE 6351-01-M

8

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 11:30 a.m., November 28, 1986.

**PLACE:** 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Market Surveillance

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jean A. Webb, 254-6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 86-24535 Filed 10-27-86; 10:53 am]

BILLING CODE 6351-01-M

9

**FARM CREDIT ADMINISTRATION**

Farm Credit Administration Board;  
Regular Meeting

**SUMMARY:** Notice is hereby given pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 4, 1986, from 10:00 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4010.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Approval of Minutes of October Meeting.
2. Regulations: Consideration of Amendments to Parts 620 and 621—Disclosure to Stockholders.
- \*3. Consideration of Personnel Related Matters.
4. FCS Building Association Matters.
- \*\*5. Examination and Enforcement Matters.
- \*Closed Session—exempt pursuant to 5 U.S.C. 552b(c)(2).
- \*\*Closed Session—exempt pursuant to 5 U.S.C. 552b(c) (4), (8) and (9).

Dated: October 27, 1986.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 86-24561 Filed 10-27-86; 12:54 pm]

BILLING CODE 6705-01-M

10

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:07 p.m. on Thursday, October 23, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for a purchase and assumption transaction, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accept the highest acceptable

bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, make funds available for the payment of the insured deposits of the closed bank, with respect to each of the following: (a) Bank of Gering, Gering, Nebraska, an insured State nonmember bank scheduled for closing later in the day by the Director of Banking and Finance for the State of Nebraska, (b) Stillwater Community Bank, Stillwater, Oklahoma, an insured State nonmember bank scheduled for closing later in the day by the Bank Commissioner for the State of Oklahoma, and (c) Security National Bank, Anchorage, Alaska, an insured bank scheduled for closing later in the day by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency.

At that same meeting, the Board of Directors also considered the application of Bank of Norfolk, Norfolk, Nebraska, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in First Savings Company of Norfolk, Nebraska, an insured industrial loan company, and for consent to establish the sole office of First Savings Company of Norfolk as a branch of the resultant bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 522b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-24560 Filed 10-27-86; 12:45 pm]

BILLING CODE 6714-01-M

11

**FEDERAL ENERGY REGULATORY COMMISSION**

**TIME AND DATE:** November 3, 1986. 10:00 a.m.

**PLACE:** 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

\*Note.—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

**Consent Power Agenda 844th Meeting—November 3, 1986, Regular Meeting (10:00 a.m.)**

CAP-1.

Omitted.

CAP-2.

Omitted.

CAP-3.

Project Nos. 5915-003 and 9517-000, White Chuck Water Company

CAP-4.

Project No. 8080-003, High Rock Hydro Partners

CAP-5.

Omitted.

CAP-6.

Project No. 9955-000, Lowman Associates

CAP-7.

Project No. 662-000, Pinedale Power and Light Company

CAP-8.

Omitted.

CAP-9.

Omitted.

CAP-10.

Docket No. ER86-701-000, Kansas City Power & Light Company

CAP-11.

Docket No. ER86-704-000, Canal Electric Company

CAP-12.

Docket No. QF86-686-001, Martin Marietta Aluminum Properties, Inc.

CAP-13.

Docket No. ER86-593-001, Alabama Power Company

CAP-14.

Docket Nos. ER86-368-002 and 003, El Paso Electric Company

CAP-15.

Docket No. ER85-720-005, Connecticut Light and Power Company

CAP-16.

Docket No. EC86-24-001, Niagara Mohawk Power Corporation

*Consent Miscellaneous Agenda*

CAM-1.

Omitted.

CAM-2.

Docket No. RM85-1-000, regulation of natural gas pipelines after partial wellhead decontrol (Tennessee Gas Pipeline Company, Division of Tenneco Inc.)

CAM-3.

Docket No. RM84-1-000, Regulation of natural gas pipelines after partial

- wellhead decontrol (Panda Resources, Inc.)
- CAM-4. Omitted.
- CAM-5. Docket No. GP85-58-000, State of Louisiana, Department of Natural Resources, Section 103 Determination, Forman Petroleum Corporation, LL&E #2 well, FERC JD No. 85-11240.
- CAM-6. Docket Nos. GP86-36-000 and GP86-37-000, Chevron U.S.A. Inc.
- CAM-7. Docket No. RA82-20-000, ICG Vista Petroleum, Inc. and Thunderbird Resources, Inc. (a division of Flying J, Inc.)
- CAM-8. Docket No. RO85-22-000, Sun Company, Inc.
- Consent Gas Agenda*
- CAG-1. Omitted.
- CAG-2. Omitted.
- CAG-3. Omitted.
- CAG-4. Omitted.
- CAG-5. Docket No. RP86-84-001, Florida Gas Transmission Company
- CAG-6. Docket No. RP86-112-017, Columbia Gas Transmission Corporation  
Docket No. RP86-108-016, Columbia Gulf Transmission Company
- CAG-7. Omitted.
- CAG-8. Docket No. RP87-8-000, Northern Natural Gas Company, division of Enron Corporation
- CAG-9. Omitted.
- CAG-10. Omitted.
- CAG-11. Omitted.
- CAG-12. Omitted.
- CAG-13. Omitted.
- CAG-14. Omitted.
- CAG-15. Omitted.
- CAG-16. Omitted.
- CAG-17. Docket Nos. RP86-155-001 and 002, Northwest Central Pipeline Corporation
- CAG-18. Docket No. TA87-1-33-002, El Paso Natural Gas Company
- CAG-19. Docket No. RP86-151-001, Seagull Interstate Corporation
- CAG-20. Omitted
- CAG-21. Docket Nos. RP83-34-007 and RP79-10-025, Great Lakes Gas Transmission Company
- CAG-22. Docket No. RP86-118-001, Consolidated Gas Transmission Corporation
- CAG-23. Docket Nos. RP86-137-000 and 002, Florida Gas Transmission Company
- CAG-24. Docket No. RP86-92-005, Northwest Pipeline Corporation
- CAG-25. Docket Nos. TA86-3-28-000 and 004, Panhandle Eastern Pipe Line Company
- CAG-26. Omitted
- CAG-27. Docket No. TA84-1-53-017, K N Energy, Inc.
- CAG-28. Docket Nos. TA87-1-62-000 and 001, Pacific Offshore Pipeline Company
- CAG-29. Docket No. ST86-675-000, Columbia Gas and Transmission Corporation
- CAG-30. Docket Nos. RI74-188-087 and RI75-21-082, Independent Oil & Gas Association of West Virginia
- CAG-31. Omitted
- CAG-32. Docket Nos. CP86-277-001, 002, 003, 004 and CP86-610-002, Southern Natural Gas Company  
Docket Nos. CP86-366-001, 002 and 003, Southern Natural Gas Company and South Georgia Natural Gas Company
- CAG-33. Docket Nos. CP85-756-002 through 006, Consolidated Gas Transmission Corporation  
Docket Nos. CP86-208-002 through 006, Consolidated System LNG Company and Consolidated Gas Transmission Corporation  
Docket Nos. CP85-806-001 through 005, Texas Eastern Transmission Corporation  
Docket Nos. CP86-454-001 through 005, Columbia Gas Transmission Corporation
- CAG-34. Omitted
- CAG-35. Docket Nos. CP86-83-001, CP86-106-001, CP86-107-001, CP86-108-001, CP86-131-001, CP86-132-001, CP86-133-001, CP86-134-001, CP86-135-001, CP86-136-001, CP86-137-001 and CP86-186-001, Natural Gas Pipeline Company of America
- CAG-36. Docket Nos. CP86-216-001, 002, 003, CP86-217-001, 002, 003, CP86-222-001, 002, 003, CP86-223-001, 002, 003, CP86-242-001, 002, 003, CP86-243-001, 002, CP86-255-001, 002, 003, CP86-256-001, 002, 003 and CP84-258-002, Panhandle Eastern Pipe Line Company
- CAG-37. Omitted
- CAG-38. Docket No. CP86-147-000, Southern Natural Gas Company  
Docket No. CP86-464-000, Tennessee Gas Pipeline Company, Division of Tenneco Inc.
- CAG-39. Docket Nos. CP86-108-004, CP86-133-004, CP86-134-004, CP86-136-002 and CP86-137-003, Natural Gas Pipeline Company of America
- CAG-40. Docket No. CP86-699-000, Trunkline Gas Company
- CAG-41. Docket No. TC82-43-004, K N Energy, Inc.
- CAG-42. Docket No. CP70-69-001, Northern Natural Gas Company, Division of Enron Corporation
- CAG-43. Docket No. CP86-351-000, National Fuel Gas Supply Corporation, National Fuel Gas Distribution and Eastern Natural Gas Company
- I. Licensed Project Matters**
- P-1. Reserved
- II. Electric Rate Matters**
- ER-1. Docket No. ER82-616-029, Systems Energy Resources, Inc.
- ER-2. Docket No. ER86-694-000, New England Power Pool
- ER-3. Docket No. ER86-394-000, Pacific Power and Light Company, an assumed business name of Pacificorp
- ER-4. Docket Nos. ER86-215-000 and ER86-522-000, Idaho Power Company
- ER-5. Docket No. ER86-637-000, Montana Power Company
- ER-6. Docket No. ER86-630-000, Utah Power & Light Company
- Miscellaneous Agenda*
- M-1. Omitted
- M-2. Reserved
- M-3. Reserved
- M-4. Omitted
- M-5. Docket Nos. RM79-63-000 through 007 and RM82-31-000 through 007, fees applicable to natural gas pipelines  
Docket No. CP86-143-002, Texas Gas Transmission Corporation
- M-6. Docket No. RM85-1-000, Regulation of natural gas pipelines after partial wellhead decontrol (Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Texas Independent Producers and Royalty Owners Association, Northwest Central Pipeline Corporation, Yankee International Company, Capital Energy Corporation, Iowa Electric Light and Power Company, Illinois Commerce Commission, Ong Western, Inc., Cascade Natural Gas Corporation, Pelmont Oil Corporation, Essex Offshore, Inc. and Nycotex Gas Transport  
Docket No. RM85-1-174, Regulation of natural gas pipelines after partial wellhead decontrol (National Fuel Gas Distribution Corporation)

Docket No. CP81-319-001, National Fuel Gas Distribution Corporation

M-7. Docket Nos. RM86-3-003 through 065, ceiling prices; old Gas Pricing Structure

**I. Pipeline Rate Matters**

RP-1. Omitted  
RP-2. Docket Nos. RP82-71-018, TA83-1-59-009, RP82-71-017, TA83-1-59-006, TA84-1-59-005 and TA85-1-59-005, Northern Natural Gas Company, a division of Enron Corporation

RP-3. Docket No. RP82-55-000, Transcontinental Gas Pipe Line Corporation

RP-4. (A) Docket Nos. RP85-177-000, RP85-176-000, RP83-35-000, RP81-109-000, RP74-41-000 and TC86-3-000, Texas Eastern Transmission Corporation  
(B) Docket Nos. CP86-378-000, CP86-379-000 and CP86-380-000, Texas Eastern Transmission Corporation

RP-5. (A) Docket No. RP85-206-000, Northern Natural Gas Company, a division of Enron Corporation  
(B) Docket No. CP86-435-000, Northern Natural Gas Company, a division of Enron Corporation

RP-6. (A) Docket No. RP85-175-000, Transwestern Pipeline Company  
(B) Docket No. CP86-276-000, Transwestern Pipeline Company

RP-7. Docket No. RP87-7-000, Transcontinental Gas Pipe Line Corporation

**II. Producer Matters**

CI-1. Docket No. CI80-151-001, Mitchell Energy Corporation

CI-2. Docket No. CI78-1179-002, Dorchester Gas Producing Company

**III. Pipeline Certificate Matters**

CP-1. Docket Nos. CP84-435-000 and 001, Arkla Energy Resources  
Docket No. CP84-436-000, Southern Natural Gas Company

CP-2. Docket No. CP84-252-000, Trans-Appalachian Pipeline, Inc.

CP-3. Docket Nos. CP86-422-000, CP86-456-000 and CP86-474-000, Great Lakes Gas Transmission Company  
Docket No. CP79-467-009, ANR Pipeline Company

CP-4. Omitted  
Kenneth F. Plumb,  
Secretary.

[FR Doc. 86-24592 Filed 10-27-86; 3:25 p.m.]  
BILLING CODE 6717-01-M

**12**

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 12:00 noon, Monday, November 3, 1986.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

- 1. Proposed Federal Reserve Bank salary structure adjustments.
- 2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
- 3. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 24, 1986.  
**James McAfee,**  
Associate Secretary of the Board.  
[FR Doc. 86-24495 Filed 10-24-86; 4:41 pm]  
BILLING CODE 6210-01-M

**13**

**POSTAL SERVICE**

(Board of Governors)

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 51 FR 37540, October 22, 1986.

**PREVIOUSLY ANNOUNCED TIME AND DATE:** 8:00 a.m., Tuesday, November 4, 1986.

**CHANGES IN THE MEETING:** Addition of the following agenda items:

- 3. Number of Assistant Postmasters General.

**CONTRACT PERSON FOR MORE INFORMATION:** Mr. David F. Harris, Secretary of the Board, (202) 268-4800. David F. Harris, Secretary.

