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November 14, 1986

Briefings on How To Use the Federal Register—
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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

Contents

Federal Register
Vol. 51, No. 220
Friday, November 14, 1986

Agency for International Development
NOTICES
Agency information collection activities under OMB review, 41440

Agricultural Marketing Service
RULES
Lemons grown in California and Arizona, 41296
Oranges (navel) grown in Arizona and California, 41295

Agricultural Stabilization and Conservation Service
NOTICES
Marketing quotas and acreage allotments:
Tobacco; correction, 41362

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Cooperative State Research Service; Food and Nutrition Service; Soil Conservation Service

Air Force Department
NOTICES
Privacy Act; systems of records, 41382, 41402 (2 documents)

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
Wine, distilled spirits, and malt beverages—
Light (lite); labeling and advertising use, 41355

Arms Control and Disarmament Agency
NOTICES
Meetings:
General Advisory Committee, 41362

Army Department
NOTICES
Meetings:
Military mobile homes symposium, 41403
National Board for Promotion of Rifle Practice, 41403 (2 documents)
Military traffic management:
International program; rate solicitation, 41403

Arts and Humanities, National Foundation
See National Foundation on the Arts and Humanities

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Malaysia, 41381

Commodity Credit Corporation
NOTICES
Loan and purchase programs:
Tobacco price support program
Correction, 41362

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 41460 (3 documents)

Cooperative State Research Service
PROPOSED RULES
Food and agricultural sciences national needs graduate fellowships grants program, 41466

Defense Department
See also Air Force Department; Army Department
RULES
Freedom of Information Act; implementation (Defense Nuclear Agency), 41300
NOTICES
Meetings:
Science Board task forces, 41382 (2 documents)
Women in Services Advisory Committee, 41382

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation:
Enron Gas Marketing, Inc., 41404
Tennessee Gas Pipeline Co., 41405
Western Gas Marketing U.S.A., Ltd., 41405
Remedial orders:
Armada International Corp. et al., 41405
Mutual Petroleum Marketing Co., Inc., et al., 41405
Texas American Oil Corp., 41406

Education Department
NOTICES
Grants; availability, etc.:
Discretionary grant programs, 41404
Meetings:
Education Intergovernmental Advisory Council, 41404

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 41441

Energy Department
See Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Southwestern Power Administration

Energy Research Office
NOTICES
Grants; availability, etc.:
Special and basic research programs, 41409

Environmental Protection Agency
RULES
Hazardous waste:
Identification and listing—
Exclusions, 41306–41323
(9 documents)
Toxic substances:
Chemical information and preliminary assessment; list additions, 41328
Testing consent agreement development for chemical substances; meetings, 41331
PROPOSED RULES
Air quality planning purposes; designation of areas:
New York, 41355
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 41415
Weekly receipts, 41414
Toxic and hazardous substances control:
Confidential business information—
Consumer Product Safety Commission, 41416
Interagency Testing Committee; report, 41417

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 41460

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
NOTICES
Exemption petitions:
Executive Air Charter, Inc., 41456

Federal Communications Commission
PROPOSED RULES
Radio and television broadcasting:
Main studio location and origination, 41360
Radio stations; table of assignments:
Florida, 41357
Iowa, 41357
Missouri, 41358
New Hampshire, 41358
Pennsylvania, 41359
(3 documents)
Texas, 41357
Utah, 41360

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 41460, 41461
(3 documents)

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Coastline Exploration, Inc., 41406
Consolidated Edison Co. of New York, Inc., et al., 41406
CSX Oil & Gas Corp., 41407
Mitchell Energy Corp., 41408
Perlman, William, 41408
Shell Offshore Inc. et al., 41408

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 41462
(2 documents)

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 41462
Applications, hearings, determinations, etc.:
CNB Bancorp, Inc., et al., 41434
First Acadiana Bank Employee Stock Ownership Plan Trust et al., 41434
Frandsen Financial Corp., 41433
Rinaudo, Joseph, Jr., et al., 41433
Thompson Falls Holding Co., 41433

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 41439

Food and Nutrition Service
RULES
Child nutrition programs:
School lunch program—
Revision; correction, 41295

Health and Human Services Department
See also Health Care Financing Administration; National Institutes of Health
RULES
Privacy Act; implementation, 41352

Health Care Financing Administration
RULES
Medicare and medicaid:
Miscellaneous conforming amendments, 41332
NOTICES
Meetings:
Technology-Dependent Children Task Force, 41434

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 41409

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Bicycle speedometers from Japan, 41363
Carbon steel bars and structural shapes from Canada, 41364
Color television receivers from Korea, 41365
Meetings:
Telecommunications Equipment Technical Advisory Committee, 41378
Applications, hearings, determinations, etc.:
Cornell University, 41378
Methodist Hospital et al., 41379
Public Health Service, 41379

Interstate Commerce Commission
NOTICES
Motor carriers:
Victoria Terminal Enterprises, Inc.; transportation of fertilizer within Texas; declaratory order petition, 41440
Railroad operation, acquisition, construction, etc.:
Colleton County Railroad Co., Inc., 41441

Labor Department
See Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Alaska Native claims selection:
Kikiktugruk Inupiat Corp., 41435
Environmental statements; availability, etc.:
Wasrakie Resource Area, WY, 41437
Meetings:
Richfield District Advisory Council, 41436
Rock Springs District Advisory Council, 41436
Oil and gas leases:
Alaska, 41437
Realty actions; sales, leases, etc.:
Arizona, 41437
New Mexico, 41436
Resource management plans, etc.:
Cedar City District, UT, 41438

Libraries and Information Science, National Commission
NOTICES
Meetings; Sunshine Act, 41462

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
International Anthracite Corp., 41442
New Lincoln Coal Co., Inc., 41442
Snyder Coal Co., 41443
Western Fuels-Utah, Inc., 41443

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Exxon Co., U.S.A., 41440
Tenneco Oil Exploration & Production, 41439

National Aeronautics and Space Administration
NOTICES
Meetings:
History Advisory Committee, 41445

National Bureau of Standards
NOTICES
Information processing standards, Federal:
Geographic point locations for information interchange; representation, 41379

National Commission on Libraries and Information Science
See Libraries and Information Science, National Commission

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 41463

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Inter-Arts Advisory Panel, 41445

National Institutes of Health
NOTICES
Committees; establishment, renewals, terminations, etc.:
Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee et al., 41435
Meetings:
National Cancer Institute, 41435
(2 documents)

National Oceanic and Atmospheric Administration
NOTICES
Commercial fishery failure due to resource disaster, determination, 41381

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 41463

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
McNally, Lillian; denied, 41353
NOTICES
Environmental statements; availability, etc.:
Philadelphia Electric Co., 41450
Petitions; Director's decisions:
Lewis, Marvin, 41450
Applications, hearings, determinations, etc.:
Cook County Highway Department, 41445
Tennessee Valley Authority, 41447
Virginia Electric & Power Co., 41448

Occupational Safety and Health Administration
NOTICES
Meetings:
4,4'-Methylenedianiline (MDA) Mediated Rulemaking Advisory Committee; correction, 41444

Pension Benefit Guaranty Corporation
RULES
Multiemployer plans:
Valuation of plan benefits and plan assets following mass withdrawal—
Interest rates, 41299
Single-employer plans:
Valuation of plan benefits; interest rates and factors, 41298

Postal Service
RULES
Domestic Mail Manual:
Discontinuance of Post Offices and emergency suspension of service, etc., 41300

Presidential Documents
PROCLAMATIONS
Special observances:
Salute to School Volunteers Day (Proc. 5569), 41293

Public Health Service
See National Institutes of Health

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 41456, 41457 (2 documents)

Saint Lawrence Seaway Development Corporation
NOTICES
Meetings:
Advisory Board, 41458

Securities and Exchange Commission
RULES
Securities:
Net capital—
Nonconvertible debt securities; haircuts on hedged positions, 41296
NOTICES
Applications, hearings, determinations, etc.:
Public utility holding company filings, 41451
Security First Life Insurance Co. et al., 41451
Sun Life Insurance & Annuity Co. of New York et al., 41452

Small Business Administration
NOTICES
Applications, hearings, determinations, etc.:
Trans-Pac Capital Corp., 41455

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Wayne County, PA, 41362

Southwestern Power Administration
NOTICES
Power allocations, 41413

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See also Federal Aviation Administration; Research and Special Programs Administration; Saint Lawrence Seaway Development Corporation
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 41455
Hearings, etc.—
Baltimore-London service case et al., 41455

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities under OMB review, 41458 (2 documents)

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
Dayton, OH, 41459

Separate Parts In This Issue

Part II
Department of Agriculture, Cooperative State Research Service, 41466

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
5569 41293

7 CFR
210 41295
907 41295
910 41296
Proposed Rules:
3402 41466

10 CFR
Proposed Rules:
50 41353

11 CFR
Proposed Rules:

17 CFR
240 41296

27 CFR
Proposed Rules:
4 41355
5 41355
7 41355

29 CFR
2619 41298
2676 41299

32 CFR
291b 41300

39 CFR
111 41300

40 CFR
261 (9 documents) 41306–41323
712 41328
716 41328
790 41331
799 41331
Proposed Rules:
81 41355

42 CFR
405 41332
406 41332
408 41332
409 41332
410 41332
421 41332
431 41332
433 41332
435 41332
489 41332

45 CFR
5b 41352

47 CFR
Proposed Rules:
73 (10 documents) 41357–41360

Federal Register
Vol. 51, No. 220
Friday, November 14, 1986

Presidential Documents

Title 3—

The President

Proclamation 5569 of November 12, 1986

Salute to School Volunteers Day, 1986

By the President of the United States of America

A Proclamation

Americans have always relied on education to enrich our lives and to keep our Nation free and strong. We have relied as well on our spirit of voluntarism to improve our communities and to help our neighbors. These two traditions are among our Nation's greatest strengths, and we can all take a great deal of pride in our millions of school volunteers who exemplify both of them.

These volunteers generously contribute their time, talent, and resources to help professional educators enhance classroom instruction. In addition, citizens form business and education partnerships and adopt-a-school initiatives to develop a broader range of educational opportunities for students. All of this support from the community encourages school staffs and furthers the education of our children. The magnitude, quality, and selflessness of these efforts deserve the gratitude of every American who cares about our children and the future of our Nation.

The Congress, by Senate Joint Resolution 407, has designated November 12, 1986, as "Salute to School Volunteers Day" and authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Wednesday, November 12, 1986, as Salute to School Volunteers Day. I invite government officials, educators, parents, students, and all Americans to observe this day and participate in activities to recognize and show appreciation for school volunteers' contributions to education.

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

Ronald Reagan

[FR Doc. 86-25952
Filed 11-13-86; 11:45 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 220
Friday, November 14, 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

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Revision

Correction

In rule document 86–22046 beginning on page 34864 in the issue of Tuesday, September 30, 1986, make the following corrections:

§ 210.4 [Corrected]

1. On page 34877, in the first column, in § 210.4(b)(1), in the thirteenth line, insert "School" after "National".

§ 210.5 [Corrected]

2. In § 210.5(d)(1), on page 34878, in the first column, in the eleventh line, "Downroad" should read "Downward".

§ 210.16 [Corrected]

3. On page 34883, in the first column, in § 210.16(a)(3), in the second line, "on-sit" should read "on-site".

§ 210.19 [Corrected]

4. On page 34887, in the first column, in § 210.19(b), in the third line, "access" should read "assess".

§ 210.25 [Corrected]

5. On page 34889, in the second column, in § 210.25, paragraph (a) is corrected to read:

(a) If such funds, assets, or property are of a value of $100 or more, be fined no more than $10,000 or imprisoned not more than 5 years or both; or

6. On the same page, in the same column and section, in paragraph (b), in the first line, "finds" should read "funds", and in the second line, "are" was misspelled.

§ 210.27 [Corrected]

7. In § 210.27, on page 34890, in the first column, in paragraph (g), in the tenth line, "distribution" should read "distributing", and in the third line from the end of the paragraph, insert "these" after "meet".

Appendix A—[Corrected]

8. In Appendix A, on page 34891, in the first column, in the second line, "large" should read "larger".

9. Also in Appendix A, on page 34893, in the first column, in the fourth line, insert "protein" after "percent".

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 634]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 634 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period November 14 through 20, 1986. Such action is needed to balance the supply of fresh navel oranges with the demand for such period, due to the marketing situation confronting the orange industry.

DATE: Regulation 634 (§ 907.934) is effective for the period November 14 through 20, 1986.

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

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

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

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

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1986–1987 adopted by the Navel Orange Administrative Committee. The committee met publicly on November 11, 1986, at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 6 to 5, a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that demand is good for large-sized oranges and weak for small-sized oranges. Demand is expected to be good for the upcoming Thanksgiving holiday.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Agricultural Marketing Service, Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.934 Navel Orange Regulation 634 is hereby added to read:

§ 907.934 Navel Orange Regulation 634.

The quantities of navel oranges grown in California and Arizona which may be handled during the period November 14 through November 20, 1986, are established as follows:

(a) District 1: 1,254,714 cartons;
(b) District 2: 36,105 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–25910 Filed 11–13–86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 535]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 535 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 275,000 cartons during the period November 16 through November 22, 1986. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 535 (§ 910.835) is effective for the period November 16 through November 22, 1986.

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

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

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

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

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1986–1987. The committee met publicly on November 11, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 13 to 0, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that demand is fairly steady due to the upcoming Thanksgiving holiday. However, cold weather in the east has caused some decrease in demand with large sizes expected to drop in price and small sizes expected to increase slightly.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, and Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.835 is added to read as follows:

§ 910.835 Lemon Regulation 535.

The quantity of lemons grown in California and Arizona which may be handled during the period November 16 through November 22, 1986, is established at 275,000 cartons.

Dated: November 12, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–25909 Filed 11–13–86; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR 240

[Release No. 34–23773; File No. S7–46–85]

Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending the net capital rule under the Securities Exchange Act of 1934 ("Act"). The amendments will lower the haircuts on certain positions involving certain nonconvertible debt securities and expand the types of instruments that may be used to create hedged positions as to those securities for purposes of the net capital rule. The amendments will also restructure the criteria for determining whether the remaining maturities of two offsetting debt positions are close enough to consider the combined position to be hedged and thereby subject to lower haircuts.

EFFECTIVE DATE: December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, (202) 272–2904, Julio A. Mojica, (202) 272–2372, or Michael P. Jamroz, (202) 272–2398, Division of Market Regulation, 450 5th Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

A broker-dealer arrives at its net capital by deducting from its net worth, as computed under generally accepted accounting principles, the value of assets not readily convertible into cash, and certain percentages of the market value of securities carried in its accounts. These percentage deductions, or "haircuts," take into account elements of market and credit risk that the broker-dealer is exposed to when holding a particular position. When determining what the haircut for a given debt security should be, the Commission considers factors such as the nature of the issuer, the time to maturity of the security and for securities of nongovernmental issuers, the ratings of nationally recognized statistical rating services. Haircuts for debt securities are primarily based on the historical market fluctuations of each type of instrument.

In Securities Exhange Act Release No. 22532,[1] the Commission proposed for comment amendments to the net capital rule that would alter both the method in which a broker-dealer determines if investment grade nonconvertible debt securities positions are hedged and the haircuts for those hedged positions.

The three comment letters received by the Commission supported the adoption of the proposed amendments, but recommended one change to the proposal. The Commission has determined that the change recommended by the commentators is appropriate, and, as discussed more fully below, has included the change in the amendments it is adopting today.

II. Discussion of Amendments

Currently, subparagraph (c)(2)(vi)(F)(1) of Rule 15c3–1 (17 CFR 240.15c3–1(c)(2)(vi)(F)(1)) prescribes the haircuts that the broker-dealer incurs with respect to its positions in nonconvertible corporate debt securities positions having a fixed interest rate and fixed maturity date and which are: (i) Not traded flat or in default as to principal or interest; and (ii) rated in one of the four highest categories by at least two of the nationally recognized statistical rating organizations ("corporate debt securities"). Those haircuts range from two to nine percent of the market value of the greater of the long or short position in each maturity category specified in the subparagraph.

[1] 50 FR 42961 (October 23, 1985).

Subparagraph (c)(2)(vi)(F)(2) of Rule 15c3–1 (17 CFR 240.15c3–1(c)(2)(vi)(F)(2)) prescribes the haircuts for corporate debt securities positions that are offset by securities issued by the United States or an agency thereof ("Government securities") with similar remaining maturities. Currently, the haircuts for those hedged positions are one-half of the haircuts required for unhedged corporate debt securities positions. Prior to these amendments, corporate debt securities that were offset by futures on Government securities or other corporate debt securities were treated as unhedged and subject to the haircuts prescribed in subparagraph (c)(2)(vi)(F)(1).

As amended, subparagraph (c)(2)(vi)(F)(2) will provide for lower haircuts for corporate debt securities that are offset by Government securities. The revised haircuts range from 1.5 percent to 3 percent depending on the maturity of the securities. The Rule as amended will also recognize futures on U.S. government securities as a substitute for U.S. government securities in determining hedged corporate debt securities positions.

Positions in corporate debt securities that are offset by other corporate debt securities of similar maturities will also be considered as hedged, but subject to a different schedule of haircuts. Those haircuts range from 1.75 percent to 3.5 percent and approximate 120 percent of the haircuts on hedged positions that include a Government security or future.

The present Rule recognizes the hedging of a corporate debt security with a government security if both are within certain maturity bands. These standards were based on conservative views of which debt instruments moved more or less in tandem. For example, a corporate debt security of 2½ years maturity may be hedged by a government security of 3 years maturity.

The Commission proposed amendments expanding the time constraints based on the volatility data provided to it by the Securities Industry Association ("SIA"). Specifically, each category relating to hedged corporate securities positions would cover five years of maturities with the exception of the last category, which includes bonds with fifteen or more years to maturity.

The sole recommendation made by the commentators relates to the hedging of corporate debt securities with over fifteen years to maturity. Under the proposal, the maturities of two corporate debt securities with over fifteen years remaining to maturity would be required to have remaining maturities within five years of each other to be considered hedged. Based on the data provided by the SIA, the Commission has revised the amendments to allow hedging between two instruments with over fifteen years to maturity if within 10 years of each other.

Finally, the proposed amendments would change the haircuts for unhedged corporate debt securities as follows:

[In percent]

Maturity range	Current haircut	Revised haircut
4 years to less than 5 years	7	6
5 years to less than 10 years	9	7
10 years to less than 15 years	9	7½
15 years to less than 20 years	9	8
20 years to less than 25 years	9	8½
25 years or more to maturity	9	(1)

[1] Unchanged.

The changes, based on the data submitted to the Commission by the SIA, are designed to make the maturity categories for the unhedged corporate debt securities haircut schedules more consistent with the maturity categories in the new hedged haircut schedules and with those in the government securities haircut schedule (15c3–1(c)(2)(vi)(A)). The Commission believes that the changes more accurately reflect the relative volatility of the various maturity categories. The Commission continues to believe that the proposed amendments will more accurately reflect the risks of broker-dealers holding hedged corporate debt securities positions. For this reason, the Commission has determined to adopt the amendments as proposed with the one revision discussed above.

III. Statutory Authority

Pursuant to the Securities Exchange Act of 1934 and particularly Section 15(c)(3) thereof, 15 USC 78*o* (c)(3), the Commission is adopting amendments to 240.15c3–1 in Chapter II of Title 17 in the manner set forth below.

IV. Text of the Amendments

In accordance with the foregoing, 17 CFR Part 240 is amended as follows:

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

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C.

78w * * *. Section 240.15c3-1 also issued under Secs. 15(c)(3) and 17(a), 15 U.S.C. 78o(c)(3) and 78q(a).

2. Section 240.15c3-1 is amended by revising paragraph (c)(2)(vi)(F) as follows:

§ 240.15c3-1 Net capital requirements for brokers and dealers.

* * * * *

(c) * * *

(2) * * *

(vi) * * *

(F) (*1*) *Nonconvertible debt securities.* In the case of nonconvertible debt securities having a fixed interest rate and a fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating organizations, the applicable percentages of the market value of the greater of the long or short position in each of the categories specified below are:

(*i*) Less than 1 year to maturity—2%
(*ii*) 1 year but less than 2 years to maturity—3%
(*iii*) 2 years but less than 3 years to maturity—5%
(*iv*) 3 years but less than 5 years to maturity—6%
(*v*) 5 years but less than 10 years to maturity—7%
(*vi*) 10 years but less than 15 years to maturity—7½%
(*vii*) 15 years but less than 20 years to maturity—8%
(*viii*) 20 years but less than 25 years to maturity—8½%
(*ix*) 25 years or more to maturity—9%

(*2*) A broker or dealer may elect to exclude from the above categories long or short positions that are hedged with short or long positions in securities issued by the United States or any agency thereof or nonconvertible debt securities having a fixed interest rate and a fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating organizations if such securities have maturity dates:

(*i*) less than five years and within 6 months of each other;
(*ii*) Between 5 years and 10 years and within 9 months of each other;
(*iii*) Between 10 years and 15 years and within 2 years of each other; or
(*iv*) 15 years or more and within 10 years of each other.

The broker-dealer shall deduct the amounts specified in paragraphs (c)(2)(vi)(F) (*3*) and (*4*) of this section.

(*3*) With respect to those positions described in paragraph (c)(2)(vi)(F)(*2*) of this section that include a long or short position in securities issued by the United States or any agency thereof, the broker or dealer shall exclude the hedging short or long United States or agency securities position from the applicable haircut category under paragraph (c)(2)(vi)(A) of this section. The broker or dealer shall deduct the percentage of the market value of the hedged long or short position in nonconvertible debt securities as specified in each of the categories below:

(*i*) Less than 5 years to maturity—1½%
(*ii*) 5 years but less than 10 years to maturity—2½%
(*iii*) 10 years but less than 15 years to maturity— 2¾%
(*iv*) 15 years or more to maturity—3%

(*4*) With respect to those positions described in paragraph (c)(2)(vi)(F)(*2*) of this section that include offsetting long and short positions in nonconvertible debt securities, the broker or dealer shall deduct a percentage of the market value of the hedged long or short position in nonconvertible debt securities as specified in each of the categories below:

(*i*) Less than 5 years to maturity—1¾%
(*ii*) 5 years but less than 10 years to maturity—3%
(*iii*) 10 years but less than 15 years to maturity—3¼%
(*iv*) 15 years or more to maturity—3½%

(*5*) In computing deductions under paragraph (c)(2)(vi)(F)(*3*) of this section, a broker or dealer may include in the categories specified in paragraph (c)(2)(vi)(F)(*3*) of this section, long or short positions in securities issued by the United States or any agency thereof that are deliverable against long or short positions in futures contracts relating to Government securities, traded on a recognized contract market approved by the Commodity Futures Trading Commission, which are held in the proprietary or other accounts of the broker or dealer. The value of the long or short positions included in the categories shall be determined by the contract value of the futures contract held in the account.

(*6*) The provisions of Appendix B to Rule 15c3-1 (17 CFR 240. 15c3-1b) will in any event apply to the positions in futures contracts.

* * * * *

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

November 4, 1986.

[FR Doc. 86-25566 Filed 11-13-86; 8:45 am]

BILLING CODE 8010-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning December 1, 1986. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The PBGC adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after December 1, 1986 and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: December 1, 1986.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC's regulation on the valuation of plan benefits in single-employer plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Although the amendments to Title IV effected by the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") change significantly the rules for terminating single-employer plans, the valuation rules are much the same. (SEPPAA applies to all plan terminations initiated on or after January 1, 1986.) Under amended ERISA section 4041(c), all plans wishing to terminate in a distress termination (like all insufficient plans under prior law) must value guaranteed benefits and (new under SEPPAA) benefit commitments under the plan using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit commitments, although this is

not required. (Such plans may value benefit commitments that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in Part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since November 1, 1986 (51 FR 36690 (October 15, 1986)). Changes in the financial and annuity markets now require a decrease in those rates. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after December 1, 1986, which set reflects a decrease of ¼ percent in the immediate interest rate to 7½ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after December 1, 1986, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 continues to read as follows:

Authority: Secs. 4002(b)(3), 4041 (b) and (c), 4044, 4062 (b) and (c), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029, as amended by secs. 403(l), 403(d), 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, 1299, and by secs. 11007–11009, 11011, Pub. L. 99–272, 100 Stat. 244, 248, 253 (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 65 of Appendix B is revised and Rate Set 66 of Appendix B is added to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
* *	*	*		*	*			
65	11-1-86	12-1-86	7.75	1.0700	1.0575	1.0400	7	8
66	12-1-86		7.50	1.0675	1.0550	1.0400	7	8

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–25690 Filed 11–13–86; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2676

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of December 1986.

EFFECTIVE DATE: December 1, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

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

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

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

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

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

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

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

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values i_t are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_w
*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
December 1986	0.08875	0.08625	0.08375	0.08	0.07625	0.07125	0.07125	0.07125	0.07125	0.07125	0.065	0.065	0.065	0.065	0.065	0.05875

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-25339 Filed 11-13-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 291b

Availability to the Public of Defense Nuclear Agency (DNA) Instructions and Changes Thereto

AGENCY: DNA, OSD, DOD.

ACTION: Final rule.

SUMMARY: This rule implements DNA procedures for obtaining by the public and other federal agencies, DNA instructions, changes to instructions and DNA indexes to instructions (DNA Instruction 5025.80, AFRRI Instruction 5025.26N and Index to FC, DNA Administration Instruction 5025.8B).

EFFECTIVE DATE: This rule will be effective December 15, 1986.

FOR FURTHER INFORMATION CONTACT: For further information contact: Ms. Cheri Abdelnour, Defense Nuclear Agency, Public Affairs Office, Washington, DC 20305-1000, telephone (703) 325-7095.

List of Subjects in 32 CFR Part 291b

Availability to the public, Freedom of Information.

Accordingly, Title 32 of the CFR is amended by adding Part 291b to read as follows:

PART 291b—AVAILABILITY TO THE PUBLIC OF DEFENSE NUCLEAR AGENCY (DNA) INSTRUCTIONS AND CHANGES THERETO

Sec.

291b.1 Ordering DNA issuances.

Authority: 10 U.S.C. 133, 5 U.S.C. 552.

§ 291b.1 Ordering DNA issuances.

(a) The DNA issuances published in the DNA indexes are published under the following subject groups:

1000—Manpower, Personnel and Reserve
2000—International Programs
3000—Intelligence
4000—Logistics and Resources Management
5000—General Administration
6000—Health and Medical
7000—Comptrollership
DNA Instruction 5025.80, Index to Administrative Publications
AFRRI Instruction 5025.26N, Index to AFRRI Publications
FC, DNA Instruction 5025.8B, Index to FC, DNA Administrative Instruction

(b) Copies of DNA indexes and instructions may be ordered by telephone or letter. The commercial telephone number is (703) 325-7095. Include personal or company name, street address or post office box, city, state, country (if applicable) and zip code when submitting requests. Submit written requests to: Defense Nuclear Agency, Public Affairs Office, Washington, DC 20305-1000.

(c) This service is provided to the public and to federal agencies other than the Department of Defense. DNA does not charge for requests for an index and one instruction; however, fees for larger orders are determined on a case-by-case basis.

November 10, 1986.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-25694 Filed 11-13-86; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 111

Discontinuance of Post Offices, Emergency Suspension of Service, and Station and Branch Discontinuance

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This revision to existing rules is intended to conform post office closing procedures to the Postal Service's new management structure, which has given to the 74 newly created Field Divisional Offices many of the duties and responsibilities previously assigned to the 42 former District Offices, and sharply reduced the staffing of the five Regional Offices. At the same time, by retaining final authority over post office discontinuances in the Senior Assistant Postmaster General, Operations Support Group, the revised rules ensure that every proposal to close or consolidate a post office must be approved by senior management at Postal Service Headquarters. The revised rules carry forward the wording and intent of the former regulations concerning which types of actions are covered by the rules concerning discontinuance of post offices, and explain more clearly which types of circumstances may justify the suspension of operations at a post office. Finally, in response to public concern regarding the discontinuance of stations, branches, and contractor operated community post offices, the revised rules require that such actions must be reviewed and approved by senior level management at Postal Service Headquarters.

EFFECTIVE DATE: December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Mario Principe, (202) 268-3538.

SUPPLEMENTARY INFORMATION: On June 19, 1986, the Postal Service published in the **Federal Register** (51 FR 22314) a proposed change in the rules concerning the discontinuance of post offices. In response to requests to extend the time for public comment on this proposal, the deadline for comments was extended to August 19, 1986 (51 FR 25371). The Postal Service received over 40 letters of comment, the majority of which stated the writers' opposition to the closing of a particular postal facility, or to the closing of small post offices in general. The remaining letters addressed more specific aspects of the proposed regulations, in several cases offering suggestions for the revision of particular sections. Careful consideration has been given to all views expressed in response to the invitation for comments, and in a number of instances the proposed regulations have been revised in response to the suggestions received.

The Postal Service notes that the vast majority of those comments which opposed the closing of a particular facility concerned facilities which the Postal Service has no intent to discontinue. If, in the future it becomes necessary to consider the discontinuance of any of these facilities, the Postal Service will comply with the applicable regulations. With regard to comments which opposed the closing of small post offices generally, the Postal Service points out that the pertinent regulations continue to require decisions regarding the closing or consolidation of post offices to be made on an individualized basis, case by case, a procedure which is designed to preclude any wholesale closing of post offices.

As originally proposed (51 FR 22314), the regulations would have required the final determination on each post office closing or consolidation to be made by the Assistant Postmaster General, Delivery Services Department, the officer most directly concerned with the retail and delivery operations of post offices. At least eight of the comments on the proposed regulations insisted that this decisionmaking authority should be retained at a higher level of Postal Service management, in order to ensure the consistent application of nationwide policies and bolster public confidence in the fairness of the administrative process. The Postal Service agrees that the discontinuance of a post office is frequently a matter of significant concern to the members of the affected community, and has accordingly revised the pertinent portions of the regulations to provide that the final authority over any proposal to discontinue a post office will reside in the Senior Assistant Postmaster General, Operations Support Group.

In the same vein, four comments expressed concern that the elimination of the intermediate review of proposals at the district and regional levels of postal management would create disparity in the application of national policies. With regard to these concerns, the Postal Service points out that the elimination of these intermediate levels of review is necessary to reflect the new management structure of the Postal Service which has abolished the former District Offices and placed responsibility and authority over matters formerly handled at the district level in the new Field Divisional Offices. As reorganized, moreover, the staffing of the Regional Offices has been sharply reduced, and those offices are no longer equipped to provide any significant input regarding a proposal to discontinue a post office. The Postal Service believes, moreover, that retaining final authority over the discontinuance of post offices in the Senior Assistant Postmaster General, Operations Support Group, will ensure the consistent application of Postal Service policies and regulations on a nationwide basis. In addition, the Postal Service considers that the creation of direct lines of communication regarding these matters between Headquarters and the Field Divisional Offices will prevent unwarranted delays in the consideration of post office discontinuance proposals, and will permit the Senior Assistant Postmaster General to make a timely determination whether a particular proposal should be approved, disapproved, or returned to the appropriate Field Divisional Office for additional review or the gathering of additional information.

Two comments took exception to the proposed wording of 113.234g, which reformulates the notice which must be contained in any initial written proposal to discontinue a post office which is posted for public comment. The commenters were concerned that the new wording would improperly restrict the appellate role of the Postal Rate Commission. To the contrary, as explained in the Postal Service's original proposal (51 FR 22314), the revision in the wording of the prescribed notice is intended solely to prevent premature appeals to the Postal Rate Commission at the initial stages of the administrative process, before the Postal Service has determined whether or not it wishes to discontinue a particular office. As provided by statute, 39 U.S.C. 404(b)(5), the right to appeal a post office discontinuance to the Postal Rate Commission becomes effective only after the Postal Service has made a written determination to close or consolidate the post office, and made that determination available to the persons served by the office. In accordance with a suggestion contained in a third comment concerning the revised notice, however, the proposed wording of 113.234g has been revised to give the customers of a post office under consideration for discontinuance advance notice of the statutory time limit on appeals which will apply if the Postal Service makes a final determination to close or consolidate the post office.

Approximately half of the comments received voiced opposition to the propoosed wording of 113.211, concerning the types of actions covered by the regulations concerning discontinuance of post offices. As originally proposed (51 FR 22315), this section would have stated explicitly that the regulations are not intended to apply to actions regarding stations, branches, or contractor operated facilities such as community post offices. The comments regarding 113.211 demonstrated the need for clarification on this point. Several of these comments requested that actions regarding stations, branches, and contractor operated facilities not be removed from coverage under the current appeals process, while other comments suggested that the scope of the current regulations should be expanded to apply to the closing of such facilities. Both groups of commenters expressed the concern that specifically omitting stations, branches, and contractor operated community post offices from coverage under the proposed regulations would encourage the arbitrary closing of such facilities by local postal officials.

The Postal Service has carefully considered all the comments regarding the scope of the proposed regulations, and has concluded that it is appropriate to carry forward the wording and intent of the current regulations. As the Postal Service explained when it first adopted the current procedures for discontinuance of post offices (42 FR 59082; November 15, 1977), these regulations were intended to apply solely to any decision to close or consolidate a post office, not to actions regarding stations, branches, or contractor operated facilities such as community post offices. Postal statutes and regulations have consistently distinguished between post offices and subordinate facilities such as stations, branches, and contract units. Decisions regarding subordinate facilities,

moreover, have been made in a more flexible and decentralized fashion than decisions concerning post offices, with the result that stations, branches, and contract facilities tend to be established, discontinued, or changed more frequently than post offices. Whether in an urban or rural setting, the Postal Service believes it is essential to maintain this flexibility regarding the location of subordinate facilities, because it permits the Postal Service to provide its customers with ready access to essential postal services, consistent with reasonable economies of postal operations.

The Postal Service believes, moreover, that it would be especially inappropriate to apply the lengthy and detailed procedures for the discontinuance of post offices to contractor operated facilities, including community post offices. The contract for the operation of such a facility may be terminated by the contractor upon 30 days' notice, a circumstance which would allow insufficient time to satisfy even the preliminary notice requirements of 39 U.S.C. 404(b), let alone permit the solicitation and review of customer comments or the consideration of a formal appeal. It is not unlikely, in addition, that widening the scope of the regulations to include contract facilities would hamper the Postal Service's efforts to negotiate reasonable terms for the operation of a unit, or to require satisfactory contract performance, by permitting the contractor to use the appeals process as an additional forum for the litigation of contract disputes.

The Postal Service accordingly believes that it would be improper and unwise to expand the coverage of the regulations concerning the discontinuance of post offices to include actions regarding stations, branches, and contract facilities. It must be noted, however, that the Postal Service shares the concern, expressed in the comments on the proposed regulations, that subordinate facilities should not be closed for arbitrary or unsatisfactory reasons. Consistent with this view, the proposed regulations have been revised by the addition of 113.41 and 113.42 to require that a Field Division General Manger/Postmaster who determines that it is necessary to discontinue the operation of a classified station or branch operated by Postal Service employees, or a contractor operated community post office, must provide immedate written notice of the reasons for that proposed action to the Senior Assistant Postmaster General, Operations Support Group. *No final action on any such proposed closing may then be taken without the approval of the Senior Assistant Postmaster General.* The Postal Service believes that establishing this separate procedure for the review of station, branch, and community post office closings by senior level Headquarters management will provide adequate safeguards against the unjustified closing of subordinate facilities, while preserving essential management flexibility.

For the reasons given, the Postal Service adopts the following final regulations on this subject as amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR 111 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 113—SERVICE IN POST OFFICES

2. Sections 113.2 and 113.3 are revised; sections 113.4 through 113.8 are redesignated 113.5 through 113.9; and new 113.4 is added reading as follows:

113.2 Discontinuance of Post Offices.

.21 Introduction

.211 *Coverage.* This part establishes the rules that govern the Postal Service's consideration of whether an existing post office should be discontinued. The rules cover any proposal to replace a post office with a community post office, station, or branch through consolidation with another post office, as well as any proposal to discontinue a post office without providing a replacement facility.

.212 *Requirements of Law.* Under 39 United States Code (U.S.C.) 404(b), any decision to close or consolidate a post office must be based on certain specific criteria. These include the effect on the community served; the effect on employees of the post office; compliance with Government policy established by law that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining; the economic savings to the Postal Service; and any other factors determined to be necessary by the Postal Service. In addition, certain mandatory procedures apply:

a. The public must be given 60 days notice of a proposed action in order to enable the persons served by a post office to evaluate the proposal and provide comments.

b. Any final determination to close or consolidate a post office, after public comments are received and taken into account, must be made in writing and must include findings covering all of the required considerations.

c. The written determination must be made available to the persons served by the office at least 60 days before the discontinuance takes effect.

d. Within the first 30 days after the written determination is made available, any person regularly served by the affected post office may appeal the decision to the Postal Rate Commission.

e. The Commission may affirm the determination of the Postal Service or return the matter for further consideration but may not modify the determination.

f. The Commission is required by 39 U.S.C. 404(b)(5) to make a determination on the appeal no later than 120 days after receiving the appeal.

g. A summary table of the notice and appeal periods under the statute or these regulations appears in Exhibit 113.212.

.213 Additional Requirements. Section 113.2 includes: (a) Rules to ensure that the community's identity as a postal address will be preserved and (b) rules for consideration of a proposed discontinuance and for its implementation if approved. These rules are designed to ensure that the reasons which lead a Field Division General Manager/Postmaster, to propose the discontinuance of a particular post office are fully articulated and disclosed at a stage that will enable customer participation to make a helpful contribution toward the final decision.

.22 Preservation of Community Address

.221 *Policy.* The Postal Service permits the use of a community's separate address to the extent practicable.

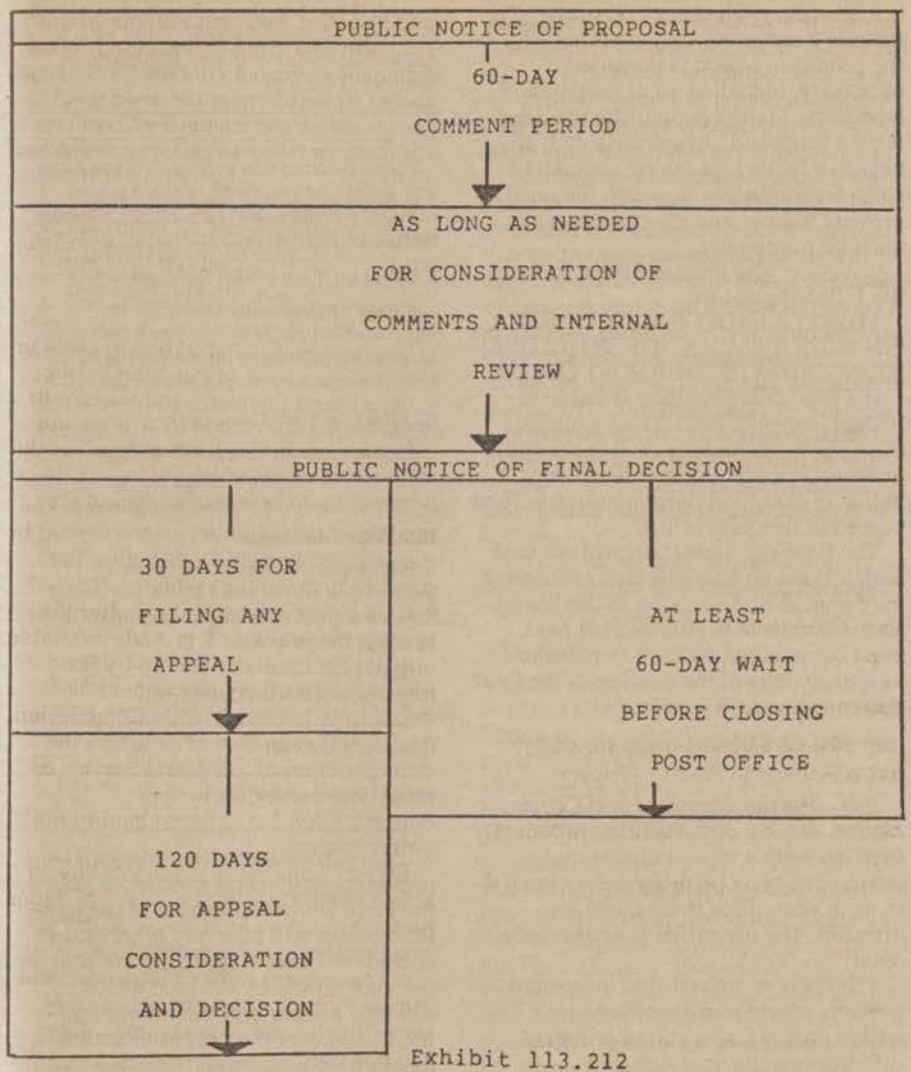

Exhibit 113.212

.222 Assignment of ZIP Code. The ZIP Code for each address formerly served from the discontinued post office ordinarily should be the ZIP Code of the facility providing replacement service to that address. In appropriate circumstances, the ZIP Code originally assigned to the discontinued post office may be retained if the responsible Field Division General Manager/Postmaster submits a request with justification to the Office of Address Information Systems, Headquarters, before the proposal to discontinue the post office is posted.

a. In the case of a consolidation, the ZIP Code provided for the replacement community post office, station, or branch will be (1) either the ZIP Code originally assigned to the discontinued post office or (2) the ZIP Code of the replacement facility's parent post office, whichever provides the most expeditious distribution and delivery of mail addressed to the customers of the replacement facility.

b. If the ZIP Code is changed and the parent post office is a multi-ZIP Coded office, the ZIP Code must be that of the delivery area within which the facility is located.

.223 Post Office Name in Address. If all of the delivery addresses using the name of the post office to be discontinued are assigned the same ZIP Code, each customer may continue to use the name of the discontinued post office in his address, instead of changing to or adding the name of the post office from which delivery is provided after the discontinuance.

.224 Name of Facility Established By Consolidation. If a post office to be discontinued is to be consolidated with one or more other post offices, by establishing in the place of the discontinued post office, a community post office, classified or contract station, or branch affiliated with another post office involved in the consolidation, the name of the replacement unit will be the same as the name of the discontinued post office.

.225 Listing of Discontinued Post Offices. The name of all post offices discontinued after March 14, 1977, are listed in an appropriate manner in Postal Service official directories, such as Publication 65, National Five-Digit ZIP Code and Post Office Directory, for mailing address purposes only. The ZIP Code listed for discontinued offices will be assigned in accordance with 113.2.

.23 Initial Proposal

.231 General. If Field Division General Manager/Postmaster believes that the discontinuance of a post office within his or her responsibility may be warranted, the Field Division General Manager/Postmaster:

a. Must apply the standards and procedures in 113.23 and 113.24.

b. Must investigate the situation.

c. May propose that the post office be discontinued.

.232 Consolidation. The proposed action may include a consolidation of post offices to substitute a community post office or a classified or contract station or branch for the discontinued post office:

a. If the communities served by two or more post offices are being merged into a single incorporated village, town, or city; or

b. If providing a replacement facility is necessary to maintain regular and effective service to the area served by the post office being considered for discontinuance.

.233 Views of Postmasters. Whether the discontinuance under consideration involves a consolidation or not, the Field Division General Manager/Postmaster must:

a. Discuss the matter with the postmaster (or the officer-in-charge, if there is a vacancy in the postmaster position) of the post office being considered for discontinuance, and with the postmaster of any other post office that would be affected by the change; and

b. Encourage these officials to submit their comments and suggestions in writing to be made part of the record for further consideration and review of the proposal.

.234 Preparation of Written Proposal. The Field Division General Manager/Postmaster must gather and

preserve for the record all documentation used to assess the proposed change. If the Field Division General Manager/Postmaster believes the proposed action is warranted, he or she must prepare a document entitled, "Proposal to [Close] [Consolidate] the [Name] Post Office." This document must provide a description and analysis of the proposal that is sufficient to disclose both to higher management and to the persons served by the affected post office the nature and justification of the proposed changes in service. The written proposal must address each of the following matters in separate sections:

a. *Responsiveness to Community Postal Needs.* The proposal must take into account the policy of the Government, as established by law, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. The proposal should contrast the services available before and after the proposed change; should describe how the changes respond to the postal needs of the persons served by the post office; and should highlight any particular aspects of service that might be less advantageous to the persons served as well as those that would be more advantageous.

b. *Effect on Community.* The proposal must include an analysis of the effect that the proposed discontinuance might have on the community served by the affected post office. The application of the requirements in 113.22 must be discussed and taken into account.

c. *Effect on Employees.* The written proposal must include a summary of the contemplated effect of the proposed change on the postmaster and any supervisors and other employees of the post office proposed for discontinuance. (The Field Division General Manager/Postmaster must suggest measures to comply with personnel regulations related to the discontinuance and consolidation of post offices.)

d. *Economic Savings.* The proposal must include an analysis of the economic savings to be gained by the Postal Service from the proposed action, including the cost or savings expected from each of the major factors contributing to the overall estimate.

e. *Other Factors.* The proposal should include an analysis of any other factors that the Field Division General Manager/Postmaster determines are necessary to a complete evaluation of the proposed change, to be weighed in favor, or to be weighed against the proposed action.

f. *Summary.* The proposal must include a summary that explains why the proposed action is considered necessary, including an assessment of how those factors supporting the need for the proposed change outweigh any negative factors. In taking competing considerations into account, the need to provide regular and effective service must be paramount.

g. *Notice.* The proposal must include the following notice:

THIS IS A PROPOSAL. IT IS NOT A FINAL DETERMINATION TO [CLOSE] [CONSOLIDATE] THIS POST OFFICE.

If a final determination is made to [close] [consolidate] this post office, after public comments on this proposal are received and taken into account, a notice of that final determination will be posted in this post office.

The final determination will contain instructions on how affected customers may appeal that decision to the Postal Rate Commission. Any such appeal must be received by the Commission within 30 days of the posting of the final determination.

.24 Notice, Public Comment, and Record.

.241 Posting Proposal and Comment Notice. A copy of the written proposal, together with a signed invitation for comments, must be prominently posted in each post office that would be affected. The invitation for comments must:

a. Include a request that interested persons provide written comments within 60 days, to a stated address, offering specific opinions and information, favorable or unfavorable, regarding the potential effect of the proposed change on postal services and on the community;

b. Indicate that copies of the proposal with attached optional comment forms are available upon request in the affected post offices; and

c. Provide a name and telephone number to call for further information and questions.

.242 Proposal and Comment Notice. The following is a sample format which may be used for the proposal and comment notice:

Proposal to [Close] [Consolidate] the [Name] Post Office and Optional Comment Form

Attached is a proposal that we are considering to attempt to provide your community's postal service more economically and efficiently, while also providing regular and effective service. Please read the proposal carefully and then let us have your comments and suggestions. If you choose, you may use the form provided below. Your comments will be carefully considered and will be made part of a public record. If you use the form provided below and need additional room, please attach additional sheets of paper. Return the completed form to

_____

by _____

In considering this proposal, if you have any questions you want to ask a postal official, you may call _____, whose telephone number is _____.

I. Effect on Your Postal Services

Please describe any favorable or unfavorable effects which you believe the proposal would have on the regularity or effectiveness of your postal service.

II. Effect on Your Community

Please describe any favorable or unfavorable effects which you believe the proposal would have on your community.

III. Other Comments

Please provide any other views or information which you believe the Postal Service should consider in deciding whether to adopt the proposal.

(Date) _____

(Signature of Postal Customer)

_____

(Mailing Address)

_____

(City) (State) (ZIP Code)

_____

.243 Other Steps. In addition to providing notice and inviting comment, the Field Division General Manager/Postmaster will take any other steps considered necessary to ensure that the persons served by the post office affected understand the nature and implications of the proposed action (e.g., meeting with community groups and following up on comments received which seem to be based on incorrect assumptions or information). **Note:**

a. If oral contacts develop views of information not previously documented, whether favorable or unfavorable to the proposal, the Field Division General Manager/Postmaster should encourage persons offering the views or information to provide written comments, in order to preserve them for the record.

b. The Field Division General Manager/Postmaster may not rely, as a factor in making his or her decision, upon communications received from anyone unless submitted in writing for the record.

.244 Record. The Field Division General Manager/Postmaster must maintain as part of the record for his or her consideration and for review by the Senior Assistant Postmaster General, Operations Support Group, all of the documentation gathered concerning the proposed change. **Note:**

a. The record must include all information that the Field Division General Manager/Postmaster has considered, and the decision must stand on the record. No information or views submitted by customers may be excluded, whether or not it tends to support the proposal.

b. The docket number assigned to the proposal must be the ZIP Code of the office proposed for closing or consideration.

c. The record must include a chronological index in which each document contained is identified and numbered as filed.

d. As written communications are received in response to the public notice and invitation for comments, they will be included in the record.

e. A complete copy of the record must be available for public inspection during normal office hours at the post office proposed for discontinuance or at the post office providing alternative service, if the office to be discontinued was temporarily suspended in accordance with 113.3, *Emergency Suspension of Service*, beginning no later than the date upon which notice is posted and extending through the comment period.

f. Copies of documents in the record shall be provided upon request and (except for the proposal and comment form) payment of fees prescribed by 352.6 of the Administrative Support Manual.

.25 Consideration of Public Comments and Final Local Recommendation

.251 Analysis of Comments. After waiting not less than 60 days after notice has been posted in accordance with 113.241, the Field Division General Manager/Postmaster will prepare an analysis of the public comments received, to aid his or her consideration, and for inclusion in the record. If possible, comments subsequently received should also be included in the analysis. The analysis should list and briefly describe each of the points which appear favorable to the proposal and each of the points which appear unfavorable to the proposal, and should identify to the extent possible how many comments supported each point listed.

.252 Reevaluation of Proposal. Upon completion of the analysis, the Field Division General Manager/Postmaster will review the proposal and reevaluate all of the tentative conclusions previously made in light of the additional information and views received from the public and included in the record.

a. *Discontinuance not warranted.* If the Field Division General Manager/Postmaster decides not to proceed with the proposed discontinuance, the Field Division General Manager/Postmaster will post in the post office considered for discontinuance, a notice that the proposed closing or consolidation has been determined not to be warranted.

b. *Discontinuance warranted.* If the Field Division General Manager/Postmaster decides that the proposed discontinuance is justified, the appropriate sections of the proposal will be revised taking into account the comments received from the public. Upon completing the necessary revisions, the Field Division General Manager/Postmaster will:

(1) Forward the revised proposal together with the entire record to the Senior Assistant Postmaster General, Operations Support Group, for final review.

(2) Attach a certification that all documents included in the record are originals or true and correct copies.

.26 Postal Service Decision

.261 General. The Senior Assistant Postmaster General, Operations Support Group or an authorized designee shall review the Field Division General Manager/Postmaster's proposal. This review, and the decision on the proposal, must be based on and supported by the record developed by the Field Division General Manager/Postmaster. At the discretion of the Senior Assistant Postmaster General, the Field Division General Manager/Postmaster may be instructed to provide additional information to supplement the record. Each such instruction, and the response, shall be added to the record. The decision on the Field Division General Manager/Postmaster's proposal, which shall also be added to the record, may approve or disapprove the proposal, or return it for further action as set forth below.

.262 Approval. The Senior Assistant Postmaster General or an authorized designee may approve the Field Division General Manager/Postmaster's proposal, with or without making further revisions. If approved, the term "Final Determination" is substituted for "Proposal" in the title. A copy of the Final Determination shall be provided to the Field Division General Manager/Postmaster. The Final Determination shall constitute the determination of the Postal Service for the purposes of 39 U.S.C. 404(b). Each Final Determination must include the following notices:

(1) *Supporting Materials.* Copies of all materials upon which this Final Determination is based are available for public inspection at the (Name) Post Office during normal office hours.

(2) *Appeal Rights.* This Final Determination to (close) (consolidate) the (Name) Post Office may be appealed by any person serviced by that office to the Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20368–0001. Any appeal must be *received* by the Commission within 30 days of the date this Final Determination was posted. If an appeal is filed, copies of appeal documents prepared by the Postal Rate Commission, or the parties to the appeal, will be made available for public inspection at the (name) Post Office during normal office hours.

.263 Disapproval. The Senior Assistant Postmaster General or an authorized designee may disapprove the Field Division General Manager/Postmaster's proposal, and return it and the record to the Field Division General Manager/Postmaster with written reasons for disapproval. The Field Division General Manager/Postmaster will post a notice that the proposed closing or consolidation has been determined not warranted in each office where notices were posted under 113.2.

.264 Return for Further Action. The Senior Assistant Postmaster General or an authorized designee may return the Field Division General Manager/Postmaster's proposal with written instructions to give additional consideration to specific matters in the record, or to obtain additional information. All such instructions shall be included in the record.

.265 Public File. A copy of each Final Determination, and a copy of each disapproval of a Field Division General Manager/Postmaster's proposal shall be placed on file in the Postal Service Headquarters Library.

.27 Implementation of Final Determination

.271 Notice of Final Determination to Discontinue Post Office.

a. The Field Division General Manager/Postmaster will provide notice of the Final Determination by posting a copy prominently in the affected post office or offices. The date of posting shall be noted on the first page of the posted copy as follows: "Date of posting: _____, 19 ____". The Field Division General Manager/Postmaster will notify the Senior Assistant Postmaster General, Operations Support Group in writing of the date of posting.

b. The Field Division General Manager/Postmaster will ensure that a copy of the completed record is made available for public inspection during normal office hours at the post office or offices where the Final Determination is

posted, beginning on the posting date and extending for a period of 30 days.

c. Copies of documents in the record must be provided upon request and payment of fees prescribed by 352.6 of the ASM.

.272 Implementation of Determinations Not Appealed. If no appeal is filed pursuant to 39 U.S.C. 404(b)(5), the official closing date of the office will be published in the Postal Bulletin effective the first Saturday, 90 days after the Final Determination was posted. A Field Division General Manager/Postmaster may request approval of a different date for official discontinuance by including the request with the document submitted to the Senior Assistant Postmaster General. However, the post office may not be discontinued sooner than 60 days after the notice required by 113.271 is posted.

.273 Actions During Appeal

a. *Implementation of Discontinuance.* If an appeal is filed, the affected post office may be discontinued, prior to final disposition of the appeal, only by direction of the Senior Assistant Postmaster General, Operations Support Group. However, the post office may not be discontinued sooner than 60 days after the notice required by 113.271 is posted.

b. *Display of Appeal Documents.* The Rate Application Division, Law Department, Headquarters will provide the Field Division General Manager/Postmaster with copies of all pleadings, notices, orders, briefs, and opinions filed in the appeal proceeding.

(1) The Field Division General Manager/Postmaster will assure that a copy of each of these documents is prominently displayed and made available for inspection by the public in the post office to be discontinued, or if it has been or is discontinued, in the post office or post offices serving the customers affected.

(2) All documents except the Commission's final order and opinion must be displayed until the final order and opinion are issued. The final order and opinion must be displayed for a period of 30 days.

.274 Actions Following Appeal Decision

a. *Determination Affirmed.* If the Commission dismisses the appeal or affirms the Postal Service's determination, the official closing date of the office will be published in the Postal Bulletin effective the first Saturday, 90 days after the Commission renders its opinion if not previously implemented under .273a. However, the post office may not be discontinued sooner than 60 days after the notice required under 113.271 is posted.

b. *Determination Returned for Further Consideration.* If the Commission returns the matter for further consideration, the Senior Assistant Postmaster General, Operations Support Group, will direct either (1) that notice be provided in accordance with 113.263 that the proposed discontinuance has been determined not to be warranted, or (2) that the matter be returned to an appropriate stage under these regulations for further consideration according to such instructions as may be provided.

113.3 Emergency Suspension of Service.

.31 A Field Division General Manager/Postmaster may suspend the operations of any post office under his or her jurisdiction when an emergency or other condition requires such action. Circumstances which may justify a suspension include but are not limited to a natural disaster, the termination of a lease when other adequate quarters are not available, the lack of qualified personnel to operate the office, severe damage to or destruction of the office, and the lack of adequate measures to safeguard the office or its revenues. The Field Division General Manager/Postmaster shall provide notice of any suspension by telephone or TWX to the Senior Assistant Postmaster General, Operations Support Group.

.32 In any such case, if it is proposed to discontinue a suspended office rather than restore operations, the procedures of 113.2 must be followed. All notices and other documents required to be posted or maintained in the office to be discontinued shall be posted or maintained in the post office or offices temporarily serving the customers of the post office where operations have been suspended.

113.4 Station and Branch Discontinuance

.41 If a Field Division General Manager/Postmaster determines that it is necessary to discontinue the operation of a classified station, classified branch, or contractor-operated community post office administratively attached to a post office, he or she must provide immediate notice in writing, including the reasons for the proposed discontinuance to the Senior Assistant Postmaster General, Operations Support Group.

.42 The Senior Assistant Postmaster General or an authorized designee may approve the proposed discontinuance, or may disapprove it if the reasons given by the Field Division General Manager/Postmaster do not appear sufficient to justify the proposed action. No final action on a proposed discontinuance may be taken without the approval of the Senior Assistant Postmaster General.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-25782 Filed 11-13-86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3111-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at two particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: November 14, 1986.

ADDRESS: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The reference number for this docket is "F-86-HAFE-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424-9346 or (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION: On October 3, 1986, EPA proposed to exclude specific wastes generated by two facilities, including: (1) Holston Army Ammunition Plant, located in Kingsport, Tennessee (see 51 FR 35374); and (2) William L. Bonnell Company, located in Newnan, Georgia (see 51 FR 35376). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final these two proposals and to make our decisions effective immediately. More specifically, today's rule allows these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP Toxicity test data for all EP Toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As an result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. Therefore, the final exclusion granted today for the facility located in Georgia applies only to management of the waste outside of the State of Georgia or transportation of the waste by an interstate carrier, as this is the only portion of the RCRA delisting program remaining under Federal jurisdiction. The other final delisting exclusion granted today is issued under the Federal (RCRA) delisting program. In general, States can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Holston Army Ammunition Plant, Kingsport, Tennessee;
William L. Bonnell Company, Newnan, Georgia.

I. Holston Army Ammunition Plant

A. Proposed Exclusion

Holston Army Ammunition Plant (Holston) has petitioned the Agency to exclude its wastewater treatment sludges (filter press sludges) from EPA Hazardous Waste Nos. K044, F003, and F005, based on the low concentration and immobilization of the listed constituents in the wastes. Data submitted by Holston substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Holston indicate that no other hazardous constituents are present in the wastes at levels of regulatory concern, and that these wastes do not exhibit any of the characteristics of hazardous waste. (See 51 FR 35374–35376, October 3, 1986, for a more detailed explanation of why EPA proposed to grant Holston's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Holston Army Ammunition Plant for the wastes identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter press sludges are non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Holston Army Ammunition Plant for its wastewater treatment sludges (EPA Hazardous Waste Nos. K044, F003, and F005) generated at its Kingsport, Tennessee facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. William Bonnell Company

A. Proposed Exclusion

William L. Bonnell Company (Bonnell) has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazardous Waste No. F019, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Bonnell substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Bonnell indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 35376–35378, October 3, 1986, for a more

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[3] See footnote 1

detailed explanation of why EPA proposed to grant Bonnell's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Bonnell for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to William L. Bonnell Company for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Newnan, Georgia facility.[4] (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[5] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

[4] Bonnell petitioned the Agency to exclude its wastewater treatment sludge and sludge contained in its on-site surface impoundments. This final exclusion applies only to the wastewater treatment sludges currently generated at the facility, and not to sludges in the on-site impoundments.

[5] See footnote 1

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: October 29, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 to read as follows:

Appendix IX—[Amended]

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
•	•	• • •
Holston Army Ammunition Plant.	Kingsport, Tennessee.	Dewatered wastewater treatment sludges (EPA Hazardous Waste Nos. F003, F005, and K044) generated from the manufacturing and processing of explosives and containing spent non-halogenated solvents after November 14, 1986.
•	•	• • •
William L. Bonnell Co.,	Newnan, Georgia.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after November 14, 1986. This exclusion does not include sludges contained in Bonnell's on-site surface impoundments.

[FR Doc. 86–25711 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW-FRL-3111-4]

Hazardous Waste Management System, Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion for the solid wastes generated at one particular generating facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at one facility from listing as a hazardous waste under 40 CFR Part 261.

EFFECTIVE DATE: November 14, 1986.

ADDRESS: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–MTFE–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 9, 1986, EPA proposed to exclude specific wastes generated by the Michelin Tire Corporation, located in Sandy Springs, South Carolina (see 51 FR 36237). This action was taken in response to a petition submitted by this company (pursuant to 40 CFR 260.20 and 260.22) to exclude their waste from hazardous waste control. In their petition, this company has argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioner has also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final the proposal and to make our decision effective immediately. More specifically, today's rule allows this facility to manage its petitioned waste as non-hazardous. The exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioner granted a final exclusion in today's **Federal Register** has been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the waste for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. This petitioner has demonstrated through submission of raw materials data, EP toxicity tests data for all EP toxic metals, and test data on the four hazardous waste characteristics that its waste does not exhibit any of the hazardous waste characteristics, and dose not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to Section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. The final exclusion granted today, therefore, is issued under the Federal program. States, however, can still decide whether to exclude this waste under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusion made final here involves the following peitioners: Michelin Tire Corporation, Sandy Springs, South Carolina.