[FR Doc. 86-24573 Filed 10-27-86; 3:04 pm]  
BILLING CODE 7710-12-M

**14**

**SECURITIES AND EXCHANGE COMMISSION**

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 3, 1986:

An open meeting will be held on Tuesday, November 4, 1986, at 2:30 p.m., in Room 1C30 followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(c)(4), (8), (9)(A) and (10) and (17) CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 4, 1986, at 2:30 p.m., will be:

- 1. Consideration of whether to issue a release adopting amendments to Securities Exchange Act Rule 15c3-1 that would expand the types of instruments that could be used to create a hedged position in highly rated corporate debt securities. The amendments would also lower the deductions from net worth in arriving at net capital for hedged corporate debt securities positions and would redefine the criteria for determining whether the maturities of two offsetting positions are close enough to consider the combined corporate debt securities position as hedged for purposes of Rule 15c3-1. For further information, please contact Michael P. Jamroz at (202) 272-2398.
- 2. Consideration of whether to issue a release adopting amendments to its proxy rules, including application of the integrated disclosure system. The Commission will also consider publishing for public comment further amendments to the proxy rules. For further information, please contact Caroline W. Dixon at (202) 272-2589.

The subject matter of the closed meeting scheduled for Tuesday, November 4, 1986, following the 2:30 p.m. open meeting, will be:

- To withdraw administrative proceeding of an enforcement nature.
- Settlement of administrative proceedings of an enforcement nature.
- Institution of administrative proceedings of an enforcement nature.
- Settlement of injunctive action.
- Close investigation.
- Chapter 11 proceeding.

At times changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272-2149.

Jonathan G. Katz,

Secretary.

October 24, 1986.

[FR Doc. 86-24562 Filed 10-22-86; 1:54 pm]

BILLING CODE 8010-01-M

15

**TENNESSEE VALLEY AUTHORITY**

(Meeting No. 1377)

**TIME AND DATE:** 10:30 a.m. (EST), Friday, October 31, 1986.

**PLACE:** TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

**STATUS:** Open.

**Agenda**

Approval of minutes of meeting held in October 8, 1986.

*Discussion Item*

1. Polychlorinated Biphenyls (PCB) Contamination in TVA Reservoirs.

*Action Items*

**A—Budget and Financing**

A1. Modification of Fiscal Year 1987 Capital Budget Financed from Power Proceeds and Borrowings—Replacement of Unit 1 Upper Horizontal Reheater Tubes and Construction of Metal-Cleaning Waste Treatment Pond at Cumberland Fossil Plant; Replacement of Combustion Controls and Fuel Ignition System and Modification of Coal Burners in Units 7 and 8 at Widows Creek Fossil Plant; and Replacement of

Secondary Superheater Outlet Headers on Units 1, 2, and 3 at Allen Fossil Plant.

**B—Purchase Awards**

B1. Negotiation NQ-452374—Indefinite Quantity Term Agreement for Genuine Ingersoll-Rand Company Pump Parts for Various TVA Nuclear Plants.

**C—Power Items**

C1. Arrangements with Georgia Power Company for Establishment of an Additional 115-kV Delivery Point to TVA To Be Used to Deliver Power and Energy for TVA's Account to New Substation Being Constructed by North Georgia Electric Membership Corporation and to Update TVA's Interchange Agreement with Georgia Power Company.

C2. Letter Agreement with Tippah Electric Power Association, Ripley, Mississippi, Covering Arrangements for Construction of Cooperative's East Ripley 161-kV Substation and for Consolidated 161-kV Delivery.

C3. Time-of-Day Seasonal Power Rate Schedule.

C4. Form Agreement Covering Capacitor Arrangements Associated with Implementation of Reactive Power Billing as a Part of the 1986 Rate Change.

**D—Personnel Items**

D1. Supplemental to Personal Services Contract No. TV-68867A with Coopers & Lybrand, Knoxville, Tennessee, for Professional Accounting and Specialized Consultation Services. Requested by the Comptroller.

D2. Supplement to Personal Services Contract No. TV-69344A with Coopers & Lybrand, Knoxville, Tennessee, for Services of Qualified Personnel to Provide Assistance to TVA in the Design and Implementation of an Accounting Information System. Requested by the Comptroller.

**E—Real Property Transactions**

E1. Acquisition of Flowage Easement Rights Affecting 101 Acres of Privately Owned Lands in Jackson County, Alabama,

in Connection with a Wetlands Development Project at the Mud Creek Wildlife Management Area on Guntersville Reservoir—Tract Nos. GR-1880F and GR-1881F.

**F—Unclassified**

\* F1. Appointment of Acting Designated Agency Ethics Official.

\* Item approved by individual Board members. This would give formal ratification to the Board's action.

F2. Supplemental to Contract No. TV-69212A Between TVA and Tennessee Department of Labor Providing for Training and Placement Services for Displaced Workers at the Tennessee Chemical Company's Copper Hill Location.

F3. Contract No. TV-70695A Between TVA and Knoxville College Covering Arrangements for an Economic and Skills Development Project in the Knoxville Area.

F4. Contract No. TV-70903A Between TVA and Auburn University Covering Arrangements for Cooperative Research Activities Relating to an Alternate Feed Source for Cattle.

F5. Supplement to Interagency Agreement with Department of Energy (DOE) Covering Arrangements for Technical Assistance to DOE's Fuel Alcohol Loan Guarantee Program—Contract TV-59591A.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: October 24, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-24500 Filed 10-27-86; 8:53 am]

BILLING CODE 8120-01-M

# Federal Register

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Wednesday  
October 29, 1986

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## Part II

### Department of the Treasury

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Bureau of Alcohol, Tobacco and Firearms

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27 CFR Parts 72, 178, and 179  
Alcohol, Tobacco, and Other Excise  
Taxes; Commerce in Firearms and  
Ammunition

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Parts 72, 178, and 179

[T.D. ATF-241]

## Commerce in Firearms and Ammunition; Temporary Rule

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Temporary rule (Treasury decision).

**SUMMARY:** This temporary rule amends regulations in 27 CFR Parts 72, 178 and 179, relating to firearms, to implement provisions of Public Law 99-308 (100 Stat. 449), approved May 19, 1986, and a subsequent amendment thereto, Public Law 99-360 (100 Stat. 766), approved July 8, 1986. These regulations implement the law to delete licensing requirements and recordkeeping for ammunition transactions and implement the law restricting distribution of machine guns. In the Proposed Rules portion of this *Federal Register*, ATF is issuing a notice of proposed rulemaking inviting comments on the temporary rule for a 90-day period after the publication date of this temporary rule.

**DATES:** The temporary regulations are effective on November 15, 1986, except for §§ 178.36 and 179.105 relating to machine guns which were effective May 19, 1986.

**ADDRESS:** Send written comments to: Chief, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, DC 20044-0189.

**FOR FURTHER INFORMATION CONTACT:** Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226; (202) 566-7591.

**SUPPLEMENTARY INFORMATION:** This temporary rule implements provisions of Pub. L. 99-308 and Pub. L. 99-360, which amend several provisions of the Gun Control Act of 1968, chapter 44 (relating to firearms) of title 18, United States Code. Numerous changes have been made in 27 CFR Parts 72, 178 and 179 to implement the statutory changes. Some of the new statutory provisions which necessitated regulation changes are:

(1) Nonlicensees may acquire rifles and shotguns, but not handguns, from Federal firearms licensees outside their State of residence if the sale complies with State and local laws applicable at

the place of sale and where the purchaser resides. The interstate shipment or delivery of firearms to nonlicensees is still prohibited.

(2) The licensing requirement for those dealing in ammunition only is eliminated. Ammunition recordkeeping requirements for a firearms licensee are eliminated except for recording the name, age and place of residence of an armor-piercing ammunition purchaser and a description of the ammunition. Licenses are required of manufacturers and importers of ammunition.

(3) For licensing and other purposes under the Gun Control Act, the term "engaged in the business" is now defined as those who regularly deal in firearms with the "principal objective of livelihood and profit" through the "repetitive purchase and resale of firearms."

(4) There is specific statutory authority allowing licensees to deal in firearms at gun shows located in the State in which their licensed premises are located.

(5) Licensed manufacturers, licensed importers and licensed dealers need only maintain a "bound book" record of disposition of "personal firearms" where the firearm has been kept in the licensee's personal collection for one year after its transfer from the business inventory or otherwise acquired. The requirement for licensees to obtain an ATF Form 4473 covering such sales is eliminated. The sale is otherwise subject only to the requirements imposed on unlicensed persons selling firearms.

(6) Licensed collectors need only maintain a "bound book" record of firearms transactions and the requirement for licensed collectors to obtain an ATF Form 4473 is eliminated.

(7) An inspection warrant is now required to inspect the records and inventory of licensed manufacturers, licensed importers and licensed dealers except for a criminal investigation of a person other than the licensee, one annual inspection, or in firearms tracing. An inspection warrant is now required to inspect the records and collection of curio or relic firearms of licensed collectors except for one annual inspection or in firearms tracing.

(8) All persons, whether licensed or not, are prohibited from selling or delivering firearms to those persons specifically prohibited from shipping, transporting, receiving or possessing firearms.

(9) Relief from Federal firearms disabilities may be applied for by any proscribed person and the bar to relief is removed for felons whose crimes involved the use of a firearm or other weapon, or whose conviction was for a

violation of the Gun Control Act or the National Firearms Act.

(10) Effective May 19, 1986, the possession or transfer of a machine gun is prohibited except for (a) a transfer to or by, or possession by or under the authority of, Government entities, or (b) any lawful transfer or lawful possession of a machine gun lawfully possessed before May 19, 1986.

(11) Revised and streamlined license revocation procedures are provided for in view of *de novo* review of the agency action by the United States district courts.

## Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this temporary rule because it is not required to be preceded by a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

## Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this temporary rule is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

## Paperwork Reduction Act

The collection of information contained in this temporary rule have been reviewed and approved by the Office of Management and Budget for review under Sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35.

## Drafting Information

The principal author of this document is Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms.

## Administrative Procedure Act

Because most of the provisions of Pub. L. 99-308 and Pub. L. 99-360 become effective on November 15, 1986, and some provisions relating to machine guns became effective on May 19, 1986,

and require immediate implementation and compliance by licensees and the public, it is hereby found to be impractical and unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

**List of Subjects**

**27 CFR Part 72**

Administrative practice and procedure, Authority delegation, Seizures and forfeitures, Surety bonds.

**27 CFR Part 178**

Administrative practice and procedure, Arms and munitions, Authority delegation, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

**27 CFR Part 179**

Administrative practice and procedure, Arms and munitions, Authority delegation, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

**Authority and Issuance**

Accordingly, ATF is issuing a temporary rule to amend Title 27 of the Code of Federal Regulations and, by a notice of proposed rulemaking published in this **Federal Register**, is requesting comments by January 27, 1987.

**PART 72—[AMENDED]**

**Paragraph 1.** The authority citation for Part 72 continues to read as follows:

**Authority:** Sec. 8, 53 Stat. 1293, sec. 1, 62 Stat. 761, as amended, sec. 7805, 68A Stat. 917, sec. 921, 82 Stat. 1214; 49 U.S.C. App. 788, 18 U.S.C. 1261, 26 U.S.C. 7805, 18 U.S.C. 926, unless otherwise noted.

**Par. 2.** The table of contents to 27 CFR Part 72 is amended to revise the heading of Subpart F and to add a new § 72.69 to read as follows:

Sec.  
\* \* \* \* \*  
**Subpart F—Administrative Sale or Disposition of Personal Property**  
\* \* \* \* \*

§ 72.69 **Alternate disposition of seized carriers.**  
\* \* \* \* \*

**Par. 3.** Section 72.21 is revised to designate the existing section as paragraph (a) and to add new paragraphs (b) and (c) concerning the commencement of forfeiture proceedings with respect to seized firearms and ammunition. As revised, § 72.21 reads as follows:

**§ 72.21 Personal property and carriers subject to seizure.**

(a) Personal property may be seized by duly authorized ATF officers for forfeiture to the United States when involved, used, or intended to be used, in violation of the laws of the United States which ATF officers are empowered to enforce, including Title 18 U.S.C. Chapters 40 (explosives), 44 (firearms), 59 (liquor traffic), 114 (contraband cigarettes), 229 (liquor); Title 26 U.S.C. Chapters 51 (distilled spirits), 52 (tobacco), 53 (firearms); and Title 27 U.S.C. 206 (liquor). Carriers, as defined in § 72.11, similarly may be seized when used in violation of Title 49 U.S.C. App., Chapter 11 (transportation) et cetera of contraband firearms or contraband cigarettes.

(b) Any action or proceeding for the forfeiture of firearms or ammunition seized under 18 U.S.C. Chapter 44 shall be commenced within 120 days of such seizure.

(c) Upon acquittal of the owner or possessor, or the dismissal of the criminal charges against such person other than upon motion of the Government prior to trial, firearms or ammunition seized under 18 U.S.C. Chapter 44 shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law.

**Par. 4.** Section 72.22 is revised to change "\$10,000.00" to "\$100,000.00" in paragraphs (a)(1), (4), (5) and (b), and paragraph (a)(6) is amended to change the amount of the cost bond for seized property. As revised, § 72.22(a)(6) reads as follows:

**§ 72.22 Forfeiture of seized personal property and carriers.**

(a) *Administrative forfeiture.* \* \* \*  
(b) Any person claiming the personal property or carrier so seized, within the time specified in the notice, may file with the Director a claim stating the interest in the articles or carrier seized, and may execute a bond to the United States, conditioned that, in case of

condemnation of the articles or carrier so seized, the obligators shall pay all the costs and expenses of the proceedings to obtain such condemnation. The amount of the cost bond is \$250.00, unless the seized property is a vehicle, vessel, or aircraft seized for a violation of 49 U.S.C. App., Chapter 11, in which case the cost bond shall be in the amount of \$2,500 or ten percent of the value of the claimed property, whichever is lower, but not less than \$250.00. Both the claim and the cost bond shall be executed in quadruplicate.  
\* \* \* \* \*

**Par. 5.** The centerhead for Subpart F is revised and § 72.61 is amended by designating the existing section as paragraph (a), by adding a heading for new paragraph (a), and by adding a new paragraph (b), to read as follows:

**Subpart F—Administrative Sale or Disposition of Personal Property**

**§ 72.61 Alternative methods of sale.**

(a) *Sale by auction or competitive bid.* When personal property or a carrier  
\* \* \* \*

(b) *Sale by General Services Administration.* When a vessel, vehicle, or aircraft seized under 49 U.S.C. App., Chapter 11 is forfeited administratively, the Director may authorize the General Services Administration to conduct the sale pursuant to such conditions as the Director deems proper.

**Par. 6.** Section 72.69 is added to Subpart F to provide for an alternate disposition of seized carriers. New § 72.69 reads as follows:

**§ 72.69 Alternative disposition of seized carriers.**

(a) *State or local proceedings.* The Director may discontinue forfeiture proceedings instituted under the Customs laws for seizures of carriers under 49 U.S.C. App. Chapter 11 in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. If such forfeiture proceedings are discontinued or dismissed, the Director may transfer the seized property to the appropriate State or local official, and notice of discontinuance or dismissal shall be provided to all known interested parties.

(b) *Transfer to State or local law enforcement agency.* Any carrier forfeited under the Customs laws for seizures under 49 U.S.C. App., Chapter 11 may be transferred by the Director to any State or local law enforcement

agency which participated directly in the seizure or forfeiture of the property. (19 U.S.C. 1616)

#### PART 178—[AMENDED]

Par. 7. The authority citation for Part 178 is revised to read as follows:

Authority: 18 U.S.C. 926.

Par. 8. The headings to many sections in 27 CFR Part 178 have changed. Therefore, the table of contents to 27 CFR Part 178 is revised to read as follows:

#### PART 178—COMMERCE IN FIREARMS AND AMMUNITION

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178.23 Right of entry and examination.  
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178.149 Seizure and forfeiture.

##### Subpart J—[Reserved]

##### Subpart K—Exportation

- 178.171 Exportation.

Par. 9. Section 178.1 is revised to include a reference to Pub. L. 99-308 and 99-360 and remove a reference to the Federal Firearms Act provisions. As revised, § 178.1 reads as follows:

##### § 178.1 Scope of regulations.

(a) *General.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99-308 (100 Stat. 449) and Pub. L. 99-360 (100 Stat. 766).

(b) *Procedural and substantive requirements.* This part contains the procedural and substantive requirements relative to:

- (1) The interstate or foreign commerce in firearms and ammunition;
- (2) The licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms;
- (3) The conduct of business or activity by licensees;
- (4) The importation of firearms and ammunition;
- (5) The records and reports required of licensees;
- (6) Relief from disabilities under this part; and
- (7) Exempt interstate and foreign commerce in firearms and ammunition.

Par. 10. Section 178.2 is revised to change a citation. As revised, § 178.2 reads as follows:

##### § 178.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in firearms or ammunition. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and Part 47 of this chapter. For statutes applicable to nonmailable firearms, see 18 U.S.C. 1715 and regulations thereunder.

Par. 11. Section 178.11 is amended by revising the definitions for Business

premises, Collector, Crime punishable by imprisonment for a term exceeding 1 year, Curios or relics, Dealer, Importer, Licensed dealer, Licensed importer, Licensed manufacturer, Machine gun, Manufacturer, and Pawnbroker; adding the definitions for Armor-piercing ammunition, Engaged in the business, Firearm muffler or firearm silencer, and Principal objective of livelihood and profit; and by removing the definition for Service Center Director, to read as follows:

§ 178.11 Meaning of terms.

*Armor-piercing ammunition.* Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces or other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices.

*Business premises.* The property on which the manufacturing or importing of firearms or ammunition or the dealing in firearms is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

*Collector.* Any person who acquires, holds, or disposes of firearms as curios or relics.

*Crime punishable by imprisonment for a term exceeding 1 year.* Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices or (b) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less. What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the

proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for the purposes of the Act or this part, unless such pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, or unless the person is prohibited by law of the jurisdiction in which the proceedings were held from possessing any firearms.

*Curios or relics.* Firearms which are of special interest to collectors by reason of some quality other than firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

(a) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less.

*Dealer.* Any person engaged in the business of selling firearms at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker. The term shall include any person who engages in such business or occupation on a part-time basis.

*Engaged in the business—(a) Manufacturer of firearms.* A person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(b) *Manufacturer of ammunition.* A person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and

profit through the sale or distribution of the ammunition manufactured;

(c) *Dealer in firearms other than a gunsmith or a pawnbroker.* A person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such a term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(d) *Gunsmith.* A person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such a term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(e) *Importer of firearms.* A person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and,

(f) *Importer of ammunition.* A person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

*Firearm muffler or firearm silencer.* Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

*Importer.* Any person engaged in the business of importing or bringing firearms or ammunition into the United States. The term shall include any person who engages in such business on a part-time basis.

*Licensed dealer.* A dealer licensed under the provisions of this part.

*Licensed importer.* An importer licensed under the provisions of this part.

*Licensed manufacturer.* A manufacturer licensed under the provisions of this part.

*Machine gun.* Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically

more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Manufacturer.** Any person engaged in the business of manufacturing firearms or ammunition. The term shall include any person who engages in such business on a part-time basis.

**Pawnbroker.** Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money. The term shall include any person who engages in such business on a part-time basis.

\* \* \* \* \*

**Principal objective of livelihood and profit.** The intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this part, the term "terrorism" means activity, directed against United States persons, which—

(a) is committed by an individual who is not a national or permanent resident alien of the United States;

(b) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(c) is intended—

(1) to intimidate or coerce a civilian population;

(2) to influence the policy of a government by intimidation or coercion; or

(3) to affect the conduct of a government by assassination or kidnapping.

\* \* \* \* \*

Par. 12. Paragraph (c) of § 178.21 is revised to change the address at which ATF forms may be obtained. As revised, § 178.21(c) reads as follows:

**§ 178.21 Forms prescribed.**

\* \* \* \* \*

(c) Requests for forms should be mailed to the ATF Distribution Center,

7943 Angus Court, Springfield, Virginia 22153.

\* \* \* \* \*

Par. 13. Section 178.22 is revised to allow alternate methods and procedures in addition to emergency variations from requirements. As revised, § 178.22 reads as follows:

**§ 178.22 Alternate methods or procedures; emergency variations from requirements.**

(a) *Alternate methods or procedures.* The licensee, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part. Where the licensee desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate Regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) *Emergency variations from requirements.* The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations: (1) Will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from

requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the licensee shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where the licensee desires to employ an emergency variation, a written application shall be submitted to the appropriate Regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) *Retention of approved variations.* The licensee shall retain, as part of the licensee's records, available for examination by ATF officers, any application approved by the Director under this section.

Par. 14. Section 178.23 is revised to reflect the right of entry and examination of licensees' premises by ATF officers. As revised, § 178.23 reads as follows:

**§ 178.23 Right of entry and examination.**

(a) Except as provided in paragraph (b), any ATF officer, when there is reasonable cause to believe a violation of the Act has occurred and that evidence of the violation may be found on the premises of any licensed manufacturer, licensed importer, licensed dealer, or licensed collector, may, upon demonstrating such cause before a Federal magistrate and obtaining from the magistrate a warrant authorizing entry, enter during business hours the premises, including places of storage, of any such licensee for the purpose of inspecting or examining: (1) Any records or documents required to be kept by such licensee under this part and (2) any firearms or ammunition kept or stored by any such licensee at such premises.

(b) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during

business hours the premises, including places of storage, of any licensed manufacturer, licensed importer, or licensed dealer for the purpose of inspecting or examining the records, documents and firearms referred to in paragraph (a) of this section:

(1) In the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(2) For insuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period; or

(3) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a criminal investigation.

(c) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during business hours the premises, including places of storage, of any licensed collector for the purpose of inspecting or examining the records, documents and firearms referred to in paragraph (a) of this section:

(1) For ensuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period or (2) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a criminal investigation.

At the election of the licensed collector, the annual inspection permitted by this paragraph shall be performed at the ATF office responsible for conducting such inspection in closest proximity to the collection premises.

(d) The inspections and examinations provided by this section do not authorize an ATF officer to seize any records or documents other than those records or documents constituting material evidence of a violation of law. If an ATF officer seizes such records or documents, copies shall be provided the licensee within a reasonable time.

Par. 15. Section 178.24 is revised to reflect the publication of State laws and published ordinances. As revised, § 178.24 reads as follows:

**§ 178.24 List of State laws and published ordinances.**

(a) The Director shall annually revise and furnish to Federal firearms licensees a list of State laws and published ordinances which are relevant to the enforcement of this part. The Director

annually revises the list and publishes it as "State Laws and Published Ordinances—Firearms" which is furnished free of charge to licensees under this part. Where the list has previously been furnished to licensees, the Director need only furnish amendments of the relevant laws and ordinances to such licensees.

(b) "State Laws and Published Ordinances—Firearms" is incorporated by reference in this part. It is ATF Publication 5300.5, revised yearly. The current edition is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register.

Par. 16. Section 178.25 is revised to prescribe the requirements for disclosure of information from the records of licensees to law enforcement agencies. As revised, § 178.25 reads as follows:

**§ 178.25 Disclosure of information.**

The Regional director (compliance) may make available to any Federal, State or local law enforcement agency any information which is obtained by reason of the provisions of the Act with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition. Upon the request of any Federal, State or local law enforcement agency, the Regional director (compliance) may provide such agency any information contained in the records required to be maintained by the Act or this part.

Par. 17. Section 178.26 is revised to remove reference to ammunition. As revised, § 178.26 reads as follows:

**§ 178.26 Curio and relic determination.**

A licensed collector who desires to obtain a determination whether a particular firearm is a curio or relic shall submit a written request, in duplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require the submission of the firearm for examination and evaluation. If the submission of the firearm is impractical, the licensed collector shall so advise the

Director and designate the place where the firearm will be available for examination and evaluation.

Par. 18. Section 178.29 is revised to provide for nonlicensees' acquisition of rifles and shotguns out-of-State from licensees. As revised, § 178.29 reads as follows:

**§ 178.29 Out-of-State acquisition of firearms by nonlicensees.**

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, shall transport into or receive in the State where the person resides (or if a corporation or other business entity, where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State: *Provided*, That the provisions of this section:

(a) Shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, and

(b) Shall not apply to the transportation or receipt of a rifle or shotgun obtained from a licensed manufacturer, licensed importer, licensed dealer, or licensed collector in a State other than the transferee's State of residence in an over-the-counter transaction at the licensee's premises obtained in conformity with the provisions of § 178.97.

Par. 19. Section 178.32 is revised to reflect changes in the categories of persons prohibited from possessing and receiving firearms and ammunition. As revised, § 178.32 reads as follows:

**§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.**

(a) No person may ship or transport any firearm or ammunition in interstate or foreign commerce, or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearm or ammunition in or affecting commerce, who:

(1) Has been convicted of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Having been a citizen of the United States, has renounced citizenship.

(b) No person who is under indictment for a crime punishable by imprisonment for a term exceeding one year may ship or transport any firearm or ammunition in interstate or foreign commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(c) Any individual, who to that individual's knowledge and while being employed by any person described in paragraph (a) of this section, may not in the course of such employment receive, possess, or transport any firearm or ammunition in commerce or affecting commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(d) No person may sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Having been a citizen of the United States, has renounced citizenship.

**Par. 20.** Section 178.36 is added to reflect the prohibitions on the transfer and possession of machine guns. As added, § 178.36 reads as follows:

**§ 178.36 Transfer or possession of machine guns.**

No person shall transfer or possess a machine gun except:

(a) A transfer to or by, or possession by or under the authority of, the United States, or any department or agency thereof, or a State, or a department, agency, or political subdivision thereof (See Part 179 of this chapter); or

(b) Any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986 (See Part 179 of this chapter).

**Par. 21.** Section 178.41 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 178.41 General.**

(a) Each person intending to engage in business as an importer or manufacturer of firearms or ammunition, or a dealer in firearms, shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who desires to obtain the privileges granted by the Act and this part to a licensed collector may obtain such a license under the provisions of this subpart.

(b) Each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application, with the required fee (see § 178.42), with ATF in accordance with the instructions on the form (see § 178.44), and, pursuant to § 178.47, receive the license required for such business from the Regional director (compliance). Except as provided in § 178.50, a license must be obtained for each business and each place at which the applicant is to do business. A license as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce and to engage in the business specified by the license, at the location described on the license, and for the period stated on the license. However, it shall not be necessary for a licensed importer or a licensed manufacturer to also obtain a dealer's license in order to engage in business on the licensed premises as a dealer in the same type of firearms authorized by his license to be imported or manufactured. Payment of the license fee as an importer or manufacturer of destructive devices or ammunition for destructive devices or as a dealer in destructive devices includes the privilege of importing or manufacturing firearms other than destructive devices and ammunition for other than destructive devices, or dealing in firearms other than destructive devices, as the case may be, by such a licensee at his licensed premises.

**Par. 22.** Section 178.42 is revised to remove reference to dealing in ammunition. As revised, § 178.42 reads as follows:

**§ 178.42 License fees.**

Each applicant shall pay a fee at a yearly rate for obtaining a firearms license or ammunition license, a

separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

(a) For a manufacturer:

(1) Of destructive devices or ammunition for destructive devices—\$1,000 per year.

(2) Of firearms other than destructive devices—\$50 per year.

(3) Of ammunition for firearms other than destructive devices—\$10 per year.

(b) For an importer:

(1) Of destructive devices or ammunition for destructive devices—\$1,000 per year.

(2) Of firearms other than destructive devices or ammunition for firearms other than destructive devices—\$50 per year.