I. Michelin Tire Corporation

A. Proposed Exclusion

Michelin Tire Corporation (Michelin) has petitioned the Agency to exclude its wastewater treatment sludge (filter cake) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constitutents in the waste. Data submitted by Michelin substantiate their claim that the listed constitutents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Michelin indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36235–36241, October 9, 1986 for a more detailed explanation of why EPA proposed to grant Michelin's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Michelin for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter cake is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Michelin for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at Michelin's Sandy Springs, South Carolina facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioner by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(b).

[1] The current exclusion applies to the processes covered by the original demonstration. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[3] See footnote 1.

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of this exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: October 31, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order to table 1 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
•	•	• • •
Michelin Tire Corp..	Sandy Springs, South Carolina.	Dewatered wastewater treatment sludge (EPA Hazardous Wastes No. F006) generated from electroplating operations after November 14, 1986.
•	•	• • •

[FR Doc. 86–25710 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW-FRL-3111-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste (Final Exclusion for GMC—Fisher Body Division)

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion for the solid waste generated at a particular generating facility from the list of hazardous wastes contained in 40 CFR 261.31. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific basis" from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at this facility from listing as hazardous waste under 40 CFR Part 261.

EFFECTIVE DATE: November 14, 1986.

ADDRESS: The RCRA regulatory docket for this final exclusion is located at U.S. Environmental Protection Agency, 401 M Street SW. (Sub-basement), Washington, DC 20460, and is available for public inspection from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The public may copy a maximum of 50 pages of material from any regulatory docket at no cost. Additional copies cost $.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Mr. David Topping, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202) 382–4690.

SUPPLEMENTARY INFORMATION: On November 27, 1985, EPA proposed to exclude wastes generated by several petitioners, including the General Motors Corporation (GMC), Fisher Body Division, located in Elyria, Ohio (see 50 *FR* 48917). The proposal to exclude GMC's waste was in response to a petition submitted by that company, pursuant to 40 CFR 260.20 and 260.22, to exclude their waste from hazardous waste control. In their petition, GMC contended that their waste is non-hazardous based upon the factors for which the waste was originally listed. GMC also submitted additional information which enabled the Agency to determine whether any other toxicants are present in the waste at levels of regulatory concern, and whether any other factors are present which could cause the waste to be hazardous. The purpose of today's notice is to make final the proposed conditional, one-time exclusion for GMC's waste and to make that exclusion effective immediately. More specifically, today's rule allows this facility to manage the waste as non-hazardous. This exclusion will be effective unless the conditions stipulated in the granting of this exclusion are not satisfied.

The Agency notes that the petition for which a final conditional, one-time exclusion is granted in today's **Federal Register** has been reviewed for both the listed and expected non-listed constitutents. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the waste for all factors which could reasonably cause the waste to be hazardous. The petitioner has demonstrated, through the submission of a raw materials list, data on the four hazardous waste characteristics, *etc.*, that the waste does not exhibit any of the hazardous waste characteristics and does not contain any other toxicants at levels of regulatory concern. The Agency, in its proposal to exclude the waste covered by this rule, provided the information necessary to evaluate these factors.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that

mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of the enactment of the Hazardous and Solid Waste Amendments of 1984, any states which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[1] To date only one State (Georgia) has received approval for their delisting program. The final exclusion granted today, therefore, is issued under the Federal program. States, however, can still decide whether to exclude this waste under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their waste under State law.

The exclusion made final here involves the following petitioner: General Motors Corporation, Fisher Body Division, Elyria, Ohio

I. General Motors Corporation, Fisher Body Division

A. Proposed Exclusion

The General Motors Corporation (GMC), Fisher Body Division, located in Elyria, Ohio, has petitioned the Agency to exclude (on a one-time basis) approximately 6.8 million gallons of electroplating wastewater treatment sludge (contained in three surface impoundments) after chemical stabilization (using the Chemfix® treatment technology), from EPA Hazardous Waste No. F006. GMC claimed that the Chemfix® treatment technology would bind all inorganic constituents within the waste matrix. In addition, GMC claimed that any hazardous organic constituents, if present, are either at non-hazardous levels or are bound within the waste matrix. GMC submitted test data from representative samples, which included total constituent analyses for metals, EP toxicity and oily waste EP toxicity test data, Multiple Extraction Procedure (MEP) test data, and total constituent organic analyses for the organic priority pollutants.

Based upon these data, the Agency proposed to grant a conditional exclusion to GMC, which would require continous monitoring of mixing ratios; continous daily batch testing for lead, chromium, and nickel using the EP toxicity test; and deposition of the treated waste into bermed cells to ensure that the waste is identifiable and retrievable. See 50 FR 48917–48922, November 27, 1985, for a more detailed explanation of why EPA proposed to grant GMC's petition.

B. Agency Response to Public Comment

The Agency received comments from the petitioner requesting that the Agency consider material-specific characteristics of the stabilized waste during the vertical and horizontal spread (VHS) model evaluation. Specifically, the petitioner requested that Condition No. 2 of the proposed exclusion (requiring testing of the treated waste and setting limits above which the waste would be hazardous) be modified in light of the waste's attenuative properties to allow a two-fold increase in the allowable leachate concentrations of lead, chromium, and nickel. GMC's representative, Chemfix Technologies, Inc. (CTI), quoting the Agency, noted that EPA has the discretion to consider material-specific factors in developing assumptions for VHS model input parameters, and that applying this discretion to the evaluation of GMC's waste would result in lower predicted leachate concentrations.

The Agency agrees with the quotation cited, that "if a petitioner can demonstrate that his material will remain stable in the environment, the Agency will reconsider the grinding requirements" (which undo the binding accomplished by fixation). 50 FR 48906, November 27, 1985. The Agency, however, does not believe that the commenter has adequately demonstrated that GMC's waste would be stable in the environment. Thus, while EPA may consider material-specific data submitted by a petitioner in the general evaluation of a waste, the Agency does not intend at the present time to modify the VHS model evaluation to incorporate such data here. The mismanagement scenario portrayed by the VHS model assumes that stabilized wastes are broken up during routine waste management with a subsequent increase in permeability. The Agency intends to continue to use the VHS model as a tool in evaluating the waste's hazard in a reasonable worst-case management scenario. Additionally, the Agency finds CTI's suggested two-fold increase in the maximum allowable concentrations levels to be somewhat arbitrary. The Agency cannot agree to such suggestions without a solid technical basis detailing why the increase should be two-fold.

CTI submitted data in order to demonstrate that the reserve cation exchange capacity (CEC) of the stabilized waste exhibits long-term stability and decreases only slightly following exposure to severe environmental conditions simulated by the EP toxicity test and the corresponding grinding requirements. CTI calculated the total CEC required to recapture the maximum reported lead, chromium, and nickel leachate levels, as measured by the EP test. CTI compared this required CEC (0.088 meq/100g) to the waste's reserve CEC, which averaged 50 meq/100g, and concluded that the waste could "attenuate and/or recapture the concentrations of the constituents of concern indicated by the EP results."

The Agency is not convinced by this argument for several reasons. First, CTI does not address other potential leachate constituents that may be competing for cation exchange sites with the constituents of concern. Secondly, CTI did not address the rate with which the attenuation reaction reaches equilibrium. The Agency believes that this equilibrium rate may play an important role in the leachate levels of the constituents of concern. An inadequate cation exchange rate may be responsible for the observed leachate levels of lead, chromium, and nickel. The CEC analysis provided by CTI implies that if the attenuation reaction had gone to completion, leachate levels would be zero since the CEC is greater than the required CEC for lead, chromium, and nickel. Some factor, such as the time to reach equilibrium (or contact time, matrix degradation, diffusion rate, etc.), must therefore be responsible for the observed leachate levels. Since this phenomenon has not been explained, the Agency cannot assume that actual leachate levels would be lower than those levels predicted by the EP test. The Agency, therefore, believes that the allowable leachate levels should not be increased as requested by the petitioner.

The petitioner also commented that the Agency did not present the correct maximum EP nickel results for Pond 1, Quadrant 1, and Pond 2, Quadrant 2. The Agency disagrees. The values used were taken from the first extraction in the MEP analysis, which is equivalent to the EP test.

Another commenter stated that EPA should consider ground water mounding effects beneath landfills. The commenter further asserts that mounding effects beneath landfills are comparable in

[1] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions. May 16, 1985. Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

magnitude to those beneath surface impoundments. While the Agency believes that mounding effects beneath surface impoundments are significant, mounding effects beneath landfills are believed to be insignificant. This conclusion is based upon a comparative analysis of mounds beneath impoundments and landfills using the Agency's surface impoundment model, which is currently under development. (See the notice finalizing the Organic Leachate Model for a more detailed response to this comment). In the case of GMC, the Agency believes that no mounding should be observed beneath the stabilized waste. Since the waste will be landfilled after stabilization and the site elevation will be returned to grade level, the infiltration rate will be no different from surrounding terrain, and thus, no mound will form.

C. Final Agency Decision

Based upon samples of the waste taken from the three surface impoundments indicating low extract values generated from corresponding EP toxicity tests, Oily Waste EP toxicity tests, and MEP test data, previous demonstrations made by Chemfix Technologies, and the continuous testing provision, GMC has demonstrated that the Chemfix® treated waste is capable of successfully binding the inorganic toxicants within the matrix of the residue, thereby limiting their mobility. The Agency concluded this, even though three or four composites that were tested for chromium, one of four that were tested for lead, using the EP Toxicity Test for Oily Waste; and one of four composites that were tested for nickel using the Multiple Extraction test, failed the VHS analysis by generating compliance-point concentrations above their respective regulatory standards. The Agency's basis for this conclusion includes: (1) GMC tested representative samples of this waste prior to the publication of the final VHS model and therefore did not use mixing ratios necessary to achieve the more stringent limitations of the final version of the VHS model; (2) all of the reported extract values were less than 15 times the respective standards, even though the more effective mixing ratios were not used; (3) the waste will be homogenized during treatment; and (4) the exclusion will require testing of each day's treatment residue, preventing the handling of any residue exhibiting extract levels above 6.3 times their respective standard, as a non-hazardous waste.

The Agency, therefore, believes that the extract levels can be reduced by alteration of the mixing ratios of treatment additives.[2] In addition, the Agency is satisfied with GMC's determination that no other hazardous constitutents are present in the waste.[3]

The Agency, therefore, considers GMC's treated waste generated from the Chemfix® treatment process to be non-hazardous for all reasons and believes it should be excluded from hazardous waste control under the conditions specified below. Due to the large volume of waste contained in GMC's impoundments, the high content of toxic metals in the waste, and the fact that the data in the petition were based on laboratory and pilot-scale data, the Agency is requiring testing of the treated waste to ensure that stabilization occurs and that each day's treated waste be identifiable and retrievable as follows:

(1) Mixing ratios shall be monitored continuously to ensure consistent treatment.

(2) One grab sample of the treated waste should be taken each hour as it is pumped into the holding area (cell) from each trailer unit. At the end of each production day, the grab samples from the individual trailer units will be composited and the EP toxicity test [4] will be run on each composite sample. If lead or chromium (total) concentrations exceed 0.315 ppm or if nickel levels exceed 2.17 ppm in the extract, the waste will be removed and retreated or disposed as a hazardous waste. (The Agency has included nickel in this testing program, since it is present at substantial concentrations in the waste and could be affected by adjusting mixing ratios to limit chromium and lead mobility.)

(3) The treated waste must be pumped into bermed cells that are constructed to ensure that the treated waste generated each day is identifiable and retrievable (*i.e.*, the material can be removed and either disposed as a hazardous waste or retreated if conditions 1 or 2 are not met.)

The Agency believes that GMC's treated waste generated by the Chemfix® process will be non-hazardous under the conditions specified above. The Agency therefore is granting a final, conditional, one-time exclusion to GMC for the product that will result from the chemical stabilization of the electroplating wastewater treatment sludge presently contained in three surface impoundments at the Elyria, Ohio site.

II. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. That is the case here since rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioner by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved

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[2] The Agency has data submitted in other delisting petitions on the Chemfix® process and on other cementitious stabilization processes that indicate that the adjustment of mixing ratios can alter the leachability of each metal toxicant. CTI further claims that they can achieve leachate levels of six times the regulatory standards when treating GMC's waste.

[3] GMC tested its waste for the priority pollutants since rinse waters from painting operations enter the treatment system. All volatile constituents were reported as non-detectable at a level of 0.1 ppm using methods 5030 and 8240 from Test Methods for Evaluating Solid Waste, SW–846. Acid and Base/Neutral Extractables were reported as non-detectable at a level of 1 ppm using methods 3530 and 8270 from SW–846. The Agency notes that these detection limits would generate compliance-point concentrations above the regulatory standards for some constituents, (*i.e.*, a detection limit of 0.01 ppm would be necessary for chloroform, or 0.0004 ppm for 1,1-dichloroethylene to pass at the compliance-point). The Agency is also aware, however, that the recommended extraction and analytical procedures described in SW–846 cannot achieve low enough detection limits to pass the VHS analysis for some constituents. Where hazardous constitutents in a waste are determined to be non-detectable using appropriate analytical methods, the Agency will, as a matter of policy, not regulate the waste as hazardous. The agency is not indicating that these detection limits are appropriate minimum limits for all petitioners. These will be determined on a case-by-case basis and will depend on the waste matrix. The Agency further notes that as the recommended clean-up and analytical tests improve, the required detection limits will decrease for those petitioners submitting petitions at that point in time.

[4] Since the results obtained using the EP toxicity test were equal to or greater than those determined by the EP toxicity test for oily wastes, indicating that little or no metals were found in the oil fraction, the Agency has allowed the use of the EP toxicity test in the contingency testing program.

by excluding wastes generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 4, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestream in alphabetical order to Table 1 to read as follows:

Appendix IX—[Amended]

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
*	*	*
General Motors Corp., Fisher Body Division.	Elyria, OH ...	The residue generated from the use of the Chemfix® treatment process on sludge (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in three on-site surface impoundments on November 14, 1986. To assure that stabilization occurs, the following conditions apply to this exclusion: (1) Mixing ratios shall be monitored continuously to assure consistent treatment. (2) One grab sample of the treated waste shall be taken each hour as it is pumped to the holding area (cell) from each trailer unit. At the end of each production day, the grab samples from the individual trailer units will be composited and the EP toxicity test will be run on each composite sample. If lead or total chromium concentrations exceed 0.315 ppm or if nickel exceeds 2.17 ppm, in the EP extract, the waste will be removed and retreated or disposed of as a hazardous waste. (3) The treated waste shall be pumped into bermed cells which are constructed to assure that the treated waste is identifiable and retrievable (*i.e.*, the material can be removed and either disposed of as a hazardous waste or retreated if conditions 1 or 2 are not met). Failure to satisfy any of these conditions would render the exclusion void. This is a one-time exclusion, applicable only to the residue generated from the use of the Chemfix® treatment process on the sludge currently contained in the three on-site surface impoundments.

[FR Doc. 86-25708 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3111-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denials

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by four petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262–266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 14, 1987.

ADDRESSES: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–CHDF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION. On October 22, 1986, EPA proposed to deny specific wastes generated by several facilities, including: (1) Ford Motor Co., located in Lima, Ohio (see 51 FR 37427); (2) General Motors Corp., Truck and Coach Div., located in Pontiac, Michigan (see 51 FR 37429); (3) Olin Corp., located in St. Marks, Florida (see 51 FR 37434); and (4) Welsh Co. of the South, located in Union Springs, Alabama (see 51 FR 37436).[1] The Agency had previously evaluated all four of the petitions which are discussed in today's notice. Based on our review at that time, these petitioners were granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions, as well as the other three have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that all four of the petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by all four petitioning facilities and is revoking the temporary

[1] In the same **Federal Register** notice, the Agency also proposed to deny the exclusion of specific wastes generated by Chevron, U.S.A., Port Arthur, Texas (see 51 FR 37422), E.I. Du Pont de Nemours & Co., Beaumont, Texas (see 51 FR 37423), and McLouth Steel Corp., Trenton, Michigan (see 51 FR 37432). Chevron, Du Pont, and McLouth submitted comments which take issue with the proposed denials for their facilities. The Agency will address these comments in a later **Federal Register** notice.

exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

Ford Motor Co., Lima, Ohio;
General Motors Corp., Truck and Coach Div., Pontiac, Michigan;
Olin Corp., St. Marks, Florida;
Welsh Co. of the South, Union Springs, Alabama.

I. Ford Motor Company

A. Proposed Denial

Ford Motor Company (Ford) has petitioned the Agency to exclude its wastewater treatment sludge contained in two on-site lagoons from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Ford, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[2] (See 51 FR 37427–37429, October 22, 1986, for a more detailed explanation of why the Agency proposed to deny Ford's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Ford for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the sludge contained in two on-site lagoons is hazardous and as such should not be excluded from hazardous waste control.[3] The Agency, therefore, is denying a final exclusion to Ford for its wastewater treatment sludge resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is stored at its Lima, Ohio facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on February 12, 1982.

II. GMC Truck and Coach

A. Proposed Denial

GMC Truck and Coach (GMC Truck) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. F006 and F019, beaed on the low concentration and immobilization of the listed constituents in the waste. Data submitted by GMC, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[4] (See 51 FR 37429–37432, October 22, 1986, for a more detailed explanation of why the Agency proposed to deny GMC's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to GMC for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter cake generated by GMC is hazardous and as such should not be excluded from hazardous waste control.[5] The Agency, therefore, is denying a final exclusion to GMC Truck and Coach for its dewatered wastewater treatment sludge (sludge) resulting from electroplating operations, and the chemical conversion of aluminum listed as EPA Hazardous Waste Nos. F006 and F019, which is generated at its Pontiac, Michigan facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste in May, 1982.

III. Olin Corporation

A. Proposed Denial

Olin Corporation Smokeless Powder Plant (Olin) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. K044 and K046 based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Olin, however fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[6] (See 51 FR 37434–37436, October 22, 1986, for a more detailed explanation of why the Agency proposed to deny Olin's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Olin for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the sludge generated by Olin is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Olin Corporation for its dewatered sludge resulting from the manufacture, formulation and loading of lead-based initiating compounds, listed as EPA Hazardous Waste Nos. K044 and K046, which is generated at its St. Marks, Florida facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on November 22, 1982 (47 FR 52673).

IV. Welsh Company of the South

A. Proposed Denial

Welsh Company of the South (Welsh) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Welsh, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[7] (See 51 FR 37436–37438, October 22, 1986, for a more detailed explanation of why the Agency proposed to deny Welsh's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Welsh for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the sludge generated by Welsh is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Welsh Company of the South for its dewatered sludge) resulting from the electroplating of steel furniture parts, listed as EPA Hazardous Waste No. F006 which is generated at its Union Springs, Alabama facility. By this action, the Agency also withdraws the

[2] Ford was granted a temporary exclusion for this waste on February 12, 1982.

[3] It should be noted that a recent re-interpretation of F006 indicates that wastes generated by phosphating and immersion plating processes are not regulated if segregated. Accordingly, the dewatered sludge presently generated by these processes is not regulated if segregated. Since Ford once disposed of copper plating rinsewaters (classified as EPA Hazardous No. F006) in its two on-site lagoons, however, the lagoon sludges, which are the subject of this petition, are classified as EPA Hazardous Waste No. F006 by the mixture rule.

[4] GMC Truck was granted a temporary exclusion for this waste in May 1982.

[5] The recent Agency re-interpretation of F006 indicates that wastes generated by phosphating processes are not requlated. Accordingly, the petitioner's waste from their phosphating processes, if segregated, (previously classified as EPA Hazardous Waste No. F006) is not regulated. This waste, however, is still regulated as F019.

[6] Olin was granted a temporary exclusion for this waste on November 22, 1982 (see 47 FR 52673).

[7] Welsh was granted a temporary exclusion for this waste in May, 1982.

temporary exclusion granted for this waste in May, 1982.

V. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the four petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of the final rule in the **Federal Register**.

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation, which would revoke temporary exclusions and deny petitions from four facilities, is not major. The affect of this rule would increase the overall costs for the facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these four facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $5.7 million, well under the $100 million level constituting a major regulation. In addition, some of these companies are large and, therefore, the impact of this rule will be relatively small. This rule is not a major regulation; therefore, no Regulatory Impact Analysis is required.

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects four facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 7, 1986.

J. W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–25707 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW-FRL-3111-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by two petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262–266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 14, 1987.

ADDRESSES: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–ANDF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline,toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 8, 1986, EPA proposed to deny specific wastes generated by three facilities, including: (1) AT&T Technology Systems, located in Richmond, Virginia (see 51 FR 36058) and (2) John Deere Des Moines Works, located in Ankeny, Iowa (see 51 FR 36031).[1] The Agency had previously evaluated both of the petitions which are discussed in today's notice. Based on our review at that time, these petitioners were granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions, have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that both of the petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by both petitioning facilities and is revoking the temporary exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

AT&T Technology Systems, Richmond, Virginia;

John Deere Des Moines Works, Ankeny, Iowa.

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[1] In the same **Federal Register** notice, the Agency also proposed to deny exclusion of specific wastes generated by the American Nickeloid Company, Lima, Illinois (see 51 FR 36026). During the comment period for the proposed rule, American Nickeloid sent a letter to the Agency requesting that their petition be withdrawn. By withdrawing their petition, American Nickeloid's temporary exclusion is no longer valid; therefore, the previously petitioned waste must now be handled as hazardous.

I. AT&T Technology Systems

A. Proposed Denial

AT&T Technology Systems (AT&T) has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by AT&T, however, fails to substantiate its claims that the listed constituents are essentially present in an immobile form.[2] (See 51 FR 36026–36031, October 8, 1986, for a more detailed explanation of why the Agency proposed to deny AT&T's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to AT&T for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge generated by AT&T is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to AT&T Technology Systems for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its Richmond, Virginia, facility. By this action, the Agency also revokes the temporary exclusion granted for this waste on November 22, 1982 (see 47 FR 52673).

II. John Deere Des Moines Works

A. Proposed Denial

John Deere Des Moines Works (John Deere) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by John Deere, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[3] (See 51 FR 36031–36034, October 8, 1986, for a more detailed explanation of why the Agency proposed to deny John Deere's petition.)

B. Agency Response to Public Comments

The Agency received comments from the petitioner during the public comment period. These comments were to notify the Agency that the John Deere Des Moines facility has made process changes and to request that the Agency consider delisting the new waste upon completion of future sampling and analyses of the waste. The Agency notes that John Deere's previously granted temporary exclusion applied only to the waste and processes described in the original delisting demonstration. The Agency is, therefore, basing today's final denial decision on the characteristics of the wastes which were originally petitioned for delisting. The Agency also notes that consideration of wastes generated by processes other than those described in John Deere's original petition would require that the facility submit a separate delisting petition for the wastes that are generated by the new processes. Until a separate petition is submitted and an exclusion granted, John Deere must handle the wastes generated by the new processes as hazardous.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge generated by John Deere is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to John Deere Des Moines Works for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its Ankeny, Iowa facility. By this action, the Agency also revokes the temporary exclusion granted for this waste on November 25, 1980 (see 45 78550).

III. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the two petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of this final rule in the **Federal Register.**

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule, which would revoke temporary exclusions and deny petitions from two facilities, is not major. The affect of this rule would increase the overall costs for these facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these two facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $600,000 well under the $100 million level constituting a major regulation. This is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of a small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects two facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

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[2] AT&T was granted a temporary exclusion for this waste on November 22, 1982 (see 47 FR 52673).

[3] John Deere was granted a temporary exclusion for this waste on November 25, 1980 (See 45 FR 87550).

Dated: November 4, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-25709 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3110-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petition submitted by one petitioner to exclude its solid waste from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying this petition is that the petitioner has not substantiated its claim that the waste is non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262–266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 14, 1987.

ADDRESSES: The public docket for this final petition denial is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–LVDF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 21, 1986, EPA proposed to deny specific wastes generated by several facilities, including LTV Steel Company, located in East Chicago, Indiana (see 51 FR 37307).[1] The Agency had previously evaluated the petition which is discussed in today's notice. Based on our review at that time, this petitioner was granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, this petition has been evaluated both for the factors for which the waste was originally listed, as well as other factors and toxicants which reasonably could cause the waste to be hazardous. Based upon these evaluations, the Agency has determined that the petitioning facility has not substantiated its claims that the waste is non-hazardous; therefore, the Agency is denying the petition submitted by this petitioning facility and is revoking the temporary exclusion currently held by this facility.

The denial made final here involves the following petitioner: LTV Steel Company, East Chicago, Indiana.

I. LTV Steel Company

A. Proposed Denial

LTV Steel Company (LTV) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by LTV, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[2] (See 51 FR 37307–37309, October 21, 1986, for a more detailed explanation of why the Agency proposed to deny LTV's petition.)

B. Agency Response to Public Comments

The Agency received comments from LTV regarding its decision to deny an exclusion to LTV for the waste identified in the petition. LTV indicated that from July through September, 1986, the sludge generation rate had decreased from 15,000 tons to 4,100 tons due to improved dewatering procedures. LTV did not indicate what specific changes were made to bring their generation rate to approximately one third of that originally reported. The Agency believes that a decrease in generation rate of this proportion could constitute a significant change in the dewatering process. The Agency believes that LTV would need to submit a new petition containing waste characterization data on the waste presently being generated (at the decreased generation rate), or at a minimum discuss what the changes to the process were and why they feel they were not significant enough to effect the concentration and mobility of hazardous constituents contained in the waste. The Agency believes it is inappropriate to evaluate the waste using the volume of waste currently generated and waste characterization data on the waste produced prior to LTV's process change.

LTV objects to the use of data from the oily waste EP procedure (OWEP) since the test relates to wastes that are normally landfarmed. In addition, LTV also objects to use of a testing procedure that has not been proposed or promulgated.

The OWEP was developed in response to concerns that the EP toxicity test underestimates the ability of metals to leach from oily wastes. The Agency has requested that the OWEP test be performed on oily wastes to assess the additive groundwater contamination potential of toxicants contained in the organic (oily) and solid phases of these wastes. Since the oil phase from oily wastes can mobilize in a landfill setting, the Agency will continue to use the OWEP as a tool to measure the concentrations of inorganic toxicants moving in this fraction.[3]

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[1] In the same **Federal Register** notice, the Agency also proposed to deny the exclusion of specific wastes generated by the following petitioners: Cerro Conduit Company, located in Syosset, New York (see 51 *FR* 37301); General Motors Corp., Delco Products Division, located in Kettering, Ohio (see *FR* 37303); John Deere Dubuque Works, located in Dubuque, Iowa 51 *FR* 37305); and United Chair, Inc., located in Irondale, Alabama (see 51 *FR* 37309). The Agency has addressed these proposed decisions in separate **Federal Register** notices.

[2] LTV was granted a temporary exclusion for this waste on November 22, 1982 (47 *FR* 52668).

[3] The Oily Waste EP test (OWEP) was developed in response to concerns that the EP test is not suitable for wastes which exhibit a substantial oil and grease content (oil fraction). Specifically, concern was expressed that (1) toxic metals may leach at higher levels than those predicted by the EP test if the oil fraction degrades, and (2) the oily fraction, while it may act as a solid in the EP test, could migrate as a liquid once the waste is disposed.

The first concern is based upon a scenario in which the oily fraction coats the solid phase of the waste and the leaching medium. If the oily fraction degrades, as could occur in a well-managed landfarm, the solid phase could be more completely exposed to the leaching medium and increased leaching could occur. (The practice of requesting the OWEP for wastes containing >1 percent oil and grease was based upon the estimate that 1 percent oil and grease would be a sufficient quantity to coat the waste.) The OWEP simulates this effect by removing the oily fraction with toluene and tetrahydrofuran prior to subjecting the waste to the EP test. The OWEP also requires the measurement

Continued

The OWEP test was first published in *Proposed Sampling and Analytical Methodologies for Addition to Test Methods for Evaluating Solid Waste* (see 49 FR 38790, October 1, 1984). It was also used to evaluate wastes in a proposed rule on October 23, 1984 (see 49 FR 42587–42593). On February 26, 1985 (50 FR 7882–7900), the Agency published a proposed rule and request for comment, proposing use of the VHS model for evaluating delisting petitions. The model inputs are the waste generation rate, and the toxicant concentrations in the extract. The Agency indicated that the EP toxicity test, the OWEP test (for wastes with oil and grease greater than 1%), or some other leachate test would be used to determine inorganic extract concentrations for input into the VHS model. The Agency further stated in the February 26, 1985 notice that the EP for Oily Wastes would be used for all wastes exceeding an oil and grease content of 1 percent. Comments on the VHS model and modifications to SW–846, including those on the OWEP, were addressed when the final version of the VHS model was published on November 27, 1985, 50 FR 48886–48967). At that time, the Agency specified that petitioners wishing to use another test may request permission from the Agency to use an alternative procedure, pursuant to 40 FR 26021. The Agency also described the OWEP in *Petitions to Delist Hazardous Wastes: A Guidance Manual*, published in April, 1984. The Agency has no tool, other than the OWEP, at the present time, to evaluate metal mobility from oily wastes. The Agency's policy with respect to petition review is to use the best available tools (*i.e.*, leachate tests, models, regulatory standards, etc.) to assist in these evalutions. If these tools were not used, timely review of petitions would be impossible and all action on delisting petitions would cease.

LTV had several criticisms of individual parameters used in the VHS model itself (e.g., the dilution predicted by the model for large volume wastes and the lack of attenuation for metal species). Since the VHS landfill model was made final on November 27, 1985 (see 50 FR 48886, Appendix), and all comments received in the proposal for the model were incorporated, these comments will not be entertained. One point in this regard will be mentioned due to a question raised about state law. The commenter noted that the State of Indiana prohibits landfills from locating cells less than 1,000 feet from a drinking water well and, therefore, the assumption of a receptor 500 feet from the disposal site should be altered. The Agency notes that once delisted there would be no limitation on selecting out-of-state disposal sites.

LTV Steel claimed that hexavalent chromium instead of total chromium should be considered in delistings because it is more mobile in the environment and more toxic. The Agency has already cited its basis for considering total chromium in its analysis (see 51 FR 37308, October 21, 1986). In this proposal the Agency cited studies which have shown that trivalent chromium can convert to hexavalent chromium in the environment. As discussed in the proposal, the trivalent form has the potential to convert to hexavalent chromium under the conditions found in groundwater and soil environments. The Agency has set its chromium water standard and EP toxicity characteristic based on total chromium.

LTV expressed concern that they were not informed of the Agency's decision to deny the petition on the basis of vinyl chloride and benzene. The Agency acknowledges that it failed to inform LTV that the compliance point concentrations, as predicted by one or both versions of the proposed OLM, were of regulatory concern in the denial letter sent to LTV by EPA on July 28, 1986. Nevertheless, LTV was informed of this decision when the Agency published its proposed decision on the LTV petition and has had an opportunity to provide comments. Under HSWA, the Agency must evaluate all Appendix VIII constituents likely to be present in a petitioned waste. Since these organics were detected in the waste (as reported in the petition), the Agency must evaluate these constituents. The final model, using the baseline equation indicates that benzene, but not vinyl chloride, is present in the waste at a level of regulatory concern.

LTV also argued that the detection of vinyl chloride and benzene should be considered an anomaly or, alternatively, the waste generation rate and distance to a well should be adjusted when evaluating the waste for these constituents. However, the upper limit of a 95% confidence interval (based on detected levels in one of four samples, and on the detection limits in the remaining three samples) for benzene data also resulted in a compliance point value exceeding regulatory standards, as discussed in the proposed denial. As discussed above, the compliance point concentration of vinyl chloride does not fail the final version of the OLM. LTV should submit additional sampling and analysis data, which would increase the sample population size, in order to support its anomaly argument. The reasons why the Agency cannot adjust the waste generation rate and distance to a well are discussed in the November 27, 1985, final version of the VHS model.

LTV claims that benzene is not present in any raw materials, additives, or products at their facility. The Agency has reviewed LTV's raw materials data and notes that, other than Quintolubric 957–WV, no other materials are likely to contain benezene. LTV has not presented enough component data on this raw material to determine whether it is likely to contain benzene. Nevertheless, its presence at a concentration of 0.34 ppm in one of four samples indicates there may be a source of benzene at the facility. The Agency cannot ignore the fact that benzene was detected at this level in the waste, regardless of the source.

C. Final Agency Decision

For the reasons stated in the proposal and in the response to comments, the Agency believes that the centrifuge sludge generated by LTV is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to the LTV Steel Company for its dewatered wastewater treatment sludge (centrifuge sludge) resulting from electroplating operations, listed as EPA

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of the mass of metals in the oily fraction, which is added to the mass of metals that leach in the EP step. This accounts for those metals that are initially in the oily fraction that would be available for leaching once that fraction degrades. (Degradation of the oily fraction occurs in landfills although the rate of this degradation is usually much slower than that of a landfarm.)

The second concern is based upon the potential for the oily fraction to migrate from the waste. This could result in the contamination of an aquifer by the oily fraction itself. This would be more likely to occur when the waste is managed in a landfill and the oily fraction is not rapidly degraded. The OWEP addresses this concern by assuming that the contaminants in the oily fraction are added to those that are mobilized through the liquid extraction step of the procedure. Since in the original EP test the oily fraction may not be tested as a liquid due to its inability to pass through the filter during the phase separation step, the ability of the toxicants in the oily fraction to behave as a liquid is not addressed in that test. The OWEP, however, by requiring a separate analysis of the oily fraction, allows for an assessment of the additive effects of groundwater contamination potential from both toxicants contained in the organic fraction and those that mobilize from the solid phase during the extraction step. Since the oil phase from oily metal hydroxide wastes in a landfill scenario can mobilize, the Agency will continue to use the OWEP as a tool to measure the concentrations of inorganic toxicants moving in this fraction.

The Agency, however, intends to initiate a testing program to determine: the percent oil content of various waste matrices that will result in a more accurate measure of the mobility of the oil fraction; and the toxicological implications of the oil itself contaminating underlying aquifers.

Hazardous Waste No. F006, which is generated at its East Chicago, Indiana facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on November 22, 1982 (see 47 FR 52668).

II. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the petitioner included in this notice having its temporary exclusion revoked and final exclusion denied. This facility will have to revert back to handling its wastes as it did before being granted the exclusion (*i.e.*, they must handle their waste as hazardous). The petitioner will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of this temporary exclusion and denial is six months after publication of this final rule in the Federal Register.

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule, which would revoke a temporary exclusion and deny a petition from one facility is not major. The affect of this final rule would increase the overall costs for this facility which currently has a temporary exclusion that is being revoked and denied. The actual cost to this company, however, would not be significant. In particular, in calculating the amount of waste that is generated by this one facility that currently has a temporary exclusion and considering a disposal cost of $300/ton, the increased cost to this facility is approximately $4.5 million, well under the $100 million level constituting a major regulation. This is not a major regulation; therefore, no Regulatory Impact Analysis is required.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects one facility, therefore, the overall economic impact on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 7, 1986.

J. W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–25712 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW-FRL-3110-4]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by five petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262–266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 14, 1987.

ADDRESS: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–MADF-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On November 3, 1986, EPA proposed to deny specific wastes generated by several facilities, including: (1) ITE Electrical Apparatus Division of Siemens Energy and Automation, Inc., located in Spartanburg, South Carolina (see 51 FR 39970); (2) Monroe Auto Equipment Company, located in Cozad, Nebraska (see 51 FR 39972); (3) Harrison Radiator, Division of General Motors Corp., located in Dayton, Ohio (see 51 FR 39982); (4) Harrison Radiator, Division of General Motors Corp., located in Moraine, Ohio (see 51 FR 39985); and (5) American Chrome and Chemicals, located in Corpus Christi, Texas (see 51 FR 39986). The Agency had previously evaluated each of the five petitions which are discussed in today's notice. Based on our review at that time, these five petitioners were granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that all five of the petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by all five petitioning facilities and is revoking the temporary exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

ITE Electrical Apparatus Division of Siemens Energy and Automation, Inc., Spartanburg, South Carolina

Monroe Auto Equipment Company, Cozad, Nebraska

Harrison Radiator, Division of General Motors Corp, Dayton, Ohio
Harrison Radiator, Division of General Motors Corp, Moraine, Ohio
American Chrome and Chemicals, Corpus Christi, Texas,

I. ITE Electrical Apparatus Division of Siemens Energy and Automation, Inc.

A. Proposed Denial

ITE Electrical Apparatus Division of Siemens Energy and Automation, Inc. (ITE), has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by ITE, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[1] (See 51 FR 39970–39972, November 3, 1986, for a more detailed explanation of why the Agency proposed to deny ITE's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to ITE for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the wastewater treatment sludge generated by ITE is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to ITE Electrical Apparatus Division of Siemens Energy and Automation, Inc. for its wastewater treatment sludge as generated, and as held in its impoundments, resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its facility located in Spartanburg, South Carolina. By this action, the Agency also withdraws the temporary exclusion granted for this waste on August 6, 1981 (see 46 FR 40158).

II. Monroe Auto Equipment Company

A. Proposed Denial

Monroe Auto Equipment Company (Monroe) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Monroe, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[2] (See 51 FR 39972–39982, November 3, 1986, for a more detailed explanation of why the Agency proposed to deny Monroe's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Monroe for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the wastewater treatment sludge generated by Monroe is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Monroe Auto Equipment Company for its wastewater treatment sludge as generated, and as held in its impoundments, resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its facility located in Cozad, Nebraska. By this action, the Agency also withdraws the temporary exclusion granted for this waste in December 1982.

III. Harrison Radiator, Division of General Motors Corporation,

A. Proposed Denial

Harrison Radiator, Division of General Motors Corporation, has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Harrison Radiator, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[3] (See 51 FR 39982–39985, November 3, 1986, for a more detailed explanation of why the Agency proposed to deny Harrison Radiator's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Harrison Radiator for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the wastewater treatment sludge generated by Harrison Radiator is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Harrison Radiator, Division of General Motors Corporation for its wastewater treatment sludge as generated, resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its facility located in Dayton, Ohio. By this action, the Agency also withdraws the temporary exclusion granted for this waste in December 1981.

IV. Harrison Radiator, Division of General Motors Corporation

A. Proposed Denial

Harrison Radiator, Division of General Motors Corporation, has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Harrison Radiator, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[4] (See 51 FR 39985–39986, November 3, 1986, for a more detailed explanation of why the Agency proposed to deny Harrison Radiator's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Harrison Radiator for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the wastewater treatment sludge generated by Harrison Radiator is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Harrison Radiator, Division of General Motors Corporation, for its wastewater treatment sludge as generated, resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its facility located in Moraine, Ohio. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 27, 1982.

V. American Chrome and Chemicals

A. Proposed Denial

American Chrome and Chemicals (ACC) has petitioned the Agency to exclude its wastewater treatment sludge

[1] ITE was granted a temporary exclusion for this waste on August 6, 1981 (see 46 FR 40158).

[2] Monroe was granted a temporary exclusion for this waste in December, 1982.

[3] Harrison Radiator was granted a temporary exclusion for this waste in December, 1981.

[4] Harrison Radiator was granted a temporary exclusion for this waste on December 27, 1982.

from EPA Hazardous Waste No. K006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by ACC, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[5] (See 51 FR 39986–39988, November 3, 1986, for a more detailed explanation of why the Agency proposed to deny ACC's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to ACC for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the wastewater treatment sludge generated by ACC is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to American Chrome and Chemicals for its wastewater treatment sludge contained in its impoundments, resulting from the treatment of wastewater from the production of chrome oxide green pigments (anhydrous and hydrous), listed as EPA Hazardous Waste No. K006, which is generated at its facility located in Corpus Christi, Texas. By this action, the Agency also withdraws the temporary exclusion granted for this waste on May 25, 1982.

V. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the five petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of this rule in the **Federal Register.**

[5] ACC was granted a temporary exclusion for this waste on May 25, 1982.

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation, which would revoke temporary exclusions and deny petitions from five facilities is not major. The affect of this rule would increase the overall costs for the facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these five facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $24 million, well under the $100 million level constituting a major regulation. In addition, some of these companies are large and, therefore, the impact of this rule will be relatively small. This rule is not a major regulation; therefore, no Regulatory Impact Analysis is required.

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only affects five facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.)

Dated: November 7, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–25714 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW-FRL-3110-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petition submitted by one petitioner to exclude its solid waste from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 C.F.R. § 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying this petition is that the petitioner has not substantiated its claim that the waste is non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262–266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 14, 1987.

ADDRESSES: The public docket for this final petition denial is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–LTDF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 17, 1986, EPA proposed to deny specific wastes generated by several facilities, including L–TEC Cutting Welding Systems (formerly Union Carbide Corp., Linde Welding Products Division), located in Ashtabula, Ohio

(see 51 FR 37150).[1] The Agency had previously evaluated the petition which is discussed in today's notice. Based on our review at that time, this petitioner was granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, this petition has been evaluated both for the factors for which the waste was originally listed, as well as other factors and toxicants which reasonably could cause the waste to be hazardous. Based upon these evaluations, the Agency has determined that the petitioning facility has not substantiated its claims that the waste is non-hazardous; therefore, the Agency is denying the petition submitted by this petitioning facility and is revoking the temporary exclusion currently held by this facility.

The denial made final here involves the following petitioner: L–TEC Welding and Cutting Systems, Ashtabula, Ohio.

I. L–TEC Welding and Cutting Systems

A. Petition for Exclusion

L–TEC Welding and Cutting Systems (L–TEC) has petitioned the Agency to exclude its wastewater treatment sludges, contained in four on-site impoundments, from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by L–TEC, however, does not substantiate its claim that the listed constituents of concern are essentially present in an immobile form. Furthermore, additional data collected by the Agency indicates that the wastes are hazardous, and should be managed as such. (See 51 FR 37150–37152, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny L–TEC's petition.)

B. Agency Response to Public Comments

The Agency received comments from a single commenter regarding the Agency's proposed decision to deny an exclusion to L–TEC for the wastes identified in the petition. The commenter challenges the Agency's dismissal of L–TEC's analytical data. The commenter also indicates that averaged leachate values should be used in the evaluation of the impounded sludges, since the Agency has chosen to group the impoundment volumes together for purposes of analysis. If a mean value for leachable nickel from each impoundment were used to evaluate each impoundment separately, the commenter states that the VHS model would not predict that the compliance-point concentration would exceed the Agency's standard of 0.35 ppm for nickel in any of the impoundments. Even if the maximum value for leachable nickel for each impoundment was used to evaluate each impoundment separately, the VHS model would predict a compliance-point concentration less than the Agency's standard of 0.35 mg/l for nickel, so long as the volume for each impoundment was used as the input to the VHS model, rather than the volume for all impoundments together. If the mean leachate value for nickel were used to evaluate the total volume of impounded sludge on site, the VHS model would not predict a compliance-point value that would exceed the Agency's standard for nickel. The commenter claims that these methods of evaluation would more accurately represent the volume of waste present in L–TEC's impoundments.

The Agency affirms its belief that the composite samples collected during the Agency's site visit are more representative of the petitioned waste than are L–TEC's samples.[2] It is believed that the Agency's greater effectiveness in reaching and sampling sludges residing on the bottoms of these impoundments has resulted in waste samples which demonstrate higher EP values for nickel. The Agency's sampling visit has produced sludge samples which leach greater concentrations of nickel than did L–TEC's samples, and which exhibit greater variability (as evidenced by a larger range of leachate values and larger standard deviation). In fact, eleven of the Agency's 24 site-visit composite samples will produce compliance-point concentrations for nickel in excess of the Agency's standard for nickel when employed in the VHS model. Since the Agency is concerned that L–TEC's sampling efforts did not fully evaluate the bottom sludges, and the Agency is certain that the site-visit samples did adequately evaluate the bottom sludges, it is reasonable for the Agency to assume that the Agency's samples more accurately represent the waste present in the impoundments.

The Agency rejects the suggestion made by the commenter that we should evaluate these impounded wastes on the basis of individual impoundments. Because of the geographical proximity of the four impoundments to one another, the Agency believes it is reasonable to evaluate the sludges as a unit which will impact the underlying aquifer on a collection basis.[3]

The Agency also states that the use of statistical parameters other than maximum leachate concentrations in the VHS evaluation cannot be justified in this case, due to the small sample size. The Agency does not believe that 48 samples would be adequate to allow the evaluation, using alternative parameters such as the mean or median, of any surface impoundments with a combined surface area of approximately 70,000 ft^2, as L–TEC has.[4] Furthermore, statistical analysis of the distribution of data sets presented by L–TEC and collected by the Agency on its site-visit to L–TEC's facility indicates that these two data sets are significantly different and, therefore, cannot be grouped together into a single data set for purposes of analysis.[5] This statistical finding results in a substantially smaller data set for each impoundment, as well as for the combined impoundments. Because the Agency has a suitable date set of only 24 samples (collected on the site-visit), rather than the 48 samples possible if the sets were allowed to be combined, the Agency believes it is justified in using the maximum leachate values generated from L–TEC's waste in the VHS analysis. The smaller data set is not sufficient to allow use of any other statistical parameter in the evaluation.

The commenter also cited the lack of information in the RCRA public docket for 2-chlorophenol and 2,4-dinitrotoluene, two compounds which were evaluated in the Agency's proposal

[1] In the same Federal Register notice, the Agency also proposed to deny the exclusion of specific wastes generated by the following petitioners: American Telephone and Telegraph, located in North Andover, Massachusetts (see 51 FR 37142); Diamond Shamrock Refining and Marketing Co., located in Sunray, Texas (see 51 FR 37143); Hill Petroleum Co., located in Houston, Texas (see 51 FR 37146); Murphy Oil USA, Inc., located in Superior, Wisconsin (see 51 FR 37152); New Departure Hyatt, located in Sandusky, Ohio (see 51 FR 37154); Virginia Chemicals Inc., located in Bucks, Alabama (see 52 FR 37156); Titan Oil Co., located in Indianapolis, Indiana (see 51 FR 37157); and Virginia Chemicals Inc., located in Leeds, Virginia (see 51 FR 37160). The Agency has addressed these proposed decisions in separate Federal Register notices.

[2] See the Agency's justification given in 51 FR 37151, n. 27 (October 17, 1986).

[3] See 51 FR 37151, n. 29 (October 17, 1986).

[4] See Morse, M., J. Warren, and W. Sproat, 1986. Sampling and analysis for delisting data verification/delisting spot checks. From Proceedings of the Second U.S. EPA Symposium on Solid Waste Testing and Quality Assurance, July 15–18, 1986. Washington, DC (copy provided in public docket for this notice). This paper provides some initial guidance on the factors which the Agency believes may be important in using non-parametric statistical techniques to determine the sample size that will allow the use of values other than the maximum in the VHS analyses. The Agency intends to publish more formal guidance on this issue in the future.

[5] The results of statistical testing used to identify the difference between data sets is in the public docket for this notice

to deny L–TEC's petition. The Agency agrees with the commenter that documentation of the presence of these compounds in L–TEC's waste does not exist, and that the values set forth in Table 5 (51 FR 37152, October 17, 1986) do not reflect the actual concentrations of these compounds in L–TEC's waste. The Agency apologizes for what appears to be a misinterpretation of analytical data which were being generated on the site-visit samples at the time of the original evaluation. These compounds, then, will not serve as a basis for the final evaluation of L–TEC's waste.

C. Final Agency Decision

For the reasons stated in the proposal, and in the Agency's response to public comments, the Agency believes that the impounded electroplating wastewater treatment sludges at L–TEC's facility are hazardous and as such should be regulated under the Federal hazardous waste management program. The Agency believes that the impounded sludges exhibit the potential for nickel to leach from the waste and cause ground water contamination. The Agency, therefore, is denying a final exclusion to L–TEC Welding and Cutting Systems, located in Ashtabula, Ohio, for the wastes contained in four impoundments at its facility. By this action, the Agency also withdraws the temporary exclusion for these wastes. The impounded wastes are considered hazardous and subject to regulation under 40 CFR Parts 262 through 268.

II. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the petitioner included in this notice having its temporary exclusion revoked and final exclusion denied. This facility will have to revert back to handling its wastes as it did before being granted the exclusion (*i.e.*, they must handle their waste as hazardous). This petitioner will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of this temporary exclusion and denial is six months after publication of this final rule in the **Federal Register.**

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule, which would revoke a temporary exclusion and deny a petition from one facility is not major. The affect of this final rule would increase the overall costs for this facility which currently has a temporary exclusion that is being revoked and denied. The actual cost to this company, however, would not be significant. In particular, in calculating the amount of waste that is generated by this one facility that currently has a temporary exclusion and considering a disposal cost of $300/ton, the increased cost to this facility is approximately $2.7 million, well under the $100 million level constituting a major regulation. This is not a major regulation; therefore, no Regulatory Impact Analysis is required.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only affects one facility, therefore, the overall economic impact on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 7, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–25713 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW–FRL–3110–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at four particular generating facilities from the lists of hazardous wastes contained in 40 CFR §§ 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and § 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: November 14, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC., 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–ENEF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. 20460, (202) 382–5096.

SUPPLEMENTAL INFORMATION: On October 15, 1986, EPA proposed to exclude specific wastes generated by four facilities, including: (1) Envirite Corporation, located in Canton, Ohio (see 51 FR 36709); (2) Envirite Corporation, located in Harvey, Illinois (see 51 FR 36714); (3) Envirite Corporation, located in Thomaston, Connecticut (see 51 FR 36718); and Envirite Corporation, located in York, Pennsylvania (see 51 FR 36724). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR Parts 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the wastes were listed. The petitioners have also provided information which has enabled the Agency to determine whether any other

toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final the four proposals and to make our decisions effective immediately. More specifically, today's rule allows all four of these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which has delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Envirite Corporation, Canton, Ohio;
Envirite Corporation, Harvey, Illinois;
Envirite Corporation, Thomaston, Connecticut; and
Envirite Corporation, York, Pennsylvania.

I. Envirite Corporation

A. Proposed Exclusion

Envirite Corporation (Envirite) (previously known as Liqwacon Corporation), located in Canton, Ohio, has petitioned the Agency to exclude its treatment residue from EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, K061, K062, K069, and K100, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Envirite substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Envirite indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36709–36714, October 15, 1986 for a more detailed explanation of why EPA proposed to grant Envirite's petition.)

B. Agency Response to Public Comments

One commenter indicated that section 3010 of RCRA (as amended by HSWA) allows the regulated community six months to come into compliance with the hazardous waste management system. The commenter claimed that since the Agency did not previously specify limitations on trace organics in the temporary exclusion, that affected petitioners should be allowed the opportunity to implement an effective organic prescreening program and develop on-site laboratory capability.

The Agency agrees with the commenter and will implement today only those conditions which involve parameters which were originally part of the limitations of the temporary exclusion (*i.e.*, arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, nickel, and cyanides). The petitioner will have six months from the date of publication of this final rule in the **Federal Register** to satisfy the conditions involving organic parameters in their final conditional exclusion.

The Agency notes that, since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constitutents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Envirite's contingency plan (item #3) have been modified slightly. Envirite will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270.

Compound	Maximum acceptable levels (ppm)
Anthracene	[1] 76.8
1,2-Diphenyl hydrazine	0.001
Methylene chloride	8.18
Methyl ethyl ketone	[2] 326
n-Nitrosodiphenylamine	11.9
Phenol	1,566
Tetrachloroethylene	0.188
Trichloroethylene	0.592

[1] The maximum acceptable level cited in the proposed exclusion was based on a solubility of 0.05 ppm. The Agency currently used a solubility value of to 0.045 ppm during petition evaluation.

[2] The maximum acceptable level for methyl ethyl ketone was reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the residue from the treatment of multiple metal-bearing waste streams from industrial clients is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Envirite for its treatment residue (EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, and K062) currently generated at Envirite's Canton, Ohio facility. The conditions which must be met were outlined in a contingency testing program in the proposed exclusion. The Agency notes that due to insufficient analytical data this exclusion does not apply to EPA

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. Should such a change occur, the facility must treat its waste as hazardous until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

Hazardous Waste Nos. K061, K069, and K100. In addition, this exclusion does not apply to the proposed process additions described in the petition as recovery (including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange), additional sludge drying capacities, and wet air oxidation. If Envirite desires to delist these waste types or implement these process additions, they must submit a new petition providing the necessary analytical data demonstrating the effectiveness of the treatment process in rendering the wastes non-hazardous. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Envirite Corporation

A. Proposed Exclusion

Envirite Corporation (Envirite), (previously known as Liqwacon Corporation), located in Harvey, Illinois, has petitioned the Agency to exclude its treatment residue from EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, K061, K062, K069, and K100, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Envirite substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Envirite indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36714–36718, October 15, 1986 for a more detailed explanation of why EPA proposed to grant Envirite's petition.)

B. Agency Response to Public Comments

See "Agency Response to Public Comments" for the Envirite, Canton, Ohio facility in today's notice.

The Agency notes that the regulatory standards for butyl benzyl phthalate, dibutyl phthalate, and ethyl benzene were reported incorrectly in Table 7 of the proposed exclusion (see 51 FR 36717). The regulatory standards for butyl benzyl phthalate, dibutyl phthalate, and ethyl benzene are 9, 3.5, and 3.5 ppm, respectively. In addition, the Agency notes that the predicted leachate concentration using the baseline equation of the Organic Leachate Model for bis(2-ethyl hexyl)phthalate and di-n-octyl phthalate should have been reported in the proposed exclusion as 0.0071 and 0.0044 ppm, respectively. The calculated compliance point concentrations for bis(2-ethyl hexyl)phthalate and bi-n-octyl phthalate should have been reported as 0.0011 and 0.0007 ppm, respectively. The Agency notes that these calculated compliance point concentrations are below the Agency's regulatory standards for these two constituents and, therefore, these constituents are not of regulatory concern.

The Agency notes that, since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constitutents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Envirite's contingency plan (item #3) have been modified slightly. Envirite will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270.

Compound	Maximum acceptable levels (ppm)
Anthracene	[1] 76.8
1,2-Diphenyl hydrazine	0.001
Methylene chloride	8.18
Methyl ethyl ketone	[2] 326
n-Nitrosodiphenylamine	11.9
Phenol	1,566
Tetrachloroethylene	0.188
Trichloroethylene	0.592

[1] The maximum acceptable level cited in the proposed exclusion was based on a solubility of 0.05 ppm. The Agency currently used a solubility value of 0.045 ppm during petition evaluation.

[2] The maximum acceptable level for methyl ethyl ketone was reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes what the residue from the treatment of multiple metal-bearing waste streams from industrial clients is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Envirite for its treatment residue (EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, and K062) currently generated at Envirite's Harvey, Illinois facility. The conditions which must be met were outlined in a contingency testing program in the proposed exclusion. The Agency notes that due to insufficient analytical data this exclusion does not apply to EPA Hazardous Waste Nos. K061, K069, and K100. In addition, this exclusion does not apply to the proposed process additions described in the petition as recovery (including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange), additional sludge drying capacities, and wet air oxidation. If Envirite desires to delist these waste types or implement these process additions, they must submit a new petition providing the necessary analytical data demonstrating the effectiveness of the treatment process in rendering the wastes non-hazardous. (The Agency notes that the exclusion remains in effect unless the waste varies from the originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process.[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

III. Envirite Corporation

A. Proposed Exclusion

Envirite Corporation (Envirite), (previously known as Liqwacon Corporation), located in Thomaston, Connecticut, has petitioned the Agency to exclude its treatment residue from EPA Hazards Waste Nos. F006, F007, F008, F009, F011, F012, F019, F002, K003, K004, K005, K006, K007, K008, K061, K062, K069, and K100, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Envirite substantiate their claim that the listed constitutents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Envirite indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36718–36724, October 15, 1986 for a more detailed explanation of why EPA proposed to grant Envirite's petition.)

B. Agency Response to Public Comments

See "Agency Response to Public Comments" for Envirite, Canton, Ohio facility in today's notice.

[3] See footnote 1.

[4] See footnote 1.

The Agency notes that the regulatory standard for methylene chloride was reported incorrectly in Table 12 of the proposed exclusion (see FR 36722). The regulatory standard for methylene chloride is 0.056 ppm. The Agency further notes that the constituent methyl isobutyl ketone was omitted from Table 12. The predicted leachate concentration using the baseline equation of the Organic Leachate Model, the calculated compliance point concentration, and the regulatory standard for methyl isobutyl ketone, are, respectively, 0.079, 0.012, and 2 ppm. The Agency notes that the calculated compliance point concentration for methyl isobutyl ketone does not exceed the Agency's regulatory standard and, therefore, this constituent is not of regulatory concern.

The Agency notes that, since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constituents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Envirite's contingency plan (item #3) have been modified slightly. Envirite will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270.

Compound	Maximum acceptable levels (ppm)
Anthracene	[1] 76.8
1,2-Diphenyl hydrazine	0.001
Methylene chloride	8.18
Methyl ethyl ketone	[2] 326
n-Nitrosodiphenylamine	11.9
Phenol	1,566
Tetrachloroethylene	0.188
Trichloroethylene	0.592

[1] The maximum acceptable level cited in the proposed exclusion was based on a solubility of 0.05 ppm. The Agency currently uses a solubility value of to 0.045 ppm during petition evaluation.
[2] The maximum acceptable level for methyl ethyl ketone was reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the residue from the treatment of multiple metal-bearing waste streams from industrial clients is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Envirite for its treatment residue (EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, and K062) from its original waste treatment system and the proposed solids treatment system currently generated at Envirite's Thomaston, Connecticut, facility. The conditions which must be met were outlined in a contingency testing program in the proposed exclusion. The Agency notes that due to insufficient analytical data this exclusion does not apply to EPA Hazardous Waste Nos. K061, K069, and K100. In addition, this exclusion does not apply to the proposed process additions described in the petition as recovery (including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange), additional sludge drying capacities, and wet air oxidation. If Envirite desires to delist these waste types or implement these process additions, they must submit a new petition providing the necessary analytical data demonstrating the effectiveness of the treatment process in rendering these wastes non-hazardous. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[5] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

IV. Envirite Corporation

A. Proposed Exclusion

Envirite Corporation (Envirite), (previously known as Liqwacon Corporation), located in York, Pennsylvania, has petitioned the Agency to exclude its treatment residue from EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, K061, K062, K069, and K100, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Envirite substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Envirite indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36724–36728, October 15, 1986 for a more detailed explanation of why EPA proposed to grant Envirite's petition.)

B. Agency Response to Public Comments

See "Agency Response to Public Comments" for Envirite, Canton, Ohio facility in today's notice.

[5] See footnote 1.

The Agency notes that the constituent methylene chloride was reported incorrectly in Table 3 of the proposed exclusion (see 51 FR 36726) as "methgyl chloride." The Agency also notes that the predicted leachate concentration using the baseline equation of the Organic Leachate Model and the calculated compliance point concentration for ethyl benzene should have been reported as 0.0041 and 0.0006 ppm, respectively. The calculated compliance point concentration for ethyl benzene does not exceed the Agency's regulatory standard and, therefore, this constituent is not of regulatory concern.

The Agency notes that, since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constituents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Envirite's contingency plan (item #3) have been modified slightly. Envirite will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270.

Compound	Maximum acceptable levels (ppm)
Anthracene	[1] 76.8
1,2-Diphenyl hydrazine	0.001
Methylene chloride	8.18
Methyl ethyl ketone	[2] 326
n-Nitrosodiphenylamine	11.9
Phenol	1,566
Tetrachloroethylene	0.188
Trichloroethylene	0.592

[1] The maximum acceptable level cited in the proposed exclusion was based on a solubility of 0.05 ppm. The Agency currently uses a solubility value of 0.045 ppm during petition evaluation.
[2] The maximum acceptable level for methyl ethyl ketone was reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the residue from the treatment of multiple metal-bearing waste streams from industrial clients is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Envirite for its treatment residue (EPA Hazardous Waste Nos. F006, F007, F008, F009, F011, F012, F019, K002, K003, K004, K005, K006, K007, K008, and K062) from its original waste treatment system and the proposed solids treatment system currently generated at Envirite's York, Pennsylvania facility. The conditions which must be met were outlined in a contingency testing program in the

proposed exclusion. The Agency notes that due to insufficient analytical data this exclusion does not apply to EPA Hazardous Waste Nos. K061, K069, and K100. In addition, this exclusion does not apply to the proposed process additions described in the petition as recovery (including crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange), additional sludge drying capacities, and wet air oxidation. If Envirite desires to delist these waste types or implement these process additions, they must submit a new petition providing the necessary analytical data demonstrating the effectiveness of the treatment process in rendering these wastes non-hazardous. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[6] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

V. Effective Date

This rule is effective immediately, inlcuding the testing requirements for heavy metals and cyanide. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case for heavy metals and cyanide testing since the petitioner has had ample time to prepare this condition. Accordingly, the rule and the testing conditions for heavy metals and cyanide are effective immediately. These reasons also provide a basis for making this portion of this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. § 553(d). This is not the case, however, for the four facilities included in this notice with respect to the conditional testing requirements for organics. These facilities will need some time to implement an effective organic prescreening program and develop on-site laboratory capability. Accordingly, the effective date of the organic testing conditions is six months after the publication of this rule in the **Federal Register.**

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

VIII. List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 6, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to tables 1 and 2 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * * * *
Envirite Corporation.	Canton, Ohio; Harvey, Illinois; Thomaston, Connecticut; and York, PA.	Dewatered wastewater sludges (EPA Hazardous Waste No. F006) generated from electroplating operations; spent cyanide plating solutions (EPA Hazardous Waste No. F007) generated from electroplating operations; plating bath residues from the bottom of plating baths (EPA Hazardous Waste No. F008) generated from electroplating operations where cyanides are used in the process; spent stripping and cleaning bath solutions (EPA Hazardous Waste No. F009) generated from electro-plating operations where cyanides are used in the process; spent cyanide solutions from salt bath pot cleaning (EPA Hazardous Waste No. F011) generated from Metal heat treating operations; quenching wastewater treatment sludges (EPA Hazardous Waste No. F012) generated from metal heat treating where cyanides are used in the process; wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1,2-diphenyl hydrazine exceeds 0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 and 265 and the permitting standards of 40 CFR Part 270. (4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using GC/MS analysis for the compounds listed in #3 above as well as the remaining organics on the priority pollutant list. (See 47 FR 52309 November 19, 1982, for a list of the priority pollutants.)