(c) For a dealer:

(1) In destructive devices—\$1,000 per year.

(2) Who is a pawnbroker dealing in firearms other than destructive devices—\$25 per year.

(3) Who is not a dealer in destructive devices or a pawnbroker—\$10 per year.

(d) For a collector of curios and relics—\$10 per year.

**Par. 23.** Section 178.44 is revised to update the description of ATF forms and the location where forms are sent. As revised, § 178.44 reads as follows:

**§ 178.44 Original license.**

(a) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, or firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application for license, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms) may be obtained from any ATF office.

(b) Any person who desires to obtain the privileges granted to a licensed collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties

imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms) may be obtained from any ATF office.

(18 U.S.C. 926 (82 Stat. 1226))

**Par. 24.** Section 178.45 is revised to update the description of ATF forms and change the location where the forms are sent. As revised, § 178.45 reads as follows:

**§ 178.45 Renewal of license.**

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the Regional director (compliance), execute and file prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by the required fee, with ATF in accordance with the instructions on the form. The Regional director (compliance) may, in writing, require the applicant for license renewal to also file completed ATF Form 7 in the manner required by § 178.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 as required by § 178.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the Regional director (compliance).

(18 U.S.C. 926 (82 Stat. 1226))

**Par. 25.** Section 178.47 is amended by removing paragraph (b)(6) and revising paragraphs (a), (b) introductory text, and (b) (1) and (2) to read as follows:

**§ 178.47 Issuance of license.**

(a) Upon receipt of a properly executed application for a license on ATF Form 7, or ATF Form 8 Part II, the Regional director (compliance) may, upon finding through further inquiry or investigation, or otherwise, that the applicant is entitled thereto, issue the appropriate license. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as the licensee maintains continuity of renewal in the same location (State).

(b) The Regional director (compliance) shall approve a properly executed application for license on ATF Form 7, or ATF Form 8 Part II, if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management or policies of the corporation, partnership, or association) is not prohibited under the provisions of the Act from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition, or from receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce;

\* \* \* \* \*

**Par. 26.** Section 178.49 is revised to remove the obsolete one and two year license provisions. As revised, § 178.49 reads as follows:

**§ 178.49 Duration of license.**

The license entitles the person to whom issued to engage in the business or activity specified on the license, within the limitations of the Act and the regulations contained in this part, for a three year period, unless terminated sooner.

**Par. 27.** Section 178.73 is revised to provide for revised revocation procedures. As revised, § 178.73 reads as follows:

**§ 178.73 Notice of revocation.**

Whenever the Regional director (compliance) believes that a licensee has violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Regional director (compliance) shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to revocation of the license. If the licensee does not file a timely request for a hearing, the Regional director (compliance) shall issue a final notice of revocation, ATF Form 4501, as provided in § 178.74.

**Par. 28.** Section 178.74 is revised to provide for a hearing after a notice of revocation. As revised, § 178.74 reads as follows:

**§ 178.74 Request for hearing after notice of revocation.**

If a licensee desires a hearing after receipt of a notice of revocation of a license, the licensee shall file a request, in duplicate, with the Regional director (compliance) within 15 days after receipt of the notice of revocation. On receipt of such request, the Regional director (compliance) shall, as expeditiously as possible, make

necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's representative, the Regional director (compliance) shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, a certified copy of the summary shall be furnished to the licensee with the final notice of revocation on ATF Form 4501. If the decision is that the license should not be revoked, the licensee shall be notified in writing.

**Par. 29.** Sections 178.75, 178.76, 178.77, and 178.78 are removed and §§ 178.79, 178.80, 178.81, and 178.82 are redesignated as §§ 178.75-178.78 and newly redesignated § 178.77 is revised to read as follows:

**§ 178.77 Designated place of hearing.**

The designated place of the hearing shall be a location convenient to the aggrieved party.

**Par. 30.** Section 178.92 is revised to reflect the firearms identification requirements with respect to certain parts defined as firearms. As revised, § 178.92 reads as follows:

**§ 178.92 Identification of firearms.**

Each licensed manufacturer or licensed importer of any firearm manufactured or imported shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation

thereof) wherein the licensed manufacturer maintains its place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer: *Provided*, That the Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part: *Provided, further*, That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable. A firearm frame or receiver, or any part defined as a machine gun, firearm muffler, or firearm silencer in § 178.11, which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section.

**Par. 31.** Section 178.93 is revised to remove reference to ammunition curios or relics. As revised, § 178.93 reads as follows:

**§ 178.93 Authorized operations by a licensed collector.**

The license issued to a collector of curios or relics under the provisions of this part shall cover only transactions by the licensed collector in curios and relics. The collector's license is of no force or effect and a licensed collector is of the same status under the Act and this part as a nonlicensee with respect to (a) any acquisition or disposition of firearms other than curios or relics, or any transportation, shipment, or receipt of firearms other than curios or relics in interstate or foreign commerce, and (b) any transaction with a nonlicensee involving any firearm other than a curio or relic. (See also § 178.50.)

**Par. 32.** Section 178.94 is revised to remove a reference to ammunition and eliminate the furnishing of license copies to other licensees where firearms are being returned. As revised, § 178.94 reads as follows:

**§ 178.94 Sales or deliveries between licensees.**

A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms, and a licensed collector selling or otherwise disposing of curios or relics, to another

licensee shall verify the identity and licensed status of the transferee prior to making the transaction. Verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by such other means as the transferor deems necessary: *Provided*, That it shall not be required (a) for a transferee who has furnished a certified copy of its license to a transferor to again furnish such certified copy to that transferor during the term of the transferee's current license, (b) for a licensee to furnish a certified copy of its license to another licensee if a firearm is being returned to such licensee and (c) for licensees of multilicensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization: *Provided further*, That a multilicensed business organization may furnish to a transferor, in lieu of a certified copy of each license, a list, certified to be true, correct and complete, containing the name, address, license number, and the date of license expiration of each licensed location operated by such organization, and the transferor may sell or otherwise dispose of firearms as provided by this section to any licensee appearing on such list without requiring a certified copy of a license therefrom. A transferor licensee who has the certified information required by this section may sell or dispose of firearms to a licensee for not more than 45 days following the expiration date of the transferee's license.

(Approved by the Office of Management and Budget under control number 1512-0387)

**Par. 33.** Section 178.95 is revised to provide for payment to ATF of fees for license copies. As revised, § 178.95 reads as follows:

**§ 178.95 Certified copy of license.**

The license furnished to each person licensed under the provisions of this part contains a purchasing certification statement. This original license may be reproduced and the reproduction then certified by the licensee for use pursuant to § 178.94. If the licensee desires an additional copy of the license for certification (instead of making a reproduction of the original license), the licensee may submit a request, in writing, for a certified copy or copies of the license to the Regional director (compliance) for the region in which the premises is located. The request must set forth the name, trade name (if any) and address of the licensee, and the number of license copies desired. There is a charge of \$1 for each copy. The fee paid for copies of the license must

accompany the request for copies. The fee may be paid by (a) cash, or (b) money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms.

(Approved by the Office of Management and Budget under control number 1512-0387)

**Par. 34.** Section 178.96 is amended by revising paragraph (c) and removing (d) to read as follows:

**§ 178.96 Out-of-State and mail order sales.**

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun which is a curio or relic, to a nonlicensed resident of a State other than the State in which the licensee's place of business is located if the purchaser meets with the licensee in person at the licensee's premises to accomplish the transfer, sale and delivery of the rifle or shotgun and the sale, delivery and receipt fully comply with the legal conditions of sale in both such States. For purposes of this paragraph, any licensed manufacturer, licensed importer, or licensed dealer is presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both such States.

(Approved by the Office of Management and Budget under control number 1512-0130)

**Par. 35.** Section 178.98 is revised to change certain administrative procedures for sales or deliveries of destructive devices and certain firearms. As revised, § 178.98 reads as follows:

**§ 178.98 Sales or deliveries of destructive devices and certain firearms.**

The sale or delivery by a licensee of any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, to any person other than another licensee who is licensed under this part to deal in such device or firearm, is prohibited unless the person to receive such device or firearm furnishes to the licensee a sworn statement setting forth (a) the reasons why there is a reasonable necessity for such person to purchase or otherwise acquire the device or weapon, and (b) that such person's receipt or possession of the device or weapon would be consistent with public safety. Such sworn statement shall be made on the application to transfer and register the firearm required by Part 179 of this chapter. The sale or delivery of the device or weapon shall not be made until the application for transfer is

approved by the Director and returned to the licensee (transferor) as provided in Part 179 of this chapter.

**Par. 36.** Section 178.99 is revised to reflect changes in the categories of persons prohibited from possessing and receiving firearms and ammunition. As revised, § 178.99 reads as follows:

**§ 178.99 Certain prohibited sales or deliveries.**

(a) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver any firearm to any person not licensed under this part and who the licensee knows or has reasonable cause to believe does not reside in (or if a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business or activity is located: *Provided*, That the foregoing provisions of this paragraph:

(1) Shall not apply to the sale or delivery of a rifle or shotgun (curio or relic, in the case of a licensed collector) to a resident of a State other than the State in which the licensee's place of business or collection premises is located if the requirements of § 178.96(c) are fully met, and

(2) Shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes (see § 178.97).

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver:

(1) Any firearm or ammunition to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition, is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 21 years of age, or

(2) Any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the importer, manufacturer, dealer or collector knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

(c) A licensed manufacturer, licensed importer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition to any person knowing or having

reasonable cause to believe that such person:

(1) Is, except as provided by § 178.143, under indictment for, or, except as provided by § 178.144, has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to any mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions, or

(7) Who, having been a citizen of the United States, has renounced citizenship.

**Par. 37.** Section 178.100 is amended to revise procedures for sales at gun shows. As revised, § 178.100 reads as follows:

**§ 178.100 Conduct of business away from licensed premises.**

(a) A licensee may conduct business temporarily at a gun show if the gun show is located in the same State specified on the license: *Provided*, That such business shall not be conducted from any motorized or towed vehicle. The premises of the gun show at which the licensee conducts business shall be considered part of the licensed premises. Accordingly, no separate fee or license is required for the gun show locations. However, licensees shall comply with the provisions of § 178.91 relating to posting of licenses (or a copy thereof) while conducting business at the gun show.

(b) A gun show is an event sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors events devoted to the collection, competitive use or other sporting use of firearms in the community.

(c) Licensees conducting business at gun shows shall maintain firearms and armor-piercing ammunition records in the form and manner prescribed by Subpart H of this part. In addition, records of receipt and disposition of firearms transactions conducted at gun shows shall include the location of the sale or other disposition and be entered in the required records of the licensee and retained on the premises specified on the license.

**Par. 38.** Section 178.111 is revised to include the importation of firearm barrels. As revised, § 178.111 reads as follows:

**§ 178.111 General.**

(a) Section 922(a)(3) of the Act makes it unlawful, with certain exceptions not pertinent here, for any person other than a licensee to transport into or receive in the State where the person resides any firearm purchased or otherwise obtained by the person outside of that State. However, section 925(a)(4) provides a limited exception for the transportation, shipment, receipt or importation of certain firearms and ammunition by certain members of the United States Armed Forces. Section 922(1) of the Act makes it unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition except as provided by section 925(d) of the Act, which section provides standards for importing or bringing firearms or ammunition into the United States. Section 925(d) also provides standards for importing or bringing firearm barrels into the United States. Accordingly, no firearm, firearm barrel, or ammunition may be imported or brought into the United States except as provided by this part.

(b) Where a firearm, firearm barrel, or ammunition is imported and the authorization for importation required by this subpart has not been obtained by the person importing same, such person shall:

(1) Store, at the person's expense, such firearm, firearm barrel, or ammunition at a facility designated by U.S. Customs or the Regional director (compliance) to await the issuance of the required authorization or other disposition; or

(2) Abandon such firearm, firearm barrel, or ammunition to the U.S. Government; or

(3) Export such firearm, firearm barrel, or ammunition.

(c) Any inquiry relative to the provisions or procedures under this subpart, other than that pertaining to the payment of customs duties or the release from Customs custody of firearms, firearm barrels, or ammunition authorized by the Director to be imported, shall be directed to the Regional director (compliance) for reply.

**Par. 39.** Section 178.112 is revised to include the importation of firearm barrels and update administrative procedures. As revised, § 178.112 reads as follows:

**§ 178.112 Importation by a licensed importer.**

(a) No firearm, firearm barrel, or ammunition shall be imported or brought into the United States by a licensed importer (as defined in § 178.11) unless the Director has authorized the importation of the firearm, firearm barrel, or ammunition.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name, address, and license number of the importer;

(2) A description of the firearm, firearm barrel, or ammunition to be imported, including type (e.g.: rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer;

(3) The unit cost of the firearm, firearm barrel, or ammunition to be imported;

(4) The country from which to be imported;

(5) The name and address of the foreign seller and the foreign shipper;

(6) Verification that if a firearm, it will be identified as required by this part; and

(7)(i) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes; or

(ii) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or

(iii) If an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or

(iv) If a firearm of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1954, or a barrel for such firearm, and is for sporting purposes, an explanation of why the applicant believes the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes or is a barrel for such firearm.

If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel, or ammunition described therein, and importation of such firearms,

firearm barrels, or ammunition may continue to be made by the licensed importer under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the licensed importer shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States by a licensed importer may be released from Customs custody to the licensed importer upon showing that the importer has obtained a permit from the Director for the importation of the firearm, firearm barrel, or ammunition to be released. In obtaining the release from Customs custody of a firearm, firearm barrel, or ammunition authorized by this section to be imported through use of a permit, the licensed importer shall prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name, address, and license number of the importer, the name of the manufacturer of the firearm, firearm barrel, or ammunition, the country of manufacture, the type, model, and caliber, size or gauge, and the number of firearms, firearm barrels, or rounds of ammunition released.