[6] See footnote 1.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(5) The data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail semi-annually. The Agency will review this information and if needed will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above are not required until six months from the date of promulgation. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at these facilities applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition. The exclusion does not apply to the proposed process additions described in the petition as recovery including crystalization, electrolytic metals recovery, evaporative recovery, and ion exchange.

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
Envirite Corporation	Canton, Ohio; Harvey, Illinois; Thomaston, Connecticut; and York PA.	Spent pickle liquor (EPA Hazardous Waste No. K062) generated from steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332); wastewater treatment sludge (EPA Hazardous Waste No. K002) generated from the production of chrome yellow and orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K003) generated from the production of molybdate orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K004) generated from the production of zinc yellow pigments; wastewater treatment sludge (EPA Hazardous Waste No. K005) generated from the production of chrome green pigments; wastewater treatment sludge (EPA Hazardous Waste No. K006) generated from the production of chrome oxide green pigments (anhydrous and hydrated); wastewater treatment sludge (EPA Hazardous Waste No. K007) generated from the production of iron blue pigments; oven residues (EPA Hazardous Waste No. K008) generated from the production of chrome oxide green pigments after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm, or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR 270. (3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1,2-diphenyl hydrazine exceeds 0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using GC/MS analysis for the compounds listed in #3 above as well as the remaining organics on the priority pollutan list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail semi-annually. The Agency will review this information and if needed will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until six months from the date of promulgation. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at these facilities applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition. The exclusion does not apply to the proposed process additions described in the petition as recovery, including crystalization, electrolytic metals recovery, evaporative recovery, and ion exchange.

[FR Doc. 86–25706 Filed 11–13–86; 8:45am]
BILLING CODE 6560–50–M

40 CFR Parts 712 and 716

[OPTS–82031; FRL–3109–6]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its Nineteenth Report to EPA recommended that EPA give priority consideration to four chemical substances in determining whether to require testing under section 4 of the Toxic Substances Control Act (TSCA). To assist EPA in its determination of which, if any, tests are needed for these substances, EPA is adding the four chemical substances to two information gathering rules: The TSCA section 8(a) Preliminary Assessment Information rule (PAIR), and the TSCA section 8(d) Health and Safety Data Reporting Rule. The substances being given priority consideration are: 2-Butanone, oxime, CAS No. 96–29–7; 2-Propanol, CAS No. 67–63–0; Propane, 2-methoxy-2-methyl-, CAS No. 1634–04–4; Acetamide, N-[5-[bis[2-(acetyoxy)ethyl]-amino]-2-[(2-bromo-4,6-dinitrophenyl) azo]-4-ethoxyphenyl]-, CAS No. 3956-55-6.

DATE: This rule shall become effective on December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, DC 20460 (202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA substances and mixtures to be given priority consideration in requiring testing under section 4(a). For some of these substances the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the substance or issue for publication in the **Federal Register** its reasons for not doing so. Elsewhere in today's **Federal Register**, EPA is announcing the receipt of the Nineteenth Report of the ITC, which was transmitted to EPA on October 31, 1986. The Nineteenth Report revises and updates the Committee's priority list of chemicals and adds four substances to the section 4(e) priority list. This rule adds these substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule which will require reporting of volume, and use, exposure, and unpublished health and safety data to EPA. In addition, one chemical substance which had been recommended with intent-to-designate

by the ITC in its Eighteenth Report, phosphoric acid, tributyl ester, CAS No. 126–73–8, is now designated for response within 12 months. This revision does not trigger any new reporting requirements because following the recommendation with intent-to-designate, phosphoric acid, tributyl ester, was added to the PAIR and the section 8(d) Health and Safety Data Reporting Rule, as published in the **Federal Register** of May 19, 1986 (51 FR 18323).

To assist the Agency in responding to ITC recommendations, EPA has developed two model information gathering rules which provide for the "automatic" addition of ITC priority list substances. Whenever EPA announces the receipt of an ITC report, EPA may, at the same time without notice and comment, amend the two model information gathering rules by adding the recommended substances. The amendment adding these substances to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication.

EPA issued PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR Part 712. This model section 8(a) rule established standard reporting requirements for manufacturers and importers of the chemicals listed in the rule. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA uses this model section 8(a) rule to gather current information on substances of concern quickly.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR Part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemical substances and mixtures to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacturer, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

II. Chemicals To Be Added

The newly added ITC priority list substances for which reporting is required under 40 CFR Parts 712 and 716 are listed below by ascending Chemical Abstract Service (CAS) Registry Number:

CAS No.	Name
96–29–7	2-Butanone, oxime
67–63–0	2-Propanol
1634–04–4	Propane, 2-methoxy-2-methyl-
3956–55–6	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]-amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]-

III. Reporting Requirements

A. Preliminary Assesstment Information Rule

All persons who manufactured or imported the chemicals named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each chemical and submitted to the Agency no later than February 12, 1987. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA should read § 712.30(a)(3). This section allows these persons to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this submission accepted in lieu of a current data submission.

Complete details of the reporting requirements, including exemptions and a facsimile of the reporting form, are fully described in 40 CFR Part 712. Copies of the form are available from the TSCA Assistance Office at the address which precedes Unit I.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA:

A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process; or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

Detailed guidance for reporting unpublished health and safety data is provided in 40 CFR Part 716. Also found in Part 716 are the reporting exemptions.

C. Removal of Chemicals From the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to the Agency in detail the reasons for that belief. EPA may then remove the substance from this rule. When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the **Federal Register**.

IV. Release of Aggregate Data

The Agency will follow procedures for the release of aggregate statistics as prescribed in a rule related notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be

received by EPA no later than February 12, 1986.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $58,220. To calculate this figure EPA used the TSCA Inventory to generate a list of manufacturers and importers of these substances. Twenty companies operating at approximately 59 sites were identified as potential manufacturers and 30 companies were identified as potential importers of these substances. Since 18 of these companies qualify as small businesses as defined in 40 CFR 712.25(c), EPA estimates that 32 firms may be required to report a total of 41 reports.

Reporting cost:	
(a) 41 reports expected at $774/report	$31,734
(b) 41 familiarization cases at $636/case	$26,486
Total	$58,220
(Average cost per site, $1,420; average cost per firm $1,819)	
Reporting burden (hours):	
(a) Familiarization (18 hours per site times 41 sites/importers)	738
(b) Reporting (16 hours per report times 41 reports)	656
Total	1,394
EPA cost: Processing cost=($87/report times 41 reports)	$3,567

As previously noted, small manufacturers are exempt from reporting requirements. According to available data, 18 firms could be exempted from reporting requirements. Thus, the small manufacturer exemption reduces the reporting costs burden of this rule by approximately $25,560 [18 sites times ($774+$646)].

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for these substances is $25,954. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the data is not current. Therefore, EPA intends to overestimate rather than underestimate the reporting burden.

Nevertheless, the cost of this proposed rule is low in comparison with its potential benefits. Health and safety studies concerning these substances would improve EPA's ability to identify potential public health and environmental problems with regard to these chemicals. The Agency therefore would be better able to determine whether further regulatory action would be necessary.

The estimated reporting costs are broken down as follows:

Initial corporate review	$15,300
Site identification	1,836
File searches at affected sites	3,564
Title listing	228
Photocopying	742
Managerial review	3,672
Ongoing reporting	612
Total	25,954

VI. Rulemaking Record

The following documents constitute the public record for this rule (docket control number OPTS–82031). All of these documents are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. NE-G004, 401 M St., SW., Washington, DC.

1. This final rule.
2. The economic analyses for this rule.
3. The Nineteenth Report of the Interagency Testing Committee.

VII. Regulatory Assessment Requirements

A. Exective Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) review, because the automatic listing of designated substances is provided for in 40 CFR 712.30(c) and 716.18(b)—final rules which have been previously reviewed by OMB under the terms of the Executive Order.

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control numbers 2070–0054 and 2070–0004.

List of Subjects in 40 CFR Parts 712 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: November 5, 1986.

Joseph J. Merenda,

Existing Chemical Assessment Division, Office of Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In Part 712:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding paragraph (t) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(t) A Preliminary Assessment Information Manufacturer's Report must be submitted by February 12, 1986, for each substance listed below.

CAS No.	Name
96–29–7	2-Butanone, oxime
67–63–0	2-Propanol
1634–04–4	Propane, 2-methoxy-2-methyl-
3956–55–6	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]-

* * * * *

PART 716—[AMENDED]

2. In Part 716:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. By adding substances to paragraph (a)(1) numerically by CAS Number, and alphabetically to paragraph (a)(2) of § 716.120 to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

(1) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
*	* * * * *	*	*	
67–63–0	2-Propanol		Dec. 15, 1986	Dec. 15, 1996

CAS No.	Substance	Special exemptions	Effective date	Sunset date
96-29-7	2-Butanone, oxime		Dec. 15, 1986	Dec. 15, 1996
1634-04-4	Propane, 2-methoxy-2-methyl-		Dec. 15, 1986	Dec. 15, 1996
3956-55-6	Acetamide, *N*-[5-[bis[2-(acetyloxy) ethyl]amino]-2-[(2-bromo-4,6-dinitrophenol)azo]-4-ethoxyphenyl]-.		Dec. 15, 1986	Dec. 15, 1996

(2) * *

Substance	CAS No.	Special exemptions	Effective date	Sunset date
Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenol)azo]-4-ethoxyphenyl]- .	3956-55-6		Dec. 15. 1986	Dec. 15, 1996
2-Butanone, oxime	96-29-7		Dec. 15. 1986	Dec. 15, 1996.
Propane, 2-methoxy-2-methyl-	1634-04-4		Dec. 15. 1986	Dec. 15, 1996.
2-Propanol	67-63-0		Dec. 15. 1986	Dec. 15, 1996.

(Approved by the Office of Management and Budget under control number 2070-0004)

[FR Doc. 25581 Filed 11-13-86; 8:45 am]

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40 CFR Parts 790 and 799

[OPTS-42052C; FRL 3113-3]

Testing Consent Agreement Development for Chemical Substances; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public meetings.

SUMMARY: EPA has issued an Interim Final Rule that amends EPA's regulations for the development and implementation of testing requirements under section 4 of the Toxic Substances Control Act (TSCA). These amendments provide for testing under consent agreements when EPA and affected manufacturers, processors, and other interested parties achieve timely consensus on appropriate testing programs. EPA will conduct one or more public meetings to discuss the implementation of the consent agreement process to date and ways to make it more effective.

DATES: The first meeting will be held November 20, 1986. Those interested in attending any of these meetings should contact the TSCA Assistance Office address before November 19, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office, Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION: Under section 4 of TSCA, EPA is authorized to promulgate rules requiring manufacturers and processors to test chemicals they manufacture or process. From 1980 though 1983, EPA negotiated agreements with industry to have testing of certain chemicals conducted voluntarily as an alternative to the lengthier process of requiring testing by rule. In 1983, EPA was sued by the Natural Resources Defense Council (NRDC vs. Ruchelshaus, 83 Civ 8844, S.D.N.Y.) on the basis that these negotiated testing agreements were not equivalent to rules and therefore illegal. The court agreed with NRDC. In 1985, NRDC and the Chemical Manufacturer's Association (CMA) suggested to EPA that a procedure be developed that would permit negotiations while preserving the key features of section 4 test rules such as enforceability.

Subsequently, EPA, CMA, and NRDC developed such a procedure in a series of public meetings. This new approach would permit negotiation between EPA, industry, and other interested parties to culminate in a consent order in which test sponsors would be subject to civil penalties if they failed to perform the agreed-upon testing. Such consent agreements would be adopted by EPA only where all interested parties agreed upon an appropriate testing program in a timely manner. Otherwise, EPA would proceed with rulemaking if it remained convinced that testing should be required. This procedure was adopted by EPA in an interim final procedural rule, published in the **Federal Register** of June 30, 1986 (51 FR 23706). EPA stated it would gain experience in using the procedure and base the final rule on both public comment and its experience. The negotiation procedure now has been used with several chemicals including 2-ethylhexanol, 3,4-dichlorobenzotrifluoride, cyclohexane, anilines, and 2,6-di *tertiary* butylphenol.

CMA has recently voiced concerns to EPA about how the procedure is working. CMA feels the procedure, as currently being implemented by EPA, does not offer enough opportunity for free exchange of ideas and exploration of options. EPA believes that issues, especially those relating to exposure to the subject chemicals, may need to be raised earlier in the discussion process to provide such flexibility. In response to these concerns, EPA will hold one or more public meetings to obtain views of interested parties on the implementation of the consent order negotiation process and ways to make it more effective.

Anyone wishing to participate in or be informed of these meetings should contact the TSCA Assistance Office as soon as possible. The first meeting will be held on November 20, 1986.

Dated: November 12, 1986.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86-25871 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-SO-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 406, 408, 409, 410, 421, 431, 433, 435, and 489

[BERC-360-FC]

Medicare and Medicaid Programs; Miscellaneous Conforming Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These rules conform certain regulations to statutory changes enacted since those regulations were last published. Some of the statutory changes were self-executing, and some have been implemented through amendments to other regulations. These rules also clarify and correct the regulations that are being conformed.

These changes are necessary to achieve internal consistency and to ensure that users of the regulations are not misled or confused by language that does not accurately reflect current statutory provisions and current HCFA policies.

DATES: 1. These amendments are effective on December 15, 1986.

2. We will give consideration to comments received by January 13, 1987.

ADDRESSES: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-360-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you comment on information collection requirements, please send a copy of those comments directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BERC-360-FC.

Comments will be available for public inspection as they are received, beginning approximately three weeks from today, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias, (202) 245-0383.

SUPPLEMENTARY INFORMATION: These amendments conform HCFA regulations to statutory changes enacted since the particular sections were last published. Many of the statutory changes are self-executing, that is, are so clear and specific that their provisions can be put into effect without further elaboration through formal rules. Others have been implemented through changes in the basic regulations for each particular policy area. In both cases, it is desirable to conform related regulations so that users will not be misled or confused by content that fails to reflect changes that have already been made in statutes or other regulations. When the regulations that need to be conformed contain outdated material, confusing language, or incorrect cross-references, we have also revised them to clarify and correct.

Most of the statutory provisions reflected in the conforming amendments are contained in four laws:

1. The Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) of December 5, 1980.

2. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) of August 13, 1981.

3. The Tax Equity and Fiscal Responsibility Act (Pub. L. 97-248) of September 3, 1982.

4. The Deficit Reduction Act of 1984 (Pub. L. 98-369) of July 18, 1984.

Other laws are identified where appropriate.

The conforming changes were needed primarily for the Medicare supplementary medical insurance (SMI) program. Accordingly, it is the SMI regulations in Subpart B of 42 CFR Part 405 (most of which were last published between 1971 and 1978) that have undergone the most extensive revision.

In 1983 we published final regulations (48 FR 12526 of March 25, 1983) that established two new parts: Part 408—Medicare Eligibility and Entitlement, and Part 409—Medicare Benefits, Limitations, and Exclusions. We used the new parts to simplify and clarify hospital insurance rules and to incorporate changes required by 13 statutory provisions enacted after those rules were published.

To continue this reorganization of our Medicare rules, which aims to assign a separate part for each major aspect of the program, we have made the following changes:

- Part 408 is redesignated as Part 406—Hospital Insurance Eligibility and Entitlement.
- Part 407 is reserved for SMI Eligibility, Enrollment, and Entitlement.
- Part 408 is reserved for SMI premiums.
- (Part 409 remains unchanged but would be limited to its current content: hospital insurance benefits).
- The rules pertaining to SMI benefits are redesignated as a new Part 410.
- Part 411 is reserved for Exclusions from Medicare Payment.

The principal statutory and policy changes and the corresponding conforming changes in the regulations are discussed below in relation to specific program and policy areas.

I. Medicare Program

A. Home Health Services

1. Statutory Provisions (Pub. L. 96-499 of 1980)

Section 930 affects home health services, which are covered under both Medicare Part A hospital insurance and Medicare Part B supplementary medical insurance. Section 930—

- Removed the 100-visit limitation.
- Removed the requirement, previously applicable under Medicare Part A, that the beneficiary must have had previous hospital care for the condition for which home health services were needed.
- Exempted home health services from the Part B annual deductible.

2. Conforming Changes

- To reflect the repeal of the 100-visit limitation and of the requirement for previous hospitalization, we removed §§ 405.233, 405.239, and 409.45, and revised redesignated § 406.2 (formerly § 408.2), current § 409.43, and redesignated § 410.85 (formerly § 405.238). In revising § 409.43, we also made paragraph (a) consistent with the paragraph (b) examples, which remain unchanged.
- We also revised the redesignated § 410.160 (formerly § 405.245) to specify that the Part B deductible no longer applies to home health services.

B. Expanded Coverage

1. Statutory Provisions

a. Section 1 of Pub. L. 96-611 of September 28, 1980 provided coverage for pneumococcal pneumonia vaccine and its administration, to the extent that it is reasonable and necessary to prevent illness.

b. Sections 936 and 937 of Pub. L. 96-499 of December 5, 1980 broadened Part B (SMI) coverage (1) to include certain additional services furnished by dentists, and extend coverage of inpatient hospital care in connection with dental procedures to situations in which hospitalization is required

because of the severity of the dental procedures; and (2) to include certain additional services furnished by optometrists.

c. Section 114(b) of Pub. L. 97–248 of September 3, 1982 added section 1861(s)(2)(H) to the Medicare statute to provide for coverage of services furnished to an enrollee of a participating health maintenance organization (HMO) or competitive medical plan (CMP), by a physician assistant or a nurse practitioner, or as incident to those services, if the services would be covered if furnished by a physician or as incident to a physician's services.

d. Sections 2322 through 2324 of Pub. L. 98–369 of July 18, 1984 provide for Medicare Part B coverage of—

(1) Services furnished to an enrollee of an HMO or CMP that participates in Medicare under a risk-sharing contract, by a clinical psychologist (as defined by the Secretary), and services incident to those services, if the services would be covered if furnished by a physician or as incident to a physician's services;

(2) Hepatitis B vaccine, administered to individuals who are at high or intermediate risk of contracting Hepatitis B; and

(3) Blood clotting factors furnished to hemophilia patients who are competent to use them to control bleeding without medical or other supervision, and items related to the administration of those factors.

e. Section 2325 of that same law requires the Secretary to provide that Medicare Part B payment will not be made for treatment of mycotic toenails that is performed more frequently than every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

The provisions for coverage of services of clinical psychologists to HMO and CMP enrollees, hepatitis B vaccine, and blood clotting factors are not entirely self-executing. We are required to define clinical psychologist, identify who are at "intermediate and high risk" of contracting Hepatitis B and define "competence to use blood clotting factors without supervision". The definition of clinical psychologist was included in final rules published on January 10, 1985 (50 FR 1314). The Hepatitis B vaccine and blood clotting factors provisions are dealt with in other regulations not yet published. The limitation on treatment of mycotic toenails had been imposed administratively in February 1984, before the statutory amendment to the same effect was enacted.

2. Conforming Changes

With one exception, the provisions that are self-executing or have been implemented as discussed above, are reflected in §§ 410.23, 410.24, 410.57, and 410.58, respectively. The limitation on treatment of mycotic toenails appears in § 405.310(1) under the exceptions to the exclusion of routine foot care.

C. Basis for Payment

1. Statutory Provisions

a. Section 233 of the Social Security Amendments of 1972 (Pub. L. 92–603) amended sections 1814(b) and 1833(a)(2) of the Act to provide that, subject to applicable deductible and coinsurance—

- Medicare payment to a "provider of services" shall generally be made on the basis of reasonable cost or customary charges, whichever is less; and
- As an exception, payment to a public provider that furnishes services free of charge or at a nominal charge to the public shall be on the basis of "fair compensation". (§ 405.455(e) of the Medicare rules defines "fair compensation" as reasonable cost.)

b. Section 2308(b) of Pub. L. 98–369, and technical amendments made by section 3(b) of Pub. L. 98–617, extended the fair compensation provision to nonpublic "providers of service" that furnish services free of charge or at a nominal charge to the public, if they demonstrate that a significant portion of their patients are low-income, and request that payment be made to them accordingly.

c. Section 942 of Pub. L. 96–499 revised the section 1833(a)(2) formula for Medicare Part B payment to a "provider of services" for most "medical and other health services".

The previous formula was 80 percent of the lesser of reasonable cost and customary charges, subject to the Part B deductible.

The new formula is the lesser of the following:

- 80 percent of the reasonable cost of the services.
- The reasonable cost of, or the customary charges for, the services, whichever is less, minus 20 percent of the customary (insofar as reasonable) charge for the services.

(Section 942 did not change the payment provisions for public providers.)

2. Conforming Changes

Although the earlier provisions were implemented by other regulations dealing with reimbursement, for the sake of clarity, some of that content is also reflected in these rules.

- A definition of "nominal charge provider" is added to §§ 409.3 and 410.2.
- Sections 409.61(d) and 489.30(a) are revised.
- In § 410.152, the content of §§ 405.240, 405.241, and 405.244 is revised to reflect statutory changes.

D. Payment for Particular Services

1. Statutory Provisions

a. *Outpatient physical therapy.* Section 935 of Pub. L. 96–499 increased, from $100 to $500 per calendar year, the amount of expenses incurred for outpatient physical therapy services furnished by a physical therapist in independent practice that may be recognized in determining amount of Medicare payment.

b. Pneumococcal vaccine. Section 1 of Pub. L. 96–611 and a later technical amendment made by section 112 of Pub. 97–248 provide for 100 percent reimbursement for pneumococcal vaccine and its administration when reasonable and necessary for the prevention of illness.

c. Radiology and pathology. Conversely, section 112 of Pub. L. 97–248 made the coinsurance provision (that is, reimbursement at 80 percent instead of 100 percent) applicable to physicians' services furnished to hospital inpatients by physicians in the field of radiology or pathology.

d. Durable medical equipment (DME)

- Section 245 of Pub. L. 92–603 (the Social Security Amendments of 1972) amended section 1833(f) of the Act of authorize the Secretary to waive the 20 percent coinsurance applicable to durable medical equipment furnished as a "medical or other health service" under Medicare Part B whenever the equipment is used equipment obtained at a price at least 25 percent less than the reasonable charge for comparable new equipment.
- Section 2321 of Pub. L 98–369 amended sections 1814, 1833, 1861, and 1866 of the Act and redesignated section 1833(f) as section 1889. The amendments substitute the term "durable medical equipment" for all references to "medical appliances" and modify the rules for payment of this benefit by requiring a 20 percent copayment by the beneficiary who receives durable medical equipment as a home health service under Part A or B. Before the effective date of section 2321 (July 18, 1984), the copayment requirement applied to DME furnished on an outpatient basis by any provider or supplier other than a home health agency. The exemption for used DME continues in effect in section 1889 (b) of

the Act for used DME furnished as a Part B home health service.

2. Conforming Changes

a. Section 410.60 shows the increase from $100 to $500.

b. Redesignated § 410.152 (Amount of payment) and revised § 489.30 (Deductibles and coinsurance) reflect the other changes discussed above.

Note.—There have also been statutory changes that affect payment for services of independent laboratories and physician laboratories. Those changes are being implemented by other regulations (file code BERC–309–P) that would amend Subparts D and E of Part 405 of the Medicare rules. If necessary, Part 401 will be amended later, to reflect whatever final changes are made by BERC–309–F.

E. Changes Made by Other Regulations

1. Provisions of the Other Regulations

a. Ambulatory surgical center (ASC) services. Regulations published on August 5, 1982 (47 FR 34082) implemented section 934 of Pub. L. 96–499 which provides for SMI coverage and reimbursement of ambulatory surgical services.

b. Comprehensive outpatient rehabilitation facility (CORF) services. Regulations published on December 15, 1982 (47 FR 56282) implemented section 933 of Pub. L. 96–499, to provide for SMI coverage and reimbursement of CORF services. These regulations, in revising § 405.230, unintentionally omitted a rule on payment for renal dialysis services.

c. Renal dialysis services. Regulations published on May 11, 1983 (48 FR 21254) implemented section 2145 of Pub. L. 97–35, to establish, effective August 1, 1983, a method for prospective reimbursement of dialysis services to patients with end-stage renal disease (ESRD).

2. Conforming Changes

- Rules pertaining to payment for the three services discussed above are included in redesignated § 410.152—Amounts of payment.
- Redesignated § 410.150(b)(1) restores the omitted rule identified under item 1.b. above.
- In connection with payment for renal dialysis services, we removed §§ 405.690 and 405.691 because they became obsolete when prospective payment went into effect on August 1, 1983. (The removed sections provided that ESRD facilities could enter into agreements to receive special types of payment for home dialysis services.)

F. Medicare Part B (SMI) Deductibles

1. Statutory Provisions (Pub. L. 97–35)

- Section 2133 repealed the provision in the Social Security Act that permitted beneficiaries to count expenses incurred in the fourth quarter of a calendar year in meeting the Medicare Part B deductible for the following year. The provision was effective with the deductible for the calendar year 1982, with respect to expenses incurred on or after October 1, 1981.
- Section 2134 increased the Medicare Part B annual deductible from $60 to $75, effective beginning with calendar year 1982.
- Regulations published on March 25, 1983 (48 FR 12526) clarified policy regarding the blood deductible for Medicare Part A.

2. Conforming Changes

Section 410.160 reflects the statutory changes in the annual deductible. Section 410.161 incorporates by reference the content of § 409.87, the Part A blood deductible policy that applies equally to blood that is furnished by a hospital on an outpatient basis under Part B. Section 409.87, published on March 25, 1983, after notice and opportunity for public comment, reflects policy that has been in effect in practice since 1979 but had never been included in the regulations. Section 409.87 provides, in summary—

(a) That only whole blood or packed red cells are subject to the deductible;

(b) That the beneficiary is responsible for the first three units of whole blood or packed red cells; and

(c) That the hospital may not charge the beneficiary or third party for blood that is obtained at no charge other than a processing or service charge, or if the hospital or the hospital's blood supplier has received a replacement or replacement offer that meets the following two conditions:

(1) The replacement blood would not endanger the health of the recipient.

(2) The donor's health would not be endangered by making the blood donation.

Section 410.161 also specifies that, if the blood is supplied by a physician, clinic, or other supplier, the supplier who has accepted assignment of the beneficiary's claim may charge the beneficiary the reasonable charge for the first three units to the extent that those units are not replaced.

This clarifying language precludes any confusion that might arise from the previous § 405.246(b)(2):

The amount of blood deductible is reduced to the extent that the individual replaces the blood on a pint for pint basis.

That language was misleading because the deductible—which is the amount that Medicare does *not* pay—is never "reduced". It is the individual's responsibility to pay cash or more specifically the supplier's right to charge—that is reduced when any of the first three pints of blood is replaced.

G. Payment After the Beneficiary Dies

1. Statutory provision (Pub. L. 96–499)

Section 954 amended section 1870(f) of the Social Security Act to provide that if an individual who received covered medical and other health care services dies without assigning the claim to the physician or other supplier, and the bill has not been paid—

a. Medicare pays the person or persons who furnished the services if they agree to accept the reasonable charge as the full charge for the services.

b. If those who furnished the services do not agree as indicated above, Medicare pays, on the basis of an itemized bill, any person who:

- Assumes legal obligation to pay for the services; and
- Files a request for payment with such evidence of the legal obligation as may be required in regulations.

2. Conforming Changes

The provisions of section 954 are set forth in paragraph (c)(2) of § 405.1684. Because § 405.1683 deals with a similar subject, its format was conformed to the format of the revised § 405.1684. We also corrected an error in the authority citation.

H. Other Minor Conforming Changes

1. In § 405.330, we changed "posthospital skilled nursing facility services" to "posthospital SNF care", which is the term now used in Part 409 and other basic Medicare rules.

2. We removed or corrected cross-references that became outdated as a result of the following:

- The redesignation of major portions of Subpart F of Part 405 as Part 489—Provider Agreements under Medicare, published April 4, 1980 at 45 FR 22937.
- The redesignation of major portions of Subpart A of Part 405 as Part 409, by final rules published March 25, 1983 at 48 FR 1254.
- The redesignation of Part 481 as Part 491 by regulations published on August 16, 1985 at 50 FR 33034.
- The changes made by this document, that is, the removal of 4 sections from Subpart F of Part 405, the redesignation of Part 408 as Part 406, and the redesignation of major portions of Subpart B of Part 405 as a new Part 410.

3. We transferred the content of §§ 405.658 and 405.659 to 405.152 to bring together provisions that deal with the same subject—payment for

emergency services furnished by nonparticipating hospitals, and removed §§ 405.690 and 405.691 as outdated.

4. In § 410.60(a)(3), we corrected the omission of a requirement of section 1861(p) of the Act—that outpatient physical therapy services be furnished by or "under the supervision of" the provider.

5. In § 421.200, we corrected one cross-reference and added another.

II. Medicaid Provision

Medicaid Funding for American Samoa.

A. Statutory Provision (Pub. L. 97–248)

Section 136 provides Federal funds for a Medicaid program in American Samoa, and permits more liberal waivers of the Medicaid requirements than are available to other jurisdictions.

B. Conforming Changes

The following sections of the Medicaid regulations are amended to include American Samoa: Sections 433.10, 435.2, 435.3 and the title of Part 435. The waiver provisions appear in a new § 431.56.

III. Regulatory Impact Statement

Executive Order 12291

Executive Order 12291 requires agencies to prepare and publish a regulatory impact analysis for any regulation that is likely to have an annual impact of $100 million or more on the economy, cause a major increase in costs or prices, or meet other thresholds specified in section 1(b) of the Order.

Since these amendments merely conform certain regulations to statutory provisions and administrative policies that are already in effect, we anticipate that they will have little, if any, economic impact. Accordingly, we have determined that a regulatory impact analysis is not required.

Regulatory Flexibility Act of 1980 (Pub. L. 96–354)

Consistent with this Act, we prepare and publish a regulatory flexibility analysis (RFA) for any regulation that will have a significant economic impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000. The purpose of the analysis would be to anticipate the impact and to seek alternatives that would have a less negative effect.

We have not prepared an RFA for these regulations because we have determined, and the Secretary certifies, that they will not have a significant impact on a substantial number of small entities. Any impact resulting from changes in methods or amounts of reimbursement is caused by the law and not by the regulations that implement the law or conform the rules to its requirements.

IV. Paperwork Reduction Act of 1980

Sections 405.1683 (e), (f), and (g), 405.1684(c), 410.105(c), 410.165 (a) and (b) contain information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained. If you comment on these provisions, please send a copy directly to the address indicated under the topic **ADDRESSES** of this preamble.

V. Waiver of Notice of Proposed Rulemaking

With one exception, this document conforms Medicare and Medicaid rules to—

- Self-implementing statutory changes that are already in effect, or
- Changes in law or policy that have already been implemented by other regulations that did provide notice and opportunity for public comment.

Our approach in the rules for payment after the beneficiary dies is somewhat different. The revision of § 405.1684 reflects the statutory amendment (long-since implemented through instructions) that provides for payment to a person who assumes legal responsibility for the bill, and requires evidence of that legal responsibility. In conforming § 405.1683, we incorporated policy generally applicable to claims (such as the requirement to submit an itemized bill and evidence of relationship to the deceased beneficiary), and clarified it by specifying that if none of the listed individuals survives, no payment will be made.

Given the nature of the changes, the fact that none of the content is new, and only about 5 percent is newly codified, we find that notice of proposed rulemaking is unnecessary. Nevertheless, as indicated under **DATES**, we will consider timely comments from any reader who believes that these rules go beyond what is required or permitted under the law, or that we have, in the process of redesignation and clarification, made substantive changes other than those discussed in this preamble.

VI. Response to Comments

Although we cannot respond to individual comments, if we revise these final rules, we will discuss the comments in the preamble to that revision.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 406

Health facilities, Kidney diseases, Medicare.

42 CFR Part 408

Health facilities, Kidney diseases, Medicare.

42 CFR Part 409

Health facilities, Medicare.

42 CFR Part 410

Medical and other health services, Medicare.

42 CFR Part 421

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 433

Administrative practice and procedure, Claims, Grant programs-health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Supplemental Security Income (SSI).

42 CFR Part 489

Health facilities, Medicare.

Redesignation Table—Part 405, Subpart B

Old sec.	New sec.
405.230	410.150
405.231(a)	410.10(a), 410.20
405.231(b)	410.10(b), 410.26
405.231(c)	410.10(c), 410.27
405.231(d)	410.10(f), 410.32
405.231(e)	410.10(g), 410.34
405.231(f)	410.10(h), 410.36(a)
405.231(g)	410.10(i), 410.38
405.231(h)	410.10(h), 410.36(b)
405.231(i)	410.10(h), 410.36(c)
405.231(j)	410.10(j), 410.40
405.231(k)	410.10(d), 410.28
405.231(l)	410.10(m), 410.60
405.231(m)	410.10(m), 410.62
405.231(n)	410.10(k), 410.45
405.231(o)	410.10(l), 410.50
405.231(p)	410.10(l), 410.52
405.231(a)	410.10(o), 410.55
405.232(b)	Removed as outdated.

Old sec.	New sec.
405.232(b)	410.32
405.232(c)	410.29
405.232(d)	410.28
405.232(e)	410.60
405.232(f), (g), and (h)	410.32 and 410.34
405.232(i)	410.40
405.232(j)	410.62
405.232a(a)(1)	410.20
405.232a(a)(2)	410.20(b) and 410.24
405.232a(a)(3)	410.20(b) and 410.25
405.232a(a)(4)	410.20(b) and 410.23
405.232a(a)(5)	410.20(b) and 410.22
405.232a(b)	410.14
405.232b	410.22
405.232c	410.23
405.233	Removed as inconsistent with current law which no longer limits the home health visits.
405.234	Removed as duplicative of § 409.42(b) and (d)
405.235	Removed as duplicative of § 409.42(e)
405.236	Removed as duplicative of 409.40
405.237	Removed as duplicative of 409.41
405.238	Removed as duplicative of 409.43
405.239	Removed as inconsistent with current law which no longer limits the number of home health visits.
405.240	410.152
405.241	410.152(a)(2)(iii)
405.243	410.155
405.244a	410.152(a)(1)(i)
405.244(b)	410.152(a)(1)(ii)
405.244(c)	Removed as inconsistent with current law which no longer provides for 100 percent payment for radiology and pathology services.
405.244-1(a)	410.163
405.244-1(b)	410.152(i)(1)
405.244-1(c)	410.152(i)(2)
405.245	410.160
405.246	410.161
405.249	410.168
405.250	410.170
405.250-2	410.165
405.251	Removed as duplicative of Subpart P of Part 405.
405.252	410.175
405.260	410.100
405.261	410.102
405.262	410.105

42 CFR Chapter IV is amended as set forth below:

I. Part 405 is amended as follows:

PART 405—HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart A—[Amended]

A. Subpart A is amended as follows:

1. The authority citation for Subpart A continues to read as follows:

Authority: Secs. 1102, 1814, 1815, 1861, 1866(d), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395F, 1395g, 1395x, 1395cc(d), and 1395hh).

2. Section 405.152 is amended as set forth below:

a. The section heading is revised to read as follows:

§ 405.152 Payment for emergency services furnished by a nonparticipating hospital.

b. Paragraph (a)(5) is revised to read as follows:

* * * * *

(5) The hospital has in effect an election to claim payment for all emergency services furnished in a calendar year in accordance with paragraph (c) of this section.

* * * * *

c. New paragraphs (c)–(e) are added to read as follows:

* * * * *

(c) *Election to claim payment for emergency services.*

(1) *Terms of the election.* The hospital agrees to the following:

(i) To comply with the provisions of Subpart C of Part 489 of this chapter relating to charges for items and services the hospital may make to the beneficiary, or any other person on his or her behalf.

(ii) To comply with the provisions of Subpart D of Part 489 of this chapter relating to proper disposition of monies incorrectly collected from, or on behalf of, a beneficiary.

(iii) To request payment under the Medicare program based on amounts specified in § 413.74 of this chapter.

(2) *Filing of election statement.* An election statement must be filed on a form designated by HCFA, signed by an authorized official of the hospital, and either received by HCFA, or postmarked, before the close of the calendar year of election.

(3) *Acceptance and effective date of election.* If HCFA accepts the election statement, the election is effective as of the earliest day of the calendar year of election from which HCFA determines the hospital has been in continuous compliance with the requirements of section 1814(d) of the Act.

(d) *Appeal by hospital.* Any hospital dissatisfied with a determination that it does not qualify to claim reimbursement shall be entitled to appeal the determination as provided in Part 498 of this chapter.

(e) *Conditions for reinstatement after notice of failure to continue to quality.* If HCFA has notified a hospital that it no longer qualifies to receive reimbursement for a calendar year, HCFA will not accept another election statement from that hospital until HCFA finds that—

(1) The reason for its faiiure to qualify has been removed; and

(2) There is reasonable assurance that it will not recur.

Subpart B—[Amended]

B. Subpart B is amended as follows:

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

Authority: Secs. 1102, 1836, 1837, 1838, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395o, 1395p, 1395q, and 1395hh).

2. Section 405.201 is revised to read as follows:

§ 405.201 Scope.

This subpart sets forth the conditions and procedures for enrollment in the Supplementary Medical Insurance (SMI) program.

§§ 405.233 and 405.239 [Removed]

3. Sections 405.233 and 405.239 are removed.

§§ 405.230 through 405.232c, 405.234 through 405.238, and 405.240 through 405.262 [Removed]

4. Sections 405.230–405.232c, 405.234–405.238, and 405.240–405.262 are removed. (They appear under a new Part 410, presented later in this document.)

C. Subpart C is amended as set forth below:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

1. The authority citation for Subpart C continues to read as follows:

Authority: Secs. 1102, 1154(a)(2)(B), 1815, 1833, 1842, 1861, 1862, 1866, 1870, 1871 and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c–3(a)(2)(B), 1395g, 1395l, 1395u, 1395x, 1395y, 1395cc, 1395gg, 1395hh, 1395pp) and the Federal Claims Collection Act (31 U.S.C. 3711).

2. In §405.310, the introductory text of the section and the introductory text of paragraph (l)(1) are republished and paragraph (l)(2) is revised to include treatment of mycotic toenails within specified limits, to read as follows:

§ 405.310 Particular services excluded from coverage.

The following services are excluded from coverage:

* * * * *

(l) *Foot care.*

(1) *Basic rule.*

Except as provided in paragraph (l)(2) of this section, any services furnished in connection with the following:

* * * * *

(2) *Exceptions.*

(i) Treatment of warts is not excluded.

(ii) Treatment of mycotic toenails may be covered if it is furnished no more often than every 60 days or the billing physician documents the need for more frequent treatment.

(iii) The services listed in paragraph (l)(1) of this section are not excluded if they are furnished—

(A) As an incident to, at the same time as, or as a necessary integral part of a primary covered procedure performed on the foot; or

(B) As initial diagnostic services (regardless of the resulting diagnosis) in connection with a specific symptom or complaint that might arise from a condition whose treatment would be covered.

§ 405.330 [Amended]

3. In Section 405.330, paragraph (b) is amended by removing the comma between "posthospital" and "SNF care".

Subpart F—[Amended]

D. Subpart F is amended as set forth below:

1. The subpart heading is revised to read:

Subpart F—Notice and Agreement

2. The authority citation for Subpart F is revised to read as follows:

Authority: Secs. 1102, 1864, 1871 and 1881 of the Social Security Act (42 U.S.C. 1302, 1395aa, 1395hh, and 1395rr).

§§ 405.658, 405.659, 405.690, and 405.691 [Removed]

3. Sections 405.658 and 405.659 are removed (see § 405.152 for equivalent content) and §§ 405.690 and 405.691 are removed as outdated, and the table of contents of Subpart F is amended to reflect these changes.

E. Subpart P is amended as set forth below:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

1. The table of contents for Subpart P is amended by revising the headings §§ 405.1683 and 405.1684, and correcting a U.S.C. citation in the authority citation, to read as follows:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

Sec.

* * * * *

405.1683 Payment after beneficiary's death: Bill has been paid.

405.1684 Payment after beneficiary's death: Bill has not been paid.

* * * * *

Authority: Secs. 1102, 1814, 1835, 1871 and 1883 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395n, 1396hh, and 1395tt.

2. Sections 405.1683 and 405.1684 are revised to read as follows:

§ 405.1683 Payment after beneficiary's death: Bill has been paid.

(a) *Scope.* This section specifies the persons whom Medicare pays, and the conditions for payments, when the beneficiary has died and the bill has been paid.

(b) *Situation.*

(1) The beneficiary has received covered services for which he could receive direct payment, that is, services of the following types:

(i) Covered Part B services that are furnished by a physician or other supplier who did not accept assignment of the beneficiary's claim.

(ii) Covered emergency inpatient or outpatient hospital services that are furnished by a nonparticipating hospital that does not have in effect an election to claim payment for these services in accordance with § 405.152 and that are payable under § 405.1672(a).

(iii) Covered inpatient hospital services that are furnished by a foreign hospital that does not have in effect an election to claim payment for those services in accordance with § 405.152, and that are payable under § 405.1672(a).

(iv) Covered physician services and ambulance services that are furnished outside the United States and that are payable in accordance with § 405.1672(b).

(2) The beneficiary died without receiving Medicare payment.

(3) The bill has been paid.

(c) *Persons whom Medicare pays.* In the situation described in paragraph (b) of this section, Medicare pays the following persons in the specified circumstances:

(1) The person or persons who, without a legal obligation to do so, paid for the services with their own funds, before or after the beneficiary's death.

(2) The legal representative of the beneficiary's estate if the services were paid for by the beneficiary before he or she died, or with funds from the estate.

(3) If the deceased beneficiary or his or her estate paid for the services and no legal representative of the estate has been appointed, the survivors, in the following order of priority:

(i) The person found by SSA to be the surviving spouse, if he or she was either living in the same household with the deceased at the time of death, or was, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(ii) The child or children, who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(iii) The parent or parents, who were, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent);

(iv) The person found by SSA to be the surviving spouse who was not living in the same household with the deceased at the time of death and was not, for the month of death, entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased beneficiary;

(v) The child or children who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one child, in equal parts to each child);

(vi) The parent or parents who were not entitled to monthly social security or railroad retirement benefits on the basis of the same earnings record as the deceased (and, if there is more than one parent, in equal parts to each parent).

(4) If none of the listed relatives survive, no payment is made.

(5) If the services were paid for by a person other than the deceased beneficiary, and that person died before payment was completed, Medicare does not pay that person's estate. Medicare pays a surviving relative of the deceased beneficiary in accordance with the priorities in paragraph (c)(3) of this section. If none of those relatives survive, Medicare pays the legal representative of the deceased beneficiary's estate. If there is no legal representative of the estate, no payment is made.

(d) *Amount of payment.* The amount of payment is the amount due, including unnegotiated checks issued for the purpose of making direct payment to the beneficiary.

(e) *Conditions for payment.* For payment to be made under this section—

(1) The person who claims payment must meet the following requirements:

(i) Submit a claim on an HCFA-prescribed form and an itemized bill in accordance with the requirements of this subpart. (See paragraph (g) of this section for an exception.)

(ii) Provide evidence that the services were furnished if the intermediary or carrier requests it.

(iii) Provide evidence of payment of the bill and of the identity of the person who paid it.

(2) If a person claims payment as the legal representative of the deceased beneficiary's estate, he or she must also

submit a copy of the papers showing appointment as legal representative.

(3) If a person claims payment as a survivor of the beneficiary, he or she must also submit evidence, if the intermediary or carrier requests it, that he or she is highest on the priority list of paragraph (c)(3) of this section.

(f) *Evidence of payment.* Evidence of payment may be—

(1) A receipted bill, or a properly completed "Report of Services" section of a claim form, showing who paid the bill;

(2) A cancelled check;

(3) A written statement from the provider or supplier or an authorized staff member; or

(4) Other probative evidence

(g) *Exception: Claim submitted before beneficiary died.* If a claim and itemized bill has been submitted by or on behalf of the beneficiary before he or she died, submission of another claim form and itemized bill is not required; any written request by the person seeking payment is sufficient.

§ 405.1684 Payment after beneficiary's death: Bill has not been paid.

(a) *Scope.* This section specifies whom Medicare pays, and the conditions for payment when the beneficiary has died and the bill has not been paid.

(b) *Situation.*

(1) The beneficiary has received covered Part B services furnished by a physician or other supplier.

(2) The beneficiary died without making an assignment to the physician or other supplier or receiving Medicare payment.

(3) The bill has not been paid.

(c) *To whom payment is made.* In the situation described in paragraph (b) of this section, Medicare pays as follows:

(1) *Payment to the supplier.* Medicare pays the physician or other supplier if he or she—

(i) Files a claim on a HCFA-prescribed form in accordance with the applicable requirements of this subpart;

(ii) Upon request from the carrier, provides evidence that the services for which it claims payment were, in fact, furnished; and

(iii) Agrees in writing to accept the reasonable charge as the full charge for the services.

(2) *Payment to a person who assumes legal obligation to pay for the services.* If the physician or other supplier does not agree to accept the reasonable charge as full charge for the service, Medicare pays any person who submits to the carrier all of the following:

(i) A statement indicating that he or she has assumed legal obligation to pay for the services.

(ii) A claim on a HCFA-prescribed form in accordance with the requirements of this subpart. (If a claim had been submitted by or on behalf of the beneficiary before he or she died, submission of another claim form is not required; a written request by the person seeking payment meets the requirement for a claim.)

(iii) An itemized bill that identifies the claimant as the person to whom the physician or other supplier holds responsible for payment. (If such an itemized bill had been submitted by or on behalf of the beneficiary before he or she died, submission of another itemized bill is not required.)

(iv) If the intermediary or carrier requests it, evidence that the services were actually furnished.

3. Section 405.1695 is revised to reflect changes in payment practices and to remove obsolete cross-references, to read as follows:

§ 405.1695 Replacement of U.S. Government checks that are lost, stolen, defaced, mutilated, destroyed, or paid on forged endorsements.

The Treasury Department is responsible for the investigation and settlement of claims in connection with Treasury checks issued on behalf of HCFA. HCFA forwards reports of lost, stolen, defaced, mutilated, destroyed, or forged Treasury checks to the Treasury Department disbursing center responsible for issuance of the check. Replacement or reclamation of those Treasury checks is undertaken in accordance with Treasury Department regulations at 31 CFR Parts 235, 240 and 245.

PART 408—[REDESIGNATED AS PART 406]

II. Part 408 is amended as follows:

1. Part 408 is redesignated as PART 406—The part heading is revised to read HOSPITAL INSURANCE ELIGIBILITY AND ENTITLEMENT. The part is without substantive change, and current references to PART 408 and its sections, throughout this Chapter IV, are changed to refer to PART 406 and its sections.

§ 406.2 [Amended]

2. Redesignated § 406.2 is amended by revising the last sentence to remove the term "posthospital" as applied to home health services to read as follows: "It includes inpatient hospital care, posthospital SNF care, home health services, and hospice care."

III. Part 409 is amended as follows:

PART 409—HOSPITAL INSURANCE BENEFITS

A. The part heading is revised to read as set forth above.

B. The authority citation for Part 409 is revised to read as follows:

Authority: Secs. 1102, 1812, 1813, 1861, 1871 and 1881 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395x, 1395hh, and 1395rr).

C. Subpart A is amended as follows:

Subpart A—Hospital Insurance Benefits: General Provisions

Section 409.3 is amended by adding, in alphabetical order, the following definition:

§ 409.3 [Amended]

* * * * *

"Nominal charge provider" means a provider that furnishes services free of charge or at a nominal charge and is either a public provider, or another provider that (1) demonstrates to HCFA's satisfaction that a significant portion of its patients are low-income, and (2) requests that payment for its services be determined accordingly.

* * * * *

D. Subpart D is amended as set forth below:

Subpart D—Requirements for Coverage of Posthospital SNF Care

In § 409.30(a), the introductory text is republished and paragraph (a)(2) is revised to read as follows:

§ 409.30 Basic requirements.

* * * * *

(a) *Pre-admission requirements.* The beneficiary must—

* * * * *

(2) Have been discharged from the hospital in or after the month he or she attained age 65, or in a month for which he or she was entitled to hospital insurance benefits on the basis of disability or end-stage renal disease, in accordance with Part 406 of this chapter.

* * * * *

E. Subpart E is amended as set forth below:

Subpart E—Home Health Services Under Hospital Insurance

§ 409.40 [Amended]

1. In § 409.40, paragraph (e) is amended by changing "medical appliances" to "durable medical equipment".

2. Section 409.42 is revised to remove and reserve paragraphs (c) and (f), revise paragraph (d), and provide footnotes regarding the outdated

provisions that are removed. As revised, § 409.42 reads as follows:

§ 409.42 Requirements and conditions for home health services.

(a) *Basic rule.* The services specified in § 409.40 are covered by Medicare Part A only if the requirements of paragraphs (b) through (g) of this section are met.

(b) *Conditions the beneficiary must meet.* The beneficiary must be—

(1) Confined to the home or in an institution that is neither a hospital nor primarily engaged in providing skilled nursing or rehabilitation services;

(2) Under the care of a physician who is a doctor of medicine or osteopathy; and

(3) In need of intermittent skilled nursing care or physical or speech therapy or, effective July 1 through November 30, 1981, occupational therapy. After November 30, 1981, continued need for occupational therapy is not a basis for initial qualification for home health services but does qualify a beneficiary for continued home health services even after he or she no longer needs intermittent skilled nursing care or physical or speech therapy.

(c) [Reserved] [1]

(d) *Plan of treatment requirements.* [2] The home health services must be furnished under a plan of treatment that is established and periodically reviewed by a doctor of medicine, osteopathy or, podiatric medicine. A doctor of podiatric medicine may establish a plan of treatment only if that is consistent with the home health agency's policy and with the functions he or she is authorized to perform under State law.

(e) *Where the services must be furnished.* (1) The home health services must be furnished—

(i) On a visiting basis in the individual's home; or

(ii) It it is necessary to use equipment that cannot readily be made available in the home, on an outpatient basis in a hospital, a SNF, or a rehabilitation center that meets State and local health and safety standards.

(2) If an individual is brought to a facility in accordance with paragraph (e)(1)(ii) of this section, other services that could be furnished in the home may be furnished in the facility at the same time.

(f) [Reserved] [3]

(g) *By whom the services must be furnished.* The home health services must be furnished by, or under arrangements made by a participating HHA.

3. Section 409.43 is revised to reflect the fact that there is no longer any limit on the number of home health visits and to make paragraph (a) consistent with the paragraph (b) examples, to read as follows:

§ 409.43 Home health service visit.

(a) *Basic rule.* The furnishing of any of the home health services specified in § 409.40 by a particular health worker on a particular day or a particular time of the day constitutes a home health visit.

(b) *Specific examples.* (1) If both a physical therapist and a visiting nurse furnish services in the home on the same day, that constitutes two visits.

(2) If a beneficiary has dressings changed twice in the same day, that constitutes two visits.

(3) If a beneficiary is brought to the hospital for hydrotherapy, and while there also receives speech therapy, that constitutes two visits.

(4) If a nurse furnishes several services during a visit (for example, skilled nursing care and home health aide services), that constitutes only one visit.

4. Section 409.44 is revised to read as follows:

§ 409.44 Home health services under Medicare Part B.

Home health services are also covered under Medicare Part B, under the rules set forth in this Subpart E.

§ 409.45 [Removed]

5. Section 409.45 is removed.

6. A new section 409.46 is added to read as follows:

§ 409.46 Coinsurance for durable medical equipment (DME) furnished as a home health service.

The coinsurance liability of the beneficiary or other person for DME furnished as a home health service is 20 percent of the customary (insofar as reasonable) charge for the services.

7. In § 409.61, paragraph (d) is revised to (1) reflect the fact that there is no longer any limitation on the number of home health visits; (2) specify the limitations on payment for durable medical equipment; and (3) to transfer outdated content to a footnote. As revised, paragraph (d) reads as follows:

§ 409.61 General limitations on amount of benefits.

* * * * *

(d) *Home health services.* Medicare Part A pays for all covered home health services [4] with no deductible, and subject to the following limitations on payment for durable medical equipment (DME):

(1) For DME furnished by an HHA that is a nominal charge provider, Medicare Part A pays 80 percent of fair compensation.

(2) For DME furnished by an HHA that is not a nominal charge provider, Medicare Part A pays the lesser of the following:

(i) 80 percent of the reasonable cost of the service.

(ii) The reasonable cost of, or the customary charge for, the service, whichever is less, minus 20 percent of the customary (insofar as reasonable) charge for the service.

IV. A new Part 410 is added, to read as follows:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

Subpart A—General Provisions

Sec.

410.1 Basis and scope.
410.2 Definitions.
410.3 Scope of benefits.
410.5 Other applicable rules.

Subpart B—Medical and Other Health Services

410.10 Medical and other health services: Included services.
410.12 Medical and other health services: Basic conditions and limitations.
410.14 Special requirements for services furnished outside the United States.
410.20 Physicians' services.
410.22 Limitations on services of a chiropractor.
410.23 Limitations on services of an optometrist.
410.24 Limitations on services of a doctor of dental surgery or dental medicine.
410.25 Limitations on services of a podiatrist.
410.26 Services and supplies incident to a physician's professional services: Conditions.
410.27 Outpatient hospital services and supplies incident to a physician's services: Conditions.

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[1] Before July 1, 1981, Medicare Part A paid for home health services only if they were furnished to a beneficiary who—

- Had received inpatient care in a participating or qualified hospital or SNF; and
- Needed intermittent skilled nursing care, or physical or speech therapy for a codition for which he or she had received inpatient hospital or posthospital SNF care.

[2] Before January 1981, only a doctor of medicine or osteopathy could establish a plan for home health services. A plan of treatment established before July 1981 was acceptable for Medicare Part A payment only if it was established within 14 days after the individual's discharge from a hospital or SNF.

[3] Before July 1981, Medicare paid for not more than 100 home health visits, furnished—

- For Medicare Part A payment, during one year following the beneficiary's most recent discharge from a hospital or a SNF; and
- For Medicare Part B payment, within a calendar year.

[4] Before July 1, 1981, Medicare Part A paid for not more than 100 home health visits during one year following the beneficiary's most recent discharge from a hospital or a SNF.

410.28 Hospital diagnostic services furnished to outpatients: Conditions.
410.29 Limitations on drugs and biologicals.
410.32 Diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.
410.34 X-ray therapy and other radiation therapy services: Scope.
410.36 Medical supplies, appliances, and devices: Scope.
410.38 Durable medical equipment: Scope and conditions.
410.40 Ambulance services: Limitations.
410.45 Rural health clinic services: Scope and conditions.
410.50 Institutional dialysis services and supplies: Scope and conditions.
410.52 Home dialysis services, supplies, and equipment: Scope and conditions.
410.55 Services related to kidney donations: Conditions.
410.57 Pneumococcal vaccine and its administration: Conditions.
410.58 Additional services to HMO and CMP enrollees. Conditions.
410.60 Outpatient physical therapy services: Conditions.
410.62 Outpatient speech pathology services: Conditions and exclusions.

Subpart C—Home Health Services Under SMI

410.80 Applicable rules.

Subpart D—Comprehensive Outpatient Rehabilitation Facility (CORF) Services

410.100 Included services.
410.102 Excluded services.
410.105 Requirements for coverage of CORF services.

Subpart E—Payment of SMI Benefits

410.150 To whom payment is made.
410.152 Amounts of payment.
410.155 Psychiatric services limitations: Expenses incurred for physicians' services and CORF services.
410.160 Part B annual deductible.
410.161 Part B blood deductible.
410.163 Payment for services furnished to kidney donors.
410.165 Payment for rural health clinic services and ambulatory surgical center services: Conditions.
410.168 Payment for emergency outpatient services furnished by a nonparticipating hospital.
410.170 Payment for home health services, for medical and other health services furnished by a provider or an approved ESRD facility, and for comprehensive outpatient rehabilitation facility (CORF) services: Conditions.
410.175 Circumstances under which payment of benefits is prohibited.

Authority: Secs. 1102, 1832, 1833, 1835, 1861(r), (s) and (cc), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395k, 1395l, 1395n, 1395x, (r), (s) and (cc), 1395hh, and 1395rr).

Subpart A—General Provisions

§ 410.1 Basis and scope.

(a) *Statutory basis.* Section 1832 of the Social Security Act establishes the scope of benefits provided under the Medicare Part B supplementary medical insurance (SMI) program. Sections 1833, 1835, and 1862 set forth the amounts of payment for SMI services, the conditions for payment, and the exclusions from coverage. Section 1861 defines the kinds of services that may be covered.

(b) *Scope of subpart.* This subpart sets forth the benefits available under Medicare Part B, the conditions for payment and the limitations on services, the percentage of incurred expenses that Medicare Part B pays, and the deductible and copayment amounts for which the beneficiary is responsible. (Exclusions applicable to these services are set forth in Subpart C of Part 405 of this chapter.)

§ 410.2 Definitions.

As used in this part—

"*Nominal charge provider*", means a provider that furnishes services free of charge or at a nominal charge, and is either a public provider, or another provider that (1) demonstrates to HCFA's satisfaction that a significant portion of its patients are low-income; and (2) requests that payment for its services be determined accordingly. "*Partcipating*" refers to a hospital, SNF, HHA, CORF, or hospice that has in effect a provider agreement to participate in Medicare, and "*nonparticipating*" refers to a hospital, SNF, HHA, CORF, or hospice that does not have in effect a provider agreement to participate in Medicare.

§ 410.3 Scope of benefits.

(a) *Covered services.* The SMI program helps pay for the following:

(1) Medical and other health services such as physicians' services, outpatient hospital services, diagnostic tests, outpatient physical therapy and speech pathology services, rural health clinic services and outpatient renal dialysis services.

(2) Services furnished by ambulatory surgical centers (ASCs), home health agencies (HHAs), and comprehensive outpatient rehabilitation facilities (CORFs).

(3) Other medicial services, equipment, and supplies that are not covered under Medicare Part A hospital insurance.

(b) *Limitations on amount of payment.*

(1) Medicare Part B does not pay the full reasonable costs or charges for all covered services. The beneficiary is responsible for an annual deductible and a blood deductible and, after the annual deductible has been satisfied, for coinsurance amounts specified for most of the services.

(2) Specific rules on payment are set forth in Subpart E of this part.

§ 410.5 Other applicable rules.

The following other rules of this chapter set forth additional policies and procedures applicable to three of the kinds of services covered under the SMI program:

(a) Part 405, Subpart U: End-Stage Renal Disease services.

(b) Part 405, Subpart X: Rural Health Clinic services.

(c) Part 416: Ambulatory Surgical Center services.

Subpart B—Medical and Other Health Services

§ 410.10 Medical and other health serviced: Includes services.

Subject to the conditions and limitations specified in § 410.12, "medical and other health services" includes the following services:

(a) Physicians' services.

(b) Services and supplies furnished incident to a physician's professional services, of kinds that are commonly furnished in physicians' offices and are commonly either furnished without charge or included in the physicians' bills.

(c) Services and supplies that are incident to physicians' services and are furnished to outpatients by or under arrangements made by a hospital.

(d) Diagnostic services furnished to outpatients by or under arrangements made by a hospital if the services are services that the hospital ordinarily furnishes to its outpatients for diagnostic study.

(e) Diagnostic laboratory and X-ray tests and other diagnostic tests.

(f) X-ray therapy and other radiation therapy services.

(g) Medical supplies, appliances, and devices.

(h) Durable medical equipment.

(i) Ambulance services.

(j) Rural health clinic services.

(k) Home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies.

(l) Pneumococcal vaccinations.

(m) Outpatient physical therapy and speech pathology services.

(n) Additional services furnished to enrollees of HMOs or CMPs, as described in § 410.58.

§ 410.12 Medical and other health services: Basic conditions and limitations.

(a) *Basic conditions.* The medical and other health services specified in § 410.10 are covered by Medicare Part B only if they are not excluded under

Subpart C of Part 405 of this chapter, and if they meet the following conditions:

(1) *When the services must be furnished.* The services must be furnished while the individual is in a period of entitlement. (The rules on entitlement are set forth in Part 406 of this chapter.)

(2) *By whom the services must be furnished.* The services must be furnished by a facility or other entity as specified in §§ 410.14 through 410.62.

(3) *Physician certification and recertification requirements.* If the services are subject to physician certification requirements, they must be certified as being medically necessary, and as meeting other applicable requirements, in accordance with Subpart P of Part 405 of this chapter.

(b) *Limitations on payment.* Payment for medical and other health services is subject to limitations on the amounts of payment as specified in §§ 410.152 and 410.155 and to the annual and blood deductibles as set forth in §§ 410.160 and 410.161.

§ 410.14 Special requirements for services furnished outside the United States.

Medicare Part B pays for physicians' services and ambulance services furnished outside the United States if the services meet the applicable conditions of § 410.12 and are furnished in connection with covered inpatient hospital services that meet the specific requirements and conditions set forth in § 405.153 of this chapter.

§ 410.20 Physicians' services.

(a) *Included services.* Medicare Part B pays for physicians' services, including diagnosis, therapy, surgery, consultations, and home, office, and institutional calls.

(b) *By whom services must be furnished.* Medicare Part B pays for the services specified in paragraph (a) of this section if they are furnished by one of the following professionals who is legally authorized to practice by the State in which he or she performs the functions or actions, and who is acting within the scope of his or her license.

(1) A doctor of medicine or osteopathy, including an osteopathic practitioner recognized in section 1101(a)(7) of the Act.

(2) A doctor of dental surgery or dental medicine.

(3) A doctor of podiatric medicine.

(4) A doctor of optometry.

(5) A chiropractor who meets the qualifications specified in § 410.22

(c) *Limitations on services.* The Services specified in paragraph (a) of this section may be covered under Medicare Part B if they are furnished within the limitations specified in §§ 410.22 through 410.25.

§ 410.22 Limitations on services of a chiropractor.

(a) *Qualifications for chiropractors.* (1) A chiropractor licensed or authorized to practice before July 1, 1974, and an individual who began studies in a chiropractic college before that date, must have—

(i) Had preliminary education equal to the requirements for graduation from an accredited high school or other secondary school;

(ii) Graduated from a college of chiropractic approved by the State's chiropractic examiners after completing a course of study covering a period of not less than 3 school years of 6 months each year in actual continuous attendance and covering adequate courses of study in the subjects of anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including clinical instruction in vertebral palpation, nerve tracing and adjusting; and

(iii) Passed an examination prescribed by the State's chiropractic examiners covering the subjects specified in paragraph (a)(1)(ii) of this section.

(2) A chiropractor first licensed or authorized to practice after June 30, 1974, and an individual who begins studies in a chiropractic college after that date, must have—

(i) Had preliminary education equal to the requirements for graduation from an accredited high school or other secondary school;

(ii) Satisfactorily completed 2 years of pre-chiropractic study at the college level;

(iii) Satisfactorily completed a 4-year course of 8 months each year offered by a college or school of chiropractic approved by the State's chiropractic examiners and including at least 4,000 hours in courses in anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, principles and practice of chiropractic, and clinical instruction in vertebral palpation, nerve tracing and adjusting, plus courses in the use and effect of X-ray and chiropractic analysis;

(iv) Passed an examination prescribed by the State's chiropractic examiners covering the subjects specified in paragraph (a)(2)(iii) of this section; and

(v) Attained 21 years of age.

(b) *Limitations on services.* (1) Medicare Part B pays only for a chiropractor's manual manipulation of the spine to correct a subluxation, if X-ray demonstrates that a subluxation exists and if the subluxation has resulted in a neuromusculoskeletal condition for which manipulation is appropriate treatment.

(2) Medicare Part B does not pay for X-rays or other diagnostic or therapeutic services furnished or ordered by a chiropractor.

§ 410.23 Limitations on services of an optometrist.

The services of optometrists are covered only if related to the condition of aphakia (absence of the natural crystalline lens of the eye, regardless of whether an intraocular lens has been implanted). The following are examples of examination services that may be covered when furnished by optometrists:

(a) Case history (the determination of changing visual performance as it relates to the condition of aphakia).

(b) External examination (the inspection with illumination and magnification of eyelids and surrounding areas of the eye).

(c) Ophthalmoscopy (the inspection with illumination and magnification of the internal structure of the eye).

(d) Biomicroscopy (the inspection of frontal tissues of the eye, using illumination and magnification).

(e) Tonometry (the measurement of the internal pressure of the eye).

(f) Evaluation of visual fields (central and peripheral fields of vision).

(g) Evaluation of ocular motility (the determination of the ability of the eye to move efficiently).

(h) Evaluation of binocular function (the ability of the eye to obtain single, clear, two-eyed vision).

(i) Examination required to prescribe prosthetic lenses in connection with aphakia.

§ 410.24 Limitations on services of a doctor of dental surgery or dental medicine.

Medicare Part B pays for services furnished by a doctor of dental surgery or dental medicine within the scope of his or her license, if the services would be covered as physicians' services when performed by a doctor of medicine or osteopathy.[6]

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[6] For services furnished before July 1, 1981 Medicare Part B paid only for the following services of a doctor of dental surgery or dental medicine:

- Surgery on the jaw or any adjoining structure, and
- Reduction of a fracture of the jaw or other facial bone.

§ 410.25 Limitations on services of a podiatrist.

Medicare Part B pays for the services of a doctor of podiatric medicine, acting within the scope of his or her license, if the services would be covered as physicians' services when performed by a doctor of medicine or osteopathy.

§ 410.26 Services and supplies incident to a physician's professional services: Conditions.

(a) Medicare Part B pays for services and supplies incident to a physician's professional services, including drugs and biologicals that cannot be self-administered, if the services or supplies are of the type that are commonly furnished in a physician's office or clinic, and are commonly furnished either without charge, or included in the physician's bill.

(b) Drugs and biologicals are also subject to the limitations specified in § 410.29.

§ 410.27 Outpatient hospital services and supplies incident to physicians' services: Conditions.

(a) Medicare Part B pays for hospital services and supplies furnished incident to physicians' services to outpatients, including drugs and biologicals that cannot be self-administered, if they are furnished—

(1) By or under arrangements made by a participating hospital; and

(2) As an integral though incidental part of a physician's services.

(b) Drugs and biologicals are also subject to the limitations specified in § 410.29.

(c) Rules on emergency services furnished to outpatients by nonparticipating hospitals are specified in § 410.168.

§ 410.28 Hospital diagnostic services furnished to outpatients: Conditions.

(a) Medicare Part B pays for hospital diagnostic s ervices furnished to outpatients, including drugs and biologicals required in the performance of the services (even if those drugs or biologicals are self-administered), if those services meet the following conditions:

(1) They are furnished by or under arrangements made by a participating hospital.

(2) They are ordinarily furnished by, or under arrangements made by, the hosptial to its outpatients for the purpose of diagnostic study.

(3) They would be covered as inpatient hospital services if furnished to an inpatient.

(4) If furnished under arrangements, they are furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

(b) Drugs and biologicals are also subject to the limitations specified in § 410.29(b) and (c).

(c) Rules on emergency services furnished to outpatients by nonparticipating hospitals are set forth in § 410.168.

§ 410.29 Limitations on drugs and biologicals.

Medicare Part B does not pay for the following:

(a) Except as provided in § 410.28(a), any drug or biological that can be self-administered, whether furnished by a physician, a provider, or an entity other than a provider.

(b) Any drug product that meets all of the following conditions:

(1) The drug product was approved by the Food and Drug Administration (FDA) before October 10, 1962.

(2) The drug product is available only through prescription.

(3) The drug product is the subject of a notice of opportunity for hearing issued under section 505(e) of the Federal Food, Drug, and Cosmetic Act and published in the **Federal Register** on a proposed order of FDA to withdraw its approval for the drug product because it has determined that the product is less than effective for all its labeled indications.

(4) The drug product is presently not subject to a determination by FDA, made under its efficacy review program, that there is a compelling justification of the drug product's medical need. (21 CFR 310.6 contains an explanation of the efficacy review program.)

(c) Any drug product that is identical, related, or similar, as defined in 21 CFR 310.6, to a drug product that meets the conditions of paragraph (b) of this section.

§ 410.32 Diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.

(a) *Diagnostic X-ray services*—(1) *Basic rule.* Except as specified in paragraph (a)(2) of this section, Medicare Part B pays for diagnostic X-ray services only if they are furnished under the immediate supervision of a physician who is a doctor of medicine, osteopathy, dental surgery, dental medicine, or podiatric medicine, or by a radiology department that meets the requirements for hospital radiology departments set forth in § 482.27 of this chapter.

(2) *Exception.* Medicare Part B pays for portable X-ray services, including services furnished in a place of residence used as the patient's home, if the services are furnished, under the general supervision of a physician, by a supplier that meets the conditions for coverage of portable X-ray services specified in Subpart N of Part 405 of this chapter.

(b) *Diagnostic laboratory tests.* Medicare Part B pays for covered diagnostic laboratory tests that are furnished by any of the following:

(1) A participating hospital.

(2) A nonparticipating hospital that meets the requirements for emergency outpatient services specified in § 410.168 and the laboratory requirements specified in § 405.1028 of this chapter.

(3) The office of the patient's attending or consulting physician if that physician is a doctor of medicine, osteopathy, dental surgery, or dental medicine.

(4) A rural health chinic.

(5) An independent clinical laboratory, if it meets the conditions for coverage of services of independent laboratories specified in Subpart M of Part 405 of this chapter, including the laboratory of a nonparticipating hospital that does not meet the requirements for emergency outpatient services in § 410.168.

§ 410.34 X-ray therapy and other radiation therapy services: Scope.

Medicare Part B pays for X-ray therapy and other radiation therapy services, including radium therapy and radioactive isotope therapy, and materials and the services of technicians administering the treatment.

§ 410.36 Medical supplies, appliances, and devices: Scope.

Medicare Part B pays for the following medical supplies, appliances and devices:

(a) Surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations.

(b) Prosthetic devices, other than dental, that replace all or part of an internal body organ, including colostomy bags and supplies directly related to colostomy care, including replacement of those devices.

(c) Leg, arm, back, and neck braces and artificial legs, arms, and eyes, including replacements if required because of a change in the individual's physical condition.

§ 410.38 Durable medical equipment: Scope and conditions.

(a) Medicare Part B pays for the rental or purchase of durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs, if the equipment is used in the patient's home or in an institution that is used as a home.

(b) An institution that is used as a home may not be a hospital or a SNF as defined in sections 1861(e)(1) and 1861(j)(1) of the Act, respectively.

(c) Wheelchairs may include a power-operated vehicle that may be appropriately used as a wheelchair, but only if the vehicle—

(1) Is determined to be necessary on the basis of the individual's medical and physical condition; and

(2) Meets any safety requirements specified by HCFA.

§ 410.40 Ambulance services: Limitations.

(a) *Definitions.* As used in this section—

"*Ambulance*" means a vehicle that—

(1) Is specially designed for transporting the sick or injured;

(2) Contains a stretcher, linens, first aid supplies, oxygen equipment, and other lifesaving equipment required by State or local laws; and

(3) Is staffed with personnel trained to provide first aid treatment.

"*Appropriate hospital or SNF*" refers to a hospital or SNF that is capable of providing the required level and type of care for the patient's illness or injury and, in the case of a hospital, has available the type of physician or physician specialist needed to treat the patient's condition.

"*Hospital inpatient*" means a beneficiary who has been formally admitted to a hospital and has not been formally discharged.

"*Locality*" means the service area, surrounding a hospital or SNF, from which individuals normally come or are expected to come for hospital or SNF services.

"*Outside supplier*" means a hospital or a nonhospital treatment facility, such as a clinic, therapy center, or physician's office, where a hospital or SNF inpatient may be taken to receive medically necessary diagnostic or therapeutic services not available at the hospital or SNF where he or she is an inpatient.

(b) *Limits on coverage of ambulance transportation.* Medicare Part B pays for ambulance transportation only if—

(1) Other means of transportation would endanger the beneficiary's health;

(2) Medicare Part A payment is not available for the service; and

(3) In the case of a hospital inpatient—

(i) The transportation is furnished by, or under arrangements made by, the hospital; or

(ii) The transportation is furnished by an ambulance service with which the hospital does not have an arrangement (as defined in §409.3 of this chapter), and the hospital has a waiver (in accordance with § 489.23 of this chapter) under which Medicare Part B payment may be made to the ambulance service.

(c) *Limits on origins and destinations.* Medicare Part B pays for ambulance transportation of a beneficiary—

(1) To a hospital or SNF, from any point of origin;

(2) To his or her home, from a hospital or SNF; or

(3) Round trip from a hospital or a participating SNF to an outside supplier to obtain medically necessary diagnostic or therapeutic services not available at the hospital or SNF where the beneficiary is an inpatient.

(d) *Specific limits on coverage of ambulance transportation outside the United States.* In the case of services furnished outside the United States, Medicare Part B pays only for ambulance transportation to a foreign hospital and only in conjunction with the beneficiary's admission for medically necessary inpatient services as specified in § 405.153 of this chapter.

(e) *Limitation on payments.* Medicare payments for ambulance services within the United States are limited to the amounts that would be paid for transportation—

(1) To an appropriate hospital or NSF in whose locality and beneficiary is located or, if the beneficiary is not in the locality of an appropriate hospital or SNF, to the nearest appropriate hospital or SNF;

(2) To the beneficiary's home from a hospital or SNF in whose locality the home is located, or from the nearest appropriate hospital or SNF; or

(3) Round trip to the nearest outside supplier capable of providing necessary diagnostic or therapeutic services not available at the hospital or SNF where the beneficiary is an inpatient.

§ 410.45 Rural health clinic services: Scope and conditions.

(a) Medicare Part B pays for the following rural health clinic services, if they are furnished in accordance with the requirements and conditions specified in Part 405, Subpart X, and Part 491 of this chapter:

(1) Physicians' services.

(2) Services and supplies furnished as an incident to physicians' professional services.

(3) Nurse practitioner and physician assistant services.

(4) Services and supplies furnished as an incident to nurse practitioners' or physician assistants' services.

(5) Visiting nurse services.

(b) Medicare pays for rural health clinic services when they are furnished at the clinic, at a hospital or other medical facility, or at the beneficiary's place of residence.

§ 410.50 Institutional dialysis services and supplies: Scope and conditions.

Medicare Part B pays for the following institutional dialysis services and supplies if they are furnished in approved ESRD facilities:

(a) All services, items, supplies, and equipment necessary to perform dialysis.

(b) Routine dialysis monitoring tests (i.e., hematocrit and clotting time) used by the facility to monitor the patients' fluids incident to each dialysis treatment, when performed by qualified staff of the facility under the direction of a physician, as provided in § 405.2163(b) of this chapter, even if the facility does not meet the conditions for coverage of services of independent laboratories in Subpart M of Part 405 of this chapter.

(c) Routine diagnostic tests.

§ 410.52 Home dialysis services, supplies, and equipment: Scope and conditions.

(a) Medicare Part B pays for the following services, supplies, and equipment furnished to an ESRD patient in his or her home:

(1) Purchase or rental, installation, and maintenance of all dialysis equipment necessary for home dialysis, and reconditioning of this equipment. Dialysis equipment includes, but is not limited to, artificial kidney and automated peritoneal dialysis machines, and support equipment such as blood pumps, bubble detectors, and other alarm systems.

(2) Items and supplies required for dialysis, including (but not limited to) dialyzers, syringes and needles, forceps, scissors, scales, sphygmomanometer with cuff and stethoscope, alcohol wipes, sterile drapes, and rubber gloves.

(3) Home dialysis support services furnished by an approved ESRD facility, including periodic monitoring of the patient's home adaptation, emergency visits by qualified provider or facility personnel, any of the tests specified in paragraphs (b) through (d) of § 410.50, personnel costs associated with the installation and maintenance of dialysis equipment, testing and appropriate treatment of water, and ordering of supplies on an ongoing basis.

(b) Home dialysis support services specified in paragraph (a)(3) of this section must be furnished in accordance with a written treatment plan that is prepared and reviewed by a team consisting of the individual's physician and other qualified professionals. (Section 405.2137 of this chapter contains specific details.)

§ 410.55 Services related to kidney donations: Conditions.

Medicare Part B pays for medical and other health services covered under this subpart that are furnished in connection with a kidney donation—

(a) If the kidney is intended for an individual who has end-stage renal disease and is entitled to Medicare benefits; and

(b) Regardless of whether the donor is entitled to Medicare.

§ 410.57 Pneumococcal vaccine and its administration: Conditions.

Effective July 1, 1981, Medicare Part B pays for pneumococcal vaccine and its administration to a beneficiary, when reasonable and necessary for the prevention of disease, if the vaccine is ordered by a doctor of medicine or osteopathy.

§ 410.58 Additional services to HMO and CMP enrollees.

Services not usually covered under Medicare Part B may be covered as medical and other health services if they are furnished to an enrollee of an HMO or a CMP and the following conditions are met:

(a) The services are—

(1) Furnished by a physician assistant or nurse practitioner as defined in § 491.2 of this chapter, or are incident to services furnished by such a practitioner; or

(2) Furnished by a clinical psychologist as defined in § 417.416 of this chapter to an enrollee of an HMO or CMP that participates in Medicare under a risk-sharing contract, or are incident to those services.

(b) The services are services that would be covered under Medicare Part B if they were furnished by a physician or as incident to a physician's professional services.

§ 410.60 Outpatient physical therapy services: Conditions.

(a) *Basic rule.* Medicare Part B pays for outpatient physical therapy services if they meet the following conditions:

(1) They are furnished to a beneficiary while he or she is under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.

(2) They are furnished under a written plan of treatment that meets the requirements of § 405.1634(b)(2) of this chapter.

(3) They are furnished—

(i) By a provider, or by others under arrangements with, and under the supervision of, a provider; or

(ii) By or under the direct supervision of a physical therapist in independent practice who is licensed by the State in which he or she practices and who meets the qualifications specified in § 405.1702(d) of this chapter.

(b) *Outpatient physical therapy services to certain inpatients of a hospital or SNF.* Medicare Part B pays for outpatient physical therapy services furnished to an inpatient of a hospital or a SNF who requires them but who has exhausted or is otherwise ineligible for benefit days under Medicare Part A.

(c) *Special provisions for services furnished by physical therapists in independent practice.*

(1) *Who is a physical therapist in independent practice.* A physical therapist in independent practice is one who—

(i) Engages in the practice of physical therapy on a regular basis;

(ii) Furnishes services on his or her own responsibility without the administrative and professional control of an employer;

(iii) Maintains, at his or her own expense, office space and the necessary equipment to provide an adequate program of physical therapy;

(iv) Furnishes services only in office space maintained at his or her expense, or in the patient's home; and

(v) Treats individuals who are his or her own patients and collects fees or other compensation for the services furnished.

(2) *Limitation on incurred expenses.* Not more than $500 of reasonable charges incurred in a calendar year are recognized as incurred expenses.[7]

(d) *Excluded services.* No service is included as an outpatient physical therapy service if it would not be included as an inpatient hospital service if furnished to an inpatient of a hospital.

§ 410.62 Outpatient speech pathology services: Conditions and exclusions.

(a) *Basic rule.* Medicare Part B pays for outpatient speech pathology services if they meet the following conditions:

(1) They are furnished to a beneficiary while he or she is under the care of a physician who is a doctor of medicine or osteopathy.

(2) They are furnished under a written plan of treatment that—

(i) Is established by a physician or, effective January 1, 1982, by either a physician or the speech pathologist who will provide the services to the particular individual;

(ii) Is periodically reviewed by a physician; and

(iii) Meets the requirements of § 405.1634(b) of this chapter.

(3) They are furnished by a provider or by others under arrangements with, and under the supervision of, a provider.

(b) *Outpatient speech pathology services to certain inpatients of a hospital or SNF.* Medicare Part B pays for outpatient speech pathology services furnished to an inpatient of a hospital or SNF who requires them but has exhausted or is otherwise ineligible for benefit days under Medicare Part A.

(c) *Excluded services.* No service is included as an outpatient speech pathology service if it would not be included as an inpatient hospital service if furnished to an inpatient of a hospital.

Subpart C—Home Health Services Under SMI

§ 410.80 Applicable rules.

Home health services furnished under Medicare Part B are subject to the rules set forth in Subpart E of Part 409 of this chapter.

Subpart D—Comprehensive Outpatient Rehabilitation Facility (CORF) Services

§ 410.100 Included services.

Subject to the conditions and limitations set forth in §§ 410.102 and 410.105, CORF services means the following services furnished to an outpatient of the CORF by personnel that meet the qualifications set forth in § 485.70 of this chapter.

(a) *Physicians' services.* The following services of the facility physician constitute CORF services: consultation with and medical supervision of non-physician staff, establishment and review of the plan of treatment, and other medical and facility administration activities. Those services are reimbursed on a reasonable cost basis under Part 413 of this chapter. Diagnostic and therapeutic services furnished to an individual patient are not CORF physician's services. If covered, payment for these services would be made by the carrier on a reasonable charge basis subject to the provisions of Subpart E of Part 405 of this chapter.

(b) *Physical therapy services.* (1) These services include—

(i) Testing and measurement of the function or dysfunction of the neuromuscular, musculoskeletal, cardiovascular and respiratory systems; and.

(ii) Assessment and treatment related to dysfunction caused by illness or injury, and aimed at preventing or reducing disability or pain and restoring lost function.

(2) The establishment of a maintenance therapy program for an

[7] Before 1982, not more than $100 was recognized as incurred expenses.

individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* These services include—

(1) Teaching of compensatory techniques to permit an individual with a physical impairment or limitation to engage in daily activities.

(2) Evaluation of an individual's level of independent functioning.

(3) Selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function; and

(4) Assessment of an individual's vocational potential, except when the assessment is related solely to vocational rehabilitation.

(d) *Speech-language pathology services.* These are services for the diagnosis and treatment of speech and language disorders that create difficulties in communication.

(e) *Respiratory therapy services.* (1) These are services for the assessment, diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies or abnormalities of cardiopulmonary function.

(2) These services include—

(i) Application of techniques for support of oxygenation and ventilation of the patient and for pulmonary rehabilitation.

(ii) Therapeutic use and monitoring of gases, mists, and aerosols and related equipment;

(iii) Bronchial hygiene therapy;

(iv) Pulmonary rehabilitation techniques such as exercise conditioning, breathing retraining and patient education in the management of respiratory problems.

(v) Diagnostic tests to be evaluated by a physician, such as pulmonary function tests, spirometry and blood gas analysis; and

(vi) Periodic assessment of chronically ill patients and their need for respiratory therapy.

(f) *Prosthetic device services.* These services include—

(1) Prosthetic devices (excluding dental devices and renal dialysis machines), that replace all or part of an internal body organ or external body member (including contiguous tissue) or replace all or part of the function of a permanently inoperative or malfunctioning external body member or internal body organ; and

(2) Services necessary to design the device, select materials and components, measure, fit, and align the device, and instruct the patient in its use.

(g) *Orthotic device services.* These services include—

(1) Orthopedic devices that support or align movable parts of the body, prevent or correct deformities, or improve functioning; and

(2) Services necessary to design the device, select the materials and components, measure, fit, and align the device, and instruct the patient in its use.

(h) *Social services.* These services include—

(1) Assessment of the social and emotional factors related to the individual's illness, need for care, response to treatment, and adjustment to care furnished by the facility;

(2) Casework services to assist in resolving social or emotional problems that may have an adverse effect on the beneficiary's ability to respond to treatment; and

(3) Assessment of the relationship of the individual's medical and nursing requirements to his or her home situation, financial resources, and the community resources available upon discharge from facility care.

(i) *Psychological services.* These services include—

(1) Assessment, diagnosis and treatment of an individual's mental and emotional functioning as it relates to the individual's rehabilitation;

(2) Psychological evaluations of the individual's response to and rate of progress under the treatment plan; and

(3) Assessment of those aspects of an individual's family and home situation that affect the individual's rehabilitation treatment.

(j) *Nursing care services.* These services include nursing services specified in the plan of treatment and any other nursing services necessary for the attainment of the rehabilitation goals.

(k) *Drugs and biologicals.* These are drugs and biologicals that are—

(1) Prescribed by a physician and administered by or under the supervision of a physician or a registered professional nurse; and

(2) Not excluded from Medicare Part B payment for reasons specified in § 410.28.

(l) *Supplies, appliances, and equipment.* These include—

(1) Non-reusable supplies such as oxygen and bandages;

(2) Medical equipment and appliances; and

(3) Durable medical equipment of the type specified in § 410.38, (except renal dialysis systems) for use outside the CORF, whether purchased or rented.

(m) *Home environment evaluation.* This is a single home visit to evaluate the potential impact of the home situation on the rehabilitation goals.

§ 410.102 Excluded services.

None of the services specified in § 410.100 is covered as a CORF service if the service—

(a) Would not be covered as an inpatient hospital service if furnished to a hospital inpatient;

(b) Is not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. An example would be services furnished as part of a maintenance program involving repetitive activities that do not require the skilled services of nurses or therapists.

§ 410.105 Requirements for coverage of CORF services.

Services specified in § 410.100 and not excluded under § 410.102 are covered as CORF services if the following requirements are met:

(a) *Referral and medical history.* The services must be furnished to an individual who is referred by a physician who certifies that the individual needs skilled rehabilitation services, and makes the following information available to the CORF before or at the time treatment is begun:

(1) The individual's significant medical history.

(2) Current medical findings.

(3) Diagnosis(es) and contraindications to any treatment modality.

(4) Rehabilitation goals, if determined.

(b) *When and where services are furnished.* (1) All services must be furnished while the individual is under the care of a physician; and

(2) Except for the home evaluation visit described in § 410.100(m), the services must be furnished onsite at a participating CORF. (The conditions for CORF participation in Medicare are set forth in Part 485, (Subpart B, of this chapter.)

(c) *Plan of treatment.* (1) The services must be furnished under a written plan of treatment that—

(i) Is established and signed by a physician before treatment is begun; and

(ii) Prescribes the type, amount, frequency, and duration of the services to be furnished, and indicates the diagnosis and anticipated rehabilitation goals.

(2) The plan must be reviewed at least every 60 days by a facility physician who, when appropriate, consults with the professional personnel providing the services.

(3) The reviewing physician must certify or recertify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient.

Subpart E—Payment of SMI Benefits

§ 410.150 To whom payment is made.

(a) *General rules.*

(1) Any SMI enrollee is, subject to the conditions, limitations, and exclusions set forth in this Part and in Parts 405 and 416 of this chapter, entitled to have payment made as specified in paragraph (b) of this section.

(2) The services specified in paragraphs (b)(5) through (b)(11) of this section must be furnished by a facility that has in effect a provider agreement or other appropriate agreement to participate in Medicare.

(b) *Specific rules.* Subject to the conditions set forth in paragraph (a) of this section, Medicare Part B pays as follows:

(1) To the individual, or to a physician or other supplier on the individual's behalf, for medical and other health services furnished by the physician or other supplier.

(2) To a nonparticipating hospital on the individual's behalf for emergency outpatient services furnished by the hospital, in accordance with § 410.168.

(3) To the individual, for emergency outpatient services furnished by a nonparticipating hospital, in accordance with § 405.1672(b) of this chapter.

(4) To the individual, for physicians' services and ambulance services furnished outside the United States in accordance with § 405.1672(b) of this chapter.

(5) to a provider on the individual's behalf for medical and other health services furnished by the provider (or by others under arrangements made with them by the provider).

(6) To a home health agency on the individual's behalf for home health services furnished by the home health agency.

(7) to a clinic, rehabilitation agency, or public health agency on the individual's behalf for outpatient physical therapy or speech pathology services furnished by the clinic or agency (or by others under arrangements made with them by the clinic or agency).

(8) To a rural health clinic on the individual's behalf for rural health clinic services furnished by the rural health clinic.

(9) To an ambulatory surgical center (ASC) on the individual's behalf for covered ambulatory surgical center facility services that are furnished in connection with surgical procedures performed in an ASC, as provided in Part 416 of this chapter.

(10) To a comprehensive outpatient rehabilitation facility (CORF) on the individual's behalf for comprehensive outpatient rehabilitation facility services furnished by the CORF.

(11) To a renal dialysis facility, on the individual's behalf, for institutional or home dialysis services, supplies, and equipment furnished by the facility.

§410.152 Amounts of payment.

(a) *General provisions.*—(1) *Exclusion from incurred expenses.* As used in this section, "incurred expenses" are expenses incurred by an individual, during his or her coverage period, for covered Part B services, excluding the following:

(i) Expenses incurred for services for which the beneficiary is entitled to have payment made under Medicare Part A or would be so entitled except for the application of the Part A deductible and coinsurance requirements.

(ii) Expenses incurred in meeting the Part B blood deductible (§ 410.161).

(iii) In the case of services reimbursable under a formula that takes into account reasonable charges, reasonable costs, customary charges, customary (insofar as reasonable) charges, fair compensation, a per-treatment prospective payment rate, or a standard overhead amount, or any combination of two or more of these factors, expenses in excess of any factor taken into account under that formula.

(iv) In the case of physician and CORF services, for the treatment of a mental, psychoneurotic, or personality disorder, furnished to an individual who is not an inpatient of a hospital, expenses for a calendar year in excess of the lesser of $312.50 or 62 percent of the reasonable charge.

(v) In the case of expenses incurred for outpatient physical therapy furnished by therapists in independent practice, expenses in excess of $500 in reasonable charges incurred in a calendar year.

(2) *Other applicable provisions.* Medicare Part B pays for incurred expenses the amounts specified in paragraphs (b) through (h) of this section, subject to the following:

(i) The principles and procedures for determining reasonable costs and reasonable charges and the conditions for Medicare payment, as set forth in Subparts D, E, P and X of part 405 of this chapter.

(ii) The Part B annual deductible (§ 410.160).

(iii) The special rules for payment to health maintenance organizations (HMOs), health care prepayment plans (HCPPs), and competitive medical plans (CMPs) that are set forth in Part 417 of this chapter. (A prepayment organization that does not qualify as an HMO CMP, or HCPP is paid in accordance with § 410.172)

(b) *Basic rules for payment.* Except as specified in paragraphs (c) through (h) of this section, Medicare Part B pays the following amounts:

(1) For services furnished by, or under arrangements made by, a provider other than a nominal charge provider, whichever of the following is less:

(i) 80 percent of the reasonable cost of the services.

(ii) The reasonable cost of, or the customary charges for, the services, whichever is less, minus 20 percent of the customary (insofar as reasonable) charges for the services.

(2) For services furnished by, or under arrangements made by, a nominal charge provider, 80 percent of fair compensation.

(3) For emergency outpatient hospital services furnished by a nonparticipating hospital that is eligible to receive payment for those services under § 410.168(c), the amount specified in paragraph (b)(1) of this section.

(4) For services furnished by a person or an entity other than those specified in paragraphs (b)(1), (b)(2) and (b)(3) of this section, 80 percent of the reasonable charges for the services.

(c) *Amount of payment: Home health services other than durable medical equipment (DME).* For home health services other than DME furnished by, or under arrangements made by, a participating HHA, Medicare Part B pays the following amounts:

(1) For services furnished by an HHA that is a nominal charge provider, 100 percent of fair compensation.

(2) For services furnished by an HHA that is not a nominal charge provider, the lesser of the reasonable cost of the services and the customary charges for the services.

(d) *Amount of payment: DME furnished as a home health service.*

(1) *Basic rule.* Except as specified in paragraph (d)(2) of this section—

(i) For DME furnished by an HHA that is a nominal charge provider, Medicare Part B pays 80 percent of fair compensation.

(ii) For DME furnished by an HHA that is not a nominal charge provider, Medicare Part B pays the lesser of the following:

(A) 80 percent of the reasonable cost of the service.

(B) The reasonable cost of, or the customary charge for, the service,

whichever is less, minus 20 percent of the customary (insofar as reasonable) charge for the service.

(2) *Exception.* If the DME is used DME purchased by or on behalf of the beneficiary at a price at least 25 percent less than the reasonable charge for new equipment—

(i) For used DME furnished by an HHA that is a nominal charge provider, Medicare Part B pays 100 percent of fair compensation.

(ii) For used DME furnished by an HHA that is not a nominal charge provider, Medicare Part B pays 100 percent of the reasonable cost of, or the customary charge for, the services, whichever is less.

(e) *Amount of payment: Renal dialysis services, supplies, and equipment.* Effective for services furnished on or after August 1, 1983, Medicare Part B pays for the institutional dialysis services specified in § 409.250 and the home dialysis services, supplies, and equipment specified in § 409.252, as follows:

(1) Except as provided in paragraph (d)(2) of this section, 80 percent of the per treatment prospective reimbursement rate established under § 405.439 of this chapter, for outpatient maintenance dialysis furnished by ESRD facilities approved in accordance with Subpart U of Part 405 of this chapter.

(2) *Exception.* If a home dialysis patient elects to obtain home dialysis supplies or equipment (or both) from a party other than an approved ESRD facility, payment is in accordance with paragraph (b)(4) of this section.

(f) *Amount of payment: Rural health clinic services.* Medicare Part B pays, for services by a participating independent rural health clinic, 80 percent of the costs determined under Subpart X of Part 405 of this chapter, to the extent those costs are reasonable and related to the cost of furnishing rural health clinic services or reasonable on the basis of other tests specified by HCFA.

(g) *Amount of payment: Used durable medical equipment furnished by other than an HHA.* Medicare Part B pays the following amounts for used DME purchased by or on behalf of the beneficiary at a price at least 25 percent less than the reasonable charge for comparable new equipment:

(1) For used DME furnished by, or under arrangements made by, a nominal charge provider, 100 percent of fair compensation.

(2) For used DME furnished by or under arrangements made by a provider that is not a nominal charge provider, 100 percent of the reasonable cost of the service or the customary charge for the service, whichever is less.

(3) For used DME furnished by other than a provider, 100 percent of the reasonable charge.

(h) *Amount of payment: Pneumococcal vaccine.* Medicare Part B pays of pneumococcal vaccine and its administration as follows:

(1) For services furnished by a nominal charge provider, 100 percent of fair compensation.

(2) For services furnished by a provider that is not a nominal charge provider, the reasonable cost of the services or the customary charge for the service, whichever is less.

(3) For services furnished by other than a provider or a rural health clinic, 100 percent of the reasonable charge.

(4) For services furnished by a rural health clinic, reimbursement is in accordance with paragraph (f) of this section.

(i) *Amount of payment: Ambulatory surgical services.*

(1) *Physician services.* Effective for services furnished after September 6, 1982, Medicare Part B pays 100 percent of the reasonable charges (or 100 percent of the reasonable cost in the case of an HMO reimbursed in accordance with Part 416 of this chapter) for physician services (including all pre-operative and post-operative services) furnished in connection with surgical procedures specified in Part 416 of this chapter, if the following conditions are met:

(i) The procedures are performed in a participating ambulatory surgical center (ASC), on an outpatient basis in a participating hospital, or in a participating hospital-affiliated ASC.

(ii) The physician accepts assignment of the right to receive payment for the services (in accordance with § 405.1675 of this chapter) or qualifies to receive payment for the services (under § 405.1684 of this chapter) when the beneficiary dies without assigning the right to payment. Under § 405.1680 of this chapter, a physician may authorize an employer, facility, or organization to accept assignment or to claim payment on his or her behalf, in accordance with §§ 405.1675 and 405.1684 of this chapter.

If the conditions of this paragraph (i) are not met, Medicare Part B pays 80 percent of reasonable charges for the services.

(2) *Amount of payment: ASC facility services.* Effective for services furnished after September 6, 1982, Medicare Part B pays a standard overhead amount, as specified in § 416.120(c) of this chapter, for ASC facility services that are furnished in connection with surgical procedures specified in § 416.65 of this chapter.

§ 410.155 Psychiatric services limitations: Expenses incurred for physician services and CORF services.

(a) *Definitions.* As used in this section, unless the context indicates otherwise, *"Mental, psychoneurotic, or personality disorder"* means the specific psychiatric conditions described in the American Psychiatric Association's Diagnostic and Statistical Manual—Mental Disorders. *"Hospital"* means any hospital that is primarily engaged in providing, by or under the supervision of physicians, diagnostic and therapeutic services for the medical diagnosis, treatment, and care of injured, disabled or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons; or psychiatric services for the diagnosis and treatment of mentally ill persons; and medical services for the diagnosis and treatment of tuberculosis.

(b) *Services subject to limitation.* The psychiatric services limitation applies to physician services and CORF services (furnished by physicians or nonphysicians) for the treatment of a mental, psychoneurotic, or personality disorder, when the services are furnished to an individual who is not an inpatient in a hospital.

(c) *Limitation.* Of the expenses incurred during any calendar year for services specified in paragraph (b) of this section, only $312.50 or 62½ percent of the expenses (whichever is less) will be considered reimbursable under Medicare Part B, subject to the amount of payment and deductible provisions set forth in §§ 410.152 and 410.160.

(d) *Example.*

As a private patient, Mr. X's only medical expenses during the calendar year 1982 amounted to $750 for physicians' services in connection with the treatment of a mental disorder which did not require inpatient hospitalization. The statutory limit for any calendar year on the amount of these expenses that is covered under this Subpart B is $312.50 ($312.50 being lesser in amount than 62½ percent of $750). Mr. X is required to meet the first $75 as a deductible, and 20 percent of the balance. The remaining 80 percent is payable under this Subpart B.

Total covered expenses	Mr. X's payment	Payment under subpart B
$312.50	[2] $437.50	
75.00 [1]	[1] 75.00	
237.50	[3] 47.50	[4] 190.00

[1] Deductible, as described in § 409.360.
[2] In excess of $312.50.
[3] 20 percent of total covered expenses less deductible.
[4] 80 percent of total covered expenses less deductible.

If Mr. X had incurred $350 of the above expenses while an inpatient of an institution (see paragraph (b) of this section), and the remaining $400 while not an inpatient of an institution, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Payment under subpart B
$250 [1]	[2] $150	
+350 [3]		
600	[4] 75	
−75		
525	[5] 105	[6] 420

[1] 62½ percent of $400.
[2] In excess of 62½ percent of $400.
[3] 100 percent of expenses incurred while an inpatient.
[4] Deductible.
[5] 20 percent of total covered expenses less deductible.
[6] 80 percent of total covered expenses less deductible.

§ 410.160 Part B annual deductible.

(a) *Basic rule.* Except as provided in paragraph (b) of this section, incurred expenses (as defined in § 410.152) are subject to, and count toward meeting the annual deductible.

(b) *Exceptions.* The following incurred expenses are not subject to the Part B annual deductible and do not count toward meeting that deductible:

(1) Home health services. [8]

(2) Pneumococcal vaccines and their administration.

(3) Physician services furnished in connection with ambulatory surgery if those services meet the requirements of § 410.152(i)(1) for payment of 100 percent of reasonable charges.

(4) ASC facility services.

(c) *Application of the Part B annual deductible.*

(1) Before payment is made under § 410.152, an individual's incurred expenses for the calendar year are reduced by the Part B annual deductible.

(2) The Part B annual deductible is applied to incurred expenses in the order in which claims for those expenses are processed by the Medicare program.

(3) Only one Part B annual deductible may be imposed for any calendar year and it may be met by any combination of expenses incurred in that year.

(d) *Special rule for services reimbursable on a formula basis.*

(1) In applying the formula that takes into account reasonable costs, customary charges, and customary (insofar as reasonable) charges, and is used to determine payment for services furnished by a provider that is not a nominal charge provider, the Medicare intermediary takes the following steps:

(i) Reduces the customary charges for the services by an amount equal to any unmet portion of the deductible for the calendar year, in accordance with paragraph (b) of this section. (The amount of this reduction is considered to be the amount of the deductible that is met on the basis of the services to which it is applied.)

(ii) Determines 20 percent of any remaining portion of the customary (insofar as reasonable) charge.

(iii) Determines the lesser of the reasonable cost of the services and the customary charges for the services.

(iv) Reduces the amount determined under paragraph (c)(1)(iii) of this section by the sum of the reduction made under paragraph (c)(1)(i) of this section and the amount determined under parargaph (c)(1)(ii) of this section.

(v) Reduces the reasonable cost of the services by the amount of the reduction made under paragraph (c)(1)(i) of this section and multiplies the result by 80 percent.

(2) In accordance with § 410.152(b)(1), the amount payable is the amount determined under paragraph (c)(1)(iv) of this section, or the amount determined under paragraph (c)(1)(v) of this section, whichever is less.

(e) *Special rule for services of an independent rural health clinic.* Application of the Part B annual deductible to rural health clinic services is in accordance with § 405.2425(b)(2) of this chapter.

(f) *Amount of the Part B annual deductible.*

(1) Beginning with expenses for services furnished during calendar year 1982, the Part B annual deductible is $75.

(2) From 1973 through 1981, the deductible was $60.

(3) From 1966 through 1972, the deductible was $50.

(g) *Carryover of Part B annual deductible.* For calendar years before 1982, the Part B annual deductible was reduced by the amount of expenses incurred during the last quarter of the preceding year that was applied to meet the deductible for that preceding year. *Example:* If $20 of expenses incurred in November 1980 was used to meet the 1980 deductible, the 1981 deductible was reduced to $40 ($60–$20).

(h) *Examples of application of the annual deductible.*

(1) Mr. A submitted claims for the following expenses incurred during 1982: $20 for services furnished in March by physician X; $30 for services furnished in April by physician Y; $50 for services furnished in June by physician Z, for a total of $100. The carrier determined that the charges as submitted were the reasonable charges. The first $75 of expenses for which claims were processed is applied to meet the $75 deductible for that year. Medicare Part B pays 80 percent of the remaining $25, or $20.

(2) Mr. B submitted a claim that included a $25 charge by a doctor for an examination to prescribe a hearing aid and an $80 charge for office surgery. This was the first claim relating to Mr. B's medical expenses processed in the calendar year. The carrier disallowed the $25 charge because the type of examination is not covered by Medicare. The carrier reduced the $80 surgery charge to a reasonable charge of $40. Only the $40 reasonable charge for covered services will count toward meeting Mr. B's deductible. Since the remainder of the surgery charge constitutes and excess over the reasonable charge, it cannot be applied to satisfy Mr. B's deductible.

(3) Mr. C became entitled to Medicare Part B benefits on July 1, 1982. He incurred expenses of $200 in July, August, and September. The carrier determined that the changes as submitted were reasonable. Even though Mr. C was entitled to benefits for only half the year, he must meet the full $75 deductible. Thus, $75 of this expense constitutes Mr. C's deductible. Medicare would pay $100, which is 80 percent of the remaining $125.

§ 410.161 Part B blood deductible.

(a) *General rules.*

(1) As used in this section, "packed red cells" means the red blood cells that remain after plasma is separated from whole blood.

(2) A unit of packed red cells is treated as the equivalent of a pint of whole blood, which in this section is referred to as a unit of whole blood.

(3) Medicare does not pay for the first 3 units of whole blood or units of packed red cells that are furnished under Part B in a calendar year.

(4) The blood deductible does not apply to other blood components such as platelets, fibrinogen, plasma, gamma globulin and serum albumin, or to the costs of processing, storing, and administering blood.

(5) The blood deductible is in addition to the Part B annual deductible specified in § 410.160.

(6) There is also a separate Part A hospital insurance blood deductible. Blood furnished under Part A does not count toward meeting the Part B blood deductible, and blood furnished under Part B does not count toward meeting the Part A blood deductible.

(b) *Beneficiary's responsibility for the first 3 units of blood.*

(1) The beneficiary is responsible for the first three units of whole blood or

[8] Before July 1981, home health services were subject to the Part B annual deductible.

packed red cells received during a calendar year.

(2) If the blood is furnished by a hospital, the rules set forth in § 409.87 (b), (c), and (d) of this chapter apply.

(3) If the blood is furnished by a physician, clinic, or other supplier that has accepted assignment of Medicare benefits, or claims payment under § 405.1684 of this chapter because the beneficiary died without assigning benefits, the supplier may charge the beneficiary the reasonable charge for the first 3 units, to the extent that those units are not replaced.

§ 410.163 Payment for services furnished to kidney donors.

Notwithstanding any other provisions of this chapter, there are no deductible or coinsurance requirements with respect to services furnished to an individual who donates a kidney for transplant surgery.

§ 410.165 Payment for rural health clinic services and ambulatory surgical center services: Conditions.

(a) Medicare Part B pays for covered rural health clinic services if—

(1) The services are furnished in accordance with the requirements of Subpart X of Part 405 of this chapter and Subpart A of Part 491 of this chapter; and

(2) The clinic files a written request for payment on the form and in the manner prescribed by HCFA.

(b) Medicare Part B pays for covered ambulatory surgical center (ASC) services if—

(1) The services are furnished in accordance with the requirements of Part 416 of this chapter; and

(2) The ASC files a written request for payment on the form and in the manner prescribed by HCFA.

§ 410.168 Payment for emergency outpatient services furnished by a nonparticipating hospital.

(a) *Definition.* As used in this section, "emergency outpatient services" means outpatient hospital diagnostic and therapeutic services that are necessary to prevent the death or serious impairment of the health of the individual, and which, because of the threat to the life or health of the individual, require the use of the most accessible hospital available and equipped to furnish those services.

(b) *General conditions for payment.* Medicare Part B pays for emergency outpatient services furnished by a nonparticipating hospital (that is, a hospital that does not have in effect a provider agreement in accordance with Part 489 of this chapter) if the conditions of this paragraph (b) and the following applicable conditions of paragraph (c) or (d) of this section are met.

(1) The hospital—

(i) Meets the requirements of section 1861(e) (5) and (7) of the Act with respect to 24-hour nursing service and State licensure;

(ii) Is primarily engaged in providing, under the supervision of a doctor of medicine or osteopathy, inpatient services for the medical diagnosis, treatment, and care or rehabilitation of persons who are sick, injured, or disabled; and

(iii) Is not primarily engaged in providing skilled nursing care and related services to inpatients who require medical or nursing care.

(2) The services are emergency outpatient services furnished to an individual who is enrolled under Medicare Part B.

(3) The services are furnished by the hospital or by others under an arrangement made by the hospital.

(4) Written request for payment is filed by or on behalf of the individual to whom the services were furnished.

(5) Payment for the services would have been made if an agreement under Part 489 of this chapter had been in effect with the hospital and the hospital had met all other conditions for payment.

(6) HCFA determines, in accordance with § 405.191 of this chapter, that an emergency existed at the time the services were furnished.

(7) HCFA determines, in accordance with § 405.192 of this chapter, that the hospital was the most accessible hospital available and equipped to furnish the services.

(c) *Additional conditions for payment to the hospital.* (1) The hospital has filed, and HCFA has accepted, the hospital's election to claim payment for all emergency services furnished to Medicare beneficiaries in a calendar year, in accordance with § 405.152 of this chapter.

(2) The hospital agrees to comply with the provisions of Subparts C and D of Part 489 of this chapter regarding the charges that may be imposed on the individual or any other person, and the return of any money incorrectly collected.

(3) The hospital's claim for payment is filed with HCFA and includes a physician's statement describing the nature of the emergency and stating that the emergency services were necessary to prevent the death of the individual or the serious impairment of his or her health. The statement must be sufficiently comprehensive to support a finding that an emergency existed.

(d) *Additional conditions for payment to the individual.* Medicare Part B pays the individual for emergency outpatient services received from a nonparticipating hospital if—

(1) The hospital that furnished the services does not have in effect an election to claim payment for all emergency services furnished to Medicare beneficiaries in the calendar year;

(2) The individual (or someone on his or her behalf) files a claim with HCFA, including the itemized hospital bill and a physician's statement that meets the requirements specified in paragraph (c)(3) of this section.

§ 410.170 Payment for home health services, for medical and other health services furnished by a provider or an approved ESRD facility, and for comprehensive outpatient rehabilitation facility (CORF) services: Conditions.

Payment under Medicare Part B, for home health services, for medical and other health services, or for CORF services, may be made to the provider or facility only if the following conditions are met:

(a) *Request for payment.* A written request for payment is filed by or on behalf of the individual to whom the services were furnished.

(b) *Physician certification.* (1) For home health services, a physician provides certification and recertification in accordance with § 405.1633 of this chapter.

(2) For medical and other health services, a physician provides certification and recertification in accordance with § 405.1634 of this chapter.

(3) For CORF services, a physician provides certification and recertification in accordance with § 405.1635 of this chapter.

(c) In the case of home dialysis support services described in § 410.52, the services are furnished in accordance with a written plan prepared and periodically reviewed by a team that includes the patient's physician and other professionals familiar with the patient's condition as required by § 405.2137(b)(3) of this chapter.

§ 410.175 Circumstances under which payment of benefits is prohibited.

Medicare does not pay Part B benefits under any of the following circumstances:

(a) *Failure to furnish information.* No payment is made unless the information necessary to determine the amount due has been furnished.

(b) *Failure to file timely claim.* No payment is made unless a claim is

submitted in accordance with the requirements and time frames set forth in Subpart P of Part 405 of this chapter.

(c) *Alien outside the United States for 6 full calendar months.* (1) No payment is made for services furnished to an individual who is not a citizen or a national of the United States if those services are furnished in any month for which the individual is not paid monthly social security cash benefits (or would not be paid if he or she were entitled to those benefits) because he or she has been outside the United States continuously for 6 full calendar months.

(2) Payment of benefits resumes with services furnished during the first full calendar month the alien is back in the United States.

V. Part 421 is amended as set forth below:

PART 421—INTERMEDIARIES AND CARRIERS

A. The authority citation for Part 421 continues to read as follows:

Authority: Sec. 1102, 1815, 1816, 1833, 1842, 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395l, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

B. Section 421.200(c) is revised to correct and add cross-references, to read as follows:

§ 421.200 Carrier functions.

* * * * *

(c) *Payment on a charge basis.* If payment is on a charge basis, under Part 405, Subpart E of this chapter, the carrier must assure that—

(1) Charges are reasonable and not higher than the charge for a comparable service furnished under comparable circumstances to the carrier's policy holders and subscribers; and

(2) The payment is based on one of the following:

(i) An itemized bill.

(ii) An assignment under the terms of which the reasonable charge is the full charge for the service, as specified in § 405.1675 of this chapter.

(iii) If the beneficiary has died, the procedures set forth in §§ 405.1683 and 405.1684 of this chapter.

* * * * *

VI. Part 421 is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

A. The authority citation for Part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

B. Subpart B is amended by adding a new § 431.56 to read as follows:

§ 431.56 Special waiver provisions applicable to American Samoa.

(a) *Basis and purpose.* This section implements section 1902(j) of the Act, which provides for waiver of requirements, in the case of American Samoa.

(b) *Waiver provisions.* American Samoa may request, and HCFA may approve, a waiver of any of the title XIX requirements except the following:

(1) The Federal medical assistance percentage specified in section 1903 of the Act and § 433.10(b) of this chapter.

(2) The limit imposed by section 1108(c) of the Act on the amount of Federal funds payable to American Samoa in any year of Medicaid expenditures.

(3) The requirement that payment be made only with respect to expenditure made by American Samoa for care and services that meet the section 1905(a) definition of medical assistance.

VII. Part 433 is amended as set forth below:

PART 433—STATE FISCAL ADMINISTRATION

A. The authority citation for Part 433 is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 433.10 [Amended]

B. In Subpart A, § 433.10(b) is amended to correct a designation error and to add American Samoa, as follows:

1. In line 2 of paragraph (b), the "(1)" is removed.

2. In line 34 of paragraph (b), the word "and" is removed and a comma inserted.

3. In line 35 of paragraph (b), ", and American Samoa" is inserted immediately after "Islands".

VIII. Part 435 is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

A. The Part heading is revised to add American Samoa as follows:

PART 435—ELIGIBILITY IN THE STATES, THE DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

Subpart A—[Amended]

B. Subpart A is amended as follows:

1. Section 435.2 is amended by revising the undesignated introductory text to add American Samoa, to read as follows:

§ 435.2 Purpose and applicability.

This part sets forth, for the 50 States, the District of Columbia, the Northern Mariana Islands, and American Samoa—

* * * * *

§ 435.3 [Amended]

2. Section 435.3 is amended by inserting, immediately after the citation for 1902(f), the following:

1902(j) Medicaid program in American Samoa.

IX. Part 489 is amended as set forth below:

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

1. The authority citation for Part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, and 1395hh).

2. Section 489.30 is amended as follows:

§ 489.30 Allowable charges: Deductibles and coinsurance.

a. The section heading is revised to read as set forth above.

b. Paragraph (a)(3) is updated by changing "extended care services" to the currently used term "SNF care".

c. A new paragraph (a)(4) is added to read as follows:

(a) *Part A deductible and coinsurance.*

* * * * *

(4) In the case of durable medical equipment (DME) furnished as a home health service, 20 percent of the customary charge for the service.

* * * * *

d. Paragraph (b) is amended by revising the heading and paragraphs (b)(1) and (2), and adding a new paragraph (b)(5) as follows:

* * * * *

(b) *Part B deductible and coinsurance.* (1) The basic allowable charges are the $75 deductible and 20 percent of the customary (insofar as reasonable) charges in excess of that deductible.

(2) For hospital outpatient services, the allowable deductible charges depend on whether the hospital can determine the beneficiary's deductible status.

(i) If the hospital is unable to determine the deductible status, it may charge the beneficiary its full customary charges up to $75.

(ii) If the beneficiary provides official information as to deductible status, the hospital may charge only the unmet portion of the deductible.

* * * * *

(5) In the case of DME furnished as a home health service under Medicare Part B, the coinsurance is 20 percent of the customary (insofar as reasonable) charge for the services, with the following exception: if the DME is used DME purchased by or on behalf of the beneficiary at a price at least 25 percent less than the reasonable charge for comparable new equipment, no coinsurance is required.

X. Correction of Cross-References and Outdated Duductible Amount:

§ 405.100 [Amended]

1. Reference to "Part 408" is changed to "Part 406".

§ 405.153 [Amended]

2. In paragraph (c)(1)(ii), reference to § 405.658 is removed.

§ 405.210 [Amended]

3. a. In paragraph (b)(1)(iii), reference to "§ 408.10" is changed to "§ 406.10".

b. In paragraph (b)(1)(iv), "(see § 408.12 of this chapter)" is changed to "under § 406.12 of this chapter", and "(see § 408.13 of this chapter)." is changed to "under § 406.13 of this chapter.".

§ 405.311a [Amended]

4. In paragraph (a), reference to "§ 405.249" is changed to "§ 410.168 of this chapter".

§ 405.341 [Amended]

5. a. In paragraph (a)(1), reference to "§ 408.10 of this chapter." is changed to "§ 406.10 of this chapter."

b. In paragraph (a)(2), reference to "§ 408.13;" is changed to "§ 406.13 of this chapter;".

§ 405.370 [Amended]

6. In paragraph (a), the phrase "and payments under § 405.251(a)" is removed.

§ 405.501 [Amended]

7. In paragraph (a), reference to "§§ 405.240 and 405.245)." is changed to "§§ 410.152 and 410.160 of this chapter).".

§ 405.514 [Amended]

8. In paragraph (k)(1), reference to "§ 405.240" is changed to "§ 410.152 of this chapter", and reference to "§ 405.245" is changed to "§ 410.160 of this chapter".

§ 405.515 [Amended]

9. In the introductory text, reference to "§§ 405.240 and 405.245);" is changed to "§§ 410.152 and 410.160 of this chapter);".

§ 405.522 [Amended]

10. In paragraph (c), reference to "§ 405.240(c)" is changed to "§ 410.152 of this chapter".

§ 405.803 [Amended]

11. In paragraph (b), reference to "(§ 405.251(b))" is changed to "under § 405.1675.".

§ 405.903 [Amended]

12. In paragraph (b), "(see § 405.245)" is changed to ", as specified in § 410.160 of this chapter,".

§ 405.1660 [Amended]

13. a. In paragraph (a), the last portion of the first sentence, beginning with "(see § 405.116. . ." is removed, and the following is inserted: ", for posthospital SNF care, and for home health services, in accordance with Part 409 of this chapter.".

b. In paragraph (b), the parenthetical references to "§ 405.233 et seq." and to "§§ 405.231 and 405.249" are removed, and the following is added at the end of that first sentence: ", in accordance with Part 410 of this chapter".

§ 405.1663 [Amended]

14. a. In paragraph (a), "(see §§ 405.116 and 405.152)" is removed.

b. In paragraph (b), "(see §§ 405.131 and 405.136)" is removed.

c. In paragraph (c), "(see § 405.125)" is removed.

§ 405.1672 [Amended]

15. In paragraph (b), reference to "§ 405.231" is changed to "§ 410.10 of this chapter", and reference to "§ 405.249" is changed to "§ 410.168 of this chapter".

§ 405.1675 [Amended]

16. In paragraph (a)(1)(i), reference to "§§ 405.245 and 405.246" is changed to "§§ 410.160 and 410.161 of this chapter".

§ 405.2401 [Amended]

17. a. In paragraph (a)(7)(i), "$60" is changed to "§ 75."

b. In paragraph (a)(7)(ii), reference to "§§ 405.245 and 405.246" is changed to "§§ 410.160 and 410.161 of this chapter".

§ 405.2403 [Amended]

18. In paragraph (a)(2), reference to "§ 405.250–2)," is changed to "§ 410.165 of this chapter),".

§ 405.2418 [Amended]

19. Reference to "Subpart C and §§ 405.232, 405.243, and 405.252 of this part" is changed to "Subpart C of this part and Part 410 of this chapter".

§ 405.2425 [Amended]

20. In paragraph (b)(3), reference to "§ 405.250–2" is changed to "§ 410.165 of this chapter".

§ 413.74 [Amended]

21. In paragraph (c), reference to "§ 405.658". is changed to "§ 405.152".

§ 416.3 [Amended]

22. In paragraph (a), reference to "§ 405.240(k)(2) of this chapter" is changed to "§ 405.1675 of this chapter".

§ 416.30 [Amended]

23. In paragraph (b), reference to "§ 405.250–2 of this chapter).". is changed to "§ 410.165 of this chapter).".

§ 416.110 [Amended]

24. In paragraph (c), reference to "§ 405.240(k)(2) of this chapter)." is changed to "§ 405.1675 of this chapter).".

§ 417.221 [Amended]

25. In paragraph (b), "(described in Subpart B of Part 405 of this chapter)." is changed to "(as specified in Part 410 of this chapter).".

§ 417.222 [Amended]

26. In paragraph (b), reference to "§§ 406.113 through 405.115, 405.123, and 405.124," is changed to "Subpart G of Part 409 of this chapter," and reference to "§§ 405.240, 405.243, 405.245, and 405.246." is changed to "Subpart E of Part 410 of this Chapter.".

§ 418.202 [Amended]

27. a. In paragraph (c), reference to "§ 405.232a" is changed to "§ 410.20 of this chapter".

b. In paragraph (f), reference to "§ 405.231(g)" is changed to "§ 410.38 of this chapter".

c. In paragraph (g), reference to "§ 405.127(d) of this chapter." is changed to "§ 409.33(d) of this chapter".

d. In paragraph (h), reference to "§ 405.127(c) of this chapter" is changed to "§ 409.33 (b) and (c) of this chapter".

§ 421.200 [Amended]

28. In paragraph (c)(2)(ii), reference to "§ 405.251(b) of this chapter;" is changed to "§ 405.1675 of this chapter;".

§ 485.70 [Amended]

29. In the introductory test, reference to "§ 405.260 of this chapter." is changed to "§ 410.100 of this chapter.".

§ 489.23(d) [Amended]

30. In paragraph (d)(2), reference to "§ 405.245 of this chapter." is changed to "§ 410.160 of this chapter.".

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: August 22, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: October 2, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-25326 Filed 11-13-86; 8:45 am]

BILLING CODE 4120-01-M

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Exempt System

AGENCY: Office of the Secretary, HHS

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services hereby exempts a new system of records, 09-37-0019, "National Medical Expenditure Survey (NMES) Records," to be maintained by National Center for Health Services Research and Health Care Technology Assessment (NCHSR), from the subject access and amendment requirements of the Privacy Act to maintain the statistical nature of these documents.

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel C. Walden, Ph.D., Senior Research Manager, Division of Intramural Research, NCHSR, (301) 443-4836.

SUPPLEMENTARY INFORMATION: The National Medical Expenditure Survey (NMES) succeeds a series of national medical expenditure surveys, most notably the 1977 National Medical Care Expenditure Survey (NMCES) and the 1980 National Medical Care Utilization and Expenditures Survey (NMCUES). The new survey will collect information on health status, use of health care services, expenditures and sources of payment, insurance coverage, employment, and demographic information for a sample of civilian noninstitutionalized as well as institutionalized populations. The date from this survey will be used solely for statistical purposes and for health policy research and analysis. No use will be made of the data which will affect the subject individuals or any of their rights, benefits or privileges.

The survey is being conducted under section 304 of the Public Health Service (PHS) Act, 42 U.S.C. 242b, which authorizes the Secretary, acting through the National Center for Health Services Research and Health Care Technology Assessment (NCHSR), to conduct and support research demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States. The data collected by NCHSR are governed by 42 U.S.C. 242m(d), section 308(d) of the PHS Act. Under this confidentiality provision, information collected which can be identified with an individual may not be used for any purpose other than the purpose for which it is collected, i.e., statistical and health policy research. Further, no information may be released from health statistical data which might identify individuals or institutions unless the individuals or institution or authorized representative has given specific consent for such release.

Records on identifiable households, health care providers, employers, residents, and next of kin of such residents, of nursing and personal care homes, psychiatric hospitals, faclities for the mentally retarded, will be collected for NMES. Names, addresses and telephone numbers of individuals who respond on behalf of health care facilities and insurers will also be collected. Together, these records will constitute a "system of records" as that term is defined by the Privacy Act. Records will be retrieved by identifier as necessary to corroborate, complete or correct responses.

Initially, the records were to be included under the broad National Center for Health Statistics (NCHS) systems of records 09-37-0010 and 09-37-0013, both of which contain prior medical expenditure survey data from the National Medical Care Expenditure Survey (NMCES) and the National Medical Care Utilization and Expenditure Survey (NMCUES). All data in these two systems are exempt from subject access and amendment requirements. However, the PHS has established a separate system of records for new NMES records (09-37-0019) which are to be administered by NCHSR and has published a notice in the **Federal Register** to this effect, 51 FR 2762, January 21, 1986.