(d) Within 15 days of the date of release from Customs custody, the licensed importer shall: (1) Forward to the address specified on the form a copy of ATF Form 6A on which shall be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs, (2) pursuant to § 178.92, place all required identification data on each imported firearm if same did not bear such identification data at the time of its release from Customs custody, and (3) post in the records required to be maintained by the importer under Subpart H of this part all required information regarding the importation.

Par. 40. Section 178.113 is revised to include the importation of firearm barrels and update administrative procedures. As revised, § 178.113 reads as follows:

**§ 178.113 Importation by other licensees.**

(a) No person other than a licensed importer (as defined in § 178.11) shall engage in the business of importing firearms, firearm barrels, or ammunition. Therefore, no firearm, firearm barrel, or ammunition shall be imported or

brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm, firearm barrel, or ammunition.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel or ammunition into the United States or a possession thereof by a licensee, other than a licensed importer, shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name, address, and license number of the applicant;

(2) A description of the firearm, firearm barrel or ammunition to be imported, including type (e.g.: rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer;

(3) The unit cost of the firearm, firearm barrel or ammunition to be imported;

(4) The name and address of the foreign seller and the foreign shipper;

(5) The country from which the firearm, firearm barrel, or ammunition is to be imported; and

(6)(i) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes; or

(ii) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or

(iii) If an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or

(iv) If a firearm or firearm barrel other than a surplus military firearm or barrel for such firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1954 and is for sporting purposes, an explanation of why the applicant believes the firearm or firearm barrel is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(v) If ammunition being imported for sporting purposes, a statement why the applicant believes it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel or ammunition described therein.

The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the licensee importing the firearm, firearm barrel, or ammunition upon showing that the licensee has obtained a permit from the Director for the importation. In obtaining the release of the firearm, firearm barrel, or ammunition from Customs custody, the licensee importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name, address, and the license number of the licensee, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size (if ammunition) or gauge of the firearm, firearm barrel or ammunition so released, and, if applicable, the number of firearms, firearm barrels, or rounds of ammunition released.

Par. 41. Section 178.114 is revised to update administrative procedures. As revised, § 178.114 reads as follows:

**§ 178.114 Importation by members of the U.S. Armed Forces.**

(a) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation: *Provided*, That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member. An application for such a permit, ATF Form 6, shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and current address of the applicant;

(2) Certification that the transportation, receipt, or possession of the firearm or ammunition to be imported would not constitute a violation of any provision of the Act or of any State law or local ordinance at the place of the applicant's residence;

(3) A description of the firearm or ammunition to be imported, including type (e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball wadcutter), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and the name of the manufacturer;

(4) The unit cost of the firearm or ammunition to be imported;

(5) The name and address of the foreign seller (if applicable) and the foreign shipper;

(6) The country from which the firearm or ammunition is to be imported;

(7)(i) That the firearm or ammunition being imported is for the personal use of the applicant; and

(ii) if a firearm, a statement that it is not a surplus military firearm, that it does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1954, and an explanation of why the applicant believes the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(iii) if ammunition, a statement why the applicant believes it is generally recognized as particularly suitable for or readily adaptable to sporting purposes; and

(8) The applicant's date of birth, rank or grade, place of residence, present foreign duty station or last foreign duty station, as the case may be, the date of the applicant's reassignment to a duty station within the United States, if applicable, and the military branch of which the applicant is a member.

If the Director approves the application, such approved application shall serve as the permit to import the firearm or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and shall retain the two copies thereof for administrative purposes. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(b) Upon receipt of an approved application (permit) to import the firearm or ammunition, the applicant may obtain the release of same from Customs custody upon showing that the applicant has obtained a permit from the Director for the importation. In obtaining the release of the firearm or ammunition from Customs custody, the military member of the U.S. Armed Forces importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A

shall show the name and address of such military member, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size or gauge of the firearm or ammunition so released, and, if applicable, the number of firearms or rounds of ammunition released. However, when such military member is on active duty outside the United States, the military member may appoint, in writing, an agent to obtain the release of the firearm or ammunition from Customs custody for such member. Such agent shall present sufficient identification of the agent and the written authorization to act on behalf of such military member to the Customs officer who is to release the firearm or ammunition.

(c) Firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

Par. 42. Section 178.115(b) is revised to include the importation of firearm barrels. As revised, § 178.115(b) reads as follows:

**§ 178.115 Exempt importation.**

(b) Firearms, firearm barrels and ammunition may be imported or brought into the United States by or for the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof. A firearm, firearm barrel or ammunition imported or brought into the United States under this paragraph may be released from Customs custody upon a showing that the firearm or ammunition is being imported or brought into the United States by or for such a governmental entity.

Par. 43. Section 178.116 is revised to include the importation of firearm barrels. As revised, § 178.116 reads as follows:

**§ 178.116 Conditional importation.**

The Director shall permit the conditional importation or bringing into the United States or any possession thereof of any firearm, firearm barrel, or ammunition for the purpose of examining and testing the firearm, firearm barrel, or ammunition in connection with making a determination as to whether the importation or bringing in of such firearm, firearm barrel, or ammunition will be authorized under this part. An application on ATF Form 6 for such conditional importation

shall be filed, in duplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm, firearm barrel, or ammunition be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm, firearm barrel, or ammunition must agree to either export the firearm, firearm barrel, or ammunition or destroy same if a determination is made that the firearm, firearm barrel, or ammunition may not be imported or brought in under this part. A firearm, firearm barrel, or ammunition imported or brought into the United States or any possession thereof under the provision of this section shall be released from Customs custody upon the payment of customs duties, if applicable, and in the manner prescribed in the conditional authorization issued by the Director.

Par. 44. Section 178.121 is amended by revising paragraphs (a), (b), and (c) to read as follows:

**§ 178.121 General.**

(a) The records pertaining to firearms transactions prescribed by this part shall be retained on the licensed premises in the manner prescribed by this subpart and for the length of time prescribed by § 178.129. The records pertaining to ammunition prescribed by this part shall be retained on the licensed premises in the manner prescribed by § 178.125.

(b) ATF officers may, for the purposes and under the conditions prescribed in § 178.23, enter the premises of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of examining or inspecting any record or document required by or obtained under this part. Section 923(g) of the Act requires licensed importers, licensed manufacturers, licensed dealers, and licensed collectors to make such records available for such examination or inspection during business hours as provided in § 178.23.

(c) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of firearms and such records of the disposition of ammunition as the regulations contained in this part prescribe. Section 922(m) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, or fail to make appropriate entry in, or to

fail to properly maintain any such record.

Par. 45. Section 178.122 is revised to remove ammunition records except for the disposition of armor-piercing ammunition. As revised, § 178.122 reads as follows:

**§ 178.122 Records maintained by importers.**

(a) Each licensed importer shall, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm imported or otherwise acquired, and the date such importation or other acquisition was made.

**IMPORTER'S DISPOSITION RECORD**

Quantity	Type	Manufacturer	Country of manufacture	Caliber or gauge	Model	Serial No.	Name and license No. of licensee to whom transferred	Date of the transaction
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(c) Notwithstanding the provisions of paragraph (b) of this section, the Regional director (compliance) may authorize alternate records to be maintained by a licensed importer to record his disposal of firearms and armor-piercing ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the Regional director (compliance) and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Regional director (compliance).

(d) Each licensed importer shall maintain separate records of the sales or other dispositions made of firearms and armor-piercing ammunition to nonlicensees. Such records shall be maintained in the form and manner as prescribed by § 178.125 in regard to armor-piercing ammunition transactions, and by § 178.124 and § 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512-0387)

Par. 46. Section 178.123 is revised to remove ammunition records except for

(b) A record of firearms and a separate record of armor-piercing ammunition disposed of by a licensed importer to another licensee shall be maintained by the licensed importer on the licensed premises and shall show the quantity, type, model, manufacturer, country of manufacture, caliber, size or gauge, serial number (in case of firearms only), of the firearms or armor-piercing ammunition so transferred, the name and license number of the licensee to whom the firearms or armor-piercing ammunition were transferred and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the following format:

the disposition of armor-piercing ammunition. As revised, § 178.123 reads as follows:

**§ 178.123 Records maintained by manufacturers.**

(a) Each licensed manufacturer shall record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made. The information required by this paragraph shall be recorded not later than the seventh day following the date such manufacture or other acquisition was made.

(b) A record of firearms and a separate record of armor-piercing ammunition disposed of by a licensed manufacturer to another licensee shall be maintained by the licensed manufacturer on the licensed premises and shall show the quantity, type, model, caliber, size or gauge, serial number (in the case of firearms only), of the firearms or armor-piercing ammunition so transferred, the name and license number of the licensee to whom the firearms or armor-piercing ammunition were transferred, and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the

format prescribed by § 178.122, except that the name of the manufacturer need not be recorded if the firearm or armor-piercing ammunition is of the manufacturer's own manufacture.

(c) Notwithstanding the provisions of paragraph (b) of this section, the Regional director (compliance) may authorize alternate records to be maintained by a licensed manufacturer to record the disposal of firearms and armor-piercing ammunition when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application, in duplicate, to the Regional director (compliance) and shall describe the proposed alternate record and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the Regional director (compliance).

(d) Each licensed manufacturer shall maintain separate records of the sales or other dispositions made of firearms and armor-piercing ammunition to nonlicensees. Such records shall be maintained in the form and manner as prescribed by § 178.125 in regard to armor-piercing ammunition transactions, and by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512-0369)

Par. 47. Section 178.124 is amended by revising paragraphs (a), (b), (c), (d), (e), (f), and (i) to read as follows:

**§ 178.124 Firearms transaction record.**

(a) A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a firearms transaction record, Form 4473: *Provided*, That a firearms transaction record, Form 4473, shall not be required to record the disposition made of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm is returned to the person from whom received.

(b) A licensed manufacturer, licensed importer, or licensed dealer shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of the required records, each Form 4473

obtained in the course of transferring custody of the firearms.

(c) Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee's business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the name, address (including county or similar political subdivision), date and place of birth, height, weight, and race of the transferee, and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce. The licensee shall identify the firearm to be transferred by listing in the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm. Before transferring the firearm described in the Form 4473, the licensee:

(1) Shall cause the transferee to be identified in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the form the method used; and

(2) If satisfied that the transferee is lawfully entitled to receive the firearm, shall sign and date the form.

(d) Prior to making an over-the-counter transfer of a shotgun or rifle under the provisions contained in § 178.96(c) to a nonlicensee who is not a resident of the State in which the licensee's business premises is located, the licensed dealer so transferring the shotgun or rifle, and such transferee, shall comply with the requirements of paragraph (c) of this section.

(e) Prior to making a transfer of a firearm to any nonlicensee who is not a resident of the State in which the licensee's business premises is located, and such nonlicensee is acquiring the firearm by loan or rental from the licensee for temporary use for lawful sporting purposes, the licensed importer, licensed manufacturer, or licensed dealer so furnishing the firearm, and such transferee, shall comply with the provisions of paragraph (c) of this section.

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, and who is a resident of the State in which the licensee's business

premises is located. The Form 4473 shall show the name, address, date and place of birth, height, weight, and race of the transferee; and the title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered. The transferee also must date and execute the sworn statement contained on the form showing that, in case the firearm to be transferred is a firearm other than a shotgun or rifle, the transferee is 21 years or more of age; that, in case the firearm to be transferred is a shotgun or rifle, the transferee is 18 years or more of age; that the transferee is not prohibited by the provisions of the Act from shipping or transporting a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce; and that the transferee's receipt of the firearm would not be in violation of any statute of the State or published ordinance applicable to the locality in which the transferee resides. Upon receipt of such Forms 4473, the licensee shall identify the firearm to be transferred by listing in the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred. The licensee shall prior to shipment or delivery of the firearm to such transferee, forward by registered or certified mail (return receipt requested) a copy of the Form 4473 to the principal law enforcement officer named in the Form 4473 by the transferee, and shall delay shipment or delivery of the firearm to the transferee for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the Form 4473 to such principal law enforcement officer, or the return of the copy of the Form 4473 to the licensee due to the refusal of such principal law enforcement officer to accept same in accordance with U.S. Postal Service regulations. The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the principal law enforcement officer, shall be retained by the licensee as a part of the records required to be kept under this subpart.

\* \* \* \* \*

(i) A licensee may obtain, upon request, an emergency supply of Forms 4473 from any Regional director (compliance). For normal usage, a licensee should request a year's supply from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

Par. 48. Section 178.125 is revised to remove ammunition records except for the disposition of armor-piercing ammunition. As revised, § 178.125 reads as follows:

**§ 178.125 Record of receipt and disposition.**

(a) *Armor-piercing ammunition sales to nonlicensees.* The sale or other disposition of armor-piercing ammunition by licensed dealers and licensed collectors shall be recorded in a bound record at the time a transaction is made. The bound record shall be maintained in chronological order by date of sale or disposition of the armor-piercing ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two

years following the date of the recorded sale or disposition of the armor-piercing ammunition.

(1) The bound record entry shall show:

- (i) The date of the transaction;
- (ii) The name of the manufacturer;
- (iii) The caliber or gauge (or the type of armor-piercing ammunition component);
- (iv) The quantity of armor-piercing ammunition (or component);
- (v) The name, address, and date of birth of the nonlicensee; and
- (vi) The method used to establish the identity of the armor-piercing ammunition purchaser.