In a notice of proposed rulemaking published in the **Federal Register**, 51 FR 16074, April 30, 1986, it was proposed, in accordance with paragraph (k)(4) of the Privacy Act, that the new NMES material compiled by NCHSR and its contractor(s) being maintained solely for health statistical research purposes, like the original NMCES and NMCUES data, be exempted from paragraphs (c)(3), (d), (e)(4) (G) and (H), and(f) of the Privacy Act which essentially pertain to subject access and amendment rights.

No comments were received. Thus, as previously proposed, the NMES system (09-37-0019) is exempted from paragraphs (c)(3), (d), (e)(4) (G) and (H), and (f) by the following amendment.

The Department has determined that the authorized exemption of this system of records from the above-cited subject access and amendment requirements of the Privacy Act is not a major rule within the meaning of Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Finally, the exemption as previously proposed by the following amendment does not impose any new information collection requirements within the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 5b

Privacy.

Accordingly, the Department of Health and Human Services amends 45 CFR Part 5b as set forth below.

Dated: September 22, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: October 17, 1986.

Otis R. Bowen,

Secretary, Department of Health and Human Services.

PART 5b—PRIVACY ACT REGULATION

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

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

2. Section 5b.11 is amended by adding paragraph (b)(2)(iii)(F) as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(F) National Medical Expenditure Survey Records. HHS/OASH/NCHSR

* * * * *

[FR Doc. 86-25765 Filed 11-13-86; 8:45 am]

BILLING CODE 4150-04

Proposed Rules

Federal Register
Vol. 51, No. 220
Friday, November 14, 1986

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-37]

Lillian McNally; Denial of Petition of Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is denying a petition submitted by Lillian McNally. The petitioner requested the Commission to amend its regulations: (1) to limit the concentrations of deuterium (heavy hydrogen of mass 2); (2) further limit tritium (radioactive heavy hydrogen of mass 3) concentrations in waters circulated "in and around" nuclear power plants; and (3) not permit the recombination of hydrogen and oxygen. The petitioner states that these restrictions would increase public health protection. The Commission is denying the petition because tritium releases from nuclear power plants to the environment already are considered to be "as low as is reasonably achievable" under existing NRC regulations and the cessation of the use of hydrogen-oxygen recombiners would decrease plant safety and could increase health risks.

ADDRESSES: Copies of the petition, public comments received on the petition and tabular data summaries on tritium releases and doses from reactors are available for inspection and copying under Docket No. PRM-50-37 in the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold T. Peterson, Jr., Safety Research Application Branch, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7691.

SUPPLEMENTARY INFORMATION: A petition for rulemaking was filed by Lillian McNally on July 6, 1983, and, as amended, her petition was docketed on September 23, 1983 as PRM-50-37 and noticed in the **Federal Register** on October 31, 1983 (45 FR 50083).

The amended petition requested the Commission to set standards for tritium and deuterium such that:

> Water circulated in and around Nuclear Power Plants is not to exceed the natural environment concentration of deuterium and tritium for one year; that in one year the concentration shall be limited to less than one part by weight in 10,000 parts, and that the amount by which the contaminants [exceed this limit] shall be reviewed annually thereafter to determine the attainable purity of circulating water.

The petitioner also requested that:

> In no case should the reintroduction of contaminated water produced by the recombination of molecular hydrogen and oxygen in the plant be permitted.

Summary of Public Comments

Four public comments were received by the NRC in response to the notice of receipt for this petition. Three respondents recommended denial of the petition. One respondent favored granting the petition.

Comment Favoring the Petition

The commenter favoring granting the petition cites the following points:

1. *Comment:* NRC and its licensees are mandated by NEPA to avoid "degradation, risk to health and safety or other undesirable and unintended consequences."

NRC Response: The section of the National Environmental Policy Act (Public Law 91-190) referred to by this commenter (section 101(b)(3), 42 U.S.C. 4331(b)(3)] states:

> . . . (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. . . .

However, the preface which precedes this paragraph 101(b), 42 U.S.C. 4331] states in part:

> . . . (b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may. . . .

This preface indicates that the paragraphs which follow it, including paragraph (3), represent a series of national goals. The NRC believes that its existing regulations regarding radiation protection meet these goals.

2. *Comment:* Water is ubiquitous so that tritiated water is a concern regarding potential health effects.

NRC Response: Tritiated water can be of public health significance and, for that reason, its release to the environment is controlled by the NRC under its regulations in 10 CFR Part 20.

3. *Comment:* NPDES [the EPA National Pollutant Discharge Elimination System] fails to deal with tritium.

NRC Response: Materials regulated under the authority of the Atomic Energy Act are not subject to the Federal Water Pollution Control Act Amendments of 1972 [Public Law 92-500, 86 Stat. 816, 33 U.S.C. 1151], Section 402 of which created the National Pollutant Discharge Elimination System (NPDES). This explains why NPDES does not deal with tritium. Tritium releases to the environment, either to the atmosphere or in liquid effluents, are regulated under the Atomic Energy Act of 1954, as amended.

Public Comments Opposed to the Petition

The commenters who recommended denial of the petition cite the following specific reasons:

1. *Comment:* The petitioner fails to demonstrate that releases of radioactive water to the atmosphere are at levels which have produced any public health concerns. Such releases have been within NRC limits and the NRC limits in 10 CFR Part 20 and 10 CFR Part 20, Appendix B, are adequate to protect public health.

NRC Response: This issue is addressed in the NRC staff analysis supporting the recommendations to deny this petition.

2. *Comment:* It would be impossible to control the tritium and deuterium in reactor waters to levels not exceeding naturally-occurring levels as tritium and deuterium are both produced during reactor operation.

NRC Response: The petition intends that a deuterium/tritium removal process be employed to remove the deuterium prior to irradiation and tritium and deuterium as they are formed. The existence of a pending patent by Ms. McNally on a deuterium-

tritium removal process is not a relevant factor in the Commission's decision on her petition.

3. *Comment:* Petitioner's desired limit for a concentration of 1 in 10,000 "doesn't make sense" for tritium as it corresponds to about 1,000 Ci/liter which is many orders of magnitude above normal tritium levels during operation.

NRC Response: This is addressed in the NRC staff analysis which follows:

4. *Comment:* The petitioner does not present any data on the process to remove tritium. There is no proof of cost efficiency and therefore this process cannot be used to establish standards.

NRC Response: The NRC does not require specific details of the petitioner's proposed tritium separation process. It is sufficient to note that there are existing methods for the separation of tritium and hydrogen isotopes which could be applied. The NRC regulations contain criteria for what constitutes "as low as reasonably achievable" which can be applied to the collective (population) doses from tritium releases in order to define justifiable control costs. No known method of isotopic separation could be used at a cost of less than $100 per nuclear power plant (See Analysis below).

5. *Comment:* Deuterium is outside of NRC's jurisdiction to regulate.

NRC Response: Deuterium (hydrogen-2) is neither a source, byproduct nor a special nuclear material regulated by the NRC under the Atomic Energy Act of 1954, as amended. However, to the extent that deuterium could affect public health and safety (such as through tritium production), it could be regulated by the NRC under its authority to regulate production and utilization facilities, incluing nuclear power reactors.

Other public comments are considered in connection with the analysis of the merits of the petition itself.

Analysis of the Petition

In light-water reactors (LWRs), deuterium in cooling water is a minor source of tritium production in the coolant; leakage of fission-product tritium produced in the fuel and by neutron reactions with boron and lithium are the principal sources of tritium (Ref. 1 through 6). In pressurized-water reactors, tritium is formed directly in the coolant by interactions with boron and lithium in addition to the deuterium (1, 2, 3, 4, and 6). Tritium is produced in the fuel rods and in boron control rods or plates of both BWRs and some PWRs, but it is generally contained in these materials and large quantities do not reach the coolant (4, 5 through 6). However, release of even one percent of the tritium contained in the fuel or boron control rods would exceed the deuterium reaction as a source of tritium in a BWR. Because of the presence of these other sources of tritium in a LWR, removal or reduction of the deuterium concentration in the coolant as proposed by the petitioner would not result in any major reduction in the overall tritium production nor would it result in decreased tritium releases to the environment.

Petitioner's suggested limit for deuterium of one part by weight in 10,000 is 3 to 4 times lower than the natural concentration of deuterium in water. Furthermore, additional tritium and deuterium will be produced by neutron capture by hydrogen during operation of the reactor. This condition would require reducing the deuterium and tritium concentrations at the plant water intakes to less than ambient levels in order to attempt to offset the levels produced from reactor operation.

The Commission has criteria determining the practicability of additional reductions in radioactive effluents from nuclear power reactors. These criteria define "as low as is reasonably achievable" or "ALARA" levels of radioactive materials in light-water-cooled nuclear power reactor effluents and are in Appendix I to 10 CFR Part 50. One of the criteria for ALARA is that additional equipment for effluent reduction and control must be added if the reduction in the collective (population) dose (person-rem) afforded by the control equipment multiplied by the worth of exposure reduction ($1,000 per person-rem reduced) would exceed the cost of adding this technology.

The estimated population doses associated with tritium releases from light-water reactor (LWR) effluents in 1981 ranged between 1.1×10^{-6} person-rem to 3.4 person-rem at individual LWR sites (6). The total for all reactor sites was 8.3 person-rem. This means that, using the Appendix I criterion of $1,000 per person-rem reduced, expenditures for tritium control up to $3,400 per year maximum per reactor might be justified. The maximum total cost for all plants that could be justified would be $8,300 (8.3 person-rem $\times$ $1,000 per person-rem). The average justifiable cost per plant would be around $100. The processing of in-plant liquid and effluent streams containing tritium may entail handling tens of thousands of gallons of liquids. There is no demonstrated separation technology that could concentrate and separate tritium and deuterium from this volume of liquid for a hundred dollars or less. Therefore, the NRC concludes that the petitioner's request to require a reduction in tritium levels in waters circulating in and around reactor plants is not "reasonably achievable" under the Commission's established criteria in Appendix I to 10 CFR Part 50.

The application of the one part in ten thousand (by weight; 1:10,000) ratio to tritium would, as one of the public commenters noted, result in reactor coolant tritium concentrations which greatly exceed those that could be tolerated without excessive dose to plant workers. A tritium-to-hydrogen ratio of 1:10,000 by weight corresponds to a tritium activity concentration of approximately one curie per gram (or per milliliter) which is equivalent to 1,000 curies per liter of water. Although it would be almost impossible to reach such concentrations in a light-water reactor, such a limit could not be tolerated for tritium because of worker protection considerations. Therefore, the portion of the petition requesting the NRC to adopt this limit for tritium is unacceptable.

The petitioner also requested that:

> In no case should the reintroduction of contaminated water produced by the recombination of molecular hydrogen and oxygen in the plant be permitted.

Hydrogen and oxygen gases are producted in normal reactor operation by the radiolytic (radiation-induced) decomposition in water. The purpose of the petitioner's request would be to keep tritium-contaminated hydrogen gas from mixing with the large volume of water within the plant. These gases are potentially explosive and can represent a significant portion of the total quantity of radioactive waste gases produced. Controlled recombination of these gases back into water reduces not only the potential explosive hazard, but also the volume of the gaseous wastes which have to be stored and treated. The volume reduction resulting from recombination of hydrogen and oxygen permits longer in-plant holdup of radioactive waste gases, longer periods of radioactive decay and, consequently, results in lower radiation doses from gaseous effluents. Because the elimination of recombiners could have an adverse impact on the potential safety of reactor systems, would have adverse impacts on waste gas holdup times and would increase offsite

radiation doses, and cannot be justified solely on the potential reduction of the already-low doses from tritium, the NRC also denies this aspect of the petition.

Basis for Denial

The NRC denies the petitioner's request to establish limits on the deuterium and tritium concentrations in reactor coolants on the basis that: (1) reductions in the deuterium levels would not necessarily produce corresponding reductions in tritium production, (2) tritium in the coolant of operating light-water reactors already is at or beneath the numerical limits requested by the petitioner and (3) the associated tritium releases from nuclear power plants are already "as low as is reasonably achievable." The request not to permit hydrogen and oxygen recombination is also denied because this recombination is desirable both for safety reasons and for reducing the levels of gaseous radioactive releases. Therefore, the petition is denied.

References Cited

1. C.L. Weaver, E.D. Harward, and H.T. Peterson, Jr., "Tritium in the Environment from Nuclear Power Plants," *Public Health Reports, 84*(4):363–371 (April 1969).

2. H.T. Peterson, Jr., J.E. Martin, C.L. Weaver and E.D. Harward, "Environmental Tritium Contamination from Increasing Utilization of Nuclear Energy Sources" in *Environmental Contamination by Radioactive Materials* (Proc. FAO–IAEA—WHO Seminar. Vienna, Austria 24–28 March 1969) Vienna: IAEA pp. 35–58 (1969).

3. J. Locante and D.D. Malinowski, "Tritium in Pressurized Water Reactors" in *Tritium* (A.A. Moghissi and M.W. Carter, eds.) CONF–710809, Las Vegas, NV: Graphics (May 1973) pp. 45–57.

4. J.M. Iacovino, Jr., "Tritium Control Strategies in PWRs," paper presented at the American Nuclear Society winter meeting, Washington, D.C., November 18, 1976. Abstract in *Trans. Amer. Nucl. Soc., 24*:106–108 (Nov. 1976).

5. J.M. Smith and R.S. Gilbert, "Tritium Experience in Boiling Water Reactors" in *Tritium* (A.A. Moghissi and M.W. Carter, eds) Messenger Graphics, Las Vegas, NV (May 1973) pp. 57–68.

6. H.T. Peterson, Jr., and D.A. Baker, "Tritium Production, Releases and Population Doses at Nuclear Power Reactors," *Fusion Technology, 8* (2):2544–2550 (September 1985).

Dated at Bethesda, MD this 20th day of October 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86–25769 Filed 11–13–86; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[Notice No. 611; Ref: Notice Nos. 362 and 600]

Use of the Word "Light" (Lite) in the Labeling and Advertising of Wine, Distilled Spirits, and Malt Beverages; Reopening of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Reopening of comment period.

SUMMARY: This notice reopens the comment period for Notice No. 600 (51 FR 28836, August 12, 1986). Notice No. 600 proposed regulations addressing the use of the word "light" (lite) in the labeling and advertising of wine, distilled spirits, and malt beverages. The proposals made include: (1) prescribing new regulations; (2) amending current regulations; (3) incorporating and/or modifying prior ATF decisions on labeling and advertising matters issued as rulings, specifically ATF Rul. 80–3, A.T.F. Q.B. 1980–2, 13, into the regulations; (4) incorporating other ATF policies into the regulations; and (5) incorporating into the regulations ATF Rul. 84–1, A.T.F. Q.B. 1984–2, 35, dealing with low or reduced alcohol malt beverages.

If adopted, the proposals would provide a concise meaning to the word "light" (lite). This, in turn, would provide industry with guidelines on the use of these terms and would minimize consumer confusion in this complex area.

The comment period is being reopened based on requests from the Wine Institute and others.

DATE: Comments must be received on or before December 31, 1986.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, Attn: Notice No. 600.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1986, ATF published Notice No. 600, proposing regulations addressing the use of the word "light" (lite) in the labeling and advertising of alcoholic beverages, as well as proposing regulations on use of the terms "low alcohol" and "reduced alcohol" in the labeling and adevertising of malt beverages. Use of the word "light" (lite) was previously addressed, to a limited extent, in Notice No. 362 (December 19, 1980, 45 FR 83530).

ATF has received a written request from the Wine Institute (on behalf of the 530 wineries and many grapegrowers who comprise the Wine Institute) for additional time to gather data and formulate their comments. ATF has also received verbal inquiries for additional time from other interested parties, representing both domestic and foreign interests, who are directly impacted by issues raised in Notice No. 600.

Therefore, the comment period is being reopened, until December 31, 1986.

Disclosure

Copies of this notice, Notice No. 600, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended, 27 U.S.C. 205.

Signed: November 10, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86–25735 Filed 11–12–86; 9:41 am]

BILLING CODE 4810–31–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A–2–FRL–3110–2; Region II Docket No. 57]

Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for New York State

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces the Environmental Protection Agency's (EPA's) proposed approval of a request

from New York State to revise the air quality designation of the Village of East Syracuse and certain other areas in the City of Syracuse with respect to attainment of the suspended particulate matter national ambient air quality standards. If this proposal is approved, portions of Syracuse and the Village of East Syracuse will be designated as "better than national standards" with respect to particulate matter. Such designations are required by section 107(d) of the Clean Air Act and may be revised at the request of a state.

DATE: Comments must be received on or before December 15, 1986.

ADDRESSES: All comments should be addressed to: Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York, 10278.

Copies of the proposals submitted by New York State are available for public inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 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, covering all areas within the state, of attainment status designations with respect to the national ambient air quality standards. 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.

EPA's Review Criteria

EPA has summarized its policy on TSP redesignations in a memorandum of April 21, 1983 from Sheldon Meyers, former Director of EPA's Office of Air Quality Planning and Standards (OAQPS), and a memorandum of September 30, 1985 from Gerald Emison, current Director of OAQPS. The policy generally requires eight quarters (two years) of monitoring data showing no violations and, for areas having an EPA-approved, full Part D control strategy, evidence that the strategy has been implemented. The most recent four quarters of monitoring data may be used if dispersion modeling shows that the SIP strategy is sound and if actual enforceable emission reductions have occurred.

State Submittals and EPA's Review Findings

On March 7, 1985 the New York State Department of Environmental Conservation (NYSDEC) submitted a request to revise its air quality designations with respect to the secondary suspended particulate matter (TSP) standard for certain areas in Syracuse and the Village of East Syracuse to "better than national standard" (i.e., attainment). This request was supplemented with additional information on April 3 and June 20, 1985. The area is currently designated as "does not meet secondary standard". The specific areas mentioned in the State proposals are listed in Table 1, as follows:

TABLE 1.—STATE PROPOSAL

Area	Present designation	Proposed designation
Central AQCR:		
Portion of Syracuse (southwest of the Barge Canal, northwest of Bear Street, northeast of I-690 and southeast of Onondaga Lake).	Does not meet Secondary Standard.	No change
Remainder of Syracuse.	Does not meet Secondary Standard.	Better than National Standards
Village of East Syracuse.	Does not meet Secondary Standard.	Better than National Standards

The State requested that EPA redesignate certain portions of the City of Syracuse and the Village of East Syracuse from nonattainment to attainment. The four areas of the Syracuse Metropolitan area are: (1) The area north and slightly to the west of the Syracuse Central Business District, (2) the Central Business District of Syracuse, (3) the area between the Syracuse Central Business District and the southeast coast of Onondaga Lake, and (4) the Village of East Syracuse.

Each of the areas just described have met all EPA criteria for redesignation through air monitoring or modeling demonstrations and by having an EPA fully approved, implemented State Implementation Plan. In each area, there is also at least eight complete quarters of the most recent air quality data which show attainment of the secondary particulate matter ambient air standard. Further, all point source emissions comply with the stack height regulations promulgated by EPA on July 8, 1985 (50 FR 27892). Control strategies which have been applied in each of the areas proposed for redesignation are well-documented in the SIP. These include enforceable emission reductions at three major industrial facilities in metropolitan Syracuse, and implementation of the Federal Motor Vehicle Control Program.

In the Central Business District, an additional reduction in emissions was provided by the results of a revised fuel survey completed in January 1980. This revised inventory produced a reduction in fuel emissions of 106 tons/year, from previous emissions estimates for the year 1978. This reduction alone insured attainment of all the applicable air quality standards. This new survey is considered more accurate than previous estimates, because it is based on an actual building by building survey.

EPA's Proposed Action

Today, EPA is proposing to approve the State's request to redesignate the Village of East Syracuse and much of Syracuse to "better than national standards" with respect to particulate matter. EPA's proposed approval of the State's redesignation request is based on its meeting the requirements of section 107 and 301 of the Clean Air Act and applicable EPA guidelines.

Interested persons are invited to comment on the proposal and on whether it meets Clean Air Act requirements. Comments received by December 15, 1986, will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA, at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under 5 U.S.C. section 605(b), the Administrator has certified that this redesignation will 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.

Authority: 42 U.S.C. 7401–7642.

Dated: December 16, 1985.

Christopher J. Daggett,
Regional Administrator, Environmental Protection Agency.

Editorial note.—This document was received at the Office of the Federal Register on November 10, 1986.

[FR Doc. 86-25716 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-411, RM-5462]

Radio Broadcasting Services; Liberty, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Trinity River Valley Broadcasting Co., proposing the allotment of Channel 264C2 to Liberty, Texas, as that community's first FM service. A site restriction of 27.0 kilometers (16.7 miles) east of the city is required.

DATES: Comments must be filed on or before December 26, 1986, and reply comments on or before January 12, 1987.

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: Trinity River Valley Broadcasting Co., 517 Travis, Liberty, Texas 77575 (petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-411, adopted October 9, 1986, and released November 5, 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* contracts 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. 86-25725 Filed 11-13-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-409, RM-5387]

Radio Broadcasting Services: Panama City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Bay Media, Inc. proposing to substitute Channel 290C2 for Channel 292A at Panama City, Florida, and to modify the license for Station WLVV(FM) accordingly, at the request of the licensee.

DATES: Comments must be filed on or before December 26, 1986, and reply comments on or before January 12, 1987.

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: Heidi P. Sanchez, Fly, Shuebruk, Gaguine, Boras and Braun, 1211 Connecticut Avenue, NW., Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-409, adopted October 9, 1986, and released November 5, 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. 86-25722 Filed 11-13-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-416, RM-5112]

Radio Broadcasting Services; Keokuk, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by W. Russell Withers, Jr. proposing the substitution of Class C2 FM Channel 290 for Channel 237A at Keokuk, Iowa, and modification of the Class A license for Station KOKX(FM). The proposed allotment could provide Keokuk with its first wide coverage Class C2 FM station.

DATES: Comments must be filed on or before December 29, 1986, and reply comments on or before January 13, 1987.

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: William P. Bernton, Esq., 1875 Eye Street, NW., Suite 1050, Washington, DC 20006 (Counsel for 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. 86-416, adopted October 15, 1986, and released November 6, 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. 86–25728 Filed 11–13–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–410, RM–5428 and 5469]

Radio Broadcasting Services; Columbia, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separate petitions for rule making. Gail C. Mooney requests that Channel 223A be allocated to Columbia, Missouri, and George Thomas proposes the allotment of FM Channel 230A to Columbia. A site restriction 8.8 kilometers (5.5 miles) northwest of the community is required for the allotment of Channel 223A, and the allocation of Channel 230A is conditioned on the final approval for a construction permit to allow Station KSD–FM, St. Louis, Missouri, to operate as a full Class C facility. The allotments could provide a fourth and fifth commercial broadcast service to Columbia.

DATES: Comments must be filed on or before December 26, 1986, and reply comments on or before January 12, 1987.

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: George Thomas, 1401 Paris Road, Columbia, MO 65201 (Petitioner for Channel 230A); Gail C. Mooney, 1501–212 Vandiver, Columbia, MO 65202 (Petitioner for Channel 223A).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634–6530 Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–410, adopted October 9, 1986, and released November 5, 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. 86–25724 Filed 11–13–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–415, RM–5373]

Radio Broadcasting Services; Conway, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Pemigewasset Broadcasters, Inc. proposing the allocation of Channel 283A to Conway, New Hampshire, as the community's second local FM service. A site restriction of 4.2 kilometers (2.6 miles) southeast is required to avoid a short-spacing to Station CFNI–FM, Channel 284A, Coaticook, Quebec, Canada.

DATES: Comments must be filed on or before December 29, 1986, and reply comments on or before January 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. (In addition to filing comments with the FCC, interested parties should serve the petitioner, or their counsel or consultant, as follows: Marvin Rosenberg, Esq., Thomas S. Walsh, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–415, adopted October 7, 1986, and released November 6, 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. 86–25726 Filed 11–13–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86-418, RM-5494]

Radio Broadcasting Services; Bedford, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate Channel 298A to Bedford, Pennsylvania, as the community's second local FM service, at the request of Cessna Communications, Inc. The channel can be allocated without the imposition of a site restriction. Canadian concurrence is required.

DATES: Comments must be filed on or before December 29, 1986, and reply comments on or before January 13, 1987.

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: Robert A. Marmet, Esq., Harold K. McCombs, Jr. Esq. Marmet & McCombs Professional Corp., 1822 Jefferson Place, NW., Washington, DC 20036 (Counsel to petitioner).

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. 86-418, adopted October 15, 1986, and released November 6, 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 Divison, Mass Media Bureau.

[FR Doc. 86-25729 Filed 11-13-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-413, RM-5510]

Radio Broadcasting Services; State College and University Park, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate Channel 233A to State College, Pennsylvania, as the community's second local FM service, at the request of Destiny Communications, Inc. The channel can be allocated without a site restriction. On its own motion, the Commission proposes to reallocate Channel 244A to University Park, Pennsylvania, to reflect its actual use there by Station WQWK. Canadian concurrence in both allotments is required.

DATES: Comments must be filed on or before December 26, 1986, and reply comments on or before January 12, 1987.

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: Richard J. Hayes, Jr. 1359 Black Meadow Road, Spotsylvania, Virginia 22553 (Counsel to petitioner).

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. 86-413, adopted September 26, 1986, and released November 5, 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. 86-25723 Filed 11-13-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-414, RM-5468]

Radio Broadcasting Services; Williamsport, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate Channel 238A to Williamsport, PA, as the community's third local FM service, at the request of Bald Eagle Broadcast Associates. Channel 300A, as originally proposed by Bald Eagle, would conflict with a pending request to allocate Channel 300B1 at Newberry, PA (RM-5374). Canadian concurrence is required since Williamsport is located within 320 kilometers of the U.S.-Canada border.

DATES: Comments must be filed on or before December 29, 1986, and reply comments on or before January 13, 1987.

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: Faith A. Smith, Vice President, Bald Eagle Broadcast Associates, P.O. Box 1111, Williamsport, PA. 17703-1111.

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. 86-414, adopted October 9, 1986, and released November 6, 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. 86–25731 Filed 11–13–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–412, RM–5491]

Radio Broadcasting Services; Coalville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Gene Guthrie proposing the allotment of Channel 223A to Coalville, Utah, as that community's first FM service.

DATES: Comments must be filed on or before December 29, 1986, and reply comments on or before January 13, 1987.

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: Robert L. Olender, Esquire, Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street, NW., Suite 203, Washington, DC 20036–3355.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–412, adopted October 6, 1986, and released November 6, 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. 86–25727 Filed 11–13–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–406; FCC 86–454]

Proposed Amendment or Elimination of the Main Studio Location and Origination Rules for Radio and Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend Part 73 of its Rules to modify or eliminate rules requiring the main studio of an AM and FM radio or television station to be located in the station's community of license and requiring more than 50 percent of that station's non-network programming to originate from its main studio or from another point in its community of license.

DATE: Comments are due on or before December 22, 1986, and reply comments are due on or before January 6, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Terry L. Haines, Policy and Rules Division, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 86–406, adopted October 16, 1986, and released October 30, 1986.

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

Summary of Notice of Proposed Rule Making

1. The Arizona Justice Committee ("the Committee"), and *ad hoc* group of radio licensees, filed a Petition for Rule Making on June 11, 1986, urging that the FCC propose modification of the main studio and program origination rules (§§ 73.1125 and 73.1130 of the Commissions Rules, respectively), as they pertain to radio stations. Currently, these rules require the location of a radio or television broadcast station's main studio in its community of license, and origination of over 50 percent of a station's non-network programming from that studio or from elsewhere within the community of license. The Committee claimed that these rules are outdated, unnecessary, and detrimental to providing the best service to the listening public, and suggested the replacement of these rules with the requirement that the main studio of a radio station be located within the station's service area, and the elimination of the studio origination rule for radio stations.

2. The Commission agrees that these rules should be reexamined. These rules were originally enacted over thirty-five years ago because the Commission felt that local self-expression would be furthered by requiring the main studio of a radio or television broadcast station to be located in its community of license and by requiring the origination of programming from that studio. However, the continued relevance of these rules is questionable in light of current regulatory policies and broadcast station operations. Specifically, technical advances in the production and transmission of programming have

eroded the role of a main studio and of studio origination, since remote facilities and satellite transmission capability effectively allow origination to occur from anywhere. Further, it is uncertain whether the presence of a main studio in the community of license actually increases communication between a station and its audience. There also may be substantial licensee compliance costs associated with these rules. Finally, the logic of these rules is contrary to the Commission's regulatory posture that broadcast station licensees will continue to serve their audiences without intrusive programming-related rules to tie them to their communities of license.

3. Therefore, in the interest of a consistent and comprehensive reevaluation of these rules, the Commission requests comments on proposals, for both radio and television broadcast stations: (1) To amend the main studio rule to allow a broadcast station to locate its main studio within its city grade contour (for AM radio, the 5 millivolt per meter contour), or within its Grade B contour (for AM radio, the 1 millivolt per meter contour); or (2) to eliminate the main studio rule; and (3) to eliminate the studio origination rule.

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

5. This proceeding suggests proposals which may significantly impact on small entities. Pursuant to the Regulatory Flexibility Act of 1980, 5 USC § 603 *et seq.*, public comment is requested on the initial regulatory flexibility analysis set out in the Commission's complete decision.

6. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to propose no new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before December 22, 1986, and reply comments on or before January 6, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 73

Radio broadcast services.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-25733 Filed 11-13-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 220
Friday, November 14, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

1987 National Marketing Quota and 1987 Price Support Level for Flue-Cured Tobacco

Correction

In FR Doc. 86-24701, beginning on page 39768, in the issue of Friday, October 31, 1986, make the following corrections:

On page 39771, second and third columns, in "Appendix Table 1" under the Item "Exports (Reported)" in the entry "463.0" remove footnote 4 and add footnote 4 to the entry "435.0"; on the same line remove footnote 5 from the entry "456.0" and add footnote 5 to the entry "470.0".

On the same page, same table, in the last line, "Exports", remove footnote 6 from the entry "75.5" and add footnote 6 to the entry for "137.1".

On the same page, the FR Doc. No. should read "86-24701".

BILLING CODE 1505-01-M

Soil Conservation Service

Wayne County Agricultural Society Flood Prevention and Drainage RC&D Measure, Wayne County, PA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wayne County Agricultural Society Flood Prevention and Drainage RC&D Measure in Wayne County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782-4453.

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

The project concerns a plan for flood prevention and internal drainage. The planned works of improvement include 5,400 feet of surface drainage, 3,220 feet of subsurface drain, and five water control structures.

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

No administrative action on implementation of the proposal will be taken until December 15, 1985.

(This activity is listed in the Catalog of Federal Domestic Assistance under No., 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: November 6, 1986.

James H. Olson,

State Conservationist

[FR Doc. 86-25667 Filed 11-13-86; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee on Arms Control and Disarmament; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament
Date: November 19, 1986
Time: 9:15 am
Place: State Department Building, Washington, DC
Type of Meeting: Closed
Contact Person: William B. Staples, Executive Secretary, U.S. Arms Control and Disarmament Agency, Room 5933, Washington, DC 20451, (202) 647-8478
Purpose of Advisory Committee: To advise the Director of the U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.
Agenda: Will present the following discussions and presentations:

November 19

AM—Discuss the status of the Geneva negotiations and Strategic Defense Initiative.
PM—Discuss Verification and Non-Compliance, Multilateral and Non-Proliferation issues.
Reason for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.
Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated November 12, 1986, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.
Reason for Late Notice: Because of recent developments regarding arms control issues, it was determined that

a GAC meeting should be held on short notice.

William J. Montgomery,

Committee Management Officer.

[FR Doc. 86-25852 Filed 11-13-86; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycle Speedometers From Japan; Preliminary Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to requests by the petitioner and three respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on bicycle speedometers from Japan. The review covers eighteen manufacturers and/or exporters of this merchandise to the United States and the period November 1, 1984 through October 31, 1985. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value. One firm failed to respond to our questionnaire. As a result, for that firm we used the best information available for assessment and antidumping duty cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 24426) the final results of its last administrative review of the antidumping finding on bicycle speedometers from Japan (37 FR 24826, November 22, 1972). We received requests for an administrative review from the petitioner and three respondents in accordance with § 353.53a(a) of the Commerce Regulations. We subsequently published a notice of initiation of the antidumping duty administrative review on December 13, 1985 (50 FR 50933).

Scope of the Review

Imports covered by the review are shipments of bicycle speedometers from Japan, currently classifiable under items 711.9300, 711.9820 and 732.4200 of the Tariff Schedules of the United States Annotated. The review covers eighteen manufacturers and/or exporters of Japanese bicycle speedometers to the United States and the period November 1, 1984 through October 31, 1985. Mitsui and Co. failed to respond to the Department's antidumping questionnaire. The Department used the best information available for assessment and estimated antidumping duty cash deposit purposes for that firm. The best information available is the highest rate for any responding firm with shipments in this review.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"), as appropriate. Purchase price was based on the f.o.b. or c.i.f. packed, delivered price to either the first unrelated purchaser in the United States or unrelated Japanese trading company for export to the United States. ESP was based on the c.i.f. packed, delivered price to the first unrelated purchaser in the United States. We made adjustments, where applicable, for foreign and U.S. inland freight, ocean freight, marine insurance, U.S. Customs duties, brokerage and handling charges, and in ESP calculations, the U.S. subsidiary's selling expenses and the cost of parts and assembly added in the U.S. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the packed, delivered price to unrelated purchasers. We made adjustments, where applicable, for inland freight, differences in packing costs, differences in the physical characteristics of the merchandise, and for indirect expenses to offset U.S. selling expenses for ESP calculations. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period November 1, 1984 through October 3, 1985:

Manufacturer/exporter	Margin (percent)
All new firms	21.52
Asahi Keiki Mfg. Co	21.52
Asahi Keiki Mfg. Co./Noma Enterprises Co., Ltd	[1] 21.52
Asahi Keiki Mfg. Co./Nippon Seiuki Co., Ltd	[1] 21.52
Asahi Keiki Mfg. Co./Royal Industries Ltd	[1] 21.52
Asahi Keiki Mfg. Co./Yagami Corporation	.03
Asahi Keiki Mfg. Co./NSI International	5.28
Asahi Keiki Mfg. Co./Diversified Product Corporation	5.68
Asahi Keiki Mfg. Co./Allegheny International	21.52
Asahi Keiki Mfg. Co./Roadmaster Corporation	0
Tsuyama Mfg. Co., Ltd	.07
Tsuyama Mfg. Co., Ltd./Kozaki Trading Co., Ltd	0
Tsuyama Mfg. Co., Ltd./Yagami Corporation	6.31
Tsuyama Mfg. Co., Ltd./Kuwahara Co., Ltd	2.34
Tsuyama Mfg. Co., Ltd./Asia Machinery Co., Ltd	0
Tsuyama Mfg. Co., Ltd./H. Tano & Co., Ltd	0
Tsuyama Mfg. Co., Ltd./Mitsui & Co., Inc	21.52
Tsuyama Mfg. Co., Ltd./Shinwa Trading Co., Ltd	0
Tsuyama Mfg. Co., Ltd./Fujimoto Trading Co	[1] 21.52

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearign within 10 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumpting duties based on the above margins shall be required for these firms. Since the margins for Asahi/Yagami and Tsuyama are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department waives the estimated cash deposit requirements for these firms. For any shipments from the remaining manufacturers and/or exporters not covered by this review, the cash deposit

will continue to be at the rate published in the final results of the last administrative review for each of those firms (49 24426, June 13, 1984).

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after October 31, 1985 and who is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of 21.52 percent shall be required. These desposit requirements and waivers are effective for all shipments of Japanese bicyle speedometers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: November 10, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-25756 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On July 1, 1986, the Department of Commerce published the preliminary results of its administrative review and a tentative determination to revoke in part the antidumping finding on carbon steel bars and structural shapes from Canada. The review covers the only manufacturer, Western Canada Steel Ltd., of this merchandise exported to the United States covered by this finding and the period September 1, 1983 through July 1, 1986.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination revoke in part. We received no comments. We also determined that there were no shipments of this merchandise to the United States by Western Canada Steel Ltd. during the period September 1, 1985 through the date of the tentative determination to revoke in part. We advised all interested parties that there were no shipments and we provided an additional opportunity to comment. Again, we received no comments. Based on our analysis, the final results of our review are the same as the preliminary results, and we revoke the finding for this merchandise manufactured and exported to the United States by Western Canada Steel Ltd.

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1986 the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 23803) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on carbon steel bars and structural shapes from Canada produced by Western Canada Steel Ltd. (29 FR 13319, September 25, 1964). We began this review under our old regulations. After the promulgation of our new regulations, the respondent, Western Canada Steel Ltd., requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of carbon steel bars, bars-shapes under 3 inches, and structural shapes 3 inches and over from Canada, manufactured by Western Canada Steel Ltd. Such merchandise is currently classifiable under items 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated.

The review covers the only manufacturer of Canadian carbon steel bars and structural shapes exported to the United States covered by this finding, Western Canada Steel Ltd., and the period September 1, 1983 through July 1, 1986.

Final Results of the Review and Revocation in Part

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination to revoke in part. We received no comments. We also determined that there were no shipments of this merchandise to the United States by Western Canada Steel Ltd. during the period September 1, 1985 through July 1, 1986, the date of the tentative determination to revoke in part. We advised interested parties that there were no shipments and we provided an additional opportunity to comment. Again, we received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review with respect to Wastern Canada Steel Ltd.

For the reasons set forth in the preliminary results, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Western Canada Steel Ltd. Accordingly, we revoke in part the antidumping finding on carbon steel bars and structural shapes from Canada. This partial revocation applies to all unliquidated entries of this merchandise manufactured and exported by Western Canada Steel Ltd. entered, or withdrawn from warehouse, for consumption on or after July 1, 1986. The Department shall instruct the Customs Service not to assess antidumption duties on all appropriate entries.

Further, as provided for in § 353.48(b) of the Commerce Regulations, for any shipments from the six remaining known exporters of Canadian carbon steel bars and structural shapes manufactured by Western Canada Steel Ltd. not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (49 FR 45465, November 16, 1984). For any shipments from a new exporter of carbon steel bars and structural shapes manufactured by Western Canada Steel Ltd., not covered by this or prior administrative reviews, whose first shipments occurred after July 31, 1986 and who is unrelated to Western Canada Steel Ltd. or any other previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian carbon steel bars and structural shapes manufactured by Western Canada Steel Ltd. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review, partial revocation, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)(c)), and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: November 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-25747 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-008]

Color Televisions Receivers From Korea; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 28, 1986 the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on color television receivers from Korea. The review covers the three manufacturers and/or exporters of this merchandise to the United States currently covered by the order, and generally the period May 1, 1984 through March 31, 1985.

We gave interested parties an opportunity to comment on the preliminary results. Based on the comments we received we have changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Laura Merchant or David Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/2923.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 26919) the preliminary results of its administrative review of the antidumping duty order on color television receivers from Korea (49 FR 18336, April 30, 1984). We begin this review under our old regulations. After the promulgation of our new regulations, the petitioners and respondents requested in accordance with § 353.53(a) of the Commerce Regulations that we complete the administrative review. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are sales of color television receivers, complete and incomplete, from Korea. The order covers all color television receivers regardless of tariff classification. The merchandise is currently classifiable under item numbers 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9254, 684.9255, 684.9256, 684.9258, 684.9260, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, 687.3520 of the Tariff Schedules of the United States Annotated. The review covers the three known manufacturers and/or exporters of Korean color television receivers to the United States currently covered by the order, and generally the period May 1, 1984 through March 31, 1985.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.53(d) of the Commerce Regulations. We received comments from the petitioners (International Brotherhood of Electrical Workers, International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL-CIO-CLC, Independent Radionic Workers of America, Industrial Union Department, AFL-CIO), Zenith Electronics Corporation, and the respondents, Samsung Electronics Co., Gold Star Co., and Daewoo Electronics Co. (We received additional comments from the respondents concerning mathematical or clerical errors. We have corrected such errors but have not addressed them specifically in this notice.)

Comment 1: Zenith and the petitioners argue that the Department should have implemented the Court of International Trade's ("the CIT's") ruling in *Zenith v. United States* (April 24, 1986) and adjusted United States price for the rebate or forgiveness of internal taxes upon the exportation of the merchandise. This would require the Department to add to United States price an amount equal to the tax that would have been imposed by the Korean government upon the exported merchandise were it not exported.

Department's Position: As directed by the CIT in *Zenith*, we are now attempting to formulate a methodology for calculating the amount of indirect taxes passed through in the home market, which should then be added to United States price. Because the remand in the Japanese case and the current court case concerning the first administrative review of this order are still before the CIT, we have assumed full passthrough of indirect taxes in this review, for the reasons stated in our final determination of sales at less than fair value on Grand and Upright Pianos from Korea, (50 FR 37561 (1985)), and have subtracted the full amount of these taxes from foreign market value.

Comment 2: The petitioners argue that the Department erred when it treated Samsung's "indirect purchase price" sales as purchase price and not as exporter's sales price sales. These are sales where Samsung's U.S. subsidiary arranges sales of Korean televisions to an unrelated party prior to importation of the merchandise into the United States and then purchases the televisions from the Korean parent to cover those sales. The petitioners claim that the statute directs the Department to treat sales made through a related entity in the United States as exporter sales price transactions because the statute defines exporter's sales price as the price at which the merchandise is "sold in the United States, before or after importation, by or for the account of the exporter."

The petitioners claim an "indirect purchase price" approach is appropriate for cases in which the related entity has no role in the transaction except as an agent or representative of the manufacturer, when the price of the merchandise is clearly set before its importation into the United States, and when the price paid by the U.S. entity to the producer is the same as what is charged to the unrelated buyer.

Department's position: We disagree. The transfer price between Samsung and its U.S. subsidiary Samsung Electronics America ("SEA"), reported for Customs valuation, is not the sale price to the unrelated customer. We only consider the price of the first sale to an unrelated U.S. purchaser in our analysis. Further, we were satisified at verification that Samsung collected the price charged to the unrelated customer.

Comment 3: The petitioner claim that the Department inappropriately combined the commission offset and the exporter's sales price offset. The exporter's sales price offset is to reflect expenses incurred by the United States subsidiary which are presumably included in the United States price. It is intended to ensure that the price to the United States subsidiary does not reflect general, selling, and administrative expenses incurred in the home market. The commission offset, however, reflects the circumstance of using commissioned agents in one market and salaried salesmen in the other market.

Department's Position: When in an ESP situation a commission is paid only on U.S. sales, it is our practice to subtract the commission from the ESP and subtract indirect home market

selling expenses up to the total amount of the U.S. commission and U.S. indirect selling expenses. By combining the two, we avoid using the same home market expenses to offset two different U.S. expenses. Failure to do so could lead to an offset in the home market which is greater than the total of the indirect selling expenses in the United States. See final determination of sales at less than fair value of 64K dynamic random access memory components from Japan (57 FR 15943, October 30, 1986).

Comment 4: The petitioners argue that if the Department accepts Daewoo's adjustment to its imputed credit calculation to reflect the payment of the value-added tax in the home market, then the Department should reduce Daewoo's value-added tax adjustment to United States price by the cumulated taxes paid upon prior stages of manufacture.

Petitioners reason that according to Daewoo's claim, the value-added tax paid on the value of prior stages of production are waived or refunded in payment of the tax on the finished article: Daewoo pays only the tax on the value added in the final stage of manufacture. Therefore, only the value added on the final stage has been waived by reason of exporting the merchandise to the United States. The Department should reduce Daewoo's tax adjustment to United States price by cumulative taxes paid prior to this stage.

Department's Position: We disagree. Daewoo's credit claim with respect to payment of the value-added tax merely accounts for the timing of the tax payment. Daewoo demonstrated at verification that it does pay the tax on the full value of the completed television. We believe the petitioners have misinterpreted Daewoo's claim to mean that Daewoo does not pay the tax on the value of the television but rather pays an amount based on the final stage of manufacture. We verified that this is not the case, and we have not made any compensating deductions to United States price.

Comment 5: The petitioners allege that despite the Department's statement in its preliminary results notice that the low percentage of sales below cost did not justify their exclusion from the Department's calculations, the Department did exclude some but not all of Gold Star's below cost sales. In accordance with section 773(b), the petitioners urge the Department to test Gold Star's home market sales on a model-by-model basis since a large percentage of sales below cost for any one model could skew the Department's dumping analysis.

Department's Position: Following the publication of our preliminary results notice for this review, we discovered an error in our computer program which created an inconsistent report of sales below cost for Gold Star. We found that for certain models, more than 10 percent of sales were made below-cost but were not detected in our analysis. We have corrected that error in our final analysis.

It is our general policy to exclude below-cost sales if more than 10 percent of sales of any one product-grouping are made below the cost of production for that product-grouping. In this case the product-groupings used were the models. If more than 90 percent of sales of a model are made below cost, we do not use that model for comparison purposes because the number of sales of that model remaining would form an inadequate basis for determining foreign market value.

Considering the high volume of sales in the home market for each respondent, our 10 percent rule is a reasonable guideline in this case. Further, because sales of one home market model are often compared against sales of more than one model in the United States, substantial below-cost sales of that home market model could have a significant influence on our analysis. We have therefore considered below-cost sales on a model-by-model basis as the petitioners have requested.

Comment 6: The petitioners urge the Department to use home market sales made in the same month as the U.S. sale, for purposes of comparison to U.S. sales. Petitioners note that Samsung did not report any home market sales which were made at the time of certain United States sales that took place prior to this review period. These United States sales are included in this review because of a change in coverage from the previous review. Because respondents did not report any of the home market sales made in the same month as those earlier United States sales, the Department should use the home market data Samsung submitted in connection with the previous review to compare with those United States sales.

Further, petitioners claim the Department erred when it used one weighted-average foreign market value for Samsung's sales during the review period and instead should use a monthly weighted-average foreign market value for comparison to U.S. sales.

Department's Position: We agree with petitioners that we should use a monthly weighted-average foreign market value. We had intended to use a monthly weighted-average in this case in the preliminary determination. However, as the result of a programming error, we did not do so for Daewoo and Samsung. We have now corrected that error. We believe that a monthly weighted-average is appropriate for this case because it accurately reflects the changes in price of each home market model during the review period.

We disagree that we are required to compare U.S. sales with home market sales made in the same month. Section 773(a)(1) of the Tariff Act provides that foreign market value is the price at the "time such merchandise is first sold within the United States." When there are no home market sales made in the same month as the U.S. sale, we try to find home market sales made as close in time to U.S. sales as possible. A contemporaneity rule has arisen from this endeavor in which we use a home market sale up to 90 days prior and 60 days after the date of the U.S. sale. There were some instances in which no home market sales of the comparison model were made in the same month as the U.S. sale. We then use this contemporaneity rule to choose a weighted-average foreign market value to compare with that U.S. sale. In no case did we compare U.S. sales to a weighted-average foreign market value more than three months prior to the month of the U.S. sale.

We believe this approach is reasonable given the fluctuations of home market prices. We do not believe the changes in prices during this review period warrant limiting our comparisons to a shorter time period. See our final determination of sales at less than fair value on electric motors from Japan (49 FR 32627, August 15, 1984).

Because Samsung's home market sales submitted in connection with our first administrative review were verified and accepted by the Department, we have used those sales for comparison purposes when needed.

Comment 7: The petitioners contend that the Department should adjust respondents' home market credit claims to reflect the average duration of accounts payable in their imputed credit expense calculations.

Department's Position: We disagree for the reasons stated in the response to comment 10 of the final results of the previous review. Section 773(a)(4)(B) of the Tariff Act permits only adjustments to account for differences in the circumstances surrounding the sale of the merchandise. The petitioners' argument would require us to adjust for factors relating to cost of production, which are unrelated to the *sales* at issue. We are satisfied that the imputed method based on the average balance of

accounts receivable accurately reflects the credit costs respondents incurred on sales of the merchandise.

Comment 8: The petitioners argue that the Department should not have included Samsung's sales of returned merchandise in its analysis because the returns were not appropriately matched with the original sales to produce an accurate foreign market value. Further, Samsung is double-counting its return loss claim by including an adjustment for return loss in its warranty claim.

Department's Position: Samsung did not include an adjustment for return loss in its warranty claim. Its sales returns appear in its home market sales listing. However, because Samsung's returns were not matched to the initial sale in its computer printout, we cannot include the returns in our final analysis because we are unable to perform the required match.

Comment 9: Petitioners note an apparent discrepancy in Samsung's report of a specific home market sale in which the price documented in the home market verification report did not match the price reported in the response.

Department's Position: Most business in Korea is done by an open accounting system in which payment is made on a balance of accounts receivable, not on particular purchases. This system is an accepted accounting practice in Korea. Thus, for verification purposes, payments often cannot be traced to specific purchases as was the case with the sale at issue. Our verification of Samsung in Korea did not reveal any discrepancies in payments for purchases.

Comment 10: The petitioners are concerned that the Department did not check Samsung's home market sales for sales made at below the cost of production. Petitioners urge the Department to perform such a check on a model-by-model basis.

Department's Position: We did perform a check of Samsung's home market sales for sales below cost on a model-by-model basis. We did not find more than 10 percent of below-cost sales for any one model and therefore did not exclude any home market sales from our calculations.

Comment 11: The petitioners argue that the Department should deny Samsung's Korean inland freight claim because the claim is incorrectly applied to all home market sales and it includes expenses before the review period. The petitioners urge the Department to accept only expense information directly related to the sales used in the Department's pricing analysis.

Department's Position: Our verification of Samsung's Korean inland freight expense revealed that Samsung's allocation method is consistent with its accounting records. As noted in our report, the method by which Samsung records payment for shipment of merchandise does not include the exact content of the shipments. Therefore, Samsung's allocation procedure is reasonable given its knowledge of the contents of each shipment.

Samsung did not claim any pre-sale expenses. Its claim only includes the cost for shipments from the factory to the customers and for airfreight. However, since Samsung included expenses incurred before the review period, we have deducted a portion of the April, 1984 expense amount to better reflect costs incurred during the review period.

Comment 12: The petitioners argue that the Department should deny Samsung's home market forwarding charge claim because it consists of fixed, albeit temporary, labor costs. Zenith urges the Department to include these pre-sale expenses in the ESP offset only.

Department's Position: We agree. Our verification of Samsung's claim revealed that that these "temporary" workers receive wages and other benefits which are more like those received by salaried, rather than temporary employees. Because we do not consider salaries to be directly related to sales, we have allowed this forwarding expense as an indirect selling expense.

Comment 13: The petitioner's question portions of Samsung's sales promotion claim, particularly the expense amounts listed for interior decoration, a gift campaign, and leaflets. The gift campaign expenses do not appear to correlate with sales quantities, and Samsung has given no explanation of the leaflet expense. Further, petitioners fear Samsung has claimed the cost of printed materials in the home market without reporting similar expenses incurred in the United States.

Department's Response: We have found Samsungs' explanations of these expenses mentioned by the petitioners above, to be adequate, and its sales promotion claim is acceptable. We did verify Samsung's sales promotion expenses and found that the questionnaire response amounts matched with Samsung's books and records.

Comment 14: The petitioners claim that Samsung overstated its home market advertising expense claim by including expenses incurred outside the review period, and by not including advertising to its "special" (*i.e.*, military or hospital) customers in order to decrease the denominator used for allocation purposes. Advertising promotes Samsung's television sales regardless of customer class. Further, petitioners question a discrepancy in payment for three identical newspaper ads. The petitioners urge the Department to reduce Samsung's advertising claim if it is not satisfied with the explanation for this discrepancy.

Department's Position: We disagree with the petitioners that Samsung's advertising adjustment should be based on Samsung's sales to military PX's or hospitals. Samsung's home market advertising expense is an assumption of distributor's selling costs and is best quantified by the total sales to distributors. Therefore, we have not included Samsung's sales to military PXs or hospitals in Samung's advertising allocation.

Regarding the differing costs of the three identical newspaper ads, we are satisfied from verification that Samsung incurred the expenses it reported in its response.

We believe an allocation of advertising expenses, which includes expenses outside the review period over sales made during that same period, still presents an accurate estimation of the expense for the review period as a whole. Because an advertising claim is by nature not sales-specific, a reasonable estimate is acceptable.

Comment 15: The petitioners argue that Samsung has overstated its home market warranty claim by including expenses outside the review period, by using an improper allocation basis, and by including inappropriate expenses in the claim. Samsung included fees paid to outside repair agents in its claim. These fees were paid to "outside agents" which only perform repair work and other agents which also distribute Samsung products. Unless Samsung can isolate that portion of the agent's salary devoted to repair work, the Department should deny that part of Samsung's warranty claim. The Department should not consider payment for distribution of Samsung products to be a valid warranty expense. Finally, the Department erred in allocating Samsung's claimed warranty expense across all models.

Department's Position: Because Samsung allocated its home market warranty expenses over sales during the same time period, we believe that Samsung's claimed adjustment accurately reflects its expenses for the review period. We have not excluded the expense for fees to outside agents because the correction would change the claim by less than .1 percent. Therefore,

we do not believe the adjustment is warranted. (See 19 CFR 353.23.)

Comment 16: The petitioners assert that the Department erred in allowing Samsung's quantity discount. This expense is merely a volume rebate and is characterized as a quantity discount for the purpose of masking dumping margins. According to Samsung's questionnaire response, Samsung grants a quantity discount to distributors based on the quantity purchased by that distributor during the previous month. This discount was granted on purchases of all merchandise, not only color television receivers. Further, because Samsung failed to establish a direct relationship between the discounts granted on color televisions and the quantity of televisions purchased, Samsung has failed to qualify for a quantity discount adjustment under § 353.14 of the Commerce Regulations, and the Department should disallow Samsung's claim.

Department's Position: We agree. The Commerce regulations direct us to account for differences in quantities sold to the extent that "the amount of any price differential is wholly or partially due to such differences in the quantities sold." (§ 353.14(a)) Samsung offers a so-called "quantity discount" which is an established rate based on the total value of sales per month. Because the home market sales prices are all individually negotiated—rather than fixed in a price list—the monthly sales value on which the discount is based does not reflect the actual quantity of television receivers purchased. In other words, the discount is not a quantity discount, but a volume rebate. Because Samsung could not show that the discount is a function of quantities sold, we did not allow the claimed adjustment under § 353.14(a). Rather, we treated it as an indirect selling expense because it is a volume rebate which cannot be tied to particular sales.

Comment 17: The petitioners note that the Department's April 11, 1986 verification report stated that Samsung excluded similar parts, interchangeable parts, similar parts identical in function, printed material, and parts not suitable for physical difference comparison, from its physical difference in merchandise claim. The Department not Samsung, should decide what is appropriate for inclusion in a claim.

Department's Position: We verified Samsung's physical differences in merchandise claim and found that its segregation between parts included in or excluded from the claim was acceptable.

Comment 18: The petitioners question Samsung's reported dates of sale, noting that in the first administrative review the Department determined that Samsung made certain U.S. color television sales pursuant to long-term contracts. The verification reports neither confirm nor deny the existence of such contracts. The reports simply state that some purchases were made according to a negotiated contract while others were orally agreed to. The petitioners suggest the Department obtain samples of negotiated contracts or not accept Samsung's reported sale dates.

Department's Position: We verified the dates of sale Samsung reported in its response. The petitioners did not voice their concern over the possible existence of such contracts until after verfication so we did not specifically examine the question. Because we were able to verify Samsung's reported dates of sale, we have accepted those dates.

Comment 19: At verification, Samsung informed the Department that it had improperly included certain color televisions and parts in its calculation of purchase price sales. Samsung submitted a revised computer tape in which it revised the gross unit price downward to reflect that portion represented by the improperly included televisions and parts. The petitioners argue that such a revision in price is not only tantamount to a discount, but it is not consistent with the way Samsung apparently determined the number of televisions or parts included in the sale. Samsung should not reduce the gross sales price based on the price negotiated with the customer if the number of televisions or parts were originally calculated from the quantity purchased and not the value of the purchase.

Department's Position: We disagree. In its revised computer tape, Samsung accounted for the televisions by correcting the reported quantities for the relevant sales, which changed the per-unit sales price. We do not believe that Samsung's reporting of these televisions disguises any unreported expenses. Likewise, we are satisfied that Samsung has adequately accounted for the parts in question. Therefore, we have accepted Samsung's method of accounting for the televisions and parts.

Comment 20: The petitioners note that the verification report for Samsung discusses the "individual" and "fixed" duty drawback rates, yet the report failed to disclose how the duty drawback system operates in Korea. For example, the report does not indicate what proof or records Samsung must submit to the government to obtain the individual rate. The petitioners fear that Samsung's duty drawback claim might overestimate the amount of duties rebated to Samsung, and urge the Department to investigate the extent to which the claim is based on individual rates.

Zenith urges the Department to limit respondents' duty drawback claim to drawback respondents received based on the actual content of the merchandise later exported. The Department should remove from the drawback adjustment the amount the respondents received on a fixed-rate basis or as part of the wastage allowance granted by the Korean government.

Department's Position: We have changed our position from the previous review concerning both the "fixed-rate" drawback and drawback granted as part of a wastage allowance.

The Korean government does not require documentation that duties and taxes were paid on certain parts. The government allows exporters to apply for fixed-rate drawback for these parts as a way of saving time and expense. The companies for which we verified the fixed rate portion of their claim were able to show that their duty drawback claim was based on the import permits which list the total duties and taxes paid on importation of the items. Respondents' total duty drawback claims including the portion based on the fixed rate did not exceed the upper limit set by the total duties paid during the review period. Respondents were also able to trace the parts for which the fixed-rate was granted, to the import permit listing the duties paid on the importation of that part. Further, the fixed-rate amount listed for these parts complied with the rates set by the Korean government. These rates are listed in the Korean Customs regulation book which states that applicants may apply for the fixed rate only for certain parts. Applicants either apply for this fixed rate, or for the actual amount of duties paid upon importation of that part if the actual amount exceeds or is less than the fixed rate by more than 20 percent. Therefore, the applicant can apply only for the fixed-rate drawback when the actual amount of import duties paid on that part varies within 20 percent of the fixed rate. We consider this fixed rate to be a reasonable estimation of the duties paid upon importation of the parts because the actual amount will be within 20 percent of the fixed rate, otherwise, the exporter will apply for the individual rate based on the actual duties paid from importation of the parts.

We believe that, based on the documentation provided to us at verification, respondents have calculated their duty drawback claims based on the duties and taxes they paid

on the importation of the parts, and in accordance with the rules set by the Korean Government. Thus, we have included the duty drawback amount based on the fixed rate, in the duty drawback adjustment to United States price.

With regard to duty drawback on wastage, we have also reversed our position from the last review. Information from verification for duty drawback on parts consumed in the production process shows that the calculation of the loss rate by the government is a reasonable estimate of the company's experience since it is based on an industry average. Further, the documents show that the government granted drawback based on this published loss rate. Because the duties attributable to this wastage are actually incurred, and because the Korean government has reasonably calculated the amount of the rebate based on an industry average, we determine that the rebate reasonably reflects the amount of duties paid and is therefore allowable as an addition to United States price under section 772(d)(1)(B).

Comment 21: The petitioners question the accuracy of Samsung America's U.S. advertising expense claim. They first note a discrepancy between the reported total color television ESP sales amount listed in Samsung's October questionnaire response used to allocate model specific advertising expenses, and the total sales amount used for allocating general advertising expenses. The May verification report states that this difference is attributable to sales of certain other sets. Petitioners suggest the Department use the model specific sales figures for all allocation purposes.

The petitioners also question Samsung America's total advertising expense per television model. The May verification report states that Samsung had excluded an expense amount attributable to advertising expenses incurred on specific models but it gave no reason for the exclusion.

Further, the petitioners are puzzled by Samsung's deduction from invoice (DFI) advertising claim. Because Samsung based its allocation on the ratio of the DFI expenses to total ESP-type sales of all products, it is unclear whether the DFI expense was granted solely on sales of color televisions or on sales of other products.

Department's Position: Our verification of Samsung America revealed that Samsung had excluded sales of models produced in the U.S. from its general advertising expense allocation. We checked the quantities and sales of those models with Samsung America's financial statement at verification. The amounts Samsung reported in its questionnaire response were consistent with Samsung's records. Concerning Samsung's allocation methodology, we are satisfied with the total sales amounts Samsung used. Color television advertising in the United States does influence sales of Samsung color televisions regardless of the origin of those sets. Therefore, an allocation of advertising expense should include the total sales amount for all sets sold by Samsung America during the review period, whether or not produced in Korea.

Comment 22: The petitioners insist that the Department should treat Sansung's cash discount claim in the United States, a discount for a prompt payment, as a direct reduction in the United States price. The Department treated this claim as an indirect selling expense in its preliminary results determination.

Department's Position: We agree and have treated Samsung's cash discounts as an adjustment to gross price in our final results analysis because these discounts are specific to individual sales transactions.

Comment 23: The petitioners contend that the Department should treat commissions paid by Samsung in the United States as direct selling expenses. The Department incorrectly classified that expense as salesman's salaries, bonuses and the like incurred in the home market.

Department's Position: When a commission is granted in one market and not the other we may offset that commission with indirect selling expenses in the other. We believe that commissions granted to salesmen on specific sales help to cover the salesman's selling expenses, as well as add to his salary. Thus, commissions do cover indirect selling expenses.

Further, we do not consider the word "other" in the phrase "actual other selling expenses" in § 353.15(c) of the Commerce Regulations to impose a limitation on the type of indirect selling expenses we can use to offset commissions. We have therefore offset commissions with the full amount of indirect selling expenses incurred in the home market.

Comment 24: The petitioners argue that the Department erred in treating Samsung's rebates on U.S. sales as an indirect expense. In its October questionnaire response, Samsung was able to give an accurate report of its claim. It is inconsistent and illogical to allow the sales volume rebate in the United States as a direct expense but not to allow the quantity discount claimed in sales in the home market as a direct expense also. The petitioners therefore urge the Department to allow Samsung's rebate adjustment on the U.S. side as a direct expense in its final determination.

Department's Position: Because the claimed amounts are sales and customer specific, we have allowed this adjustment as a direct selling expense for our final determination.

Comment 25: In its October questionnaire response Samsung claimed a circumstance of sale adjustment in the home market for an incentive discount which was not in effect for the entire review period. The petitioners claim that the Department erred in granting this adjustment on all home market sales. It should have granted the adjustment only on the sales which took place during the time the discount program was in effect.

Department's Position: We agree. We have only applied the incentive discount on home market sales of models for which the discount was actually given.

Comment 26: The petitioners argue that Samsung has included certain inappropriate expenses in its home market indirect selling expense claim. The Department should not allow expenses for severance pay, keeping a garden, and athletic training. Nor should it accept the significant "miscellaneous" expenses included in Samsung's indirect selling expense claim. Further, the Department should not allow those indirect expenses for which a claim was made in the home market but not on the U.S. side as export selling expenses.

Department's Position: Because Samsung maintains that these expenses are specific to the regional sales offices and its salesmen, we have not adjusted the indirect selling expenses by deducting severance pay, keeping a garden, and athletic training. Similarly, we have allowed the "miscellaneous" expenses because Samsung has explained that the expense is for overtime meals for its salesmen. Thus, it is also a selling expense.

Comment 27: The petitioners contest Samsung's choices for, and the Department's acceptance of, certain home market model match comparisons. They propose that Samsung's choices of home market models are based more on a desire to minimize dumping margins than to find the most similar model in design.

Department's Position: We reviewed Samsung's home market model match suggestions at verification and are satisfied that the selected models are the most similar to the models exported to the United States.

Comment 28: The petitioners point out that the May verification reports reveal that Samsung had warranty agreements with two U.S. customers, yet the Department's calculations show that Samsung only claimed warranty expenses on purchase price sales to one customer.

Samsung notes that the Department did in fact account for the warranty expenses incurred on those two customers but did not properly subtract those expenses from the ESP warranty expense total in Samsung's ESP warranty claim. By not making this second adjustment, the Department had double-counted those purchase price expenses.

Department's Position: We agree with Samsung and have made the appropriate adjustment to the ESP warranty expense claim in our final calculation. Further, we have corrected the errors concerning the warranty expenses incurred on purchase price sales.

Comment 29: The petitioners argue that Samsung's movement charges on U.S. sales, particularly "indirect purchase price" sales, are inaccurate and should be examined further by the Department. Additionally, the petitioners claim that Samsung has incorrectly reported duty payments on indirect purchase sales by reporting a lower entered value to Customs than it reported to the Department as its price to U.S. customers.

Department's Position: We have made the appropriate corrections to the ocean freight charges petitioners identify. We have not called into question Samsung's entire ocean freight claim however, because the inaccuracies were due to clerical errors.

Concerning the correct valuation of Samsung's televisions for U.S. Customs duty purposes, we did verify that Samsung America paid the amounts it reported in its questionnaire reponse.

Comment 30: The petitioners state that Samsung failed to associate an exporter's licensing fee with many of its U.S. sales transactions.

Department's Position: Samsung has satisfactorily accounted for those omissions and we have made no changes to Samsung's reported export license fee claim.

Comment 31: The petitioners fear that Samsung has engaged in multiple-invoicing of certain U.S. sales during the review.

Department's Position: Samsung has satisfactorily accounted for any multiple-invoicing and we have made no changes to Samsung's reported prices.

Comment 32: For ESP sales, the petitioners note that the Department failed to deduct any indirect selling expenses from the United States price.

Department's Position: We agree and have made the appropriate correction in our final results calculations.

Comment 33: The petitioners note that the Department did not include Gold Star's home market sales listed for customer categories 2 and 3 in its test for home market sales below the cost of production. If the Department decides to use home market sales in customer categories 1, 2 and 3, it should also make sure those sales are above the cost of production. The petitioners also question where Gold Star included an allowance for scrap, defective parts or other items related to yield loss. The home market verification report does not mention this category of manufacturing cost. Additionally, the verification report indicates certain discrepancies between the cost of production figures reported in Gold Star's questionnaire response and its factory ledgers in Korea. The report does not define what expense Gold Star has included under the category "outside processing." The petitioners fear Gold Star is not allocating all expenditures to CTV production but is allocating these expenses to activities which are subsumed under "overhead" for cost of production purposes.

Department's Position: We verified Gold Star's cost of production figures and were satisfied that Gold Star could trace its reported costs to its financial statements and to the specific televisions under review. Our exclusion of customer categories 2 and 3 was an oversight. We have included those sales in our cost test for these final results.

Comment 34: The petitioners note that even though the Department in its home market verification outline requested Gold Star to provide the methodologies of its calculation of ex-factory prices and net sales prices, there is nothing in the verification report indicating that the Department investigated Gold Star's method for determining either the tax base, or the timing of rebates and discounts and their effect on base-pricing for tax purposes.

Department's Position: Everything that we verified is mentioned in our verification reports. We were not aware of petitioners' concern regarding Gold Star's calculation of the tax base or the timing of rebates and discounts at the time of verification. We have evaluated therefore, the discounts and rebates issue based on the verification as conducted.

Comment 35: The petitioners note that a significant portion of Gold Star's U.S. sales were not included in the Department's preliminary results computations.

Department's Position: Gold Star was able to show at verification that the televisions listed as "samples" in its response were not purchased or agreed to be purchased within the meaning of section 772 of the Tariff Act. Televisions in this category were sent to the United States either for Federal approval, or for trade shows. Therefore, we have not included the "samples" in our analysis.

Comment 36: The petitioners and Gold Star note that the Department erroneously multiplied Gold Star's purchase price forwarding expense by the exchange rate. This expense was already denominated in dollars.

Department's Position: We agree and have corrected the error.

Comment 37: The petitioners note that the Department erroneously multiplied Gold Star's purchase price warranty expense by the exchange rate even though that expense was reported in U.S. dollars.

Gold Star explains that it reported its purchase price warranty expenses in Korean won because that is how that cost was originally incurred in the home market.

Department's Position: We agree with Gold Star and have made no changes.

Comment 38: The petitioners urge the Department to make sure that Gold Star's home market inland freight expense is allocated to comparison models only. Additionally, the Department should exclude any overhead on movement charges involving the shipment of televisions from factory to warehouse since these charges are not directly related to sales.

Department's Position: Gold Star's domestic inland freight adjustment was allocated on a per-unit basis for each comparison model. Further, we are satisfied from verification that Gold Star's claim does not include overhead expenses.

Comment 39: The petitioners argue that the Department's Gold Star home market verification report indicates that Gold Star could not substantiate its claims of in-transit warehousing as a direct selling expense. Given the problems the Department encountered in verifying this claim, petitioners request that the Department deny Gold Star's in-transit warehouse adjustment altogether.

Department's Position: We are confident that Gold Star's in-transit warehouse claim reflects expenses actually incurred and are related to sales of Gold Star's merchandise. Yet, because we are not convinced that this expense is an after-sale expense, we

have accepted the in-transit warehouse expense only as an indirect selling expense in the home market.

Comment 40: The petitioners urge the Department to ensure that any rebate granted to Gold Star's home market customers is attributed to sales to those customers only, to sales of models under review or otherwise apportioned by sales value.

Department's Position: Whenever possible, we have applied actual rebate or discount amounts to sales to customers who received such rebates or discounts. In instances in which the actual amount could not be applied, we requested respondents to allocate the rebate or discount based on sales value.

Comment 41: The petitioners urge the Department to deny Gold Star's discount/premium claim because of inflated claims for discount and discrepancies uncovered at verification. The petitioners suggest the Department should disallow the discount claim and add the premium amounts to foreign market value.

Department's Position: We discovered at verification that Gold Star had granted discounts months after it was obligated to grant discounts in accordance with the terms of the program, and had posted "negative premiums" to several customer accounts. Gold Star did not adhere to the terms of its discount/premium program. Since, we did find that Gold Star incurred these expenses in connection with its discount program, we have therefore allowed this claim as an indirect selling expense in these final results.

Comment 42: The petitioners argue that Gold Star's discounts granted for advance payment on sales in the home market should offset its home market credit claim. To the extent purchasers made use of this program, interest gained on these transactions should offset credit expense claims.

Department's Position: We verified Gold Star's credit claim and found no inconsistencies between Gold Star's books and ledgers and its October questionnaire response. We believe that Gold Star's accounts receivable take interest on these sales into account. Therefore, we have made no changes to Gold Star's home market credit claim for these final results.

Comment 43: The petitioners are confused by the Department's verification report of Gold Star in Korea. They do not fully understand Gold Star's methodology for excluding duties and taxes from its physical difference claim. The petitioners urge the Department to deny Gold Star's claim unless Gold Star can supply the Department with an adequate explanation for the use of several allocation ratios.

Department's Position: Gold Star provided an explanation for the use of different allocation methodologies to establish a part's price under different purchasing circumstances. We believe Gold Star's of Gold Star's allocations are appropriate and our verification of Gold Star's physical differences in merchandise claim revealed no apparent discrepancies in its use of its allocations.

Comment 44: The petitionsers claim that Gold Star's royalty claim is fraught with inconsistencies and the expenses it claims on its purchase price sales are greatly understated for the review period.

Department's Position: We found Gold Star's royalty claim at verification to be consistent both with its payment records and with sales made during the review period. In our final results analysis we have corrected one error in the reporting of royalties for a six month period for ESP sales-specific information.

Comment 45: The petitioners argue that Gold Star's home market warranty claim is inadequate because Gold Star could not isolate its expenses for repairs of color televisions. Therefore, the Department should treat the majority of Gold Star's home market warranty claim as indirect expenses or else reduce those components.

Department's Position: In our final calculations we have considered Gold Star's claims for loss on cashback, service fees, and freight and delivery as expenses which are directly related to sales and therefore allowable circumstance of sale adjustments.

Comment 46: The petitioners note that a sample advertisement selected by the Department for verification of Gold Star's home market advertising should not be allowed as part of its claim because no mention was made in the ad of the comparison model.

Department's Position: We agree with petitioners that the claim should not include the expense claimed for this ad. The subject advertisement was the only expense in a certain category of ads and we have denied that particular expense for both the preliminary and final results.

Comment 47: The petitioners question the validity of Gold Star's inclusion of a claim for duty drawback received on a fixed rate basis. The verification report states that Gold Star determined its duty drawback claim using the import permits as the upper limit of its claim. The petitioners urge the Department to disallow the claim since the limit of the claim should be based on what was actually exported, and since without export no drawback can be claimed. Additionally, the petitioners argue that the Department should deny that part of Gold Star's drawback claim which is based on the loss rate. Drawback claims should be limited to those products, components, and parts which are actually exported.

Department's Position: For our treatment of fixed rate duty drawback and drawback based on a loss rate, see comment 20. We disagree with the petitioners that Gold Star's use of imports as the upper limits of its duty drawback claim is an unreasonable methodology. Since Gold Star can only receive drawback on the items it imported for use in exported merchandise, Gold Star's total duty drawback claim cannot exceed the amount of duties and taxes it paid on the importation of the items. The drawback will either equal the imported amount, when accounting also for drawback on parts lost during production, or be less than that amount.

Comment 48: The petitioners argue that the Department should require Gold Star to reallocate its export selling expenses based on sales to various export markets or some other methodology. Gold Star's allocation based on the number of personnel is potentially distortive of actual export selling expenses because most personnel are fungible and can be replaced by others who work on exports to markets other than the United States.

Department's Position: Gold Star developed a rather complicated method of allocating export selling expenses to sales in the United States. While petitioners may be correct in thinking that individuals in Gold Star's export staff can work in other departments, we cannot assume that this is the case. We believe that Gold Star's allocation based on the number of personnel is reasonable.

Comment 49: The petitioners note that the Department's verification report of Gold Star's U.S. subsidiary uncovered glaring discrepancies in the attempt to verify Gold Star Electronics International's ("GSEI") regular and net sales claims. The petitioners urge the Department to look closely at GSEI's monthly sales figures before accepting them in the final determination.

Department's Position: GSEI was able at verification and subsequent to verification, using documents given to the Department at verification, to explain to the Department's satisfaction the discrepancies in its reporting of regular sales. We have not made any changes to GSEI's claimed sales totals.

Comment 50: The petitioners urge that GSEI's allocation of indirect selling expense in the U.S. based on the "nature" of the individual expenses is an inappropriate basis and serves only to reduce the total claim.

Department's Position: GSEI allocated the expenses which make up its pool of indirect selling expenses based on the ways in which it incurs each expense. For example, GSEI reported its warehousing expense based on cubic feet because that is how GSEI is billed. This allocation methodology was accepted by the Department in the previous review.

Comment 51: The petitioners argue that GSEI improperly allocated its U.S. inland freight expense on the basis of standard weight instead of square footage which is the standard method that trucking companies bill their clients.

Department's Position: We disagree. We verified that GSEI incurs its U.S. inland freight expense based on standard weights.

Comment 52: The verification report on GSEI revealed that many of GSEI's sales were phoned in. The petitioners contend that the use of phoned in orders indicates the existence of long term contracts between GSEI and its customers. If this is the case, the petitioners urge the Department to use the contract date as the date of sale and not the date of the phoned order.

Department's Position: During our verification of GSEI, we saw no indication of the existence of long-term contracts. We are satisfied that GSEI reported the most accurate date of sale for its merchandise.

Comment 53: The petitioners question the validity of GSEI's reconciliation of its reported Accounts Receivable balance in its U.S. credit expense to the company General Ledger and Balance Sheet statement. Further, the petitioners suspect that GSEI's reported long-term interest rate is inaccurate. They suggest that the parent is providing a guarantee for GSEI's loans, and such a guarantee has commercial value.

Department's Position: We are satisfied from our verification of GSEI that its reconciliation of its Accounts Receivable to its reported balance is reliable and accurate. Additionally, we verified that GSEI's reported short-term interest rate is the average of the rates it actually paid.

We consider a parent company and its U.S. subsidiary to be one entity. We are not concerned that the parent provides a guarantee for its subsidiaries' loans as long as the reported average short-term interest rate reflects the interest rate the subsidiary actually incurred.

Comment 54: The petitioners do not understand the method by which GSEI allocated its cooperative advertising expenses. They suggest the Department request GSEI to provide a more detailed explanation of its advertising expenses.

Department's Position: We agree with the petitioners that GSEI's explanation in its response of the basis for its allocation of dealer cooperative advertising is unclear. Our verification of GSEI's cooperative advertising expenses demonstrates that GSEI allocated its advertising expense for ads which include many products to color televisions based on the number of color televisions advertised, and the total cost of the advertisement to GSEI. We have accepted GSEI's method as a reasonable approximation of its cooperative advertising expense for color televisions.

Comment 55: The petitioners note that there is a large discrepancy between GSEI's reported commissions in the indirect selling expense section of its response and the amount listed on its income statement. The petitioners claim this discrepancy warrants the use of the higher figure in calculating United States prices.

Department's Position: The apparent discrepancy between the review period commission total and the actual expense listed in GSEI's income statement is accounted for by commissions returned due to merchandise returns.

Comment 56: The petitioners note that Gold Star allocated its U.S. warranty expenses over total sales of color televisions, which including sales outside the review period, while it did not use a similar allocation methodology in the home market. Additionally, the petitioners believe GSDEI has not accounted for all its warranty expenses on purchase price sales. They urge the Department to investigate these U.S. market expenses further.

Department's Position: Because the petitioners did not raise this question about GSEI's warranty expense methodology or reporting of expenses until after the verification, we must rely on data acquired at the verification for our final results.

Comment 57: The petitioners are concerned that Gold Star has not provided accurate information concerning its organizational structure, its annual and monthly income statements, and its cost of production for home market and U.S. color television models.

Department's Position: We verified Gold Star's quarterly and monthly income statements by tying the reported amounts to source documents. In addition, we verified Gold Star's organizational structure, income statements, and cost of production, and found no discrepancies. We are satisfied that Gold Star has submitted accurate data in its questionnaire response.

Comment 58: The petitioners object to the Department's inclusion of U.S. sales made in April, 1985. These sales are outside the review period.

Department's Position: We agree and have excluded those sales from our final calculations.

Comment 59: The petitioners claim the Department erred by including Daewoo's U.S. sales of "returned merchandise" because Daewoo has failed to demonstrate that its "returned merchandise" includes actual returns. Further, Daewoo's report of quantity returned is not consistent with the number of returned set sales Daewoo also reported.

Department's Position: Daewoo explains that the apparent inconsistency between the quantity returned and the sale of those sets is due to the lagtime between the return of the television and its resale. We believe Daewoo's explanation to be reasonable. Therefore, we have made no changes to our analysis regarding Daewoo's returned merchandise.

Comment 60: Daewoo and the petitioners argue that the Department erred in not including Daewoo's home market sales to affiliated dealers in its preliminary analysis.

Department's Position: We agree. We have included Daewoo's home market sales to both independent and affiliated dealers in our final results.

Comment 61: The petitioners note a computational error by the Department in its analysis of one of Daewoo's purchase price sales.

Department's Position: We agree and have corrected the error using information gathered during verification.

Comment 62: The petitioners claim that Daewoo has reported unreasonably low per-unit ocean freight, U.S. Customs duty, and brokerage and handling charges on its U.S. sales.

Department's Position: The low per-unit amounts for brokerage and handling charges, ocean freight and U.S. Customs duty charges is due to the fact that for certain sales the merchandise was imported in two or more entries. We have corrected our computer program to capture the full expense for each sale.

Comment 63: The petitioners question the validity of Daewoo's ocean freight rebate claim because the Department's verification team did not review any rebate agreement between Daewoo and

the shipping company, and various other aspects of this rebate system. The petitioners note that these issues are especially pertinent in light of the discrepancies in Daewoo's ocean freight claim addressed above.

Department's Position: Our verification of Daewoo's ocean freight rebate claim revealed no discrepancies in Daewoo's reported expenses listed in its questionnaire response. Furthermore, because the petitioners did not raise their concerns about any agreements with shipping companies until after the verification, we must rely on the information we acquired at verification for our final results.

Comment 64: The petitioners claim that Daewoo double-counted its home market inland freight costs, and has included overhead in the claim. Additionally, the Department should require Daewoo to report dealer-specific inland freight information.

Department's Position: We treated Daewoo's Gumi factory-to-depot freight as an indirect selling expense because it is an expense incurred prior to sale of the merchandise. However, we do not believe that Daewoo has double-counted any expenses in this claim. We treated Daewoo's factory to dealer expense as an indirect selling expense because it included expenses for shipments from Gumi to the depots which Daewoo did not segregate from the claim.

Comment 65: The petitioners argue that the Department erred in using Daweoo's allocation of its U.S. cooperative advertising expenses over all Daewoo Electronic Company America's ("DECA") sales to dealers when Daewoo had also submitted more accurate, dealer-specific information.

Department's Position: Because Daewoo failed to identify its customers in its U.S. sales submission, we are unable to use the dealer-specific information Daewoo provided in its deficiency response. Further, because Daewoo's total cooperative advertising expense claim listed in its deficiency response varies from the total in its original response, we have applied the average allowance paid to the dealers who participated in all U.S. sales as best information available.

Comment 66: The petitioners argue that the Department should use the invoice-specific expense of Daewoo's early payment discounts on U.S. sales instead of applying the allocated expense amount Daewoo originally submitted in its response.

Department's Position: We agree that invoice-specific discount amounts would be more accurate but we do not believe that the possible distortions produced by using an allocated amount will be great enough to warrant the use of invoice-specific data.

Comment 67: The petitioners claim the Department erred in classifying commissions paid on Daewoo's U.S. sales as indirect selling expenses for the purposes of calculating the ESP offset adjustment.

In addition, the petitioners argue that the office employee expenses Daewoo included in its commission offset are inappropriate.

Department's Position: For our treatment of Daewoo's expense and the ESP offset, see the Department's Position to Comment 3 above. We disagree that the office employee expenses are inappropriate in the commission offset. Such expenses are indirect selling expenses which are properly used to offset commissions in the United States.

Comment 68: The petitioners claim Daewoo has overstated its home market sales volume rebate because (1) it included rebates on sales to dealers not listed in Daewoo's October questionnaire response, and (2) the April verification report notes that Daewoo granted rebates in excess of the allotted rebate agreement amount.

Department's Position: Our verification of Daewoo's sales volume rebate program did not reveal any inconsistencies which Daewoo did not point out in its deficiency response. We found at verification that Daewoo reported an accurate account of its rebate expenses. We see no reason to change our treatment of these rebates.

Comment 69: The petitioners claimed the Department erred in granting Daewoo's "fall promotional/gift rebate" program expenses because Daewoo could not tie the expense to sales during the review period, and the claim is fraught with inconsistencies.

Department's Position: We allowed Daewoo's "fall promotional/gift rebate" expenses as direct selling expenses because Daewoo could show that gifts were given only on purchases of color televisions. We adjusted the total quantity of gifts given to account for the gifts not provided on purchases of color televisions. We allowed the spring gift program as an indirect expense because gifts were based on the value of the purchase and thus not on sales of color television alone. We agree with petitioners that Daewoo cannot claim an expense which is greater than the cost of purchasing the gift and we have made the proper adjustments to our calculations.

Comment 70: The petitioners argue that Daewoo overstated its claimed short-term interest rate on home market borrowings. Further, the Department should not accept Daewoo's trust fund loans in its interest rate calculation because those loans involved special financing not generally available for financing working capital.

Department's Position: Our verification of Daewoo's short-term interest rate indicated to our satisfaction that its claimed average rate is consistent with the interest rate Daewoo paid on its loans.

Comment 71: The petitioners encourage the Department to use the model-specific home market warranty repair information Daewoo has provided.

Department's Position: We agree with petitioners and we have used the model-specific warranty expenses Daewoo submitted.

Comment 72: The petitioners claim that Daewoo has overstated its home market advertising expense. They note discrepancies between Daewoo's questionnaire response and the Department's April verification report.

Department's Position: At verification we spot-checked certain reported expenses in Daewoo's advertising claim. Given the time restriction of the verification process, we believe our method of spot-checking certain expense items to be adequate. Since petitioners did not state these concerns prior to verification, we had no reason to go beyond our normal practice.

Comment 73: The petitioners argue that the Department should use the model-specific indirect advertising data Daewoo submitted instead of an allocation over all models.

Department's Position: We disagree. The model-specific amounts that the petitioners refer to are based on ratios of sales of each model to total sales to dealers of all models. These ratios do not measure an advertising expense on a model-by-model basis. Daewoo's original allocation methodology is an accurate measure of its home market indirect advertising expense. We have applied this percentage to all dealer sales in the home market.

Comment 74: The petitioners claim the Department incorrectly allowed expenses incurred by Seoul Headquarters as part of Daewoo's home market indirect selling expense claim. The petitioners state the Daewoo is double-counting expenses for rent and vehicle maintenance for Seoul Headquarters which are also included as expenses incurred by the domestic sales division.

Department's Position: We disagree that Daewoo has double-counted certain home market indirect selling expenses.

We have no reason to believe that the expenses for rent and vehicle maintenance in both the Seoul office and in the sale divsion are the same expenses. Further, we do not believe it is inappropriate for Daewoo to include a portion of its headquarter's selling expenses in its indirect selling expense adjustment.

Comment 75: The petitioners note that the Department failed to include the parts and labor cost of Daewoo's indirect warranty claim and its inventory carrying charges on U.S. sales in the preliminary results calculations.

Department's Position: We did include parts and labor cost in Daewoo's indirect warranty claim in our preliminary results calculations. We do agree that we had excluded the inventory carrying charge and we have now corrected that error.

Comment 76: The petitioners call the Department's attention to many discrepancies in reported materials costs, standard costs, lead time between materials purchases and production, and related supplier purchases found in Daewoo's cost of production data. Petitioners than urge the Department to conduct a cost of production investigation on Daewoo's home market sales before it accepts its home market sales for price comparison purposes.

Department's Position: The petitioners' allegation that Daewoo was selling in the home market at less than cost was received 63 days prior to the due date of the final determination. Based on the short time period between the submission of the pre-hearing briefs, and the completion of this review within our statutory time limit, we did not conduct the requried analysis to determine whether sales below cost do exist for Daewoo. Furthermore, we believe that the petitioner had sufficient information prior to the preliminary determination to allow the filing of a timely allegation of sales at less than the cost of production.

Comment 77: In the first administrative review it was discovered that certain Korean financial institutions require a portion of the amounts respondents borrow to be deposited with the institutions. Zenith urges the Department to ascertain whether respondents earned any interest on such compensating deposits and use that amount to offset interest paid on loans used to calculate respondents home market credit adjustment. Further, Zenith requests that the Department confirm that respondents' short-term interest rates used to calculate their home market credit adjustment do not contain interest paid on long-term loans.

Department's Position: We verified that the average interest rate respondents used in their credit calculation was an average of the actual interest rates incurred on their short-term loans. We use the interest rates on short-term loans because that rate reflects the cost incurred by the seller to cover the sales posted to its Accounts Receivable. The *use* of those borrowed funds, however, is not relevant to the calculation of the *cost* of those funds. If the seller re-deposits a portion of the amount it obtained from a short-term loan and earns interest on that deposit, the cost of the loan as reflected in the interest rate, is unchanged. If the respondent uses part of the borrowed funds as a compensating deposit required by the bank from which the loan was made, we do not believe any interest earned on that deposit should affect the cost of that loan for antidumping purposes.

Comment 78: Zenith notes that in the first administrative review, the Department found some evidence of a dual pricing structure in Korea in which the prices for materials destined to be incorporated in home market merchandise was higher than the price charges for identical materials used in export merchandise. This price discrepancy could not be explained solely by the amount of duties paid on components imported for use in home market merchandise. Zenith urges the Department to ascertain the extent to which claimed physical differences in merchandise adjustment amounts are due to the existence of this dual pricing structure.

Department's Position: We verified that respondents used the actual prices paid for different parts when calculating an average price for physical differences. We consider such a price difference appropriate for quantifying the cost of the physical differences. We believe that this is the only objective manner of adjusting for the physical differences.

Comment 79: Zenith argues that the Department should make sure that respondents included all antidumping legal fees in their U.S. selling expense claims. Zenith maintains that the Department should follow the previous review's methodology and include such expenses in respondents' claimed adjustments for U.S. selling expenses.

Department's Position: In the previous review, we deducted antidumping legal fees as export selling expenses stating that this deduction was the best information available for the legal fees at issue. After further consideration, we view that decision as incorrect. It is our practice as stated in our *Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change* to not consider legal fees paid in connection with litigation resulting from an earlier antidumping investigation to be an expense related to sales made in the period of review. (See also the final results of sales at less than fair value of certain steel pipes and tubes from Japan, 48 FR 1206, April 29, 1983.) We view legal fees incurred at the administrative stage of an antidumping proceeding as meriting similar treatment since they are incurred in defending against an allegation of dumping. As such, they are not expenses incurred in selling merchandise in the United States.

Further, to deduct antidumping legal fees as selling expenses would effectively discriminate against those respondents who seek legal counsel in proceedings before the Import Administration.

Comment 80: Because this review covers sales made during the period May 1, 1984 through March 31, 1985 and the previous review covered entries, certain purchase price and ESP sales were not covered in the questionnaries for either review. Zenith argues that the Department should calculate the foreign market value to be compared to those U.S. sales on the basis of home market data applicable to the date of exportation of that merchandise to the United States. The Department should therefore use the foreign market values determined in the first administrative review, which apply to the date of exportation for these sales.

Department's Position: The first administrative review covered entries while this review covered sales. Therefore, many purchase price sales entered during this review but sold in the prior review period were not covered by either questionnaire. We extended this second administrative review period in order to cover those U.S. sales. It was our change in coverage from entries to sales which required respondents to submit home market comparison sales prior to the review period. For those purchase price sales, we have applied this review's methodology. We agree with Zenith that the ESP transactions for which the merchandise entered prior to but was sold during this review, were already covered by the first administrative review.

Comment 81: Zenith requests the Department to determine that Gold Star has removed some amount for duties and taxes paid for parts for which Gold Star could not find the actual amount paid as listed on the import permits.

Department's Position: Since we have determined that duty-inclusive parts prices should be used for calculating physical differences in merchandise; this issue is moot. For our treatment of duty in the physical differences claims, see Comment 116.

Comment 82: Zenith argues that the Department should treat Gold Star's media and dealer advertising claim as direct selling expenses in the United States.

Department's Position: We agree and have done so in our calculation of United States price for Gold Star.

Comment 83: Zenith argues that the Department should base its analysis of Gold Star's sales on sales of all imports into the United States during the review period, including samples, sales to employees, sales of damaged receivers, and other "non-commercial" sales.

Department's Position: We disagree with Zenith that Gold Star's U.S. samples should be included in our analysis. Gold Star was able to show at verification that these televisions were not sold within the meaning of section 772 of the Tariff Act. See Comment 35. However, we agree with Zenith that damaged set sales and sales to employees should be included in our final results because those sales were made at arms-length.

Comment 84: Zenith argues that the Department should remove from Samsung's indirect home market warranty claim the portion of salary subsidies paid to "independent contractors."

Department's Position: See Comment 15.

Comment 85: Zenith argues that the Department should not include Samsung's SYPM rebate anywhere in the foreign market value calculation unless it accounts for the fact that Samsung appears to keep the distributor's markup and that Samsung effectively earns interest on the majority of SYPM rebate sales.

Department's Position: We believe that Samsung has accounted for any income it may have earned on SYPM transactions.

Comment 86: Zenith argues that the Department should allow Samsung's U.S. cash discount and volume rebate as circumstance of sale adjustments. This is in accordance with a decision in which the Department received court approval for its treatment of home market discounts and rebates not linked to specific sales as directly related selling expenses.

Department's Position: For our treatment of Samsung's cash discount, see Comment 22. See Comment 24 for our treatment of the volume rebate.

Comment 87: Zenith notes that the Department deleted from its calculation of the Samsung margin those U.S. sales for which Samsung reported a zero price, but included the value of those sales in the denominator used to allocate U.S. expenses.

Department's Position: The "sales" for which Samsung reported a zero price are samples which were never sold within the meaning of section 772 of the statute. However, it is appropriate to include a value for those sets because Samsung still incurs costs in the production and transportation of those televisions.

Comment 88: Zenith suggests the possibility that the value of Samsung's indirect purchase price sales might be somehow commingled with ESP sales values.

Department's Position: Our verification of Samsung America's sales did not reveal that any indirect purchase price and ESP sales were double-counted.

Comment 89: Zenith contends that the Department has reasonable grounds to perform a test for sales made below the cost of production for Daewoo.

Department's Position: See Comment 74.

Comment 90: Zenith notes that the Department excluded certain of Daewoo's U.S. sales for which the price reported is zero. Zenith argues that the denominator used in the allocation formula for Daewoo's U.S. selling expenses should not include any sales value derived from those sales.

Department's Position: Daewoo explains that these color televisions are in fact samples and not "sales" within the meaning of section 772 of the statute. Further, Daewoo has provided sufficient documentation to support its claim that these televisions were sent to the United States as samples. We have accepted Daewoo's explanation, and for the reasons noted in Comment 87, we have left the total sales value of these televisions in the denominator used to allocate Daewoo's United States selling expenses.

Comment 91: Daewoo argues that the Department should accept its full home market warranty claim. The Department unjustly applied the provision for circumstance of sale to reclassify "direct" expenses as "indirect" selling expenses on the grounds that the expenses cannot be tied to sales. The antidumping law was not intended to require companies to rewrite their books.

Department's Position: We disagree. We discovered at verification that Daewoo had the necessary documentation to more closely tie its repair expenses to particular models. Because they had not done so, we treated certain of Daewoo's warranty expenses as indirect selling expenses for our preliminary results. We now have accepted Daewoo's December 30, 1985 revised claim which ties expenses to chassis sizes, and better reflects Daewoo's actual expenses.

We do not expect companies to "write" their books in order to qualify an expense as a direct selling expense. We do expect a company to make its claimed adjustments as accurate as possible based on its existing records.

Comment 92: Daewoo objects to the Department's denial of its claim for drawback on materials wasted or otherwise consumed in the production of televisions exported to the United States.

Department's Position: See Comment 20.

Comment 93: Daewoo argues that the Department was wrong to deny its claim for a deduction from home market price for freight costs incurred between the factory and depots.

Department's Position: We allowed Daewoo's freight claim for shipments from the factory to its depots as an indirect selling expense because we consider home market freight and warehouse expenses incurred prior to sale to be indirect expenses.

Comment 94: Daewoo notes that the Department failed to make adjustments for duty, U.S. dealer credit, advertising, warranty, and Korean inland freight, where appropriate, in its calculations of foreign market value for comparison to its purchase price sales. Further, the Department failed to adjust for U.S. and domestic royalty expenses.

Department's Position: We disagree with Daewoo that we omitted duty and U.S. dealer credit expenses in our calculation of one purchase price sale. Further, we also made an adjustment in our preliminary results calculation for the above-mentioned circumstances of sale claims and royalties. Those expenses were deducted from the home market price in our calculation of the net weight-averaged foreign market value.

Comment 95: Daewoo argues that the Department incorrectly treated its "spring sales rebate campaign" as an indirect selling expense.

Department's Position: We disagree. According to our verification report and Daewoo's questionnaire response, the spring campaign gifts were given out by dealers based on the total volume of the purchase. Thus, the cost of the gift cannot be solely attributed to the total number of televisions purchased while the program was in effect because

purchases of other items, in addition to televisions, qualified the purchaser for a gift.

Comment 96: As a result of verification and the Department's treatment of Daewoo's home market warranty claim in its preliminary determination, Daewoo argues it has revised its direct warranty claim to best reflect the Department's policy and Daewoo's warranty records.

Department's Position: We have generally accepted Daewoo's warranty revision of December 30, 1985 as it best reflects the portion of variable warranty expenses Daewoo can attribute to color televisions. We have revised that claim slightly to exclude an amount for commissions to authorized agents because it is still not clear that this claim excludes certain fixed expenses.

Comment 97: Daewoo argues that the Department failed to make a correct adjustment for its generic advertising claim. Daewoo urges the Department to accept the allocation methodology outlined in its response because this is the methodology which the Department verified.

Department's Position: We have accepted Daewoo's original methodology and have made the adjustment to foreign market value.

Comment 98: Daewoo argues that the Department should apply its claimed home market credit adjustment to the gross dealer price because the credit expense claim is based on the time period after Daewoo pays its taxes.

Department's Position: We agree that and have applied the claimed credit adjustment to the gross dealer price because Daewoo carries the gross price on its books after it pays the taxes and until it receives payment from its customer.

Comment 99: Gold Star maintains that the Department should not disregard its below-cost home market sales pursuant to section 773(b) of the Tariff Act because such sales were not made in substantial quantities over an extended time period, nor were they made at prices that did not permit the recovery of all costs within a reasonable period.

Department's Position: We disagree. We disregarded below-cost sales which amounted to more than 10% of all home market sales of that model during the review period. We consider this percentage to be a reasonable guideline for disregarding below-cost sales in this case. (See Comment 5) Further, we also consider the eleven-month span of this review to be a reasonable time period in which to consider the extent of sales made below the cost of production.

Comment 100: Gold Star argues that the Department's rule to exclude sales of a particular model if the sales made below-cost exceed 10 percent of total sales of that model, and to exclude all sales of that model if below-cost sales account for over 90 percent of total sales, is arbitrary and without legal authority.

Department's Position: See Comment 5.

Comment 101: Gold Star argues that the Department incorrectly denied its home market warranty warehousing expense as a directly allowable circumstance of sale adjustment simply because the expense does not vary with sales.

Department's Position: We disagree. Gold Star's warehousing expense covers the leasing of two warehouses to store warranty parts used to repair all television models and possibly other products which Gold Star also repairs under warranty. Because it is unclear that this claimed expense is attributable to storage of color television parts, we have treated the expense as an indirect selling expense.

Comment 102: Gold Star argues that the Department was incorrect to deny its home market cash discount program as a direct circumstance of sale adjustment on the grounds that it could not tie its expense to sales in which a cash discount was granted. Even though Gold Star could not tie this expense to sales, it is a variable expense because no discounts are paid unless a sale is made.

Department's Position: For verification purpose we required Gold Star to trace the cash discounts to the sales on which that discount was given. Gold Star's accounting records were not consistent with the terms and conditions of the discount program. Therefore, we have allowed those discounts as an indirect circumstance of sale expense.

Comment 103: Gold Star insists that based on the information it has submitted to the Department, it qualifies for a level of trade adjustment.

In the home market, Gold Star sells only to small franchise stores, whereas in the United States it sells to both retailers and mass merchandisers/distributors. Gold Star claims that it incurs certain after-service warranty, advertising, and credit expenses in its sales to retailers which it does not incur on its sales to the mass merchandisers in the United States. Unlike retail stores, these mass merchandisers sell televisions under their own brand name, they perform their own warranty servicing and they do not benefit from Gold Star's image advertising because the customers are not aware they are purchasing a Gold Star television. Further, Gold Star identified certain expenses it incurs on sales to both retailers and mass merchandisers but which differ in amount because purchase quantities differ between the retail and mass merchandiser customers. Gold Star claims that these are the expenses it would incur in the home market if it sold television at the mass merchandiser/distributor level.

Department's Position: Gold Star was able to quantify certain expenss it incurs in selling color televisions at the retail store level in the home market. It then attempted to compare those expenses with expenses it might have incurred had it sold at the distributor/mass merchandiser level in the home market.

In our preliminary results, we denied Gold Star's level of trade claim because Gold Star could not adequately identify different trade levels in the home and U.S. markets. We have no evidence of the business practices of any mass merchandisers/distributors in Korea if in fact such customers do exist there. We cannot know what kinds of services Gold Star would be required to offer these mass merchandisers if such sales existed. We have no basis for assuming that Gold Star's claim identifies selling expenses which would have been incurred in Korea if sales at the distributor/mass merchandiser level existed. Lacking such supportable evidence, we have denied Gold Star's claim for these final results.

Comment 104: Gold Star claims the Department incorrectly reduced the portion of its home market imputed credit adjustment relating to advance tax payment by miscalculating the number of days between tax payment and receipt of payment from the customer. As Gold Star has acknowledged, the wording of its response narrative led the Department to miscalculate the tax lagtime. The Department should use the verified information in its final calculations.

Department's Position: For our preliminary results, we adjusted Gold Star's credit claim in accordance with its questionnaire response narrative. For the purpose of our final results we have calculated gold Star's credit claim based on information gathered at verification.

Comment 105: Gold Star comments that for its sales below-cost test the Department used review period average figures for home market models while it tested for below-cost sales on home market sales outside the review period. Because a cost test was already performed in the previous administrative review on those home market sales, Gold Star suggests the Department only test for below-cost

sales on home market sales made during the review period.

Department's Position: We agree and have made the correction to our final calculations.

Comment 106: Gold Star argues that in the Department's test for sales-below-cost the Department failed to adjust the home market price to account for denials of certain selling expenses in the price-to-price portion of the program.

Department's Position: We agree. If we deny a portion of an adjustment for the purpose of calculating the foreign market value, we should only consider the allowed portion in our cost test.

Comment 107: Gold Star argues that the Department should allow its home market rebate program expense as a circumstance of sale adjustment. Gold Star recalculated the expense amount attributable solely to sales of color televisions and suggests the Department use this more accurate claim.

Department's Position: After further reference to the verification exhibits, we conclude that Gold Star was able at verification to segregate the rebate expense for televisions from rebates granted on other merchandise. We have, therefore, accepted the revised claim from verification because we were able to verify those sales rebate expenses.

Comment 108: Gold Star argues that the Department erroneously disregarded the below-cost sales of certain models that had more than 90 percent of their sales above cost.

Department's Position: We have corrected this clerical error for purposes of our final results.

Comment 109: Gold Star argues that the Department incorrectly denied as direct home market selling expenses, the claimed amounts for warranty service fees, communications, service fees, freight and delivery, loss on cash back, and warranty campaign advertising.

Department's Position: We consider only the cost of free parts, excluding profit, and expense incurred in servicing as directly allowable expenses. Such servicing expenses can include expenses of the serviceman going to and from the location of the repair, the cost of materials consumed during servicing and payments to unrelated firms for performing repairs. Indirect expenses include utilities, rent, servicemen's wages, or other general and administrative expenses incurred by the service department. These latter expenses are not directly related to the sales. However, we allowed Gold Star's claims for warranty service fees, loss on cash back and freight and delivery as direct warranty expenses because they are expenses attributable to each repair.

Comment 110: Gold Star argues that the Department should allow as a direct expense its claim for losses on returned sets in the home market.

Department's Position: We agree and have made the appropriate correction to our calculations.

Comment 111: Gold Star argues that the Department should allow its home market rebate program expense as a circumstance of sale adjustment. Gold Star recalculated the expense amount attributable solely to sales of color televisions and suggests the Department use this more accurate claim.

Department's Position: We cannot accept Gold Star's revised claim at this late date because we are unable to verify the expense amounts. Because Gold Star granted the same rebate to color televisions and other products, and it allocated the total rebate expense over sales of all products, we cannot assume the resulting claim reflects sales of color televisions alone. Therefore, we have treated this claim as an indirect adjustment.

Comment 112: Gold Star argues that, because it reported home market sales prior to this review period as contemporaneous sales, the Department should apply its first review cash discount claim to sales in those months. Further, Gold Star argues that if the Department applies the cash discount rate only to May sales, the Department should calculate the adjustment by dividing the discount amount by the May sales total.

Department's Position: We agree: We have applied the rate accepted in the first administrative review to those sales. We have applied a cash discount rate based on total May 1984 sales to sales in that month only.

Comment 113: Gold Star is mystified as to why the Department allowed its home market sales promotion claim only as an indirect expense.

Department's Response: This was a clerical error, and we have corrected it for our final calculations.

Comment 114: Samsung argues that the Department should allow its home market discounts and rebates as direct circumstances of sale adjustments.

Department's Position: For an explanation of our treatment of Samsung's quantity discount see Comment 16.

Because in our review we examine sales between the manufacturer and the unrelated dealer, we cannot tie the claimed rebates during the period to the manufacturer's sales during the period. Therefore, we have treated these rebates as indirect selling expenses. See the final results of our first administrative review in this case.

Comment 115: Samsung argues that the Department should allow its variable after-service warranty expenses as a circumstance of sale adjustment. At verification Samsung was able to break its home market after-service expense into variable and fixed amounts. Samsung requests the Department to make an adjustment for its warranty claim on these varied amounts.

Department's Position: We have treated Samsung's parts expense as an indirect selling expense because at verification we discovered that Samsung had the information to tie the expense to repairs but did not incorporate that information in its claimed adjustment. We have now accepted Samsung's break-out of variable and fixed after service expenses.

Comment 116: Samsung argues that the Department should use duty-paid parts cost in its calculation of Samsung's physical difference in merchandise adjustment because duties are an important component of Samsung's home market production costs and part of the material cost difference between its home market and U.S. models. If duties are excluded, margins may be created simply because a respondent has chosen to purchase its components abroad, even though it may pay the same price for them as for domestically sourced components. The Department should therefore follow its decision in the final results of sale at less than fair value on bicycle tubes and tires from Taiwan (48 FR 31691, July 11, 1983), where it held that for purposes of calculating adjustments for physical differences, duties should be left in the production costs of both markets.

Department's Position: We agree. After further consideration of the distortive effects of excluding duty from parts' prices in an adjustment to foreign market value for physical differences in merchandise, we conclude that duty-paid parts prices do reflect the actual purchase price paid by the manufacturer. We have, before, followed the methodology in *Bicycle Tubes and Tires From Taiwan*, and whenever possible, using the information respondents have provided in their responses or at verification, we have added duties back into the physical difference claims.

Comment 117: Samsung argues that the Department incorrectly treated selling expenses relating to ESP sales which were incurred in the home market, as indirect selling expenses. Samsung contends that the Department cannot adjust for such expenses under section 772(c) of the statute because

selling expenses incurred by Samsung in Korea are not "incurred by or for the account of the exporter in the United States".

Department's Position: We disagree. We do not consider the Commerce Regulations to require that expenses be incurred in the United States, but that the expenses be incurred on behalf of the exporter who is in the United States. We have verified that Samsung incurs those expenses on U.S. sales, on behalf of the subsidiary who is in the United States. We have, therefore, treated those expenses as indirect selling expenses.

Comment 118: Samsung contends that the Department should not have included an imputed interest expense for the period between date of export and date of sale for its ESP transactions.

Department's Position: We disagree. We have determined that we should impute an interest expense for the period between date of shipment from Korea and date of sale in the United States because the opportunity cost of holding inventory is a "real" expense which Samsung cannot isolate from its pool of interest expenses.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results for Samsung, Gold Star, and Daewoo, and we determined that the following weighted-average margins exist for the period May 1, 1984 through March 31, 1985:

Manufacturer/exporter	Margin (percent)
Samsung	2.06
Gold Star	1.37
Daewoo	3.49

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Further, as provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1985 and who is unrelated to any reviewed firm, a cash deposit of 3.49 percent shall be required. These deposit requirements are effective for all shipments of Korean color television receivers, complete or incomplete, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a).

Dated: November 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-25748 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held December 2, 1986, 9:30 a.m. Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

1. Opening remarks by the Chairperson.
2. Review and approval of the minutes of October 21, 1986, meeting.
3. Presentation of papers or comments by the public.
4. Presentations by Subcommittee Chairpersons of Annual Reports for FY 1986.
5. Chairperson's Annual Report for FY 1986.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: November 7, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-25752 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DT-M

Cornell 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: 86-229. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Portable Analog Pulse Logger. Manufacturer: Helpware Computer Consultancy, United Kingdom. Intended Use; See notice at 51 FR 23255.

Comments: None received.

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

Reasons: The foreign instrument can digitize, record and play back waveforms in situ from weak electrical signals in water. The National Institutes of Health advises in its memorandum dated September 29, 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. 86-25753 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Department of Health and Human Services/Public Health Service; 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: 86-041. Applicant: DHHS/PHS, Washington, DC 20204. Instrument: Light (Irradiation) Source, Model Supuvasun 3000. Manufacturer: Mutzhas Produktions GmbH, West Germany. Intended Use: See notice at 50 FR 48451.

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 high intensity (3000 watts) light in the UV range (350 to 450 nanometers) with filtering capabilities. The National Institutes of Health advises in its memorandum dated May 1, 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. 86-25755 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

The Methodist Hospital et al; Applications for Duty-Free Entry of Scientific Instruments

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), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined 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: 86-105R. Applicant: The Methodist Hospital, 6565 Fannin Street, Houston, TX 77030. Instrument: Kidney Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of February 20, 1986.

Docket Number: 87-014. Applicant: University of Hawaii, Department of Agricultural Biochemistry, 1800 East West Road, Honolulu, HI 96822. Instrument: Rapid Kinetics Accessory for Spectrophotometers, Model SFA-11. Manufacturer: Hi-Tech Ltd., United Kingdom. Intended Use: The instrument is an accessory to existing spectrophotometric equipment which will allow measurement of rapid chemical and biochemical reactions. Experiments will be conducted to determine the mechanisms of action and the toxicity of thyroid drugs. Application received by Commissioner of Customs: October 22, 1986.

Docket Number: 87-015. Applicant: Northeastern University, Department of Civil Engineering, 360 Huntington Avenue, Boston, MA 02115. Instrument: Automated Triaxial and Consolidation Testing System. Manufacturer: GDS Instruments Ltd., United Kingdom. Intended Use: The instrument is intended to be used for studies of stress-strain, strength, permeability and compression characteristics of soils subjected to a variety of loading conditions. Applications Received by Commissioner of Customs: October 22, 1986.

Docket Number: 87-016. Applicant: University of California, Berkeley, Berkeley, CA 94720. Instrument: Electronic Visual Display Unit with Raster Rotation. Manufacturer: Joyce Electronics, United Kingdom. Intended Use: The instrument is intended to be used for the study of amblyopia, a general term which describes a unilateral loss of vision usually associated with some difficulty encountered in early childhood. Research-user group studies the root causes of developmental visual disorders, those types of disorder which are neither inherited nor arise due to trauma or secondary illness. The instrument will also be used for educational purposes in the courses P.O. 102, Dioptrics of the Eye and P.O. 299, Guided Research. Application Received by Commissioner of Customs: October 23, 1986.

Docket Number: 87-019. Applicant: University of Pennsylvania, Chemistry Department, 231 S. 34th Street, Philadelphia, PA 19104. Instrument: Mass Spectrometer, Model VG ZAB-E with Accessories. Manufacturer: VG Analytical Ltd., United Kingdom. Intended Use: The instrument will be used to study synthetic and semi-synthetic compounds, their intermediates and final products. The characterization of the compounds will be determined by high resolution mass spectrometry to achieve unambiguous identification at detection limits of parts per trillion. Polypeptides, oligonucleotides and other polar, thermally labile compounds will be studied by high performance liquid chromatography and fast atom bombardment mass spectrometry. Application Received by Commissioner of Customs: October 27, 1986.

Docket Number: 87-020. Applicant: Thomas Jefferson University, Jefferson Alumni Hall, 1020 Locust Street, Room 268, Philadelphia, PA 19107. Instrument: Electron Microscope (Side Entry Goniometer), Model H-7000. Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use: The instrument is intended to be used for biomedical research which will include:

(1) Electron immunohistochemistry of the extracellular matrix,

(2) Rotary shadowing of biological molecules with heavy metals,

(3) The study of cell surface receptors in embryonic and neoplastic cells,

(4) The study of cell membranes by freeze-etching.

Application received by Commissioner of Customs: October 27, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-25754 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 30812-6167]

Approval of Federal Information Processing Standard 70-1; Representation of Geographic Point Locations for Information Interchange

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 70–1 (a revision to FIPS 70).

SUMMARY: On September 15, 1983, notice was published in the **Federal Register** (48 FR 41478) that a Federal Information Processing Standard (FIPS) 70–1 entitled "Representation of Geographic Point Locations for Information Interchange" was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

The approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

ADDRESS: Interested parties may purchase copies of this standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Roy G. Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–3491.

Dated: November 5, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 70–1

1986 Month Day

Announcing the Standard for Representation of Geographic Point Locations for Information Interchange

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations.

1. *Name of Standard:* Representation of Geographic Point Locations for Information Interchange.

2. *Category of Standard:* Federal General Data Standard, Representations and Codes: Earth Science Series.

3. *Explanation:* This standard establishes uniform formats for geographic point location data through the adoption of ANSI X3.61–1986, a standard approved by the American National Standards Institute. Geographic point location refers to the use of a coordinate system to define the position of a point that may be on, above, or below the Earth's surface. It provides a means for representing these data in digital form for the purpose of interchanging information among data systems and for improving clarity and accuracy of interpersonal, technical communications.

4. *Approving Authority:* Secretary of Commerce.

5. *Maintenance Agency:* U.S. Department of the Interior, Geological Survey (National Mapping Division).

Inquiries concerning the technical content of this standard should be addressed to: U.S. Geological Survey, National Mapping Division, National Center 510, Reston, VA 22092. The Geological Survey has assumed the leadership in developing and maintaining earth-science data element and representation standards under the terms of a Memorandum of Understanding signed in February 1980 by the National Bureau of Standards of the Department of Commerce and the Geological Survey, a bureau of the Department of the Interior.

The Maintenance Agency is responsible for the content of the standard and will provide the National Bureau of Standards with information on adopted changes. Change notices to this FIPS PUB will be issued by the National Bureau of Standards. Users who wish to receive such notices should complete the Change Request Form included in this FIPS PUB and return it to the address indicated.

6. *Cross Index:*

a. ANSI X3.61–1986, Representation of Geographic Point Locations for Information Interchange (revision of ANSI X3.61–1978).

b. FIPS PUB 70, Representation of Geographic Point Locations for Information Interchange, October 24, 1980 (the previous edition of this standard).

7. *Objectives:* The objectives of this standard are to improve the utilization of data resources of the Federal government and avoid unnecessary duplications and incompatibilities in the collection, processing and dissemination of data.

8. *Applicability:* This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies, and for Federal data interchange with the non-Federal sector including industry, State, local, and other governments, and the public at large. This standard applies only to uniquely identified locations, and not to a series of coordinates, at small intervals, such as linear map features, terrain profiles, or elevation models.

This standard does not apply to the inclusion, in text, of single values of latitude or longitude, or to applications covered by non-conforming international agreements established under the aegis of the World Meteorological Organization or the North Atlantic Treaty Organization. This standard excludes geographic coordinate systems and vertical control datums utilized by the U.S. Department of Defense in military applications.

9. *Implementation Schedule:* This standard becomes effective April 15, 1987. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

10. *Specifications:* This standard adopts ANSI X3.61–1986, Representation of Geographic Point Locations for Information Interchange (revision of ANSI X3.61–1978), approved by the American National Standards Institute, Inc.

11. *Where to Obtain Copies:* Copies of this publication are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, please refer to Federal Information Processing Standards

Publication 70–1 (FIPSPUB70–1), and title. Copies of other FIPS PUBS are also available from NTIS. Payment may be made by check, money order, or deposit account.

[FR Doc. 86–25757 Filed 11–13–86; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Determination of Commercial Fishery Failure Due to a Resource Disaster Under the Authority of the Commercial Fisheries Research and Development Act of 1964

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

ACTION: Notice of determination.

SUMMARY: The Delaware Bay oyster population has been plagued by the recurring problem of MSX (*Haplosporidium nelsoni*) since the late 1950's when the protozoan organism was first detected. MSX caused oyster mortalities approaching 95 percent of the total resource in the lower reaches of the bay where the salinity levels normally reach 15 parts per thousand (ppt) and greater. MSX does not tolerate salinity levels lower than 15 ppt, which are generally common in the upper Bay and its tributaries during the winter spring period. The State of Delaware has been working over the last 25 years to improve the natural oyster environment through siltation removal and cultch planting, to provide for increased oyster production and recuperation of the industry. The resource and industry were showing signs of recovery as a result of the State's action. However, since 1984, drought conditions have been occurring reducing the freshwater run-off into the Bay and increasing the salinity to levels that permit MSX to thrive. The result was an 85 percent mortality rate to all newly planted oysters from the natural seed and leased beds. Harvest levels dropped from 214, 160 lbs in 1983 to 39,277 lbs. 1985. This year the State closed the seed beds to harvesting because 40–80 percent of samples examined were infested with MSX. Oysters in all the leased beds have also been eliminated. If salinity levels drop enough to allow for any spat setting in 1986 it will be at least three years before harvesting can resume.

Delaware intends to plant oyster seed cultch and cultivate natural oyster beds by removing silt to ameliorate the levels of MSX infestation and mortality. Past experiences and practices have shown that damaged oyster resources can be effectively restored using these methods.

Both the resource and the industry have suffered significantly over the past three years because of MSX. A combined technical review of the proposal by NMFS staff from the Northeast region and the Northeast Fisheries Center indicates that a resource disaster has occurred as defined under the terms of subsection 779b of the Commercial Fisheries Research and Development Act of 1964, as amended (Pub. L. 88–309, subsection 4(b). Therefore, as the authorized representative of the Secretary of Commerce, I hereby determine that funds appropriated by Pub. L. 99–500 may be used for the purposes of subsection 4(b) of Pub. L. 88–309 to restore and return to production the damaged oyster resources of the Delaware Bay.

Authority: 16 U.S.C. 779 et. seq.

Dated: November 7, 1986.

William E. Evans,

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

[FR Doc. 86–25768 Filed 11–13–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limits for Certain Cotton, and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

November 7, 1986.

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 November 14, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 1 and July 11, 1985 between the Governments of the United States and Malaysia provides, among other things, for percentage increases in certain categories, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year (swing); for the carryover of shortfalls in certain categories from the previous agreement year (carryover); and for the borrowing of yardage from the succeeding year's limit with the amount used being deducted from the limit in the succeeding agreement year (carryforward).

In accordance with the terms of the bilateral agreement and at the request of the Government of Malaysia, flexibility in the form of swing, carryover and carryforward is being applied, variously, to cotton and man-made fiber textile products in Categories 338/339, 340, 369–S, (shop towels in TSUSA number 366.2840) 640 and 641, produced or manufactured in Malaysia and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. In the letter to the Commissioner of Customs which follows this notice, the Chairman of CITA directs the Commissioner of Customs to increase the limits previously established for cotton and man-made fiber textile products in Categories 338/339, 340, 640 and 641 to the designated amounts. The limit for Category 369–S is being reduced to 637,601 pounds to account for swing applied to other categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

November 10, 1986.

Committee for the Implementation of Textile Agreements

November 7, 1986.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1985 issued to you by the Chairman, Committee for the Implementation of textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Effective on November 14, 1986, the directive of December 23, 1985 is hereby

amended to include adjusted limits for the following categories: [1]

Category	Adjusted 12-mo restraint limit [1]
338/339	600,066 dozen.
340	409,648 dozen.
369-S [2]	637,601 pounds.
640	305,916 dozen.
641	553,118 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.
[2] In Category 369, only TSUSA number 366.2640.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-25751 Filed 11-13-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Computer Applications to Training and Wargaming; Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Computer Applications to Training and Wargaming will meet in closed session on January 12–13, 1987 at the Institute for Defense Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will study how to integrate anticipated advances in computer technology with ongoing simulation efforts, supporting training and wargaming for joint warfighting.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 7, 1986.

[FR Doc. 86-25692 Filed 11-13-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Computer Applications to Training and Wargaming; Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Computer Applications to Training and Wargaming will meet in closed session on January 12–13, 1987 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will study how to integrate anticipated advances in computer technology with ongoing simulation efforts, supporting training and wargaming for joint warfighting.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 7, 1986.

[FR Doc. 86-25693 Filed 11-13-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Women in the Services; Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACWITS), DOD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review the Recommendations, Requests for Information, and Continuing Concerns made by the Committee at the 1986 Fall Meeting; discuss current issues relevant to women in the Services; and finalize the program for the next semiannual meeting scheduled for May 3–7, 1987, in the Washington, DC area.

All meeting sessions will be open to the public.

DATES: December 4, 1986, 1:30–5:00 p.m. and December 5, 1986, 9:30–11:30 a.m.

ADDRESS: OSD Conference Room 1E801 #7, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Ilona E. Prewitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301-4000; telephone (202) 697-2122.

Patricia H. Means,

OSD Federal Register Liaison Office, Department of Defense.

November 10, 1986.

[FR Doc. 86-25786 Filed 11-13-86; 8:45am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Systems of Records

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Notice of deletion and amendment of Air Force Systems of Records Notices.

SUMMARY: The Air Force proposes to delete 1 systems of records notice, and amend 15. Changes are summarized below and the rewritten notices follow in their entirety.

EFFECTIVE DATE: The deletions are effective November 14, 1986, and the amendments shall be effective without further notice on or before December 15, 1986, unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C., telephone: 202/694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93-579; 44 Stat. 1896 *et seq.)* has been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22332) May 29, 1985
FR Doc. 85-14122 (50 FR 24672) June 12, 1985
FR Doc. 85-15062 (50 FR 25737) June 21, 1985
FR Doc. 85-26775 (50 FR 46477) November 8, 1985

[1] The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 1 and July 11, 1985 between the Governments of the United States and Malaysia provides, in part, that: (1) Specific limits or sublimits may be exceeded by not more than 5 percent, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

FR Doc. 85–29261 (50 FR 50337) December 10, 1985
FR Doc. 86–2527 (51 FR 4531) February 5, 1986
FR Doc. 86–4546 (51 FR 7317) March 3, 1986
FR Doc. 86–10044 (51 FR 16735) May 6, 1986
FR Doc. 86–11696 (51 FR 18927) May 23, 1986

None of the proposed changes require a report as mandated by 5 U.S.C. 552a(o).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1986.

Deletions

F120 AF MP A

System name:

Investigation-Complaint Files (50 FR 22488) May 29, 1985.

Reason:

These files are not retrieved by a personal identifier and are not subject to the Privacy Act of 1974.

Amendments

F030 AF MP A

System name:

Personnel Data System (PDS) (51 FR 18929) May 23, 1986.

Change:

System location:

Add, "activity or squadron orderly rooms," after "consolidated reserve personnel offices."

F035 MPC A

System name:

Application for Appointment and Extended Active Duty Files (50 FR 22409) May 29, 1985.

Changes:

System identification:

Change to, "F035 AF MP R."

System location:

Change to, "Headquarters United States Air Force, Washington, DC 20330–5120; Air Force Military Personnel Center, Randolph AFB, TX 78150–6001; Air Reserve Personnel Center, Denver, CO 80280–5003; Headquarters Air Force Reserve, Robins AFB, GA 31098–6001; United States Air Force Recruiting Service, Randolph AFB, TX 78150–5421; Air National Guard Support Center, Andrews AFB, Washington, DC 20331–6608."

Categories of individuals covered by the system:

Change to, "(1) All applicants for appointment/reappointment as Reserves of the Air Force (ResAF) to United States Air Force Reserve (USAFR) or Air National Guard of the United States (ANGUS) affiliation; (2) all applicants for appointment/reappointment as ResAF to serve on extended active duty (EAD) as medical service officers, chaplains, and judge advocates; (3) all USAFR and ANGUS members who apply for voluntary entry on EAD; (4) all commissioned officers of other uniformed services on EAD who apply for interservice transfer to serve on EAD with the USAF; (5) all commissioned officers and enlisted members of the USAF Reserve components, not on EAD, who apply for interservice transfer between Reserve components of the USAF."