(2) The format required for the bound record is as follows:

DISPOSITION RECORD OF ARMOR-PIERCING AMMUNITION

Date	Manufacturer	Caliber, gauge, or type of component	No. of boxes	Purchaser		Enter an (x) in the "known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification		
				Name and address	Date of birth	Known	Driver's license	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if the provisions of paragraph (c) of this section are complied with.

(b) *Armor-piercing ammunition sales to licensees.* Sales or other dispositions of armor-piercing ammunition from a licensee to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers.

(c) *Commercial records of armor-piercing ammunition transactions.* When a commercial record is made at the time of sale or other disposition of armor-piercing ammunition, and such record contains all information required by the bound record prescribed by paragraph (a) of this section, the licensed dealer or licensed collector transferring the armor-piercing ammunition may, for a period not exceeding 7 days following the date of such transfer, delay making the required entry into such bound record: *Provided*, That the commercial record pertaining to the transfer is: (1) Maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) is readily available for inspection on the licensed premises until such time as the required entry into the bound record is made.

(d) *Firearms receipt and disposition by dealers.* Each licensed dealer shall enter into a record each receipt and

disposition of firearms. In addition, before commencing or continuing firearms business, each licensed dealer shall inventory the firearms possessed for such business and shall record same in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a firearm by a licensed dealer shall,

FIREARMS ACQUISITION AND DISPOSITION RECORD

Description of firearm					Receipt		Disposition		
Manufacturer and/or importer	Model	Serial No.	Type of action	Caliber or gauge	Date	Name and address or name and license No.	Date	Name	Address or license No. if licensee, or Form 4473 Serial No. if Forms 4473 filed numerically

(e) *Firearms receipt and disposition by licensed collectors.* Each licensed collector shall enter into a record each receipt and disposition of firearms curios or relics. In addition, before commencing or continuing a firearms curio or relic collection, each licensed collector shall inventory the curios or relics possessed in such collection and shall record same in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a curio or relic shall,

except as provided in paragraph (f) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type of action, and the caliber or gauge of the firearm. The sale or other disposition of a firearm shall be recorded by the licensed dealer not later than 7 days following the date of such transaction. When such disposition is made to a nonlicensee, the firearms transaction record, Form 4473, obtained by the licensed dealer shall be retained, until the transaction is recorded, separate from the licensee's Form 4473 file and be readily available for inspection. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensed dealer, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom transferred if such person is a licensee, or the firearms transaction record, Form 4473, serial number if the licensed dealer transferring the firearm serially numbers the Forms 4473 and files them numerically. The format required for the record of receipt and disposition of firearms is as follows:

except as provided in paragraph (f) of this section, be recorded not later than the close of the next business day following the date of such purchase or other acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type of action, and the caliber or gauge of the firearm curio or relic. The sale or other disposition of a curio or relic shall be recorded by the licensed collector not later than 7 days following the date of

such transaction. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensee, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm curio or relic, the name and address of the person to whom the firearm curio or relic is transferred, or

the name and license number of the person to whom transferred if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the record the method used.

**§ 178.125a Personal firearms collection.**

(a) Notwithstanding any other provision of this subpart, a licensed manufacturer, licensed importer, or licensed dealer is not required to record on a firearms transaction record, Form 4473, the sale or other disposition of a firearm maintained as part of the licensee's personal firearms collection: *Provided, That:*

(1) The licensee has maintained the firearm as part of such collection for 1 year from the date the firearm was transferred from the business inventory into the personal collection or otherwise acquired as a personal firearm;

(2) The licensee recorded in the bound record prescribed by § 178.125(d) the receipt of the firearm into the business inventory or other acquisition;

(3) The licensee recorded the firearm as a disposition in the bound record prescribed by § 178.125(d) when the firearm was transferred from the business inventory into the personal firearms collection or otherwise acquired as a personal firearm; and

(4) The licensee enters the sale or other disposition of the firearm from the personal firearms collection into a bound record, under the format prescribed below, identifying the firearm transferred by recording the name of the manufacturer and importer (if any), the model, serial number, type of action, and the caliber or gauge, and showing the date of the sale or other disposition, the name and address of the transferee, or the name and license number of the transferee if such person is a licensee, the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a drivers license), and shall note on the record the method used. The format required for the disposition record of personal firearms is as follows:

FIREARMS COLLECTORS ACQUISITION AND DISPOSITION RECORD

Description of firearm					Receipt		Disposition			
Manufacturer and/or importer	Model	Serial No.	Type of action	Caliber or gauge	Date	Name and address or name and license No.	Date	Name and address or name and license No.	Date of birth if nonlicensee	Driver's license No. or other identification if nonlicensee

(f) *Commercial records of firearms received.* When a commercial record is held by a licensed dealer or licensed collector showing the acquisition of a firearm or firearm curio or relic, and such record contains all acquisition information required by the bound record prescribed by paragraphs (d) and (e) of this section, the licensed dealer or licensed collector acquiring such firearm or curio or relic, may, for a period not exceeding 7 days following the date of such acquisition, delay making the required entry into such bound record: *Provided, That* the commercial record is, until such time as the required entry into the bound record is made: (1) Maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) readily available for inspection on the licensed premises: *Provided, further, That* when disposition is made of a firearm or firearm curio or relic not entered in the bound record under the provisions of this paragraph, the licensed dealer or licensed collector making such disposition shall enter all required acquisition information regarding the firearm or firearm curio or relic in the bound record at the time such transfer or disposition is made.

(g) *Alternate records.* Notwithstanding the provisions of paragraphs (a), (d), and (e) of this section, the Regional director (compliance) may authorize alternate records to be maintained by a licensed dealer or licensed collector to record the acquisition and disposition of firearms or curios or relics and the disposition of armor-piercing ammunition when it is shown by the licensed dealer or the licensed collector that such alternate records will accurately and readily

disclose the required information. A licensed dealer or licensed collector who proposes to use alternate records shall submit a letter application, in duplicate, to the Regional director (compliance) and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer or licensed collector until approval in such regard is received from the Regional director (compliance).

(h) *Requirements for importers and manufacturers.* Each licensed importer and licensed manufacturer selling or otherwise disposing of firearms or armor-piercing ammunition to nonlicensees shall maintain such records of such transactions as are required of licensed dealers by this section.

(Approved by the Office of Management and Budget under control number 1512-0387)

**Par. 49.** Section 178.125a is added to provide for the disposition of a licensee's personal firearms collection. As added, § 178.125a reads as follows:

DISPOSITION RECORD OF PERSONAL FIREARMS

Description of firearm					Disposition				
Manufacturer and/or importer	Model	Serial No.	Type of action	Caliber or gauge	Date	Name and address or name and license No.	Date of birth if nonlicensee	Driver's license No. or other identification if nonlicensee	

(b) Any licensed manufacturer, licensed importer, or licensed dealer selling or otherwise disposing of a firearm from the licensee's personal firearms collection under this section shall be subject to the restrictions

imposed by the Act and this part on the dispositions of firearms by persons other than licensed manufacturers, licensed importers, and licensed dealers.

(Approved by the Office of Management and Budget under control number 1512-0387)

**Par. 50.** Section 178.127 is revised to change the location where the firearms and ammunition records of a discontinued business are to be sent. As revised, § 178.127 reads as follows:

**§ 178.127 Discontinuance of business.**

Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, the records prescribed by this subpart shall be delivered within 30 days following the business discontinuance to the ATF Firearms Records Repository, 3800 South Four Mile Run Drive, Arlington, Virginia 22206: *Provided, however,* Where State law or local ordinance requires the delivery of records to other responsible authority, the Regional director (compliance) may arrange for the delivery of the records required by this subpart to such authority.

**Par. 51.** Section 178.128 is revised to reflect a change in the penalties for false statements or representations of licensees in their records. As revised, § 178.128 reads as follows:

**§ 178.128 False statement or representation.**

(a) Any person who knowingly makes any false statement or representation in applying for any license or exemption or relief from disability, under the provisions of the Act, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(b) Any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(c) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector who makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

**Par. 52.** Section 178.141(d) is revised to add the word "possession". As revised, § 178.141(d) reads as follows:

**§ 178.141 General.**

\* \* \* \* \*

(d) The transportation, shipment, receipt, possession, or importation of any antique firearm.

**Par. 53.** Section 178.142 is revised to state the effect of State pardons and other proceedings on the Federal firearms disabilities of convicted persons. As revised, § 178.142 reads as follows:

**§ 178.142 Effect of pardons and expunctions of convictions.**

(a) A pardon granted by the President of the United States regarding a Federal conviction for a crime punishable by imprisonment for a term exceeding 1 year shall remove any disability which otherwise would be imposed by the provisions of this part with respect to that conviction.

(b) A pardon granted by the Governor of a State or other State pardoning authority with respect to a conviction, or any expunction, reversal or setting aside of a conviction or other proceeding rendering a conviction nugatory shall remove any disability which otherwise would be imposed by the provisions of this part with respect to the conviction, unless:

(1) The pardon, expunction, setting aside, or other proceeding expressly provides that the person may not ship, transport, possess or receive firearms; or

(2) The pardon, expunction, setting aside, or other proceeding did not fully restore the rights of the person to ship, transport, possess or receive firearms under the law of the jurisdiction where the pardon, expunction, setting aside or other proceeding occurred.

**Par. 54.** Section 178.144 is revised to allow applications for relief from any Federal firearms disabilities and prescribe procedures to be followed. As revised, § 178.144 reads as follows:

**§ 178.144 Relief from disabilities under the Act.**

(a) Any person may make application for relief from the disabilities under section 922(g) and (n) of the Act (see § 178.32).

(b) An application for such relief shall be filed, in triplicate, with the Director. It shall include the information required by this section and such other supporting data as the Director and the applicant deem appropriate.

(c) Any record or document of a court or other government entity or official required by this paragraph to be furnished by an applicant in support of an application for relief shall be certified by the court or other government entity or official as a true copy. An application shall include:

(1) In the case of an applicant who is an individual, a written statement from

each of 3 references, who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(2) Written consent to examine and obtain copies of records and to receive statements and information regarding the applicant's background, including records, statements and other information concerning employment, medical history, military service, and criminal record;

(3) In the case of an applicant under indictment, a copy of the indictment or information;

(4) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding 1 year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court, and any pardon, expunction, setting aside or other record purporting to show that the conviction was rendered nugatory;

(5) In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment, any petition that sought to have the applicant so adjudicated or committed, any medical records reflecting the reasons for commitment and diagnoses of the applicant, and any court order or finding of a court, board, commission, or other lawful authority showing the applicant's discharge from commitment, restoration of mental competency and the restoration of rights;

(6) In the case of an applicant who has been discharged from the Armed Forces under dishonorable conditions, a copy of the applicant's summary of service record (Department of Defense Form 214), charge sheet (Department of Defense Form 458), and final court martial order; and

(7) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign State or before an officer designated by the Attorney General when the United States was in a state of war (see 8 U.S.C. 1481(a)(5) and (6)).

(d) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability,

and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

(e) In addition to meeting the requirements of paragraph (d) of this section, an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored.

(f) Upon receipt of an incomplete or improperly executed application for relief, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned.

(g) Whenever the Director grants relief to any person pursuant to this section, a notice of such action shall be promptly published in the **Federal Register**, together with the reasons therefor.

(h) A person who has been granted relief under this section shall be relieved of any disabilities imposed by the Act with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms or ammunition and incurred by reason of such disability.

(i)(1) A licensee who is convicted of a crime punishable by imprisonment for a term exceeding 1 year during the term of a current license or while the licensee has pending a license renewal application, and who files an application for removal of disabilities resulting from such conviction, shall not be barred from licensed operations for 30 days after the date upon which the conviction becomes final, and if the licensee files the application for relief as provided by this section within such 30-day period, the licensee may further continue licensed operations during the pendency of the application. A licensee who does not file such application within 30 days from the date the conviction becomes final shall not continue licensed operations beyond 30 days from the date the conviction becomes final.

(2) In the event the term of a license of a person expires during the 30-day period following the date upon which the conviction becomes final or during the pendency of the application for relief, a timely application for renewal of the license must be filed in order to continue licensed operations. Such

license application shall show that the applicant has been convicted of a crime punishable by imprisonment for a term exceeding 1 year.

(3) A licensee shall not continue licensed operations beyond 30 days following the date the Director issues notification that the licensee's application for removal of disabilities resulting from a conviction has been denied.

(4) When as provided in this section a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the term of the indictment or the pendency of the application for removal of disabilities resulting from such conviction, shall be denied by the Regional director (compliance).

**Par. 55.** Section 178.145 is revised to make a conforming change. As revised, § 178.145 reads as follows:

**§ 178.145 Research organizations.**

The provisions of § 178.98 with respect to the sale or delivery of destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles shall not apply to the sale or delivery of such devices and weapons to any research organization designated by the Director to receive same. A research organization desiring such designation shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and address of the research organization, the names and addresses of the persons directing or controlling, directly or indirectly, the policies and management of such organization, the nature and purpose of the research being conducted, a description of the devices and weapons to be received, and the identity of the person or persons from whom such devices and weapons are to be received.

**Par. 56.** Section 178.147 is revised to clarify provisions for licensees returning a firearm to a nonlicensee. As revised, § 178.147 reads as follows:

**§ 178.147 Return of firearm.**

A person not otherwise prohibited by Federal, State or local law may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for any lawful purpose, and, notwithstanding any other provision of this part, the licensed manufacturer, licensed importer, or licensed dealer may return in interstate or foreign commerce to that person the firearm or a replacement firearm of the same kind and type. A person not otherwise prohibited by Federal, State or local law may ship a firearm curio or relic to a licensed collector for any lawful purpose, and,

notwithstanding any other provision of this part, the licensed collector may return in interstate or foreign commerce to that person the firearm curio or relic.