Categories of records in the system:

Change to, "Individual's application and supporting documents as applicable."

Authority for maintenance of the system:

Change to, "10 USC Chapter 837, Appointment as Reserve Officers; Chapter 839, Temporary Appointments; implemented by AFR 36–15, Appointment in Commissioned Grades and Designation and Assignment in Professional Categories—Reserve of the Air Force and United States Air Force (Temporary). 10 USC 716, Commissioned officers, transfer among the armed forces, the Naitonal Oceanic and Atmospheric Adminstration, and the Public Health Service, implemented by AFR 35–39, Interservice and Intraservice Transfer of Uniformed Service Members. 10 USC 672(d), Reserve components generally; 689, Reserve officers; grade in which ordered to active duty; 50 USC App 454, Selective Service Act, Persons liable for training and service; App 456, Deferments and exemptions from training and service; implemented by AFR 45–26, Voluntary Entry on Extended Active Duty (EAD) of Commissioned Officers of the Air Reserve Forces."

Purpose(s):

Change to, "Used to select, appoint or designate persons for the USAFR or ANGUS, for interservice/intraservice transfer, Ready Reserve assignment, or for EAD."

Retention and Disposal:

Change to, "If selected for appointment/reappointment, extended active duty, USAFR or ANGUS affiliation, or interservice/intraservice transfer, records become the Master Personnel Record Group (MPerRGp) and are forwarded to the appropriate MPerRGp custodian. An abbreviated reference file of selected documents is maintained by the applicable utilization and assignment branch. If not selected, documents are retained for one year by the selection or appointment authority and destroyed."

System manager(s) and address:

Change to, "Assistant Deputy Chief of Staff/Personnel, Randolph AFB TX 78150–6001."

F051 AF B

System name:

Flying Training Records-Nonstudent (50 FR 25743) June 21, 1985.

Changes:

System location:

Add, "(3) Headquarters Air Force Systems Command (AFSC) and AFSC Divisions, Centers, Laboratories and Bases. Official mailing address are in the Department of Defense Directory in the appendix to the Air Force's systems notices."

Categories of individuals covered by the system:

Add, "(3) Students entered into AFSC flight training program."

Categories of records in the system:

Change "(1 and 2)" to "(1, 2 and 3)."

Authority for maintenance of the system:

Add, "(3) AFSCM 51–1."

Purpose(s):

Change "(2)" to "(2 and 3)."

Storage:

Add, "(3) Maintained in file folders, in microform, and on computer and computer output products."

Retention and disposal:

Add, "(3) Records are destroyed 1 year after completion of training or on discontinuance of activity, whichever is sooner."

System manager(s) and address:

Add, "(3) DET24, HQ AFSC/OSE, Eglin AFB FL 32542–5000."

Record source categories:

Add, "(3) Information is obtained from the individual, from instructors, instructor supervisors, and personnel involved in the evaluation and analysis of training effectiveness."

F178 AFSC B

System name:

Manhour Accounting System (MAS) (50 FR 22543) May 29, 1985.

Changes:

System location:

Change to, Headquarters Air Force Systems Command, Divisions, Centers, and laboratories. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Categories of individuals covered by the system:

Change to, "Civilian and military personnel assigned to AFSC."

Retrievability:

Change to, "Filed by Social Security Number (SSN) or name."

Safeguards:

Change to, "(1) Records are accessed by the records custodian or other persons responsible for servicing the records in performance of their official duties. (2) Records are controlled by personnel screening and by computer system software. (3) Records are maintained in locked cabinets, locked containers, or buildings with controlled entry."

System manager:

Change to, "Manhour accounting and JOCAS monitors at AFSC organizations."

The following changes to Air Force systems of records are required as a result of the creation of the United States Space Command, a joint command.

F011 AF A

System name:

Locator, Registration and Postal Directory Files (50 FR 22338) May 29, 1985.

Changes:

System location:

Add: "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force and Marine Corps active duty military personnel and civilian employees assigned to HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line.

F011 AF MP A

System name:

Congressional and Other High Level Inquiries (50 FR 22339) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force and Marine Corps active duty military personnel and civilian employees assigned to HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line.

F012 AF A

System name:

Information Requests—Freedom of Information Act (50 FR 22346) May 29, 1985.

Change:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Contesting record procedure:

Delete "Air Force's" in first line.

F012 AF B

System name:

Privacy Act Request File (50 FR 22346) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

After "Air Force," add, "HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line.

F030 AF A

System name:

Automated Personnel Management System (50 FR 25740) June 21, 1985.

Change:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Contesting record procedures:

Delete "Air Force's" in first line and all after "System Manager."

F030 AF JA A

System name:

Confidential Statement of Affiliations and Financial Interests (50 FR 22348) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force, and Marine active duty and civilian personnel, in the same categories when assigned to HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line.

F035 AF MP O

System name:

Unit Assigned Personnel Information (50 FR 22382) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line.

F190 AF PA A

System name:

Special Events Planning—Protocol (50 FR 22544) May 29, 1985.

Change:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Contesting record procedures:

Delete "Air Force's" in the first line and all after "System Manager."

F190 SAFPA B

System name:

Official Biographies (50 FR 22546) May 29, 1985

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Key personnel in USSPACECOM."

Contesting record procedure:

Delete "Air Force's in first line and all after "System Manager."

F205 AF A

System name:

Personnel Security Access Records (50 FR 22548) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to HQ USSPACECOM."

Contesting record procedure:

Delete "Air Force's" in first line and all after "System Manager.

F900 AF MP A

System name:

Military Decorations (50 FR 22559) May 29, 1985.

Changes:

System location:

Add, "Headquarters United States Space Command (HQ USSPACECOM)."

Categories of individuals covered by the system:

Add, "Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to HQ USSPACECOM."

Contesting record procedures:

Delete "Air Force's" in first line and all after "System Manager."

F011 AF A

SYSTEM NAME:

011 AF A

011 AF A—Locator, Registration and Postal Directory Files.

SYSTEM LOCATION:

Headquarters United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel; Air Force Reserve and National Guard Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization. Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards or listings may contain the individuals name, grade, military service identification number, Social Security Number, duty location, office telephone number, residence address and residence telephone number, and similar type personnel data determined to be necessary by the local authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to locate or identify personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from authorized users for the conduct of business. Portion of the system are used to directorize and forward individual personnel mail received by Air Force postal activities, and for assignment of individual mail boxes. Files may be used locally to support official and unofficial programs which require minimal locator information or membership or user listings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING; ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or form media in visible file binders/cabinets card files or on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning or by overwriting magnetic media. Postal directory files are maintained for six months after reassignment, separation or departure from servicing activity.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters, US Air Force, Washington, DC. Local System Managers: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURES:

Requests from individuals should be addressed to the local System Manager or custodian of the records. Individual must furnish full name and the names of dependents to the Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the local System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces or from individuals or personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 AF MP A

SYSTEM NAME:

011 AF MP A—Congressional and Other High Level Inquiries.

SYSTEM LOCATION:

Air Force Military Personnel Center, Major Commands, Separate Operating Agencies and Consolidated Base Personnel Offices (CBPOs) at Air Force installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military personnel serving on active duty, in the Air Force Reserve, or retired or discharged from the Air Force. Civilian personnel currently or formerly employed by the Air Force. Personnel attending Air Force training institutions or undergoing training under Air Force sponsorship. Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background information and information reflecting Air Force personnel policies and procedures; copies of inquires received from the Office of the President, Members of Congress and other high level sources requesting information by or on behalf of a constituent; copies of replies to such inquiries including transmittal media used en route and to the Air Force Office of Legislative Liaison (SAF/LL).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by; and 10 USC 8032, The Air Staff, general duties; implemented by Air Force Regulation 11-7, Air Force Relations with Congress.

PURPOSE(S):

Information pertinent to an inquiry forwarded to SAF/LL for preparation of the reply to the high level requester. In some instances, response may be direct to the requester without referral through SAF/LL; however, when required by directive, copies of such responses are furnished SAF/LL. The records may be used in responding to subsequent inquiries concerning the same individual. The record system is audited periodically to determine trends on the nature of complaints and questions and for statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties who are properly cleared for need-to-know. Records are stored in security file containers/cabinets, locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for up to 18 months depending on category, then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force; commanders of major air commands, numbered air forces or comparable level activities.

NOTIFICATION PROCEDURE:

Requests from individuals must contain reasonable particulars about the subject in question and should be addressed to the respective System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the respective System Manager. Individual's request must contain reasonable identifying particulars about the subject in question.

CONTESTING RECORDS PROCEDURES:

The rules for accesss to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information provided by major command or consolidated base personnel office personnel, manual or automated personnel records, Air Force policies and procedures, copies of inquiries, congressional/high level officials'/constituents' comments or requests and Air Force replies thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F012 AF A

SYSTEM NAME:

012 AF A—Information Requests-Freedom of Information Act.

SYSTEM LOCATION:

Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have requested documents under the provisions of the Freedom of Information Act (FOIA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Administration of release of information to the public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552, The Freedom of Information Act as implemented by Air Force Regulation 12-30, Disclosure of Air Force Records to the Public.

PURPOSE(S):

To control administrative processing of requests for information used by freedom of information manager.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Contact the local FOIA manager at each Air Force installation.

RECORD ACCESS PROCEDURES:

Contact the local FOIA manager at each Air Force installation.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Freedom of information manager as result of requests for information from members of public.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F012 AF B

SYSTEM NAME:

012 AF B—Privacy Act Request File.

SYSTEM LOCATION:

At all levels of the Air Force having responsibility for systems of records under the Privacy Act. Includes Headquarters United States Air Force staff agencies, major commands, separate operating agencies, installations, and activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Department of the Air Force system notices. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who request access to, information from, or amendment of records about themselves from the Department of the Air Force and HQ USSPACECOM under the provisions of the Privacy Act of 1974 (5 USC 552a).

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, legal opinions, messages, and miscellaneous documents relating to an individual's request for access to or amendment of records concerning that person, including letters of denial, appeals, statements of disagreements, and related documents accumulated in processing requests received under the Privacy Act of 1974

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552a, The Privacy Act of 1974 as implemented by Air Force Regulation 12–35, Air Force Privacy Act Program.

PURPOSE(S):

To record, process and coordinate individual requests for access to or amendment of personal records, and appeals on denials of requests for access or amendments to personal records; to prepare legal opinions and interpretations for System Managers and the Secretary of the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Used by the Office of Management and Budget, the General Services Administration, the Office of Personnel Management, the Justice Department, or other Government agencies having a direct interest in monitoring or evaluating compliance with the provisions of the Privacy Act by the Department of the Air Force, including the preparation of special studies or reports on the status of actions taken to comply with the Act, the results of those efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures. Also used by members of Congress or their staffs for resolution of constituent inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and/or microfilm.

RETRIEVABILITY:

Filed by name of requester.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Requests for information are destroyed when no longer needed; requests from access or amendment and appeals of denial are destroyed four years after final action or three years after adjudication by the courts, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Administration, Headquarters United States Air Force, Washington, DC 20330; or the Director of Administration of the major command or separate operating agency, or Chief, Central Base Administration at the Air Force installation where the requested or disputed records are located.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should include the person's full name, grade (if applicable), and some other personal information which could be verified from the person's file. For personal visits, the individual should present a valid identification card or driver's license and some verbal information which could be verified from the person's case file.

RECORD ACCESS PROCEDURES:

Written requests should be addressed to the office that processed the initial inquiry, access request, amendment request, or appeal; or individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual requester, Department of the Air Force organizations, other Department of Defense organizations, and agencies of Federal, state, and local governments, as applicable or appropriate for processing the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF A

SYSTEM NAME:

030 AF A—Automated Personnel Management System.

SYSTEM LOCATION:

Units or offices at all levels within the Air Force, and Headquarters United States Space Command (HQ USSPACECOM), who implement the system under a specific authorizing local or higher directive.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, including members of the Air Reserve Forces and civilian employees assigned to the office or unit as specified in the governing directive for the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data obtained from existing personnel or training records or from the individual. Record includes name, grade, SSN, unit of assignment, security clearance, supervisor, duty title, office

and telephone number, home address and telephone number, dependents, education and training, speciality or job qualifications, performance/effectiveness reports, awards/decorations, promotions, duty assignment history and similar information listed in the governing directive for the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by; as implemented by a specific governing directive. The system cannot be operated until a directive is published listing authorized locations, subjects, categories of records, safeguards, and management procedures. A copy of the directive will be provided to the command Privacy Act Officer.

PURPOSE(S):

Used to locate, manage and train assigned personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on computer or word processor and output products as listed in the governing directive.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Records are accessed by the custodian of the system and by persons servicing the records who are properly cleared for need-to-know. Records are protected in accordance with Air Force Regulation 300–13, Safeguarding Personal Information in Automatic Data Processing Systems.

RETENTION AND DISPOSAL:

Computer records are retained until no longer needed. Records will be destroyed no later than 2 years after last entry.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of the office or unit as specified in the governing directive.

NOTIFICATION PROCEDURE:

Requests from individuals should be sent to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from personnel records, training records or the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF JA A

SYSTEM NAME:

030 AF JA A—Confidential Statement of Affiliations and Financial Interests.

SYSTEM LOCATION:

Office of the General Counsel, Office of the Secretary of the Air Force, Washington DC 20330; Office of the Judge Advocate General, Headquarters United States Air Force, Washington, DC 20330; Headquarters of major commands and at all levels down to and including Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian personnel paid at a level of GS–13 through GS–15; Air Force military personnel in the rank of Lieutenant Colonel or Colonel whose basic duties and responsibilities require the exercise of judgment on Government decision making or taking action on (1) the administering or monitoring of grants or subsidies, (2) contracting or procurement, (3) auditing, or (4) any other government activity in which the final decision or action has a significant economic impact on the interest of any non-federal enterprise; and Special Government employees who are "advisors" or "consultants." Army, Navy, Air Force, and Marine Corps active duty personnel and civilian employees in the same categories when assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the title of the individual's position, date of appointment in present position, agency and major organization segment of the position, employment and financial interests, creditors, interest in real property, a list of persons from whom information can be obtained concerning the individual's financial situation, supervisor's evaluation, and Standards of Conduct Counsellor/Deputy Counsellor review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees."

PURPOSE(S):

The review of the statements by the individual's supervisor and deputy counselor to determine the existence of or potential for a conflict of interst in the performance of official duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed alphabetically by year.

SAFEGUARDS:

Stored in locked metal file cabinets.

RETENTION AND DISPOSAL:

Retained up to two years after the individual has left employment or terminated responsibilities which require disclosure of information. Destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant General Counsel (Personnel), The Judge Advocate General, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Managers or to Deputy Standards of Conduct Counsellor at system location.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the System Managers or Deputy Standards of Conduct Counsellor at system location.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual

concerned may be obtained from the System Managers.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual or from personnel designated by the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 AF MP A

System name:

030 AF MP A—Personnel Data System (PDS).

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, CO 80280. Headquarters of major commands and separate operating agencies and consolidated base personnel offices, central civilian personnel offices (CCPOs), consolidated reserve personnel offices, and activity or squadron orderly rooms. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel. Air Force Reserve and Air National Guard personnel. Air Force Academy cadets. Air Force Civilian employees. Certain surviving dependents of deceased members of the US Air Force and predecessor organizations; potential Air Force enlistees; candidates for commission enrolled in college level Air Force Reserve Officer Training Corps Programs; Deceased members of the Air Force and predecessor organizations; Separated members of the US Air Force, the Air National Guard (ANG) and Air Force Reserve (USAFR); ANG and USAFR Technicians; Prospective, pending, current, and former Air Force civilian employees, except Air National Guard Technicians-current and former civilian employees from other Governmental agencies that are serviced at CCPOs may be included at the option of servicing CCPO; DOD contractors and foreign military personnel on liaison or support duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained at each PDS operating level is the master personnel record, which contains the following categories of information: 1. Accession data pertaining to an individual's entry into the Air Force (place of enlistment source of commission, home of record, date of enlistment, place from which ordered to EAD). 2. Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received). 3. Utilization data used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty Codes, determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. (Primary Air Force Specialty code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, date departed last duty station, short tour return date, reserve section, current/last oversea tour). 4. Evaluation Data on members of the Air Force during their career (Officer Effectiveness Report dates and ratings, Airman Performance Report dates and ratings, results of various qualifications tests, an "Unfavorable Information" indicator, and Drug and Alcohol Abuse data). 5. Promotion Data including promotion history, current grade and/or selection for promotion (current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates; projected temporary grade, key "service dates"). 6. Compensation data although PDS does not deal directly with paying Air Force members, military pay is largerly predicated on personnel data maintained in PDS and provided to the Air Force Accounting and Finance Center (AFAFC) as described in ROUTINE USES below (pay date, Aviation Service Code, sex, grade, proficiency pay status. 7. Sustentation data—information dealing with programs provided or actions taken to improve the life, personal growth and morale of Air Force members (awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education). 8. Separation and retirements data, which identifies an individual's eligibility for and reason for separation (date of separation, mandatory retirement date, projected or actual separation program designator and character of discharge). At the central processing site (AFMPC), other subsidiary files or processes are operated which are integral parts of PDS: 1. Procurement Management Information System (PROMIS) is an automated system designed to enable the USAF to exercise effective management and control of the personnel procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, Air Forces Specialty Code, sex, date of enlistment; and the recruiter enters personal data on the applicant—SSN, name, date of birth, etc.—to reserve the job for him or her. 2. Career Airman Reenlistment Reservation System (CAREERS) is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A Centralized data bank contains the actual number, by quarter, for each Air Force Specialty Code (AFSC) that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC, grade, active military service time, etc). If a vacancy exists, a reservation—by name, SSN, etc—will be made and issued to the CBPO processing the reenlistment. 3. Airman Accessions provides the process to capture a new enlistee's initial personal data (entire personnel record) to establish a personnel data record and gain it to the Master Personnel File of the Air Force. The initial record data is captured through the established interface with the Processing and Classification of Enlistees System (PACE) at Basic Military Training, Lackland Air Force Base, for non-prior service; for prior service enlistees the basic data (name, SSN, DOE, grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO. 4. Officer Accessions is the process whereby each of the various Air Force sources of commissioning (AF Academy, AFROTC, Officer Training School, etc.) project their graduates in advance allowing management to select by skill, academic specialty, etc.—which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto Active Duty date. On that date the individual's record is accessed to the active Master Personnel File of the Air Force. 5. Technical Training Management Information System (TRAMIS) is a system dealing with the Technical Training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student

accounting into the personnel data system. TRAMIS consists of numerous files which constitute "quota banks" of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course Identification Numbers. Class Start and Graduation Dates, Length of Training, Weapon System Identification, Training Priority Designators, Responsible Training Centers, Trainee Names, SSN (and other pertinent personnel data) on individuals scheduled to attend classes. 6. Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a "quota bank" against which training requirements are matched and satisfied and through which trainees are scheduled in "pipeline" fashion to accommodate the individual's scheduled geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as names, SSNs and other pertinent personnel data on members being trained. 7. Air Force Institute of Technology (AFIT) Quota Bank File reflects program quotas by academic specialty for each fiscal year (current plus two future fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank file to reflect the fill of AFIT Quotas. Examples of data maintained are: Academic Specialty, Program Level, Fiscal Year, Name of Incumbent selected, projected, filling AFIT Quota. 8. Job File is derived from the Authorization Record and is accessible by Position Number. Resource managers can use the Jog File to validate authorizations by Position Number for assignment actions and also to make job offers to individual officers. Internal suspensing within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position Number, Duty AFSC, Functional Account Code, Program Element, Location, and name of incumbent. 9. Casualty subsystem is composed of transactions which may be input at Headquarters Air Force and/or CBPOs to report death or serious illness of members from all components. A special file is maintained in the system to record information on individuals who have died. Basic identification data and unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file. 10. Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPOs whereas disapproved decorations are input at MAJCOM/HAF. A decorations statistical file is built at AFMPC which reflects an aggregation of approvals/disapprovals by category of decoration. This file does not contain any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and date of award are identified in an individual's record. Seven occurrences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained. 11. Point Credit Accounting and Reporting System (PCARS). This system is an Air National Guard/Air Force Reserve Unique supported by PDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in Drills/Training. The system stores basic personal identification data which is associated with a calendar of points, earned by participation in the Reserve program. Each year an individuals record is closed and point totals are accumulated in history, and a point earning statement is provided the individual and various records custodians. 12. Human Reliability/Personnel Reliability File: This file is maintained at Headquarters Air Force in support of Air Force Regulation 35-99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPOs. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulations. A record is maintained on each disqualified individual which includes basic identification data, service component, Personnel/Human reliability status and date, and reason for disqualification. 13. Variable Incentive Pay (VIP) File for medical officers: Contains about 125 character record on all Air Force physicians and is specifically used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), the Air Force Accounting and Finance Center and directly from changes to the Master Personnel File. Besides basic identification data an individual's record includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation. 15. Weighted Airman Promotion System: (a) The Test Scoring and Reporting Subsystem (TSRS) provides for: Identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification of AFMPC of individuals eligible for testing. (b) The Personnel Data Reporting Subsystem (PDRS) provides for: Identifying promotion eligibles at AFMPC; verifying these eligibles and selected promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projections on promotion selectees at AFMPC, MAJCOM, and the CBPO; updating these projections mothly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC. (c) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program. 16. Retired Personnel Data System (RPDS) is made up of four files—Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 rosters for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Actived Duty or Reserves. Data includes: Name, SSN, grade data, service data, education data, retirement data and address. 17. Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to Human Resources Lab and

Washington offices for research purposes. The data comprises the Master Personnel Record in its entirety and is captured 30 to 60 days after separation from the Air Force. 18. Airman Gain/loss File includes data extracted from the Airman Master file when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes name, SSN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc. 19. Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve MPFs. Data includes that specifically related to separations, e.g., Date of Separation, Separation Program Designator, waivers, etc. 20. The Retirements Subsystem is used to process and track applications for an approval/disapproval and projections of retirements. This subsystem uses the Master Files for Active Duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, Separation Program Designator, Title 10 USC section, etc. 21. Retired Orders Log is a computer produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a cross-reference between orders, revocations, and amendments. 22. General Officer Subsystem of PDS contains data extracted from the Master Personnel File and language qualification data and assignment history data maintained by the Assistant for General Officer matters. A record is maintained on each general officer and general officer selectee. The general officer files are updated monthly and is used to produce products used in the selection/identification of general officers for applicable assignments. 23. Officer Structure Simulation Model (OSSM) provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The OSSM input records contain individual identifiable data from the Master Personnel Record, but all output is statistical. 24. Widow's File is maintained on magnetic tape and updated by the office of primary Responsibility. When required, address labels and listings are produced by employing selected PDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSN of the widow. Additionally, the deceased sponsor's name, SSN, date of death, and status at time of death are maintained. 25. Historical Files are files with a retention period of 365 days or more. They consist of copies of active master files, and are used primarily for aggregation and analysis of statistical data, although individual records may be accessed to meet ad hoc requirements. 26. Miscellaneous files, records, and processes are a number of work files, inactive files with a less-than-365-day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people. 27. Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand alone files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item 26, above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 265, policies and regulations: Participation of reserve officers in preparation and administration; 269, Ready reserve: Placement in; transfer from; 275, Personnel records; 278, Dissemination of information; 279, Training Reports; Chapter 31, Enlistments; 564, Warrant officers: Effect of second failure of promotion; 593, Commissioned Officers: Appointment, how made; term; 651, Members: Required service; 671, Members not to be assigned outside US before completing training; 673, Ready reserve; Chapter 47, Uniform Code of Military Justice, Sections 835, Art. 35. Service of Charges; 837, Art. 37. Unlawfully influencing action of court; 885, Art. 85. Desertion; 886, Art. 86. Absence without leave; 887, Art. 87. Missing movement; 972, Enlisted members: Required to make up time lost; 1005, Commissioned officers: Retention until completion of required service; 1163, Reserve components: Members; limitations on separation; 1164, Warrant officers; separation for age; 1166, Regular warrant officers: elimination for unfitness or unsatisfactory performance; Chapter 61, Retirement—Physical disability; Chapter 63, Retirement for Age, Section 1263—Age 62: Warrant officers; Chapter 65, Retirement for Length of Service; 1293, Twenty years or more: Warrant officers; 1305, Thirty years or more: Regular warrant officers; Chapter 67, Retired pay; 1331, Computation of years of service in determining entitlement to retired pay; 1332, Age and service requirements; 1333, Computation of years of service in computing retired pay; Chapter 79, Correction of Military Records; Chapter 165, Accountability and responsibility, Section 2771, Final settlement of accounts: Deceased members; 8012, Secretary of the Air Force: Powers and duties; delegation by; Chapter 805, The Air Staff, Sections 8032, General duties; and Section 8033, Reserve components of Air Force; policies and regulations for government for government of: Functions of National Guard Bureau with respect to Air National Guard; Chapter 831, Strength, Section 8224, Air National Guard of the United States; Chapter 833, Enlistments; 835, Appointments in the Regular Air Force, 8284, Commissioned officers; Appointment, how made; 8285, Commissioned officers: Original appointment; qualifications; 8296, Promotion lists: Promotion-list officer defined; determination of place upon transfer or promotion; 8297, Selection boards; 8303, commissioned officers; Effect of failure of promotion to captain, major, or lieutenant colonel; Chapter 837, Appointments as Reserve Officers; 8360, Commissioned officers: Promotion service; 8362, Commissioned officers:

Selection boards; 8363, Commissioned officers; Selection boards; general procedures; 8366, Commissioned officers; Promotion to captain, major or lieutenant colonel; 8376, Commissioned officers: Promotion when serving in temporary grade higher than reserve grade; Chapter 839, Temporary Appointments, 8442, Commissioned officers; regular and reserve components: Appointment in higher grade; 8447, Appointments in commissioned grade: How made; how terminated; Chapter 841, Active Duty, 8496, Air National Guard of United States: Commissioned officers; duty in National Guard Bureau; Chapter 853, Rights and benefits, Section 8691, Flying officer rating: qualifications; Chapter 857, Decorations and Awards; Chapter 859, Separation, 8786, Officer considered for removal: Voluntary retirement or honorable discharge; severance benefits; 8796, Officers considered for removal: Retirement or discharge; Separation or Transfer to Retired Reserve, 8846, Deferred Officers; 8848, 28 years: Reserve first lieutenants, captains, majors, and lieutenant colonels; 8851, Thirty years or five years in grade: Reserve colonels and brigadier generals; 8852, Thirty-five years or five years in grade: Reserve major generals; 8853, Computation of years of service; Chapter 865, Retirement for Age, 8883, Age 60; regular commissioned officers below major general; 8884, Age 60: Regular major generals whose retirement has been deferred; 8885, Age 62: Regular major generals; 8886, regular major generals whose retirement has been deferred; Chapter 867, Retirement for Length of Service, 8911, Twenty years or more; regular or reserve commissioned officers; 8913, Twenty years or more: Deferred officers not recommended for promotion; 8914, twenty to thirty years: Regular enlisted members; 8915, Twenty-five years: Female majors except those designated under section 8067 (a)–(d) or (g)–(i) of this title; 8916, twenty-eight years: Promotion-list lieutenant colonels; 8917, Thirty years or more: Regular enlisted members; 8918, Thirty years or more: Regular commissioned officers; 8921, Thirty years or five years in grade: Promotion-list colonels; 8922, Thirty years or five years in grade: Regular brigadier generals; 8923, Thirty-five years or five years in grade: Regular major generals; 8924, Forty years or more: Air Force officers; Chapter 901, Training generally, 9301, Members of Air Force: Detail as students, observers and investigators at educational institutions, industrial plants, and hospitals; and 9302, Enlisted members of Air Force: Schools; Chapter 903, United States Air Force Academy, 9342, Cadet: Appointment; numbers, territorial distribution; 9344, Selection of persons from Canada and American Republics; 9345, Selection of Filipinos; Chapter 1, Organization, 102, General policy; and 104, units; Location; organization; command; Chapter 3, Personnel, 307, Federal recognition of officers; Examination, certification of eligibility; Chapter 7, Services, supplies, etc., 709, Caretakers and clerks; Chapter 3, Basic Pay, 308, Special pay: Reenlistment bonus; 313, Special pay: Medical officers who execute active duty agreements; Chapter 7, Allowances, 407, Travel and transportation allowances: Dislocation allowance; Chapter 10; Air Force Manual 30–3, Vol I–V, Mechanized Personnel Procedures, Air Force Manual 30–130, Base Level Military Personnel System, and Air Force Manual 300–4, Standard Data Elements and Codes.

PURPOSE(S):

The Air Force operates a centralized personnel management system in an environment that is widely dispersed geographically and encompasses a population that is diverse in terms of qualifications, experience, military status and needs. There are three major centers of Air Force personnel management: Washington, DC, where most major policy and long-range planning/programming decisions are made; the Air Force Manpower and Personnel center at Randolph Air Force Base, TX, which performs most personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver Co., which performs certain operational functions for the Reserve components of the force. Offices at Major Command Headquarters, State Adjutant General, and Air Force Bases perform operational tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating its people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Personnel Data System is collected, maintained, and used. A. ROUTINE USES WITHIN THE AIR FORCE—INTERNAL TO THE PERSONNEL COMMUNITY: HQ USAF, WASHINGTON, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General Officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Personnel Division; and The Surgeon General, the Chief of AF Chaplains and the Staff Judge Advocate, each of which perform certain Personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provision of recurring products containing required management information, including computer tape files which are used as input to unique systems with which PDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters e.g. General Officers, Colonels, Air National Guard personnel, etc. AIR FORCE MANPOWER AND PERSONNEL CENTER (AFMPC), RANDOLPH AIR FORCE BASE, TX. Personnel managers at AFMPC use the data in PDS to make decisions on individual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement. AIR RESERVE PERSONNEL CENTER (ARPC), DENVER, COLORADO. Personnel managers at ARPC perform many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes. MAJOR COMMAND HEADQUARTERS. Major command headquarters personnel operation are supported by the standard content of PDS records provided them by AFMPC. In addition, there is provided in the PDS record an "add-on area" which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, geographical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Non-

standard usages include provisions of unique aircrew data, production of specially-tailored name listing, control of theatre oriented training, etc. Some commands use PDS data—both standard and add-on as input to unique command systems, which are separately described in the **Federal Register.** CONSOLIDATED BASE PERSONNEL OFFICES (CBPO). CBPOs, which represent the base-level aspect of PDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through PDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur on an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are allotted an "add-on" area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing, urinalysis testing scheduling, etc. B. ROUTINE USES WITHIN THE AIR FORCE—EXTERNAL TO THE PERSONNEL COMMUNITY 1. HEADQUARTERS USAF/AFMPC INTERFACES: Automated interfaces exist between the PDS central site files and the following systems of other functions: a. The Flight Records Data System (FRDS) maintained by the Air Force Inspection and Safety Center (AFISC) at Norton Air Force Base, CA. (1) Certain personnel identification data on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatibility with the PDS, and precludes duplicative data collection and input generation by the AFISC. (2) Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management. b. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by the Air Force Accounting and Finance Center (AFAFC) at Denver, CO. The PDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSN, grade. These data provide criteria for the AFAFC to determine specific pay entitlements. c. The AFAFC maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS). (1) PDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSN, grade. These data form the criteria for the AFAFC to determine specific Reserve pay entitlements. (2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the Point Credit Accounting and Reporting System (PCARS), a component of PDS. PCARS also receives monthly input from Hq Air University which updates point credits as a result of completing an Extension Courses Institute correspondence program. d. AFAFC provides data on Variable Incentive Pay (VIP) for Medical Officers which is used to update a special control file within PDS and produce necessary reports for management of the VIP program. e. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland Air Force Base, TX. From that system data is fed to AFMPC to initially establish the PDS record on an Air Force enlistee. f. On a monthly basis, copies of the PDS master Personnel File are provided to the Human Resources Laboratory at Brooks Air Force Base, TX, where they are used as a statistical data base for research purposes. g. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data concerning name, SSN and changes in base and command of assignment of flying personnel. The data reflects significant medical problems in the flying population. h. A complete printout of PDS data pertaining to an individual is included in his Master Personnel Record when it is forwarded to National Personnel Records Center. i. PDS data is provided to the Contingency Planning Support Capability (CPSC) at six major command headquarters: Tactical Air Command, Strategic Air Command, Military Airlift Command, Air Force Communications Command, United States Air Forces, Europe, and Pacific Air Forces. A record identifiable by individual's name and SSN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from PDS providing force availability estimates. CPSC is described separately in the **Federal Register.** 2. BASE LEVEL (CBPO) INTERFACES: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data: a. The Flight Management Data System (FMDS) receives an automated flow of selected personnel data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPS. These data subsequently flow to the PDS central site files at AFMPC so it is available for resource management decisions. b. The Medical Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by sub-activities. c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPS data base during FY76 for both military and civilian personnel authorized to operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. d. Monthly, a magnetic tape is extracted from BLMPS containing selected assignment data on all assigned personnel. This tape is transferred to the base Accounting and Finance Office for input into the Accounting Operations System. This system uses these data to derive aggregate base manpower cost data. e. A procedure is designed into BLMPS to output selected background data in pre-defined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Justice Analysis and Management System (AMJAMS). f. The BLMPS output (on an event-oriented

basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to AFAFC, where the data is entered into the JUMPS. C. ROUTINE USES EXTERNAL TO THE AIR FORCE, TO THE OFFICE OF THE SECRETARY OF DEFENSE (OSD). 1. Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DOD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel records (RCS: DDM(SA) 1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA, and the Post Career Data File to M&RA. 2. TO OTHER DEFENSE AGENCIES. PDS supports other components of DOD by provision of individual data in support of programs operated by those agencies. Examples are the Selected Officer List to Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An extract file on Air National Guard Technicians is provided the National Guard Computer Center. 3. OTHER GOVERNMENT/QUASI-GOVERNMENT AGENCIES. Information used in analyzing officer/airman retention is provided RAND Corporation. Data on prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is required in the performance of official duties. Selected personnel data is provided foreign governments, US governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, US Army, Navy, etc.) 4. LITIGATION. 5. MISCELLANEOUS. Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from PDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Office of Personnel Management required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor management relations, and the suspensions and processing of personnel actions; to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to OPM; to provide information required by OPM for the transfer between federal activities; to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the Office of Personnel Management's automated data file—to privide the Office of the Assistant Secretary of Defense Manpower and Reserve Affairs with data to access the effectiveness of the program for employment of women in executive level positions—to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulations and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under OPM rules and the Freedom of Information Act to respond to request from Air Force offices, other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to OPM for file reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks or computer paper printouts or microfiche.

RETRIEVABILITY:

Filed by name, or Social Security Number (SSN). The primary individual record identifier in PDS is SSN. Some files are sequenced and retrieved from by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F-15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSN, number of dependents and duty location. There is the added capability of selecting an individual's record or certain pre-formatted information by SSN on an immediate basis using a teletype or cathode ray tube display device. High-speed line printers located in the Washington DC area, at Major Comm and Headquarters, and at ARPC permit the transfer of volume products to and for the use of Personnel managers at those locations.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties where authorized, and properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Preceding retention statement applies to Analog output products of the Personnel Data System. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. "Permanent history" files are retained for 10 years. Files 365 or more days old are defined as "historical files" and are not automatically released. Retention periods for categories of PDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of Semi-Annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is monthly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If created magnetic tape file will be used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transferred to the active file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 450—is disposed of as directed by OPM—work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning-work sheets pertaining to qualification and retention registers are disposed of as directed by OPM—transitory files such as pending files, and recovery files are destroyed after use by degaussing-files and records retrieved through general retrieval systems are destroyed after use

by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Manpower and Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force. Subordinate System Managers are: A. Director of Personnel Data Systems, Assistant Deputy Chief of Staff for Personnel for Military Personnel, Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX, 78150. He is responsible for overall PDS design, maintenance and operation, and is designated the Automated Data Processing System Manager for all Air Force personnel data system. B. The Director of Personnel Data Systems at each Major Command headquarters for systems operated at that level. C. The Chief, CBPO, at Air Force installations for systems operated at that level. D. The Civilian Personnel officer at Air Force installations for civilian systems operated at that level.

NOTIFICATION PROCEDURE:

Requests from individuals for notification as to whether the system contains a record on them should be addressed to the System Manager of the operating level with which they are concerned. Persons submitting such a request, either personally or in writing, must provide SSN, name, and military status (active, ANG/USAFR, retired, etc. ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, Denver, CO, 80280 or, if unit assigned, to the Chief of the servicing CBPO or Consolidated Reserve Personnel Office. Personal visits to obtain notification may be made to the Military Records Review Room, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150, the Military Records Room, Air Reserve Personnel Center, Denver CO 80280; The Office of the Director, National Personnel Records Center (NPRC), Ill Winnebago St., St. Louis, MO, 63118; the office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSN, full name, previous names if any, last date and location of Air Force civilian employment if not currently employed by the Air Force—current employees should submit such requests to their CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorizations for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

RECORD ACCESS PROCEDURES:

Assistance in gaining access to his records will be provided the individual by the appropriate subordinate System Manager at AFMPC, ARPC, NPRC, major command or CBPO/CRPO/CCPO.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, police and investigating officers, the bureau of motor vehicles, a state or local government and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP O

SYSTEM NAME:

035 AF MP O—Unit Assigned Personnel Information.

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Headquarters of major commands and at all levels down to and including Air Force installations and Air Force units. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, and Air Force Reserve and Air National Guard personnel. Air Force civilian employees may be included when records are created which are identical to those on military members. Army, Navy, Air Force and Marine Corps Active duty military and civilian personnel assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit union authorization, disciplinary actions, favorable/unfavorable communications, record of counselings, appointment notification letters, duty status changes, applications for off duty employment, applications and allocations for school training, professional military and civilian education data, private weapons storage records, locator information including names of dependents, home address, phone number, training and experience data, special recognition nominations, other personnel documents, and records of training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by; as implemented by Air Force Manual 30–3, Mechanized Personnel Procedures, and Air Force Manual 30–130, Base Level Military Personnel System.

PURPOSE(S):

Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, and card files.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official

duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation; most records are transient in nature and are maintained only as long as required to fulfill their management purpose or until superseded, then given to the individual or destroyed by shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Inquiries from individuals should be addressed to the respective unit commander of supervisor who maintains the records in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act. Mailing addresses are contained in the Department of Defense Directory in the appendix to the Air Force's Systems Notices.

CONTESTING RECORD PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Managers.

RECORD SOURCE CATEGORIES:

Information obtained from the individual concerned, financial institutions, educational institution employees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Personnel Data System (PDS) and records of personal actions submitted to or originated within the organization.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AF MP R

SYSTEM NAME:

035 AF MP R—Application for Appointment and Extended Active Duty Files.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330–5120; Air Force Military Personnel Center, Randolph AFB TX 78150–6001; Air Reserve Personnel Center, Denver CO 80280–5000; Headquarters Air Force Reserve, Robins AFB GA 31098–6001; United States Air Force Recruiting Service, Randolph AFB TX 78150–5421; Air National Guard Support Center, Andrews AFB, Washington DC 20331–6608.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) All applicants for appointment/reappointment as Reserves of the Air Force (ResAF) to United States Air Force Reserve (USAFR) or Air National Guard of the United States (ANGUS) affiliation; (2) all applicants for appointment/reappointment as ResAF to serve on extended active duty (EAD)— as medical service officers, chaplains, and judge advocates; (3) all USAFR and ANGUS members who apply for voluntary entry on EAD; (4) all commissioned officers of other uniformed services on EAD who apply for interservice transfer to serve on EAD with the USAF; (5) all commissioned officers and enlisted members of the USAF Reserve components, not on EAD, who apply for interservice transfer between Reserve components of the USAF.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application and supporting documents as applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 837, Appointment as Reserve Officers; Chapter 839, Temporary Appointments; implemented by Air Force Regulation 36–15, Appointment in Commissioned Grades and Designation and Assignment in Professional Categories—Reserve of the Air Force and United States Air Force (Temporary). 10 USC 716, Commissioned officers, transfer among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service, implemented by AFR 35–39, Interservice and Intraservice Transfer of Uniformed Service Members. 10 USC 672(d), Reserve components generally; 689, Reserve officers; grade in which ordered to active duty; 50 USC App 454, Selective Service Act, Persons liable for training and service; App 456, Deferments and exemptions from training and service; implemented by AFR 45–26, Voluntary Entry on Extended Active Duty of Commissioned Oficers of the Air Reserve Forces.

PURPOSE(S):

Used to select, appoint or designate persons for the USAFR or ANGUS, for interservice/intraservice transfer, Ready Reserve assignment, or EAD.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

If selected for appointment/reappointment, extended active duty, USAFR or ANGUS affiliation, or interservice/intraservice transfer, records become the Master Personnel Record Group (MPerRGp) and are forwarded to the appropriate MPerRGp custodian. An abbreviated reference file of selected documents is maintained by the applicable utilization and assignment branch. If not selected, documents are retained for one year by the selection or appointment authority.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Personnel Randolph Air Force Base TX 78150–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Member's application, letters of recommendation, results of National Agency Check and Military Personnel Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F051 AF B

SYSTEM NAME:

051 AF B—Flying Training Records—Nonstudent.

SYSTEM LOCATION.

(1) Columbus Air Force Base, MS 39701; Lackland Air Force Base, TX 78236; Laughlin Air Force Base, TX 78840; Mather Air Force Base, CA 95655; Randolph Air Force Base, TX 78150; Reese Air Force Base, TX 79489; Sheppard Air Force Base, TX 79720; and Williams Air Force Base, AZ 85244. (2) USAF Academy (USAFA), 50th Airmanship Training Squadron (50ATS), Colorado Springs, CO 80840–5566 amd Peterson AFB, CO 80914–5000. (3) Headquarters Air Force Systems Command (AFSC), and AFSC Divisions, Centers, Laboratories and Bases. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Aircrew personeel of Air Training Command (ATC), academic instructors in flying training courses and Trainer Instructors. (2) Aircrew personnel, academic and staff instructors attached to the Deputy Commandant for Operations in support of Airmanship and 50ATS flying programs. (3) Students entered into AFSC flight training program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1, 2 and 3) Record and document aircrew training, evaluations, performance, and accomplishments. (1) Taped radio transmissions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 10 USC 8012, Secretary of the Air Force; Powers and duties; delegation by; and Air Training Command Regulation 51–27, Instructor Qualification and Training. (2) 10 USC Chapter 903, United States Air Force Academy. (3) Air Force Systems Command Manual (AFSCM) 51–1.

PURPOSE(S):

(1) Document the training, performance, and qualifications of aircrew and synthetic trainer personnel. Taped radio communications are used to investigate aircraft accidents. (2 and 3) Document aircrew training, evaluations, and performance.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1 and 2) Maintained in file folders, and on computer and computer output products. (1) Maintained on magnetic tape. (3) Maintained in file folders, in microform, and on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number.

SAFEGUARDS:

Access is by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened.

RETENTION AND DISPOSAL:

(1 and 2) Aircrew evaluation documents, training and qualification records are maintained for the duration of the individual's assignment in ATC or at USAFA. Ouf-of-date material is returned to the individual. Initial training records are maintained for one year following completion of training. (1) Radio tapes are retained for one week unless circumstances dictate otherwise. (3) Records are destroyed 1 year after completion of training or on discontinuance of activity, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Deputy Chief of Staff Operations, Air Training Command, Randolph Air Force Base, TX 78150. (2) Deputy Commandant for Operations, USAF Academy, Colorado Springs, CO 80840–5434; 50 ATS/CC, USAF Academy, Colorado Springs, CO 80840–5566; and NCOIC Operations System Management, Peterson, AFB, 80914–5000. (3) Det24, HQ AFSC/OSE, Eglin AFB FL 32542–5000.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Record access procedures: Individual can obtain assistance in gaining access from the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rule for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information from source documents prepared by personnel administering training or evaluating performance; voice radio communications. Information is obtained from the individual, from instructor supervisors, and personnel involved in the evaluation and analysis of training effectiveness.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F178 AFSC B

SYSTEM NAME:

178 AFSC B—Manhour Accounting System (MAS).

SYSTEM LOCATION:

Headquarters, Air Force Systems Command, Divisions, Centers, and laboratories. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force, systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to AFSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manpower information-hourly expenditure, grade/rank, office symbol.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to provide manhour expenditure/resources for management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by Social Security Number (SSN) or name.

SAFEGUARDS:

(1) Records are accessed by the records custodian or other persons responsible for servicing by the records custodian or other persons responsible for servicing the records in performance of their official duties. (2) Records are controlled by personnel screening and by computer system software. (3) Records are maintained in locked cabinets, locked containers, or buildings with controlled entry.

RETENTION AND DISPOSAL:

Destroy after 2 years or when purpose has been served by means of tearing, shredding, pulping, maceration or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Manhour accounting and JOCAS monitors at AFSC organizations.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F190 AF PA A

SYSTEM NAME:

190 AF PA A—Special Events Planning—Protocol.

SYSTEM LOCATION:

Office of the Secretary of the Air Force (SAF/PAC). At Air Force installations and USAF Recruiting Service offices. At Headquarters United States Space Command (HQ USSPACECOM). Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-Air Force civilians, generally, but not limited to civilian leaders of the local community. Segments of the system may be specialized; e.g. active and retired military persons identified by special interests, teachers or other persons in governmental agencies qualified or considered to lecture in Air Force training courses, winners of AF-sponsored Science Fairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data usually including, but not limited to: Name; business and home address and telephone numbers; name of spouse and family; description of positions in business and community affiliations with Air Force-oriented civic organizations; photographs. For Science Fair winners; name/date of fairs; name of school; year in school; name of project; judging category; previous selection as Air Force winner with year and name of fair. May include summaries of circumstances of visits to the installation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used by Public Affairs Officers, Executive Officers, Protocol Officers, or Commanders. As reference for planning official functions, reporting to higher headquarters, selecting lecturers for training courses, and submitting nominations for Air Force or Department of Defense conferences or other functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Secretary of the Air Force (SAF/PAC), Washington, DC 20330 or Commander of the Air Force installation concerned. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Office of Public Affairs, for public affairs planning, or the Executive Officer or Office for Protocol, for protocol system segments. Requests regarding systems for selection of lecturer should be addressed to the particular school or training unit, e.g. USAF Special Operations School (EDPT), Eglin AAF 9, FL 32544.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from the public media, a State or local government, source documents such as reports, Federal agencies staff recommendations, and Science Fair questionnaires.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F190 SAFPA B

SYSTEM NAME:

190 SAFPA B—Official Biographies.

SYSTEM LOCATION:

Biographies of active duty general officers and high-level civilian personnel of the Department of the Air Force: Air Force Service Information and News Center, Kelly Air Force Base, TX 78241 (AFSINC/IIB). Record system segments or duplicates pertaining to active duty general officers may be found at the Office of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330; Headquarters of major commands and at all levels down to and including Air Force installations. Also at Air Force libraries, offices of air attaches to United States Embassies, Air Force sections of Military Assistance Advisory Groups and missions, unified activities and unified commands. Additional locations include the Air Force Chief Historian (AF/CHO), Washington, DC 20330; Assistant for General Officer Matters (AF/MPG) Washington, DC 20330; and the Aerospace Historical Foundation, University of KS. Biographies of retired Air Force general officers are located at the Media Relations Division, Secretary of the Air Force Office of Public Affairs (SAF/PAM), Room 5C879, The Pentagon, Washington, DC 20330, and at the Retired Activities Section, Assistant DCS/Personnel, Air Force Manpower and Personnel Center (AFMPC/AFPMSDMI), Randolph Air Force Base, TX 78150. Biographies of key civilian employees of the Office of the Secretary of the Air Force and of Headquarters, United States Air Force, are located at the Director of Civilian Personnel, Washington, DC 20330. Biographies of key civilian employees at subordinate organizational levels may be found at the office of the Director of Civilian Personnel. Biographies of Air Reserve general officers are at Headquarters USAF/REL, Washington, DC 20330. Record segments or duplicates may be found at the Office of Public Affairs, Headquarters, of the United States Air Force, major commands and major subordinate commands. Air Force Manpower and Personnel Center (AFMPC/DPMYR), Randolph Air Force Base, TX 78150; Headquarters, Air Force Reserve (Commander and Public Information Office), Robins Air Force Base, GA 31098; Air Reserve Personnel Center (Commander and Public Affairs Office), Denver, CO 80280; Headquarters, Military Airlift Command (CSB), Scott Air Force Base, IL 62225; Secretary of the Air Force, Manpower and Reserve Affairs (MRR), Washington, DC 20330; the Reserve Forces Policy Board, Washington, DC 20330; and the offices of all Air Reserve general officers. Biographies of Air National Guard general officers are located at the National Guard Bureau, Washington, DC 20310. Records system segments of duplicates may be found at Department of the Army major divisions and installations. Headquarters of the major commands and separate operating agencies. Army readiness regions; the offices of Army Guard and Air National Guard Liaison Officers; the Aerospace Audio-Visual Service, Norton Air Force Base, CA 92404; the Office of the Secretary of Defense; the Office of the Secretary of the Navy; the Library of Congress; the Air Force Association; the Army Association; the Reserve Officers Association; Air Force libraries; the Air War College, the offices of all National Guard and Air National Guard general officers, and the offices of state Adjutants General. Specific addresses may be obtained from the National Guard Bureau. Biographies prepared under the official biographies program for key military and civilian personnel of other Air Force organizations may be found at the Office of Public Affairs. Headquarters of major commands and at all levels down to and including Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Secretary of the Air Force, Under Secretary and assistant secretaries of the Air Force, Air Force general officers on active duty or retired, Air Reserve and Air National guard general officers, Air Force personnel assigned as pilots to the Manned Space Program, and key military and civilian personnel at all Air Force organizations. Key personnel is USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Includes, but not limited to, summary of military service (including dates and locations of assignments and dates of promotions), military honors and awards, educational background, date and place of birth, marital status, name of spouse and family, and any additional personal information provided by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties, delegation by.

PURPOSE(S):

Biographies are prepared to support the Air Force policy to keep its members and the public informed about the Air Force and its leaders. Biographies may be used as resource documents in preparing news releases or other public information material and are included in the offical personnel records of all general officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. In their final form the biographies are considered published, public domain material and may be released to any requester on an as needed or as requested basis.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTESM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

No specific safeguards required.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241.

NOTIFICATION PROCEDURES:

Requests from individuals should be directed to Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241, telephone (512) 925–6161 for all biographies of active duty general officers and key civilians assigned to the Office of the Secretary of the Air Force or to Headquarters Air Force. Biographies for Air Reserve general officers at Headquarters USAF/REL; Air National Guard general officers at the National Guard Bureau, and retired officers from the Media Relations Division (SAF/PAM), mailing addresses in the Department of Defense directory in the appendix to the Air Force's systems notices. All other biographies: Office of Public Affairs at the appropriate level.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Commander, Air Force Service Information and News Center, the National Guard Bureau, Headquarter, USAF/REL, Media Relations Division

(SAF/PAM) or the Office of Public Affairs at the appropriate level. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from the public media and Information obtained from source documents such as reports. Subject to final review by the individual concerned before publication.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F205 AF A

SYSTEM NAME:

205 AF A—Personnel Security Access Records.

SYSTEM LOCATION:

Records are normally located at organizational units where individuals are currently assigned or employed. They may be located at offices of installation Chiefs of Security Police and for non-immigrant aliens at headquarters of major commands and major subordinate commands or at the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, Mo., 63132, or Civilian Personnel Records, 111 Winnebago St., St Louis, Mo. 63118. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's Systems Notices. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military and civilian personnel, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, American Red Cross Personnel, Exchange Officers, and Foreign National. Army, Navy, Air Force and Marine Corps active duty miltary and civilian personnel assigned to HQ USSPACECO.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes documentation requesting, granting and terminating access to classified information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Records are used to record level of security clearance and level of access to classified information that has been authorized. Information is used by commanders, supervisors, and security managers to insure that individuals who receive classified information have been properly investigated, cleared, have a definite need-to-know, and have been properly debriefed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets or card files.

RETRIEVABILITY:

Filed by Name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes or vaults, or in locked cabinets or rooms, protected by guards, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until reassigned or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (Exception: Records on non-immigrant aliens are retained for two years after termination of access or employment, then destroyed, as above.) Security Termination Statements are retired one year after termination of service or employment to the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, MO 63132, or Civilian Personnel Records, 111 Winnebago St, St Louis, Mo. 63118. Records indicating that access to classified information has been withdrawn for cause are forwarded to installation Chief of Security Police for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Commanders of organization units and the Director National Personnel Records Center Military Personnel Records, 9700 Page Blvd, St Louis, MO 63132 or Civilian Personnel Records, 111 Winnebago St, St. Louis, MO 63118.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Write or visit the organizational unit where currently assigned or employed. Written requests must be notarized; personal visits require positive identification. Provide full name, SSN, and military rank or civilian rating.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, from police and investigating officers, or from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F900 AF MP A

SYSTEM NAME:

900 AF MP A—Military Decorations.

SYSTEM LOCATION:

Directorate of Personnel Program Actions, Headquarters Air Force Military Personnel Center, Randolph Air Force Base, TX 78150. Headquarters of major commands and at all levels down to and including Air Force installations. Headquarters United States Space Command (HQ USSPACECOM).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel. Air Force Reserve personnel. Air National Guard personnel. Army, Navy, Air Force and Marine Corps active duty military and civilian Personnel assigned to HQ USSPACECOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supervisory evaluation of duty performance with comments by commanders at intermediate levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 857, Decorations and Awards; as implemented by Air Force Regulation 900–48, Decorations, Service and Achievement Awards, Unit Awards, Special Badges, and Devices.

PURPOSE(S):

Award of military decorations—used by award approval authorities to determine qualification for recognition through award of a decoration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Destroyed 1 year after completion by tearing into pieces shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager, or individuals may contact agency officials at respective locations in order to exercise their rights under the act.

RECORD ACCESS PROCEDURES:

Same procedures as for notification.

CONTESTING RECORDS PROCEDURES:

The rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors' evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–25787 Filed 11–13–86 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force (DAF), DoD.

ACTION: Notice of a new Air Force System of Records.

SUMMARY: The Air Force is adding a new system of records to its inventory of record systems subject to the Privacy Act of 1974.

EFFECTIVE DATES: The proposed action will be effective without further notice on or before December 15, 1986, unless public comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD (S), The Pentagon, Washington, D.C. 20330–5024, telephone: 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93–579) has been published in the **Federal Register** as follows:

FR Doc. 85–10237 (50 FR 22332) May 29, 1985
FR Doc. 85–14122 (50 FR 24672) June 12, 1985
FR Doc. 85–15062 (50 FR 25737) June 21, 1985
FR Doc. 85–26775 (50 FR 46477) November 8, 1985
FR Doc. 85–29261 (50 FR 50337) December 10, 1985
FR Doc. 86–2527 (51 FR 4531) February 5, 1986
FR Doc. 86–4546 (51 FR 7317) March 3, 1986
FR Doc. 86–10044 (51 FR 16735) May 6, 1986
FR Doc. 86–11696 (51 FR 18927) May 23, 1986

A new system report as required by 5 U.S.C. 522a(o) of the Privacy Act was submitted on November 6, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

November 10, 1986.

FO67 AF B

SYSTEM NAME:

067 AF B—Base Service Store/Tool Issue Center Access.

SYSTEM LOCATION:

Retail Sales Section at Air Force installations; official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification data on individuals authorized access to purchase Base Service Store/Tool Issue items.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9832, Property Accountability: Regulations.

PURPOSES(S):

Control access to Base Supply's Base Service Store and Tool Issue Center Units at each Air Force installation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM STORAGE:

Maintained on computer and computer output products, and in paper form.

RETRIEVABILITY:

Access is by Social Security Number for military members and ID card number for civilian employees.

SAFEGUARDS:

Access to the records is controlled by computer system software and is limited to individuals responsible for serivcing the system.

RETENTION AND DISPOSAL:

Retained until superseded or cancelled by individual's commander.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests for individuals should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the system manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual or from the individual's commander.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–25788 Filed 11–13–86; 8:45 am]
BILLING COCE 3810–01–M

Department of the Army

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of committee: National Board for the Promotion of Rifle Practice

Date of meeting: 2 December 1986

Place: Ramada Renaissance Hotel, Washington Dulles International Airport, 13869–71 Park Center Road, Herndon, Virginia 22071

Time: 1330–1600.

Proposed agenda:

1. Open Prayer and Pledge Allegiance to the Flag.
2. **Federal Register** Notice of the Meeting.
3. Roll Call.
4. Introductory Comments by the Chairman.
5. Review Agenda of Executive Committee Meeting held 25 September 1986.
   a. Rewrite of AR 920–30.
   b. M16 rifles in Excellence in Competition (EIC) matches.
   c. Inclusion of the 9MM pistol in EIC competition.
   d. Restrictions on the number of EIC matches to be approved.
   e. Ammunition used in EIC matches.
   f. Conduct of the National Matches.
   g. Revision of the Small Arms Firing School Training.
6. Issue: Receipt and storage of small arms ammunition by Civilian Marksmanship Program organizations.
7. Business: Reports from Ad-hoc committees as listed above and issues of concern brought from the floor.
8. Closed Prayer.

This meeting is open to the public.

Persons desiring to attend the meeting should contact the Office of the Director of Civilian Marksmanship (202) 272–0810 prior to 17 November 1986 to arrange admission.

M.S. Gilchrist,

Colonel, Armor, Executive Officer, NBPRP.

[FR Doc. 86–25675 Filed 11–13–86; 8:45 am]
BILLING CODE 3710–08–M

National Board for the Promotion of Rifle Practice Budget Committee; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of committee: National Board for the Promotion of Rifle Practice Budget Committee

Date of meeting: 2 December 1986

Place: Ramada Renaissance Hotel, Washington Dulles International Airport, 13869–71 Park Center Road, Herndon, Virginia 22071

Time: 0930–1130

Proposed agenda:

1. **Federal Register** Notice of the Meeting.
2. Roll Call.
3. Overview of Budget Process.
4. Review of Fiscal year 1986 Budget.
5. Explanation of funding changes in the Civilian Marksmanship Program and legal ramifications.
6. Fiscal year 1987 Budget and Obligation Plan.
7. Fiscal year 1988–89 and out-year budgets.

This meeting is open to the public.

Persons desiring to attend the meeting should contact the Office of the Director of Civilian Marksmanship (202) 272–0810 prior to 17 November 1986 to arrange admission.

M.S. Gilchrist,

Colonel, Armor, Executive Officer, NBPRP.

[FR Doc. 86–25674 Filed 11–13–86; 8:45 am]
BILLING CODE 3710–08–M

Military Traffic Management Command, Directorate of Personal Property, International Program; Rate Solicitation Changes

AGENCY: Military Traffic Management Command (MTMC).

ACTION: Notice of changes in Volume 54 ITGBL Rate Solicitation 100–D.

SUMMARY: A listing of the changes are as follows:

a. *Carrier Correspondence:* Carriers are prohibited from distributing rates and related information directly to PPSOs unless so directed by MTMC.

b. *New Definition of Net Weight:* The net weight of shipments transported in containers shall be the difference between the tare of the empty container, and the gross weight of the packed container.

c. *Payment of Debt:* MTMC states their policy for carriers refusing to settle claims with Government follows: "Should MTMC be advised that a carrier filing rates under the terms of this solicitation has failed to comply with the terms of an arrangement entered into between the carrier and an agency of the Federal Claims Collection Act of 1966 relating to transportation services, MTMC may place this carrier in nonuse or disqualification status until such time as the arrangement entered into by the carrier has been complied with."

d. *Code 5 Between CONUS and Germany:* Code 5 rates are solicited to/from Germany using ports of Rotterdam and Bremerhaven.

e. *Storage-in-Transit and Warehouse Handling Charges HHG:* Increase in rates for Japan and certain South American countries.

f. *Delivery of Split Code T and Code 5 Shipments:* Procedures have been added to cover pickup of split shipments at port/terminal.

g. *Code 5 Ports:* Shipments moving to and from Pacific rate areas will move through ports on east and gulf coasts as well as west coast ports.

These changes becomes effective April 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mrs. Naomi King or Ms. Barbara Scott, HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041–5050

Joseph R. Marotta,

Colonel, GS, Director of Personal Property

[FR Doc. 86–25673 Filed 11–13–86; 8:45 am]
BILLING CODE 3710–08–M

Military Traffic Management Command, Military Mobile Homes Symposium; Open Meeting

Announcement is made of meeting of the Military Mobile Homes Symposium. This meeting will be held on 11 December 1986 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 0930 hours and adjourn at approximately 1600 hours.

Proposed agenda

The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to Personal Property

Traffic Management Regulation (DOD 4500.34R), and the handling of other matters of mutual interest concerning the movement and storage of mobile homes.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT-PPM, at telephone number 756-1600, between 0800-1530 hours. Topics to be discussed should be received on or before 28 November 1986.

Dated: November 4, 1986.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 86-25676 Filed 11-13-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Meeting

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Intergovernmental Advisory Council on Education Executive Committee. This notice also describes the functions of the Council. Notice of the meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend, and that a protion of the Executive Committee meeting will be closed to the public.

DATE: December 2, 1986.