**Par. 57.** Section 178.148 is removed and a new § 178.148 is inserted to reflect the provisions for exempting certain armor-piercing ammunition from regulation. As added, new § 178.148 reads as follows:

**§ 178.148 Armor-piercing ammunition intended for sporting or industrial purposes.**

The Director may exempt certain armor-piercing ammunition from the recordkeeping requirements of this part. A person who desires to obtain an exemption under this section for any such ammunition which is primarily intended for sporting purposes or intended for industrial purposes shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the ammunition, the name and address of the manufacturer or importer, the purpose of and use for which it is designed and intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require that a sample of the ammunition be submitted for examination and evaluation.

**Par. 58.** Section 178.149 is revised to reflect changes in the seizure and forfeiture provisions. As revised, § 178.149 reads as follows:

**§ 178.149 Seizure and forfeiture.**

(a) Any firearm or ammunition involved in or used in any knowing violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act: *Provided*, That upon acquittal of the owner or

possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

(b) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of the Act or this part, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture and disposition.

(c) The offenses referred to in paragraphs (a) and (b) of this section for which firearms and ammunition are subject to seizure and forfeiture are:

(1) Any crime of violence, as that term is defined in section 924(c)(3) of the Act;

(2) Any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(3) Any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act, where the firearm or ammunition intended to be used in such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act;

(4) Any offense described in section 922(d) of the Act where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(5) Any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of the Act; and

(6) Any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

Par. 59. Section 178.171 is revised to correct a citation and to limit ammunition recordkeeping to armor-piercing ammunition. As revised, § 178.171 reads as follows:

**§ 178.171 Exportation.**

Firearms and ammunition shall be exported in accordance with the applicable provisions of section 38 of

the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting firearms and armor-piercing ammunition shall maintain records showing the manufacture or acquisition of the firearms as required by this part and records showing the name and address of the foreign consignee of the firearms and armor-piercing ammunition and the date the firearms and armor-piercing ammunition were exported.

**PART 179—[AMENDED]**

Par. 60. The authority citation for Part 179 continues to read as follows:

Authority: 28 U.S.C. 7805.

Par. 61. The table of contents to 27 CFR Part 179 is amended to add § 179.28 to Subpart C and § 179.105 to Subpart G and an undesignated center heading preceding § 179.105 and by revising §§ 179.161 and 179.193 and the undesignated center heading preceding § 179.122 to read as follows:

**PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS**

\* \* \* \* \*

Sec.  
179.26 Alternate methods or procedures; emergency variations from requirements.

**Machine Guns**  
179.105 Transfer and possession of machine guns.

**Arms Export Control Act**  
\* \* \* \* \*  
179.161 National Firearms Act stamps.  
\* \* \* \* \*  
179.193 Arms Export Control Act.

Par. 62. Section 179.11 is amended by revising "Machine gun" and "Muffler or silencer" to read as follows:

**§ 179.11 Meaning of terms.**

\* \* \* \* \*

*Machine gun.* Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled

if such parts are in the possession or under the control of a person.

\* \* \* \* \*

*Muffler or silencer.* Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

\* \* \* \* \*

Par. 63. Section 179.21 is revised to change the address at which ATF forms may be obtained. As revised, § 179.21(c) reads as follows:

**§ 179.21 Forms prescribed.**

\* \* \* \* \*

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

\* \* \* \* \*

Par. 64. Section 179.26 is added to allow alternate methods and procedures and emergency variations from requirements. As added, § 179.26 reads as follows:

**§ 179.26 Alternate methods or procedures; emergency variations from requirements.**

(a) *Alternate methods or procedures.* Any person subject to the provisions of this part, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part. Where such person desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate Regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall

set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. Such person shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) *Emergency variations from requirements.* The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations (1) will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the person granted the variance shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where a person desires to employ an emergency variation, a written application shall be submitted to the appropriate Regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) *Retention of approved variations.* The person granted the variance shall retain and make available for examination by ATF officers any application approved by the Director under this section.

**Par. 65.** Section 179.61 is revised to show that the Director maintains the stamps pertaining to payment of the making tax. As revised, § 179.61 reads as follows:

**§ 179.61 Rate of tax.**

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made. This tax shall be paid by the person

making the firearm. Payment of the tax on the making of a firearm shall be represented by a \$200 adhesive stamp bearing the words "National Firearms Act." The stamps are maintained by the Director.

**Par. 66.** Section 179.62 is revised to change the procedures in applying to make a firearm. As revised, § 179.62 reads as follows:

**§ 179.62 Application to make.**

No person shall make a firearm unless he has filed with the Director a written application on Form 1 (Firearms), Application to Make and Register a Firearm, in duplicate, executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm which approval shall effectuate registration of the weapon to the applicant. The application shall identify the firearm to be made by serial number, type, model, caliber or gauge, length of barrel, other marks of identification, and the name and address of original manufacturer (if the applicant is not the original manufacturer). The applicant must be identified on the Form 1 (Firearms) by name and address and, if other than a natural person, the name and address of the principal officer or authorized representative and the employer identification number and, if an individual, the identification must include the date and place of birth and the social security number of the applicant and the information prescribed in § 179.63. Each applicant shall identify the Federal firearms license and special (occupational) tax stamp issued to the applicant, if any. The applicant shall also show required information evidencing that his making or possession of the firearm would not be in violation of law. Further, the applicant shall show why he intends to make the firearm. If the making is taxable, a remittance in the amount of \$200 shall be submitted with the application in accordance with the instructions on the form. If the making is taxable and the application is approved, the Director will affix a National Firearms Act stamp to the original application in the space provided therefor and properly cancel the stamp (see § 179.67). The approved application will be returned to the applicant. If the making of the firearm is tax exempt under this part, an explanation of the basis of the exemption shall be attached to the Form 1 (Firearms).

**Par. 67.** Section 179.63 is revised to change the procedures in identifying an applicant making a firearm. As revised, § 179.63 reads as follows:

**§ 179.63 Identification of applicant.**

If the applicant is an individual, the applicant shall securely attach to each copy of the Form 1 (Firearms), in the space provided on the form, a photograph of the applicant 2 X 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1 1/4 inches, and which shall have been taken within 1 year prior to the date of the application. The applicant shall attach two properly completed FBI Forms FD-258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 1 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that possession of the firearm by the maker would be in violation of State or local law or that the maker will use the firearm for other than lawful purposes.

**Par. 68.** Section 179.64 is revised to change the procedures in approving an application to make a firearm. As revised, § 179.64 reads as follows:

**§ 179.64 Procedure for approval of application.**

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director in accordance with the instructions on the form. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is authorized to make the firearm described therein. The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, has been forwarded to the Director and has been approved and returned by the Director with the "National Firearms Act" stamp affixed. If the application is disapproved, the original Form 1 (Firearms) and the remittance submitted by the applicant for the purchase of the stamp will be

returned to the applicant with the reason for disapproval stated on the form.

**Par. 69.** Section 179.84 is amended to add a sentence at the end of the section to read as follows:

**§ 179.84 Application to transfer.**

\* \* \* Any tax payable on the transfer is represented by an adhesive stamp of proper denomination being affixed to the application, Form 4 (Firearms), properly cancelled.

**Par. 70.** Section 179.85 is revised to change the procedures in identifying an applicant transferring a firearm. As revised, § 179.85 reads as follows:

**§ 179.85 Identification of transferee.**

If the transferee is an individual, such person shall securely attach to each copy of the application, Form 4 (Firearms), in the space provided on the form, a photograph of the applicant 2 X 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application. The transferee shall attach two properly completed FBI Forms FD-258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 4 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that the receipt or possession of the firearm would place the transferee in violation of State or local law or that the transferee will use the firearm for other than lawful purposes.

**Par. 71.** Section 179.86 is revised to change a procedure in processing an application for the transfer of a firearm. As revised, § 179.86 reads as follows:

**§ 179.86 Action on application.**

The Director will consider a completed and properly executed application, Form 4 (Firearms), to transfer a firearm. If the application is approved, the Director will affix the appropriate National Firearms Act stamp, cancel it, and return the original

application showing approval to the transferor who may then transfer the firearm to the transferee along with the approved application. The approval of an application, Form 4 (Firearms), by the Director will effectuate registration of the firearm to the transferee. The transferee shall not take possession of a firearm until the application, Form 4 (Firearms), for the transfer filed by the transferor has been approved by the Director and registration of the firearm is effectuated to the transferee. The transferee shall retain the approved application as proof that the firearm described therein is registered to the transferee, and shall make the approved Form 4 (Firearms) available to any ATF officer on request. If the application, Form 4 (Firearms), to transfer a firearm is disapproved by the Director, the original application and the remittance for purchase of the stamp will be returned to the transferor with reasons for the disapproval stated on the application. An application, Form 4 (Firearms), to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

**Par. 72.** Section 179.90 (a) and (b) are revised to show that the transfer of a firearm to or from governmental entities is exempt from the transfer tax. As revised, § 179.90 (a) and (b) read as follows:

**§ 179.90 Certain government entities.**

(a) A firearm may be transferred without payment of the transfer tax to or from any State, possession of the United States, any political subdivision thereof, or any official police organization of such a governmental entity engaged in criminal investigations.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 5 (Firearms), Application for Tax-exempt Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury. The application shall:

(1) Show the name and address of the transferor and of the transferee;

(2) Identify the Federal firearms license and special (occupational) tax stamp, if any, of the transferor and of the transferee;

(3) Show the name and address of the manufacturer and the importer of the firearm, if known;

(4) Show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm; and

(5) Contain a statement by the transferor that the transferor is entitled to the exemption because either the transferor or the transferee is a governmental entity coming within the purview of paragraph (a) of this section.

In the case of a transfer of a firearm by a governmental entity to a transferee who is a natural person not qualified as a manufacturer, importer, or dealer under this part, the transferee shall be further identified in the manner prescribed in § 179.85. If the Director approves an application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the approval noted thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until the application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the reasons for the disapproval stated thereon. An application by a governmental entity to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

\* \* \* \* \*

**Par. 73.** Section 179.92 is revised to change Regional director (compliance) to Director. As revised, § 179.92 reads as follows:

**§ 179.92 Transportation of firearms to effect transfer.**

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the transfer of a firearm authorized under the provisions of this subpart.

**Par. 74.** Section 179.102 is revised to add certain firearm parts to the last sentence of the section. As revised, the last sentence of § 179.102 reads as follows:

**§ 179.102 Identification of firearms.**

\* \* \*. A firearm frame or receiver or any other part defined as a machine gun or a muffler or silencer for the purposes of this part which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed

of by a manufacturer, importer, or maker shall be identified as required by this section.

Par. 75. Section 179.104 is amended to add a sentence at the end of the section concerning restrictions imposed on transfers of firearms by Governmental entities, to read as follows:

**§ 179.104 Registration of firearm by certain governmental entities.**

\* \* \*. The registration of any firearm under this section is for official use only and a subsequent transfer will be approved only to other governmental entities for official use.

Par. 76. Section 179.105 is added to prescribe procedures relating to machine guns. Section 179.105 and an undesignated center heading preceding it are added to read as follows:

**Machine Guns**

**§ 179.105 Transfer and possession of machine guns.**

(a) *General.* As provided by 26 U.S.C. 5812 and 26 U.S.C. 5822, an application to make or transfer a firearm shall be denied if the making, transfer, receipt, or possession of the firearm would place the maker or transferee in violation of law. Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machine gun, except a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986. Therefore, notwithstanding any other provision of this part, no application to make, transfer, or import a machine gun will be approved except as provided by this section.

(b) *Machine guns lawfully possessed prior to May 19, 1986.* A machine gun possessed in compliance with the provisions of this part prior to May 19, 1986, may continue to be lawfully possessed by the person to whom the machine gun is registered and may, upon compliance with the provisions of this part, be lawfully transferred to and possessed by the transferee.

(c) *Importation and manufacture.* Subject to compliance with the provisions of this part, importers and manufacturers qualified under this part may import and manufacture machine guns on or after May 19, 1986, for sale or distribution to any department or agency of the United States or any State or political subdivision thereof, or for use by dealers qualified under this part as sales samples as provided in paragraph (d) of this section. The

registration of such machine guns under this part and their subsequent transfer shall be conditioned upon and restricted to the sale or distribution of such weapons for the official use of Federal, State or local governmental entities. Subject to compliance with the provisions of this part, manufacturers qualified under this part may manufacture machine guns on or after May 19, 1986, for exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778) and regulations prescribed thereunder by the Department of State.

(d) *Dealer sales samples.* Subject to compliance with the provisions of this part, applications to transfer and register a machine gun manufactured or imported on or after May 19, 1986, to dealers qualified under this part will be approved if it is established by specific information the expected governmental customers who would require a demonstration of the weapon, information as to the availability of the machine gun to fill subsequent orders, and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular weapon. Applications to transfer more than one machine gun of a particular model to a dealer must also establish the dealer's need for the quantity of samples sought to be transferred.

(e) *The making of machine guns on or after May 19, 1986.* Subject to compliance with the provisions of this part, applications to make and register machine guns on or after May 19, 1986, for the benefit of a Federal, State or local governmental entity (e.g., an invention for possible future use of a governmental entity or the making of a weapon in connection with research and development on behalf of such an entity) will be approved if it is established by specific information that the machine gun is particularly suitable for use by Federal, State or local governmental entities and that the making of the weapon is at the request and on behalf of such an entity.

(f) *Discontinuance of business.* Since section 922(o), Title 18, U.S.C., makes it unlawful to transfer or possess a machine gun except as provided in the law, any qualified manufacturer, importer, or dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any machine gun manufactured or imported after May 19, 1986, to a Federal, State or local governmental entity, manufacturer, importer, or, subject to the provisions of paragraph (d) of this section, dealer qualified to possess such machine gun.

Par. 77. Section 179.112 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

**§ 179.112 Registration of imported firearms.**

(a) Each importer shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, executed under the penalties of perjury, showing the importation of a firearm. The notice shall set forth the name and address of the importer, identify the importer's special (occupational) tax stamp and Federal firearms license, and show the import permit number, the date of release from Customs custody, the type, model, length of barrel, overall length, caliber, gauge or size, serial number, and other marks of identification of the firearm imported, and the place where the imported firearm will be kept. The Form 2 (Firearms) covering an imported firearm shall be filed by the importer no later than fifteen (15) days from the date the firearm was released from Customs custody. The importer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original return as prescribed herein, and keep the copy with the records required by Subpart I of this part at the premises covered by the special (occupational) tax stamp. The timely receipt by the Director of the notice, Form 2 (Firearms), and the timely receipt by the Director of the copy of Form 6A (Firearms), Release and Receipt of Imported Firearms, Ammunition and Implements of War, required by § 178.112 of this chapter, covering the weapon reported on the Form 2 (Firearms) by the qualified importer, shall effectuate the registration of the firearm to the importer.

\* \* \* \* \*

(d) Subject to compliance with the provisions of this part, an application, Form 6 (Firearms), to import a firearm by an importer or dealer qualified under this part, for use as a sample in connection with sales of such firearms to Federal, State or local governmental entities, will be approved if it is established by specific information attached to the application that the firearm is particularly suitable for use by such entities. Such information must show why a sales sample of a particular firearm is suitable for such use and the expected governmental customers who would require a demonstration of the firearm. Information as to the availability of the firearm to fill subsequent orders and letters from governmental entities expressing a need for a particular model or interest in

seeing a demonstration of a particular firearm would establish suitability for governmental use. Applications to import more than one firearm of a particular model for use as a sample by an importer or dealer must also establish the importer's or dealer's need for the quantity of samples sought to be imported.

**Par. 78.** Section 179.113 is revised to add the name of the form to be filed for conditional importations. As revised, § 179.113 reads as follows:

**§ 179.113 Conditional importation.**

The Director may permit the conditional importation or bringing into the United States of any firearm for the purpose of examining and testing the firearm in connection with making a determination as to whether the importation or bringing in of such firearm will be authorized under this subpart. An application under this section shall be filed on Form 6 (Firearms), in triplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart. A firearm so imported or brought into the United States may be released from Customs custody in the manner prescribed by the conditional authorization of the Director.

**Par. 79.** Section 179.119 is amended to change Regional director (compliance) to the Director. As revised, § 179.119 reads as follows:

**§ 179.119 Transportation of firearms to effect exportation.**

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the exportation of a firearm authorized under the provisions of this subpart.

**Par. 80.** Paragraph (a) of § 179.122 and the undesignated center heading preceding it are revised to read as follows:

**Arms Export Control Act**

**§ 179.122 Requirements.**

(a) Persons engaged in the business of importing firearms are required by the Arms Export Control Act (22 U.S.C. 2778) to register with the Director. (See Part 47 of this chapter.)

\* \* \*

**Par. 81.** Sections 179.161 and 179.162 are revised to change the procedure for obtaining "National Firearms Act" stamps. As revised, §§ 179.161 and 179.162 read as follows:

**§ 179.161 National Firearms Act stamps.**

"National Firearms Act" stamps evidencing payment of the transfer tax or tax on the making of a firearm are maintained by the Director. The remittance for purchase of the appropriate tax stamp shall be submitted with the application. Upon approval of the application, the Director will cause the appropriate tax to be paid by affixing the appropriate stamp to the application.

**§ 179.162 Stamps authorized.**

Adhesive stamps of the \$5 and \$200 denomination, bearing the words "National Firearms Act," have been prepared and only such stamps shall be used for the payment of the transfer tax and for the tax on the making of a firearm.

**Par. 82.** Sections 179.171 and 179.172 are revised to change the procedure for filing claims for redemption and refunds on purchased "National Firearms Act" stamps. As revised, §§ 179.171 and 179.172 read as follows:

**§ 179.171 Redemption of or allowance for stamps.**

Where a "National Firearms Act" stamp is destroyed, mutilated or rendered useless after purchase, and before liability has been incurred, such stamp may be redeemed by giving another stamp in lieu thereof. Claim for redemption of the stamp should be filed on Form 843 with the Director. Such claim shall be accompanied by the stamp or by a satisfactory explanation of the reasons why the stamp cannot be returned, and shall be filed within 3 years after the purchase of the stamp.

(68A Stat. 830; 26 U.S.C. 6805)

**§ 179.172 Refunds.**

As indicated in this part, the transfer tax or tax on the making of a firearm is ordinarily paid by the purchase and affixing of stamps, while special tax stamps are issued in payment of special (occupational) taxes. However, in exceptional cases, transfer tax, tax on the making of firearms, and/or special (occupational) tax may be paid pursuant to assessment. Claims for refunds of such taxes, paid pursuant to assessment, shall be filed on Form 843 within 3 years next after payment of the taxes. Such claims shall be filed with the Director of the Service Center serving the internal revenue district in which the tax was paid. (For provisions relating to hand-

carried documents and manner of filing, see §§ 301.6091-1(b) and 301.6402-2(a), respectively, of this chapter.) When an applicant to make or transfer a firearm wishes a refund of the tax paid on an approved application where the firearm was not made pursuant to an approved Form 1 (Firearms) or transfer of the firearm did not take place pursuant to an approved Form 4 (Firearms), the applicant shall file a claim for refund of the tax on Form 843 with the Director. The claim shall be accompanied by the approved application bearing the stamp and an explanation why the tax liability was not incurred. Such claim shall be filed within 3 years next after payment of the tax.

(68A Stat. 808, 830; 26 U.S.C. 6511, 6805)

**Par. 83.** Section 179.182 is revised to correct a citation. As revised, § 179.182 reads as follows:

**§ 179.182 Forfeitures.**

Any firearm involved in any violation of the provisions of 26 U.S.C. Chapter 53, shall be subject to seizure, and forfeiture under the internal revenue laws: *Provided, however,* That the disposition of forfeited firearms shall be in conformance with the requirements of 26 U.S.C. 5872. In addition, any vessel, vehicle or aircraft used to transport, carry, convey or conceal or possess any firearm with respect to which there has been committed any violation of any provision of 26 U.S.C. Chapter 53, or the regulations in this part issued pursuant thereto, shall be subject to seizure and forfeiture under the Customs laws, as provided by the act of August 9, 1939 (49 U.S.C. App., 781-788).

**Par. 84.** Section 179.193 is revised to change the Mutual Security Act to the Arms Export Control Act. As revised, § 179.193 reads as follows:

**§ 179.193 Arms Export Control Act.**

For provisions relating to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see the Arms Export Control Act (22 U.S.C. 2778), and the regulations issued pursuant thereto. (See also Part 47 of this chapter.)

Signed: August 15, 1986.

Stephen E. Higgins,  
Director.

Approved: August 27, 1986.

Francis A. Keating,  
Assistant Secretary (Enforcement).

[FR Doc. 86-24257 Filed 10-24-86; 8:45 am]  
BILLING CODE 4810-31-M

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## 27 CFR Parts 72, 178 and 179

[Notice No. 609]

## Commerce in Firearms and Ammunition; Cross-Reference

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Proposed rulemaking cross-referenced to temporary regulations.

**SUMMARY:** In the rules and regulations portion of this *Federal Register*, the Bureau of Alcohol, Tobacco and Firearms is issuing temporary regulations regarding the implementation of Public Law 99-308 (100 Stat. 449), approved May 19, 1986, and a subsequent amendment thereto, Public Law 99-360 (100 Stat. 766), approved July 8, 1986. These regulations implement the law to delete licensing requirements and recordkeeping for ammunition transactions and implement the law restricting distribution of machine guns. The temporary regulations serve as the text of this notice of proposed rulemaking for final regulations.

**DATE:** Written comments must be received or postmarked by January 27, 1987.

**ADDRESS:** Send written comments to: Chief, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, DC 20044-0189.

Any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, (202) 566-7591.

**SUPPLEMENTARY INFORMATION:****Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the impact of this rulemaking on small businesses flows directly from the statute. Likewise, any significant secondary or incidental effects flow directly from the statute.

**Executive Order 12291**

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this document is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Paperwork Reduction Act**

The requirements to collect information proposed in the final rule have been submitted to the Office of Management and Budget for review under Sec. 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35. Comments relating to ATF's compliance with 5 CFR 1320—Controlling Paperwork Burdens on the

Public—should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503.

**Drafting Information**

The principal author of this document is Daniel E. Crowley, ATF Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms.

**Public Participation—Written Comments**

ATF is issuing this document requesting comments concerning amendments to 27 CFR Parts 72, 178 and 179. ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure. Any person who desires an opportunity to comment orally at a public hearing on the temporary regulations should submit a written request to the Director within the comment period. However, the Director reserves the right to determine whether a public hearing should be held.

The temporary regulations in this Part of the issue of the *Federal Register* revises and adds new regulations in 27 CFR Parts 72, 178 and 179. For the text of the temporary regulations, see T.D. ATF-241 published in this issue of the *Federal Register*.

Signed: August 15, 1986.

Stephen E. Higgins,  
Director.

Approved: August 27, 1986.

Francis A. Keating II,  
Assistant Secretary (Enforcement).

[FR Doc. 86-24258 Filed 10-24-86; 8:45 am]

BILLING CODE 4810-31-M

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Wednesday, October 29, 1986

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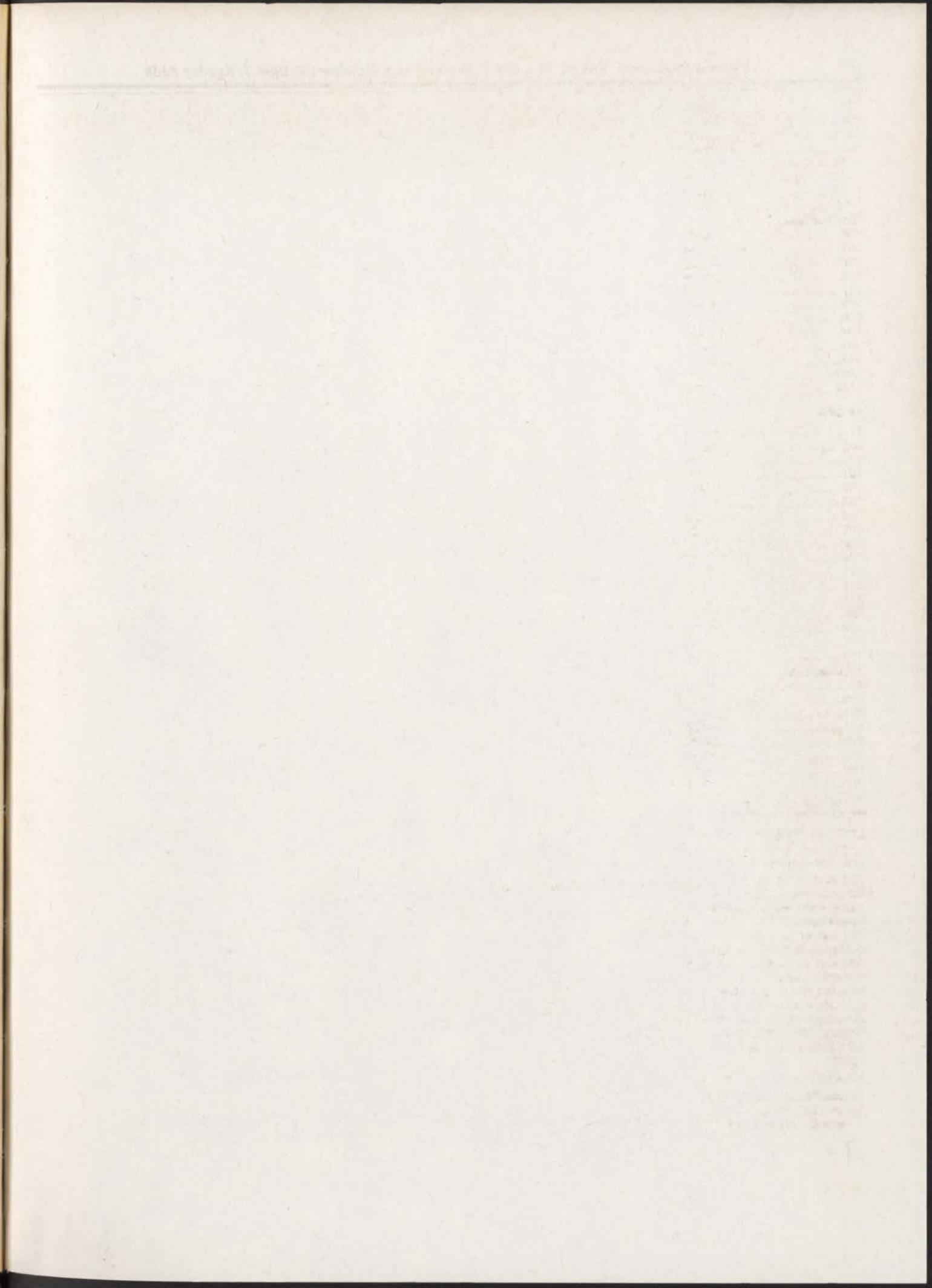
**LIST OF PUBLIC LAWS****Last List October 27, 1986**

This is a continuing list of public bills from the current session of Congress which have become Federal laws.

The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

**S. 1917/Pub. L. 99-529**

Special Foreign Assistance Act of 1986. (Oct. 24, 1986; 11 pages) Price: \$1.00



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