ADDRESS: Room 1130, Barnard Room, Horace Mann Learning Center, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James G. Horn, Executive Director (A), Intergovernmental Advisory Council on Education, 513 Reporter's Building, 300 7th Street SW., Washington, DC 20202, 472-6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council was established to provide assistance and make recommendations to the Secretary of the President concerning intergovernmental policies and relations pertaining to education.

On Tuesday, December 2, 1986, from the beginning of the meeting at approximately 9:00 a.m. and for a period of about three hours, the Executive Committee will be reviewing applications and interviewing candidates for the Executive Director position. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 2) and under exemption (6) of section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c)(6). Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

The proposed agenda includes:

—Review of applications and interviews of candidates for the position of Executive Director in a closed meeting

—Old Business and New Business including reports from Council Committees.

Records are kept of all Council proceedings, and are available for public inspection at the Intergovernmental Advisory Council on Education, 513 Reporter's Building, 300 7th Street SW., from 9:00 a.m. to 5:00 p.m.

Dated: November 10, 1986.

Peter R. Greer,

Deputy Under Secretary Intergovernmental and Interagency Affairs.

[FR Doc. 86-25743 Filed 11-13-86; 8:45 am]

BILLING CODE 4000-01-M

Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages

AGENCY: Department of Education.

ACTION: Notice of Extension of Closing Date for Transmittal of Applications for Fiscal Year 1987 under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages.

SUMMARY: This notice extends the closing date for the transmittal of applications under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages from November 17, 1986 to January 5, 1987. Detailed program information is contained in the application notice published in the **Federal Register** on September 17, 1986 (51 FR 33003).

Because of the increased appropriation for this program in fiscal year 1987, the Secretary has decided to extend the closing date. The increased level of funding will permit a greater number of awards to be made under this competition than was originally anticipated. The additional time will afford those who might not have considered applying an opportunity to do so. This extension will not alter the schedule for making awards in the spring.

FOR FURTHER INFORMATION CONTACT: Patricia L. Alexander, Secretary's Discretionary Fund, U.S. Department of Education, 400 Maryland Avenue, SW., Room 1011, Washington, DC 20202. Telephone: (202) 732-3599.

Program Authority: 20 U.S.C. 3972.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-25876 Filed 11-13-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 96-09-NG]

Enron Gas Marketing Inc.; Order Approving Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Approving Blanket Authorization to Import Natural Gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to Enron Gas Marketing Inc. (EGM), to import Canadian natural gas on a short-term basis. The order issued in Docket No. 86-09-NG authorizes EGM to import 250 Bcf of Canadian natural gas annually and a maximum of 500 Bcf of natural gas for a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. 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, November 7, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25697 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 85-40-NG]

Tennessee Gas Pipeline Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to Tennessee Gas Pipeline Company (Tennessee). The order issued in Docket 85-40-NG authorizes Tennessee to import up to 200 Bcf of natural gas over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. 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, November 7, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25698 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-08-NG]

Western Gas Marketing U.S.A., Ltd.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to Western Gas Marketing U.S.A., Ltd. (Western). The order issued in ERA Docket 86-08-NG authorizes Western to import up to 300 Bcf of natural gas over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Ave., SW. Washington, DC 20585, (202) 252-0478. 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, November 7, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25699 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Proposed Remedial Order to Armada International Corporation and Texas Armada Refining Company (Successor-in-Interest to Texas Asphalt and Refining Co., Inc.), and Notice of Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued jointly to Armada International Corporation (Armada) and its wholly owned subsidiary, Texas Armada Refining Company (Texas Armada). Both have filed for dissolution in bankruptcy. Their trustee in bankruptcy is David Adler, 320 Orion, Metairie, Louisiana 70005. The Proposed Remedial Order (PRO) charges the predecessor-in-interest of Texas Armada, Texas Asphalt and Refining Co., Inc. (TARCO) with filing erroneous Refiners Monthly Reports (Form P-102-M-1) concerning crude oil refined under a purported processing agreement with another refiner. The reporting period was March through May 1977. ERA alleges that TARCO did not own 652,323 barrels of crude oil it reported as refined pursuant to that agreement and thus its receipt of $1,155,457 in small refiner bias entitlements on those barrels was unlawful. The impact of TARCO's unlawful receipt of small refiner entitlements, was spread nationwide among all refiner participants in the Entitlements Program.

A copy of the Proposed Remedial Order, with confidential information, if any, deleted, may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 26 day of September 1986.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 86-25700 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

Mutual Petroleum Marketing Co., Inc., et al.; Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to: Mutual Petroleum Marketing Co., Inc., Mutual Petroleum Marketing Co. of California, Inc., Mutual Petroleum Marketing Co. of Texas, Inc., and Louisiana Bayou Oil Co., Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mutual Petroleum Marketing Co., Inc. (MPM): Tower 56, 126 E. 56th Street; New York, New York 10021; Mutual Petroleum Marketing Co. of California, Inc. (MPM-CA); c/o Mutual Petroleum Marketing Co., Inc.; Tower 56, 126 E. 56th Street; New York, New York 10021; Mutual Petroleum Marketing Co. of Texas, Inc. (MPM-Texas): c/o CT Corporation System; 1601 Elm Street; Dallas, Texas 75201; and Louisiana Bayou Oil Co., Inc. (Bayou): c/o Mutual Petroleum Marketing Co., Inc.; Tower 56, 126 E. 56th Street; New York, New York 10021. This Proposed Remedial Order alleges pricing violations by: MPM in the amount of $26,560,215 plus interest, MPM-CA in the amount of $1,446,910 plus interest, MPM-Texas in the amount of $29,275,534 plus interest, and Bayou in the amount of $50,400 plus interest, in connection with the purchase and resale

of crude oil during the period July 1974 through December 1980. The impact of the alleged violation is nationwide.

A copy of the Proposed Remedial Order may be obtained from the Office of Freedom of Information Reading Room; U.S. Department of Energy; Forrestal Building; 1000 Independence Avenue SW.; Room 1E-190; Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals; U.S. Department of Energy; Forrestal Building; 1000 Independence Avenue, SW., Room 6F-078, Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final Order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Ben L. Lemos, Director, Office of Field Operations, Economic Regulatory Administration, U.S. Department of Energy, 1403 Slocum Street, Dallas, Texas 75207

and upon:

Marshall A. Staunton, Acting Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-40, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Dallas, Texas on the 3rd day of October, 1986.

Ben Lemos,

Director, Office of Field Operations, Economic Regulatory Administration.

[FR Doc. 86-25701 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to Texas American Oil Corporation and Notice of Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Texas American Oil Corporation (Texas American), 300 W. Wall, Midland, Texas 79701. This Proposed Remedial Order (PRO) charges Texas American with filing erroneous Refiners Monthly Reports (Form P-102-M-1) concerning crude oil refined under processing agreements with another refiner during the period October 1976 through February 1977. ERA alleges that Texas American should have excluded 179,879 barrels of crude oil refined on its behalf by another refiner from its crude oil runs to stills. Alternatively, the PRO alleges that Texas American engaged in practices which resulted in the circumvention and contravention of the Entitlements Program. Texas American's misreporting and circumvention and contravention caused a loss to the Entitlements Program of $330,261, before interest. The impact was spread nationwide among all refiner participants in the Entitlements Program.

A copy of the PRO, with confidential information deleted, if any, may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO. If a Notice of Objection is not filed in accordance with § 205.193, the PRO may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on this 30th day of October, 1986.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 86-25702 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. SA86-27-000]

Coastline Exploration, Inc.; Petition for Adjustment

November 7, 1986.

On July 24, 1986, Coastline Exploration, Inc. (Coastline) filed with the Commission a petition for adjustment in accordance with section 502(c) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3412(c) (1982). Coastline seeks relief from Commission Order Nos. 399, 399-A, 399-B that require all Btu refunds related to working interest owners and royalty interest owners be made by specified dates. Specifically, Coastal requests relief of its Btu refund obligation of approximately $2,041.88 to its purchaser, Trunkline Gas Company. Coastline states that it is on the verge of insolvency and in support of that statement, attaches its balance sheet. Moreover, Coastline states that one and possibly more of the working interest owners in the #1 Charles Muil well located in Jim Wells County, Texas, are either bankrupt or incapable of refunding any money previously paid to them. Consequently, Coastline requests from the Commission a waiver or staff adjustment for the $2,041.88 assessed against it for an outstanding Btu refund obligation.

The procedures applicable to this adjustment proceeding are found in Subpart K of the Commission's rules of practice and procedure (18 CFR 385.1101-385.1117 (1986)). Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-25736 Filed 11-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-11-000]

Consolidated Edison Company of New York, Inc., et al.; Complaint

November 6, 1986.

In the Matter of Consolidated Edison Company of New York, Inc., Ft. Hill Natural Gas Authority, Long Island Lighting Company, Washington Gas Light Company, Delmarva Power & Light Company and Elizabethtown Gas Company Complainants v. Transcontinental Gas Pipe Line Corporation, Respondent.

Take notice that on October 7, 1986, Consolidated Edison Company of New York, Inc., Ft. Hill Natural Gas Authority, Long Island Lighting Company, Washington Gas Light Company, Delmarva Power & Light Company and Elizabethtown Gas Company (Complainants), 4 Irving Place, Room 1815-S, New York, New York 10003, filed a complaint pursuant to Rules 206 and 217 of the Commission's rules of practice and procedure against Transcontinental Gas Pipe Line Corporation. Specifically, complainants complain of Transco's violation of (1) section 4 (c) and (d) of the Natural Gas Act by its refusal to abide by, and action in contravention of, the provisions of its

filed and effective FERC tariff (the WSS Rate Schedule); and (2) Commission Order No. 436, by endeavoring to use its status as an interim open access transporter for the improper purposes of abrogating contract and tariff obligations to Complainants with respect to the delivery of WSS gas, and reinforcing, rather than discontinuing, anticompetitve restraints in gas markets.

Complainants state that by letter dated July 28, 1986, Transco notified both the Commission and its customers that, as of that date, it considered itself an interim open-access transporter under Order No. 436 and had the right to initiate new interruptible transportation service. According to Complainants, Transco did not advise or even suggest to its customers in those letters, or in several later letters, that one of the claimed consequences of its new status was the abrogation of its existing contract and tariff obligations, and the discontinuance of prior procedures, for delivery of WSS gas.

Complainants further state that on or about September 19, 1986, Transco orally advised one or more of the Complainants for the first time that, because of its new status under Order No. 436, Transco was no longer required to deliver, and would not deliver, any WSS gas on a firm basis, and that this policy would remain in effect unless and until Transco's pending proposed settlement in Docket Nos. TA86–1–29, *et al.*, was approved by the Commission, the order of approval accepted by Transco, and a contract was executed by the WSS customer and Transco for certain new firm transportation service contemplated by the settlement. Meanwhile, according to Transco, Complainants would receive delivery of their WSS gas, if at all, only on an interruptible basis.

By an order Granting Waivers dated September 26, 1986 (in *Natural Gas Pipeline Company, et al.*, Docket Nos. RP86–97–003, *et al.*), the Commission confirmed Transco's interim open-access transporter status effective as of the date of the Order. According to Complainants, this letter-order does not clarify the WSS situation since the Commission was not given notice of this situation in any communication from Transco.

According to Complainants, Transco contends that its acquisition of interim open-access transporter status relieves it of the obligation to deliver any of Complainants' WSS gas on a firm basis. Complainants state that this waiver order is irrelevant to the issue of the delivery of WSS gas.

While the obligation to deliver WSS storage gas is found in the WSS service agreement, Complainants state that the determination of when the delivery must be made on a firm basis and when it may be made on an interruptible basis is governed by Transco's WSS rate schedule. They state that Transco's WSS tariff obligates Transco on any day to deliver under the WSS rate schedule a quantity of gas which, when combined with the gas scheduled for delivery under Transco's CD, G or OG rate schedules, does not exceed, but equals or is less than Transco's maximum obligations under the latter rate schedules. All other WSS deliveries that day are interruptible and subject to the availability of sufficient pipeline capacity.

Complainants state that Transco's new WSS policy deprives Complainants of any assurance of the ability to withdraw any quantity of WSS storage gas during the imminent 1986–87 winter heating season and also effectively precludes, or substantially increases the risk of further storage injections in the month of October. In addition, it substantially reduces the value of the gas that had been injected into storage prior to Transco's revelation on September 19 of its new WSS policy.

Complainants request a Commission order declaring that Order No. 436 does not require or permit a change in the character or a reduction in the quality of the WSS service, and summarily directing Transco to comply with the delivery provisions of its WSS contracts and rate schedule.

Any person who desires to be heard or to protest the complaint and petition for declaratory order should file, by November 25, 1986, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's rules or practice and procedure, 18 CFR 385.211 and 385.214 (1986). Transco is also ordered to file its answer by that date. All protests filed will be considered but will not make the protestants parties to the proceeding. Answers to the complaint shall be made under Rules 206 and 213, 18 CFR 385.206 and 385.213 (1986), subject to the time limit stated above.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–25737 Filed 11–13–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA87–8–000]

CSX Oil & Gas Corp., Petition for Adjustment

November 7, 1986.

On October 21, 1986, CSX Oil & Gas Corporation (CSX) filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399–A[1] and section 502(c) of the Natural Gas Policy Act of 1978 (NGPA).[2] CSX seeks a waiver of the portion of its Btu refund obligation attributable to royalties paid to the Louisiana State Mineral Board under Order No. 399, which were due by November 5, 1986.[3] CSX asserts that the Louisiana State Mineral Board has adopted a resolution prohibiting the collection of Btu refunds by deductions from current royalty payments to Louisiana and stating that appropriate legal action will be taken if the unauthorized recovery of Btu refund amounts is attempted.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's rules of practice and procedure.[4] Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–25738 Filed 11–13–86; 8:45 am]

BILLING CODE 6717–01–M

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[1] Refunds resulting from Btu Measurement Adjustments, 49 FR 46,353 (Nov. 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶30,612.

[2] 15 U.S.C. 3412(c) (1982).

[3] 49 FR 37,735 at 37,740 (Sept. 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1983–1985] ¶ 30,597 at 31,150. In Order No. 399, the Commission established procedures and deadlines for the refund of charges for natural gas that exceeded NGPA ceilings as a result of Btu measurements based on a water vapor content of the gas "as delivered", rather than on a water saturated basis. In so doing, the Commission was implementing the decision in Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission, 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1108 (1984). See also Order Postponing Effectiveness of Good Faith Negotiation Procedures under Order No. 451, issued October 31, 1986.

[4] 18 CFR 385.1101–385.1117 (1986).

[Docket No. GP86-42-000]

Mitchell Energy Corp.; Petition To Reopen and Vacate Final Well Category Determination and Withdraw Application for Determination

November 7, 1986.

On June 9, 1986 Mitchell Energy Corporation (Mitchell) filed with the Federal Energy Regulatory Commission (Commission) pursuant to § 275.205 of the Commissions regulations, a petition to reopen and vacate the final well category determination made on its F.E. Evans #1 well located in Victoria County, Texas. 18 CFR 275.205 (1986). Mitchell requests that the Commission grant its petition to reopen the well category determination proceeding as to its F.E. Evans #1 well, vacate its designation as a stripper well pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), and permit Mitchell to withdraw the underlying application. 15 U.S.C. 3318 (1982).

Mitchell in its petition and subsequent correspondence with the Commission states that its F.E. Evans #1 well may not have been producing at its maximum efficient flow rate during the 90-day qualifying period in accordance with section 108(b)(1)(B) of the NGPA. 15 U.S.C. 3318(b)(1)(B) (1982). Specifically, Mitchell claims that a flow-regulating device or choke was installed in the F.E. Evans #1 well in 1967. The existence of the choke was overlooked in the later stripper well analysis. Mitchell contends that due to numerous administrative and field personnel changes, the choke was not noticed until April 1986. A subsequent test of the F.E. Evans #1 well without the choke resulted in production rates in excess of stripper well rates. Based on that test, Mitchell concludes that its F.E. Evans #1 well would not have qualified as a stripper gas well.

Any person desiring to be heard or to make any protest to Mitchell's petition should file, within 30 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rules 214 or 211 of the Commission's rules of practice and procedure respectively. 18 CFR 385.214 and 385.211 (1986). Filings should be made with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-25740 Filed 11-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-32-000]

William Perlman, Ada Cauthorn No. 4-1 Well, Petition for Adjustment

November 7, 1986.

On September 4, 1986, William Perlman (Perlman) filed with the Commission a petition for adjustment pursuant to § 385.1104 of the Commission's rules of practice and procedure. Perlman requests that he be granted adjustment from the definition of recompletion tight formation gas as appearing at § 271.703(b)(3) of the Commission's regulations, so that he will be excused from refund liability in connection with sales of gas from the above-designated well to El Paso Natural Gas Company.

Perlman states that in December 1972, he completed the Ida Cauthorn No. 4-1 well through several producing intervals in the Canyon Sandstone formation, Sutton County, Texas. The only production from this well occurred in May and June of 1975 and amounted to 542 Mcf of gas. According to Perlman the Canyon Sandstone formation consists of two separate formations, the "Upper Canyon" and "Lower Canyon." The initial 1973 completion occurred in the Lower Canyon formation. In September 1979, Perlman re-entered the Ada Cauthorn No. 4-1 well in order to stimulate production from the Upper Canyon formation. Perlman sold the resulting production to El Paso at the prevailing tight sands incentive price. On April 23, 1986 the Commission ruled that pursuant to § 271.703(b)(3)(i) of the regulations, this production does not qualify as recompletion tight formation gas since the well initially completed prior to July 16, 1979. As a result Perlman faces refund exposure to El Paso. Perlman requests adjustment from the strict application of § 271.203(b)(3) so that post-July 1979 production from the Cauthorn well may be allowed to qualify as recompletion tight formation gas.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Rules 214 of the Commission's rules of practice and procedure. Pursuant to Rule 1106, responses to the petition must be filed at the time the motion to intervene is filed. All motions to intervene must be filed within 30 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-25741 Filed 11-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-6-000]

Shell Offshore Inc. and Shell Oil Co.; Petition for Adjustment

Issued November 7, 1986.

On October 16, 1986, Shell Offshore Inc. and Shell Oil Company filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399-A,[1] section 502(c) of the Natural Gas Policy Act of 1978,[2] and Subpart K of the Commission's rules of practice and procedure.[3] Petitioners seek waiver of Btu refund obligations to its purchasers attributable to royalties paid by petitioners to the Minerals Management Service (MMS) of the U.S. Department of the Interior under federal oil and gas leases in the Outer Continental Shelf. Under Order No. 399, these refunds were due by November 5, 1986.[4]

Petitioners allege that they have diligently, but thus far unsuccessfully, pursued their legal remedies to recoup from MMS the Btu refunds attributable to royalty payments made prior to November 9, 1981. They state that MMS has taken the position that such refunds are barred by the statute of limtations under section 10 of the Outer Continental Shelf Lands Act.[5] Petitioners also state that they have not yet been able to recoup from MMS refunds for the period after November 9, 1981. Petitioners request that payment of their refund obligation be deferred until final resolution of the matter with the Department of Interior or until

[1] 49 FR 46353 (November 26, 1984); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,612.

[2] 15 U.S.C. 3412(c) (1982).

[3] 18 CFR 385.1101-385.1117 (1986).

[4] 49 FR 37735 at 37740 (September 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,597 at 31,150. In Order No. 399, the Commission established refund procedures for charges for natural gas that exceeded NGPA ceilings as a result of Btu measurements based on the water vapor content of the gas "as delivered," rather than on a water saturated basis. In so doing, the Commission was implementing the decision in Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission, 716 F.2d 1 (D.C. Cir. 1983), cert. *denied*, 465 U.S. 1108 (1984). See also Order Postponing Effectiveness, issued October 31, 1986.

[5] 43 U.S.C. 1339(1982).

petitioners receive full payment from MMS. Furthermore, petitioners request an extensive of the November 5, 1986 deadline pending disposition of their petition on the merits.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-25742 Filed 11-13-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

[No. 87-1]

Continuation of Solicitation for Special Research Grants and Program Announcement for Basic Research Contracts

AGENCY: Office of Energy Research, DOE.

ACTION: Notice of Continuation of Availability of Research Grants and Contracts.

SUMMARY: The Office of Energy Research of the Department of Energy hereby announces its continuing interest in receiving applications/proposals for Special Research Grants or Basic Research Contracts supporting work in the following program areas: Basic Energy Sciences, Biological and Environmental Research, High Energy and Nuclear Physics, and Fusion Energy. The Catalog of Federal Domestic Assistance number is 81.049. Information about submission of applications/proposals, eligibility, limitations, evaluation and selection processes, and other policies and procedures are specified, for grants, in 10 CFR Part 605 which was published in the Federal Register on April 15, 1985 (50 FR 14856) and, for contracts, in the Program Announcement also published on April 15, 1985 at 50 FR 14865.

DATES: Applications and proposals may be submitted at any time. Generally, those applications and proposals received prior to April 1, 1987 will be considered for FY 1987 funding; those received on or after April 1, 1987, will generally be considered for future fiscal year funding.

ADDRESSES: Applicants/proposers may obtain forms and additional information from Robert A. Zich, Director, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, U.S. Department of Energy, Washington, DC 20545, (301) 353-5544. Completed applications or proposals must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitations for Special Research Grants and the Program Announcement for basic research contracts were published in the **Federal Register** on April 15, 1985. Those solicitations specify the policies and procedures which govern the application, evaluation, and selection processes for research grants and contracts. It is anticipated that approximately $380 million will be available in FY 1987. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications/proposals. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications/proposals submitted in response to this notice.

Issued in Washington, DC, on October 31, 1986.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 86-25703 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $75,000 (plus accrued interest) obtained from Stephen R. Kent, d.b.a. Kent Oil and Trading Company (Kent), Case No. HEF-0578. These funds represent a settlement of claims that Kent had violated DOE price regulations governing the resale of crude oil and refined petroleum products. The OHA has decided that the funds will be divided into two pools. The crude oil pool will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, while the refined products pool will be available to customers who purchased refined petroleum products from Kent.

DATE AND ADDRESS: Applications for refund must be filed in duplicate within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should display a reference to Case No. HEF-0578.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2383.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute moneys obtained from Stephen R. Kent, d.b.a. Kent Oil and Trading Company (Kent). Kent remitted moneys to the DOE to settle possible violations of various regulations governing the resale of crude oil and refined petroleum products. The firm's payment is being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has decided that the moneys received from Kent will be divided into two pools—a crude oil pool and a refined products pool. The refined products pool will be made available to customers who purchased refined petroleum products from Kent during the period August 19, 1973 through January 27, 1981. Distribution of the crude oil pool will be governed by the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under that policy, crude oil overcharge moneys are divided among the states, the federal government, and eligible purchasers of crude oil and refined products. The portion of the Kent crude oil pool earmarked for the states will be distributed in proportion to each state's consumption of petroleum products. Refunds from the crude oil pool to eligible purchasers will be based on the number of gallons or refined petroleum products which they purchased from any supplier, and the extent to which they can demonstrate injury.

Applications for refund from both pools may now be filed. Applications will be accepted provided they are filed at the address set forth at the beginning of this notice, no later than 90 days after publication of this notice in the **Federal Register.** The specific information

required in an application for refund is set forth in the Decision and Order.

Dated: November 6, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 6, 1986.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Stephen R. Kent, d/b/a Kent Oil & Trading Co.

Date of Filing: April 3, 1985

Case Number: HEF–0578

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on April 3, 1985. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a settlement agreement entered into by the DOE and Stephen R. Kent, individually and doing business as Kent Oil and Trading Company (hereinafter collectively referred to as Kent).

I. Background

Kent was a reseller of crude oil and motor gasoline with offices in Houston, Texas and Los Angeles, California. As part of its enforcement activities, the DOE reviewed Kent's records and subsequently alleged that Kent had violated various regulations governing the resale of crude oil and refined petroleum products. On December 12, 1983, Kent and the DOE entered into a Settlement Agreement, and on January 20, 1984, the DOE executed a Full and Final Release of claims against Kent. That Agreement and Release resolved all disputes between the parties for the period from August 19, 1973 to the date of the Release, with the exception of potential violations by Kent of the crude oil producer regulations, 10 CFR Part 212, Subpart D. It was specifically noted that execution of the Agreement did not constitute either an admission by Kent or a finding by the DOE of any violation by Kent of any federal petroleum price or allocation regulation. Kent paid $75,000 to completely settle all claims covered by the Agreement. On March 5, 1984, the Agreement was approved by the United States Bankruptcy Court for the Southern District of Texas (Houston Division), where Kent had filed a voluntary petition for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code on August 26, 1980. These funds are being held in an interest-bearing escrow account pending distribution by the DOE. As of September 30, 1986, the escrow account contained approximately $90,700.

On June 18, 1986, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Kent escrow fund. 51 F.R. 23141 (June 25, 1986). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of Kent's practices during the period covered by the settlement agreement.

A copy of the PD&O was published in the **Federal Register** on June 25, 1986, and comments were solicited regarding the proposed refund procedures. No comments regarding the first stage of the present refund proceeding were filed.[1] Since we have received no objections to the proposed refund procedures, we will adopt them in this Decision.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Kent escrow fund. We will therefore grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Division of the Kent Funds

The terms of the settlement agreement are global in scope and cover alleged violations involving sales of both crude oil and refined products. We will therefore divide the fund into two pools, as we proposed in the PD&O. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). From our review of the only available records, it appears that approximately 18.5 percent of the firm's sales volume in gallons was crude oil and the remainder was motor gasoline and other refined products. To reflect these sales volumes, 18.5 percent of the funds contained in the Kent escrow account will be placed in a crude oil pool, and the remaining 81.5 percent will be placed in a refined products pool. Both pools will be distributed according to the procedures set forth in sections IV and V, *infra*.

IV. Refund Procedures for Crude Oil Claims

In the PD&O, we proposed to distribute the portion of the Kent moneys allocated to the crude oil pool in accordance with the DOE's Statement of Restitutionary Policy, 50 FR. 27400 (July 2, 1985) (the 1985 Policy). The 1985 Policy stated that all crude oil overcharge funds would be held in escrow to afford Congress the opportunity to select a means of making indirect restitution to injured parties. If Congress did not act, the 1985 Policy contemplated that the funds would be deposited in the U.S. Treasury.

On July 28, 1986, as a result of a court-approved Settlement Agreement in *The Department of Energy Stripper Well Litigation*, M.D.L. No. 378, in the United States District Court for the District of Kansas, the DOE modified its policy of restitution. *See* 51 FR 27899 (August 4, 1986) (the Modified Policy).[2] On August 8, 1986, the OHA announced its intention to follow the Modified Policy. 51 FR 29689 (August 20, 1986).

In accordance with the Modified Policy, we will reserve 20 percent of the Kent crude oil pool for refunds to injured parties. The funds in this reserve will be distributed in accordance with the Subpart V refund procedures to persons who prove they were injured by alleged crude oil violations. As in the

[1] Comments were filed on behalf of eight states, but these comments discuss the distribution of any residual funds which might remain after refunds have been made to first stage applicants. Any such funds remaining in the Kent crude oil pool will be distributed pursuant to the DOE's Modified Statement of Restitutionary Policy, discussed in Part IV, *infra*, while funds remaining in the Kent refined product pool will be distributed pursuant tot he recently enacted Petroleum Overcharge Distribution and Restitution Act of 1986, H.R. 5300, Title III, 99th Cong., 2d Sess., 132 Cong. Rec. H11319–21 (daily ed. October 17, 1986). Therefore, it is not necessary for us to discuss the states' comments at this time.

[2] For a detailed discussion of the events in the Stripper Well Litigation which brought about the DOE Policy, *see Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986).

procedures we adopt for the refined products pool, applicants for the crude oil pool will be required to document their purchase volumes [3] and to prove that they were injured by the alleged violations (*i.e.* that they did not pass on alleged overcharges to their own customers). The standards for showing injury will be the same as those required of applicants for refunds from the refined pool. *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986). Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the money in the Kent crude oil pool ($13,875) by the total consumption of petroleum products in the United States during the period of price controls.[4] Using this method, the refund amount in this case is $.0000000069 per gallon. Successful applicants will also receive their proportion of accrued interest.

The remaining 80 percent of the Kent crude oil pool—$11,100—as well as any portion of the 20 percent reserve which is not distributed to applicants for direct restitution, will be divided between the states and federal government for indirect restitutionary purposes. We will direct the DOE's Office of Controller to distribute $2,775 plus appropriate interest to the states and $8,325 plus appropriate interest to the federal government.[5] The share or ratio of the funds in the state account which each state will receive is listed in Exhibit H to the Final Settlement Agreement in the *Stripper Well Litigation*, reprinted at 6 Fed. Energy Guidelines ¶ 90,509 at 90,687.

[3] Applicants for refunds from the crude oil pool may claim refunds based on their purchases of refined petroleum products from any regulated company during the period of price controls. On the other hand, applicants for refunds from the refined product pool must document their purchases of Kent refined products during the period covered by the settlement agreement in this case.

[4] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel*, 14 DOE at 88,868, n.4 (1986).

[5] This distribution reflects a ratio of 25 percent to the state governments and 75 percent to the federal government. Under the terms of the Stripper Well Settlement Agreement, the states received an advance of $200 million from the funds which would otherwise have been disbursed to the DOE. In order to reimburse the DOE for this advance, the Settlement Agreement provides that for amounts which the OHA transfers to the state and federal governments in excess of $100 million, the DOE shall receive 75 percent and the states shall receive 25 percent. This arrangement shall continue until the OHA has distributed the next $400 million under the 75/25 arrangement. Settlement Agreement, Paragraph II.B.3.c.ii.

V. Refund Procedures for Refined Products Claims

A. *Determination of Injury.* With regard to the $61,125 in the Kent refined products pool, we will implement a refund process in which purchasers of Kent motor gasoline or other refined products will be afforded an opportunity to submit refund applications. Claimants who resold petroleum products purchased from Kent will be required to demonstrate that they did not pass on to their customers the price increases implemented by Kent. Accordingly, in order to qualify for a refund, a reseller claimant (including retailers and refiners who resold the product) must show that during the period covered by the settlement agreement market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller claimant must show that it had a "bank" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. For periods in which the DOE regulations did not require the computation of cost banks, a reseller will only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be made through a demonstration of lowered profit margins, decreased market shares, or depressed sales volume during the period of purchases from Kent. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

We will adopt presumptions of injury which have been used in many prior refund cases. These presumptions will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available, while permitting applicants to participate in the refund process without incurring inordinate expense. *See* 10 CFR 205.282(e).

1. *Applicants Claiming a Refund of $5,000 or Less.* We will presume that applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of product from Kent. We also are concerned that the cost to the applicants and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,515 (1986) and cases cited therein. Therefore, any applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[6]

2. *Spot Purchasers.* We will adopt a rebuttable presumption that resellers who made spot purchases from Kent have suffered no injury. These firms will therefore be ineligible to receive a refund, even one below the $5,000 threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Kent's product at increased prices unless they were able to pass through the full price of the purchases to their own customers. *Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981). Therefore, a firm which made only spot purchases from Kent will not receive a refund unless it presents evidence rebutting the spot purchaser presumption. Such evidence must establish that the spot purchaser was unable to recover the price it paid for Kent's product and that it was forced by market conditions to make the purchases upon which its refund claim is based. *See, e.g., Marathon*, 14 DOE at 88,515; *Dorchester*, 14 DOE at 88,452.

3. *End-Users.* We will also adopt a presumption that end-users or ultimate consumers whose businesses were unrelated to the petroleum industry were injured by Kent's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We have therefore concluded that end-users of Kent's refined products need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose

[6] As in prior refund cases, applicants whose potential refund, calculated on the basis of the volumetric factor described below, exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to make a detailed demonstration of injury.

business operations were subject to the DOE regulatory program and who purchased Kent products for consumption as fuel or raw materials will not be considered end-users for the purpose of the showing of injury. *Seminole Refining Inc.*, 12 DOE ¶ 85,188 at 88,576 (1985.) [7]

B. *Calculation of Refund Amounts.* As set forth in the PD&O, we will use a volumetric method to divide the Kent refined products pool among applicants who demonstrate that they are eligible to receive refunds. This method generally presumes that the alleged overchargers were spread equally over all the gallons of product sold by Kent and covered by the Settlement Agreement. In the absence of better information, such a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser might have been greater, and any purchaser may file a refund application based on a claim that it incurred a disproportionate share of alleged overcharges than the pro rata share calculated by the use of the volumetric presumption.

In the present case, we have calculated the volumetric refund amount by dividing the amount in the Kent refined product pool (81.5 percent of $75,000, or $61,125) by the estimated total volume of refined petroleum product sold by Kent during the period of the alleged violations resolved by the Settlement Agreement (684,041,606 gallons), resulting in a per gallon refund amount of $.000089358. The interest that has accrued on the money in the escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

As in previous cases, we will establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

C. *General Refund Application Requirements.* In addition to the specific requirements outlined above, all applications for refund must be in writing and signed by the applicant. An application must make reference to the Stephen R. Kent/Kent Oil & Trading Co. Special Refund Proceeding (Case No. HEF-0578). Claimants seeking refunds from the crude oil pool do not need to trace their purchases of refined petroleum products back to Kent; instead, they may base their claims on the amount of refined products they purchased from any supplier. For claimants seeking refunds from the refined products pool, each must report the monthly volume of refined petroleum products it purchased from Kent during the period August 19, 1973 through January 27, 1981. If a claimant purchased Kent's products from another reseller, it must establish its basis for belief that the product originated with Kent and identify the reseller from whom the product was purchased.

Each applicant must state how it used the products it purchased, i.e. whether it was a reseller, retailer or ultimate consumer. An applicant should also submit the name, position or title, and telephone number of a person who may be contacted by us for additional information concerning the application. If the applicant is affiliated or associated with Kent in any manner, it must so indicate and provide information explaining the nature of its relationship with the firm. If the applicant has been involved in enforcement proceedings brought by the DOE, it must provide a summary of the present status of the proceeding, or if the matter is no longer pending, it must indicate how the proceeding was resolved. If the applicant is a firm which did not actually purchase refined product from Kent, but is a successor to a Kent customer, the applicant must provide evidence establishing that it, rather than Kent's former customer, is entitled to a refund. Claimants in the crude oil pool must state whether the applicant, its parent, or any affiliated firm waived their right to a refund. Finally, each applicant must include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applicants for refund must be filed in duplicate and must be received within 90 days after the publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential. Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from funds remitted to the Department of Energy by Stephen R. Kent, d.b.a. Kent Oil and Trading Company (Kent) pursuant to a Settlement Agreement executed on December 12, 1983, and a Full and Final Release executed on January 20, 1984, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

(3) The funds remitted by Kent shall be divided into two pools as follows: (a) 81.5 percent, or $61,125 plus appropriate interest, shall be maintained in a refined products pool; and (b) 18.5 percent, or $13,875 plus appropriate interest, shall be maintained in a crude oil pool.

(4) Twenty percent of the funds in the crude oil pool, or $2,775 plus interest, shall be reserved for satisfying claims of parties who were injured by alleged crude oil violations. The remaining 80 percent of the crude oil pool, or $11,000 plus interest shall be distributed to the state and federal governments in the manner set out in paragraphs (5) and (6) below.

(5) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall transfer $2,775 plus interest into a subaccount denominated "Crude Tracking-State," Number 999DOE003W0.

(6) The Director of Special Accounts and Payroll shall transfer $8,325 plus interest into a subaccount denominated "Crude Tracking-Federal," Number 999DOE002W0.

[7] End-user firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement should provide with their applications a full explanation of the manner in which any refunds which they receive would be passed through to their customers. They should also indicate how the appropriate regulatory body or membership group will be advised of the applicant's receipt of refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note that a cooperative's sales of Kent's products to non-members will be treated in the same manner as sales by other resellers.

Dated: November 6, 1986.
George B. Breznay,
Director, Office of Hearings and Appeals.
[FR Doc. 86-25704 Filed 11-13-86; 8:45 am]
BILLING CODE 6450-01-M

Southwestern Power Administration

Proposed Allocation of Additional Power

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Proposed Allocation of Additional Power.

SUMMARY: The Southwestern Power Administration (SWPA), Department of Energy, markets Federal hydroelectric power and energy from projects constructed and operated by the Corps of Engineers and located in the States of Arkansas, Missouri, Oklahoma and Texas, under the provisions of Section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as amended. In 1980, SWPA adopted final power allocations which allocated then-existing and then-anticipated Federal hydroelectric power (capacity) to preference customers in SWPA's marketing area which includes the above-mentioned states plus Kansas and Louisiana. The 1980 Final Power Allocations (1980–1988) (FPA) were published March 24, 1980 (45 FR 19032).

A Notice of Intent to Allocate Additional Power was published in the **Federal Register** January 28, 1986 (51 FR 3505). The Notice announced SWPA's intent to allocate an additional 7.5 MW of power (capacity) which has become available subsequent to the 1980 FPA. The allocation was to be made in accordance with the FPA; consequently, preference entities (customers) in Kansas and Louisiana would have received proportionate quantities of the additional power since no apparent changes in operating conditions had occurred in Texas subsequent to the FPA, that would allow additional allocations in Texas. Customers and interested parties were invited to comment on the Notice of Intent before February 27, 1986.

Comments were received from three parties in response to the first Notice; two customers and one group of prospective customers. One customer (Cajun Electric Power Cooperative, Inc., of Baton Rouge, Louisiana) expressed support for the allocation procedure and encouraged its implementation. The group of prospective customers, all U.S. Air Force Bases located in Kansas and Louisiana, requested the allocation of power to such bases. The other customer, Brazos Electric Power Cooperative, Inc., of Waco, Texas, (Brazos) proposed a method by which Brazos and the non-interconnected part of Texas, could receive the benefits of the additional power allocation in spite of the continuing operating conditions in Texas which effectively limit the direct transfer of power to or from the Electric Reliability Council of Texas (ERCOT) area. Brazos noted that approximately 5 percent of its load is located in the interconnected part of Texas (outside ERCOT) and arrangements can be developed such that the allocation can be delivered to the Brazos load outside ERCOT with 95% of the resulting benefits flowing to the non-interconnected area (ERCOT) by virtue of a "rolled-in" (postage stamp) rate which is the same for Brazos customers both inside and outside ERCOT.

As a result of this new information, SWPA published a request for Data and Comments Regarding the Allocation of Additional Power in the **Federal Register** 51 FR 17229 (May 9, 1986). SWPA also sent copies of both **Federal Register** Notices to all customers and known interested parties. These additional data and comments were requested to enable SWPA to evaluate the feasibility of Brazo's suggestion and its applicability to any other entities operating under similar circumstances.

Data and comments were received from seven parties in response to the second Notice; six customers and one customer agency. Two cooperative customers in Kansas (Kaw Valley Electric Cooperative Company, Inc., and Nemaha-Marshall Electric Cooperative Association, Inc.) requested allocations, preferring the initially proposed procedure which would have allocated the additional power in Kansas and Louisiana, and suggested consideration in the allocations be given under special circumstances such as a commitment to peak demand conservation, rather than following the 1980 Final Power Allocation procedure which sets allocations on a prorata share basis. A cooperative customer (Kansas Electric Power Cooperative, Inc., (KEPCo)) and the municipal customer agency (Kansas Municipal Energy Agency (KMEA)) in Kansas support SWPA's ultimate decision whether it is to allocate in Kansas and Louisiana, or to allocate in Texas as deemed appropriate by SWPA. The Department of the Army suggested that any additional allocation in the State of Texas should serve to replace power generation lost as a result of water supply diversion. The remaining parties commenting were three cooperative customers in Texas (Tex-La Electric Cooperative of Texas, Inc. (Tex-La of Texas), Rayburn Country Electric Cooperative, Inc. (Rayburn Country), and Brazos Electric Power Cooperative, Inc. (Brazos)), each of which requested an allocation and provided data to support their request and show their ability to receive power in the non-ERCOT area for the benefit of consumers in the ERCOT area.

Responses to Customer Comments

As regards a utility's commitment to peak demand conservation establishing a priority on the allocation of hydropower, such a commitment, or any attempt to conserve non-renewable resources, is in keeping with both SWPA's and the Nation's conservation effort. Further, the utility reaps the direct financial benefits of such conservation by foregoing construction or purchase of additional capacity resources, as well as reducing its operating costs of generation. While these efforts are commendable, the investment in such efforts and equipment produce specific financial benefits to the implementing utility which fully justify such investments. Since these benefits accrue primarily to the investing utility, we believe they should not be utilized to establish a priority in the allocation of Federal hydropower.

We also do not agree with the suggestion to utilize an allocation in Texas to replace generation lost as a result of water supply diversion. Such an approach would simply place the cost of providing water supply directly on the wholesale electric ratepayers of SWPA by redirecting funds from the sale of power for repayment of hydropower costs to repayment of a loss created by water supply diversion. We do not believe the hydropower ratepayers should pay for water supply diversion since they are only required to pay costs allocated to the hydropower purpose.

We have considered the data and comments received regarding the method previously proposed by Brazos to allocate the 7.5 MW of additional power to preference entities primarily located in the ERCOT area of Texas, which has previously been limited by operating conditions which restrict the direct transfer of power to or from the ERCOT area. We concur with the method by which a customer with loads located both inside and outside ERCOT, which can receive and utilize a power allocation to meet the non-ERCOT load and can pass the majority of the benefits of the power allocation through to ERCOT area consumers by means of a "rolled-in" (postage stamp) rate to all customers. We believe it will

accomplish the objective of encouraging the most widespread use of power and energy marketed by SWPA, will implement the intent of the 1980 FPA to allocate power to areas receiving less than their fair share of SWPA power, and will provide a means of overcoming the restrictive operating conditions which have limited the delivery of power into the ERCOT area of Texas and, hence, limited the allocations and benefits of Federal power.

Additional Power Allocation Proposal

Therefore, we propose to allocate the entire 7.5 MW of additional power to the three Texas cooperatives (Brazos, Rayburn Country and Tex-La of Texas) which requested the allocation and provided information which indicates their abilities to receive and utilize such allocations in the non-ERCOT area and their use of "rolled-in" (postage stamp) rates, thus passing the majority of the financial benefits into the ERCOT area through such rates. The allocations will continue to be made in accordance with the 1980 FPA. The distribution among those three cooperatives (Brazos, Rayburn Country and Tex-La of Texas) requesting an allocation will be made on the basis of the ratio that each customer's "fair share", after adjusting for Federal Power under contract, bears to the state's (or area's) total fair share. This procedure is also called the deficiency allocation. Calculation of each customer's fair share is based on the most recent (1985) peak load data available. The following table entitled "Allocation of Additional Power (1986)—Texas (non-interconnected)" shows the detail of the deficiency allocation to the non-interconnected Texas system:

Allocation of Additional Power (1986), Texas (non-interconnected)

	MW
Amount to be Allocated	7.5
States' (Area's) Fair Share of SWPA Capacity	−[3] 485
Amount of Capacity Under Contract	−100
Deficiency	−385

	1985 [1] Peak load (kW)	Percent of total	Fair share (MW)	Amount under [2] contract (MW)	Deficiency (MW)	Deficiency (percent)	Allocation (MW)
Cooperatives:							
Brazos	811,663	61.4	297.8	30.0	267.8	69.6	5.2
Rayburn Country	332,029	25.1	121.7	38.5	83.2	21.6	1.6
Tex-la of Texas	179,143	13.5	65.5	31.5	34.0	8.8	.7
Total	1,322,835	100.0	[3] 485.0	100.0	385.0	100.0	7.5

[1] From 1985 Peak Load Data provided by Customers.
[2] Breakdown of 70 MW combined sale to Rayburn Country and Tex-La of Texas from contract allocation percentages (55.5/44.5).
[3] Total State (Area) Fair Share from 1980 FPA, Tables 1 and 2, (45 FR 19037) March 24, 1980.

This proposed Allocation of Additional Power is subject to the following conditions:

1. The power allottee will accept and purchase the amount allocated, under contract terms and conditions applicable to the sale of Hydro Peaking Power by SWPA, not later than January 15, 1988, with the power sale commencing at the beginning of the month following the contract execution.

2. The power allottee will provide transmission facilities and/or contractual arrangements with others as may be necessary to receive and transmit this allocated power to its load centers, coincidental with condition 1 above.

3. If any power allottee cannot arrange to receive its allocation so as to satisfy condition 2 above, or refuses its allocation, such allocation will be redistributed with the deficiency allocation procedure used in this allocation to those allottees remaining.

4. The power allottee will not distinguish between its customers located inside or outside of the non-interconnected Texas System (ERCOT) with regard to rates or charges for the sale of wholesale power and energy. Failure to abide by this condition may be cause for revocation of the allocation.

SWPA expects to publish its final decision on the Additional Power Allocation before January 1, 1987, after reviewing comments received in response to this Notice. Customers and interested parties desiring to comment on this proposed allocation should submit comments on or before December 15, 1986.

ADDRESS: Written comments should be submitted to the Director, Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director, Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581-7529.

Issued in Tulsa, Oklahoma, this 4th day of September, 1986.

Walter M. Bowers,

Acting Administrator, Southwestern Power Administration.

[FR Doc. 86-25705 Filed 11-13-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3109-9]

Environmental Impact Statements Filed November 3, 1986 Through November 7, 1986; Availability

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed November 3, 1986 Through November 7, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860452, Draft, FHW, KY, Georgetown Bypass Construction, US 460 West/Frankfort Road to US 460/62 East/Paris-Cynthiana Roads Intersection, Scott County, Due: December 29, 1986, Contact: Robert Johnson (502) 227-7321.

EIS No. 860453, Final, FHW, TN, I-40/75 and Interchanges Improvements, East of Pellissippi Parkway to East of Papermill Road, Knoxville County, Due: December 15, 1986, Contact: Thomas Ptak (615) 736-5394.

EIS No. 860454, Draft, FHW, NJ, NJ-92 Construction, US 206 North of Princeton to NJ-33 East of Hightstown, Mercer, Somerset, and Middlesex Counties, Due: January 31, 1987, Contact: Paul Lariviere (609) 989-2274.

EIS No. 860455, DSuppl, BLM, SEV, Northwest Area Noxious Weed Control Program, Additional Information, Due: January 5, 1987, Contact: Lynne Hamilton (503) 231-6268.

EIS No. 860456, Final, AFS, MI, Hiawatha National Forest, Land and Resource Management Plan, Due: December 15, 1986, Contact: Kenneth Holtje (906) 786-4062.

EIS No. 860457, Draft, AFS, OR, Siuslaw National Forest, Land and Resource Management Plan, Due: February 15, 1987, Contact: Tony Vander Heide (503) 757-4496.

EIS No. 860458, FSuppl, COE, GU, Agana River Flood Control Improvements, New Environmental Information, Due: Decemberr 15, 1986, Contact: James Maragos (808) 438-2263.

EIS No. 860459, Final, MMS, CA, San Miguel Project and Northern Santa Maria Basin Area Study, Lease OCS–P 0409, Outer Continental Shelf (OCS) Development Plan, Approval and Permits, San Luis, Obispo, and Santa Barbara Counties, Due: December 15, 1986, Contact: Mary Elaine Warhurst (213) 894–4480.

EIS No. 860460, Final, AFS, AZ, Lincoln National Forest, Land and Resource Management Plan, Due: December 15, 1986, Contact: James Abbott (505) 437–6030.

EIS No. 860461, FSuppl, EPA, FL, ATL, Jacksonville Harbor Ocean Dredging Material Disposal Site, Fernandino Harbor Designation, Georgia Bight, Due: December 15, 1986, Contact: Sally Turner (404) 347–2126.

EIS No. 860462, Draft, BLM, AZ, NM, Arizona Interconnection Project and Plan Amendment, El Paso 345kV Transmission Line, Construction, Approval, Due: February 12, 1987, Contact: Bruce Blanchard (202) 343–3891.

EIS No. 860463, Legislative, UAF, SEV, Small Intercontinental Ballistic Missile Program, Development, Basing Mode(s) and Deployment Areas, Due: Earliest possible convenience, Contact: Peter Walsh (714) 382–4891.

EIS No. 860464, Draft, DOE, MT, Conrad-Shelby 230kV Transmission Line Project, Construction/Operation/ Maintenance, Pondera and Toole Counties, Due: December 29, 1986, Contact: James Davies (406) 657–6525.

EIS No. 860465, FSuppl, COE, WA, Puget Sound Area, Carrier Battle Group Homeporting Everett Site, Construction and Operation, 10/404 Permit, Snohomish County, Due: December 15, 1986, Contact: Stephen Martin (206) 764–3625.

EIS No. 860466, DSuppl, FRC, WA, Hamma Hamma River Hydroelectric Project, Construction and Operation, Salient Cumulative Impact Issues, Evaluation and Conclusions, License, Macon County, Due: December 29, 1986, Contact: Lee Emery (202) 376–1955.

EIS No. 860467, Draft, EPA, TX, South Austin Regional Wastewater Treatment Facility Construction, Grant, Travis County, Due: January 9, 1987, Contact: Norm Thomas (214) 767–2716.

Amended Notices

EIS No. 860361, DRevised, AFS, Sierra National Forest, Land and Resource Management Plan, Due: January 12, 1987, Published FR 9–19–86—Review period extended.

EIS No. 860333, Draft, UAF, ND, SD, MN, Central Radar System, Over-the-Horizon Backscatter Radar System, Construction and Operation, Due: December 8, 1986, Published FR 10–3–86—Review period extended.

EIS No. 860432, Final, BLM, CA, California Desert Conservation Area Plan, Eastern San Diego County Management Framework Plan, 1985 Amendments, Due: December 31, 1986, Published FR 10–31–86—Review period extended.

EIS No. 860442, Draft, FWS, AK, Koyukuk and Northern Unit of Innoko National Wildlife Refuges, Comprehensive Conservation Plan, Wilderness Review and Wild River Plan, Due: January 27, 1987, Published FR 10–31–86—Review period extended.

Dated: November 10, 1986.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 86–25744 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3110–1]

Environmental Impact Statements and Regulations; Availability of Comments Prepared October 27, 1986 Through October 31, 1986

Availability of EPA comments prepared October 27, 1986 through October 31, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D–BLM–J7009–UT, Rating E02, San Juan Resource Area, Resource Mgmt. Plan, UT. Summary: EPA's review concerned protection and improvement of water, watershed, and wetland-riparian related values. EPA recommended consistency with water quality standards; development of grazing management to protect watersheds and rangeland values; riparian area—wetland restoration and improvement; evaluation and guidance for soil and water-related Areas of Critical Environmental Concern; minerals management guidance for water resources; and specific comprehensive resource strategy. EPA noted strenghts of the RMP/EIS such as budgeting, environmental thresholds, and use of an implementation appendix.

ERP No. D–CDB–K89060–CA, Rating E03, Casa Loma Specific Plan and Enterprise Zone Application, Designation and CDBG, CA. Summary: EPA expressed objections to the proposal because the draft EIS did not: (1) Adequately discuss the project's impacts to air quality in Kern County to large-scale industrial developments, (2) provide for air quality mitigation measures, and (3) address the presence of hazardous substances at or near the Bakersfield Airpark. EPA requested that a revised draft EIS be prepared to address these issues, and offered to continue coordination so that these objections could be satisfactorily resolved.

ERP No. D–FHW–F40234–WI, Rating EC2, North Corridor Arterial and Chippewa River Crossing, Construction, US 12 to US 53, 404 Permit, WI. Summary: EPA expressed concerns about traffic noise, runoff from the new bridge over the Chippewa River, and loss of wetlands. EPA requested a commitment to noise mitigation, clarification of the bridge drainage scheme, and greater discussion of wetlands protection.

ERP No. D–UAF–J10007–00, Rating LO, Central Radar Systems. Over-the-Horizon Backscatter Radar System, Construction and Operation, North Central Region of US. Summary: EPA does not anticipate any significant adverse impacts, but requested field verification of radiofrequency radiation emissions and additional wetlands information and site review to confirm minimization of adverse impacts.

FINAL EISs

ERP No. F–AFS–J65130–CA, Stevens Gulch Road Extension, Hubbard, Dyke, and Elk Creeks Timber Sales, Offering and Forest Mgmt. Activities, Grand Mesa, Gunnison, and Uncompahgre Nat'l Forests, CA. Summary: The final EIS responds to EPA concerns noted in the draft EIS except that water quality sediment effects on salmonid habitat are applicable in both instantaneous and long-term time frames. The mitigation plan must ensure that existing aquatic uses are not degraded, even for a short period of time. EPA recommends the implementation of a monitoring program over and above adherence to Best Management Practices to document compliance with water quality requirements.

ERP No. F–BLM–G70002–NM, Carlsbad Resource Area, Resource Mgmt. Plan, MN. Summary: EPA has no objections to the proposed action as described. ERP No. F–BLM–K65106–AZ, Eastern Arizona Grazing Mgmt. Program, AZ. Summary: EPA noted that certain information it had requested as not included in the final EIS. This

included information on existing water quality, riparian habitat status, water quality impacts and mitigation measures. EPA expressed a willingness to meet with BLM to discuss these important issues.

ERP No. F-BLM-L61145-ID, Challis Planning Unit, Corral-Horse Basin, Jerry Peak West and Jerry Peak Wilderness Study Areas, Wilderness Recommendations, ID. Summary: EPA expressed concern regarding water quality and potential fisheries losses in the three wilderness study areas (WSAs) that could be significant due to the cumulative impacts of development in the Salmon River Basin. EPA requested that the Record of Decision commit to a monitoring and mitigation program for the Corral-Horse Basin and Jerry Peak West WSAs, consistent with a goal of no net loss of anadromous fishery habitat valued for the Basin.

ERP No. F-BLM-L61155-ID, Eastern Idaho Planning Area, Hill's Half Acre, Hawley Mtn., Black Canyon, Cedar Butte and Petticoat Peak Wilderness Study Areas, Wilderness Recommendations, ID. Summary: EPA made no formal comments. EPA reviewed the final EIS and found the project to be satisfactory.

ERP No. F-BLM-L65078-ID, N. Idaho Planning Area, Selkirk Crest, Crystal Lake, Grandmother Mtn. Snowhole Rapids and Marshall Mtn. WSA's Wilderness Recommendations, ID. Summary: EPA made no formal comments. EPA reviewed the final EIS and found the project to be satisfactory.

ERP No. F-BLM-L65083-ID, Big Lost/Pahsimeroi Planning Units, Burnt Creek, Appendicitis Hill, and White Knob Mtns. Wilderness Study Areas, Wilderness Recommendations, ID. Summary: EPA made no formal comments. EPA reviewed the final EIS and found the project to be satisfactory.

ERP No. F-FHW-K40114-CA, CA-132 Improvement, D Street to Las Flores Ave., Sect. 10 and 404 Permits, CA. Summary: EPA had no comments to offer on the final EIS, however, it requested that the FHWA keep EPA informed of its progress in carrying out the mitigation measures adopted by the Record of Decision.

ERP No. F-OSM-E01007-TN, Rock Creek Watershed, Designation of Lands Unsuitable for Surface Coal Mining Operations, TN. Summary: EPA is concerned that mining activities in the area proposed for designation could contaminate groundwater, particularly aquifers utilized for local water supply wells. EPA requests follow-up documentation to address groundwater, surface water, noise, air quality, and other concerns.

ERP No. F1-SFW-L64030-AK, Togiak Nat'l Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Review, AK. Summary: EPA made no formal comments. EPA reviewed the final EIS and found the project to be satisfactory.

Regulations

ERP No. R-NRC-A99166-00, CFR Parts 19, 20, 30, 31, 32, 34, 40, 50, 61, and 70; Standards for Protection Against Radiation (50 FR 51992, 51 FR 1092). Summary: EPA generally supported the proposed regulations. However, EPA expressed reservations about some parts of the proposal and clarification and improvement of other portions. EPA was specifically concerned about dose limits to the public, collective does evaluations, planned special exposure to workers, internal exposure of workers to ingested radioactivity, and worker exposure reporting procedures.

Dated: November 10, 1986.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 86-25745 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140080; FRL-3110-6]

Access to Confidential Business Information by the Consumer Product Safety Commission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a Memorandum of Understanding (MOU) with the Consumer Product Safety Commission (CPSC) governing access by EPA to Confidential Business Information (CBI) under the Consumer Product Safety Act (CPSA) and by CPSC to CBI submitted to EPA under all reporting provisions of the Toxic Substances Control Act (TSCA). This MOU describes procedures for and restrictions on access by each agency to CBI submitted to the other.

DATE: Access by CPSC to CBI submitted to EPA will occur no sooner than December 1, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: In an MOU dated November 4, 1986 the CPSC and EPA's Office of Toxic Substances agreed to procedures governing access to certain information reported under current and prospective rules promulgated under all reporting provisions of TSCA and under the provisions of the CPSA.

The MOU incorporates procedures set forth in the TSCA Confidential Business Information Security Manual. It describes specific procedures for the transfer, use, and storage of CBI and for the clearance of individual EPA and CPSC employees for CBI access authorization.

In accordance with 40 CFR 2.306(j), EPA has determined that CPSC employees will require access to TSCA CBI, submitted under all sections of the Act, in connection with performing their responsibilities under the CPSA and TSCA. CPSC employees' access to TSCA CBI will take place when CPSC receives a referral from EPA under section 9 of TSCA, when CPSC participates in rulemaking or regulatory activities under TSCA, or when access to such information is necessary for regulatory activity under the CPSA. clearance for access by CPSC to TSCA CBI was previously announced in the **Federal Register** of January 5, 1983 (48 FR 504).

EPA is issuing this notice to inform submitters of information under all reporting provisions of TSCA that EPA may provide CPSC's employees access to these CBI materials on a need-to-know basis. Access ot TSCA CBI materials by CPSC employees will take place at EPA Headquarters as well as at CPSC's facilities. Upon completing review of the CBI materials, CPSC's employees will return all transferred materials to EPA.

Clearance for access to TSCA CBI by CPSC employees is scheduled to expire on September 30, 1989, subject to extension at that time.

CPSC has been authorized for access to TSCA CBI at its facilities under the EPA TSCA Confidential Business Information Security manual. EPA has performed the required inspection of their facilities and has found them to be in compliance with the requirements of the manual.

CPSC's employees will be briefed on appropriate security procedures and be required to submit a completed and signed TSCA CBI Access Request Form and pass a test on security procedures before access ot TSCA CBI is permitted.

Dated: November 4, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 86-25719 Filed 11-13-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-41023; FRL-3109-7]

Nineteenth Report of the Interagency Testing Committee to the Administrator; Receipt and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Nineteenth Report to the Administrator of EPA on October 31, 1986. This report, which revises and updates the Committee's priority list of chemicals, adds four chemicals to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act. The new chemicals are isopropanol, C.I. Disperse Blue 79, methyl *tert*-butyl ether, and methyl ethyl ketoxime. These chemicals are not designated for response within 12 months. One substance previously recommended with intent to designate, tributyl phosphate (51 FR 18368), is now designated for response within 12 months. The Nineteenth Report is included in this notice. The Agency invites interested persons to submit written comments on the Report, and to attend a Focus Meeting to help narrow and focus the issues raised by the ITC's recommendations. Members of the public are also invited to inform EPA if they wish to be notified of subsequent public meetings on these chemicals. ITC also notes the removal of five chemicals from the priority list because EPA has responded to the ITC's previous recommendations for testing of the chemicals.

DATES: Written comments should be submitted by December 15, 1986. Focus Meetings will be held on December 16 and 17, 1986.

ADDRESSES: Send written submissions to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE G-004, 401 M St., SW., Washington, DC 20460.

Submissions should bear the document control number (OPTS-41023).

The public record supporting this action, including comments, is available for public inspection in Rm. NE G-004 at the address noted above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays. Focus Meetings will be held at EPA Headquarters, Rm. 103 NE Mall, 401 M St., SW., Washington, DC. Persons planning to attend the Focus Meetings and/or seeking to be informed of subsequent public meetings on these chemicals, should notify the TSCA Assistance Office at the address listed below. To ensure seating accommodations at the Focus Meetings, persons interested in attending are asked to notify EPA at least one week ahead of the scheduled date.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has received the Report of the TSCA Interagency Testing Committee to the Administrator.

I. Background

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq;* 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemical substances and mixtures may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee to make recommendations to the Administrator of EPA of chemical substances and mixtures to be given priority consideration in proposing test rules under section 4(a). Section 4(e) directs the Committee to revise its list of recommendations at least every 6 months as necessary. The ITC may "designate" up to 50 substances and mixtures at any one time for priority consideration by the Agency. For such designations, the Agency must within 12 months either initiate rulemaking or issue in the **Federal Register** its reasons for not doing so. The ITC's Nineteenth Report was received by the Administrator on October 31, 1986, and follows this Notice. The Report adds four substances to the TSCA section 4(e) priority list.

II. Written and Oral Comments and Public Meetings

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals. A notice is published elsewhere in today's **Federal Register** adding the substances recommended in the ITC's Nineteenth Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) rule requires the reporting of unpublished health and safety studies on the listed chemicals. These chemicals will also be added to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712) published elsewhere in this issue. The section 8(a) rule requires the reporting of production volume, use, exposure, and release information on the listed chemicals.

Focus Meetings will be held to discuss relevant issues pertaining to these chemicals and to narrow the range of issues/effects which will be the focus of the Agency's subsequent activities in responding to the ITC recommendations. The Focus Meetings will be held on December 16 and 17, 1986 at EPA Headquarters, Rm. 103 NE Mall, 401 M St., SW., Washington, DC. This meeting is intended to supplement and expand upon written comments submitted in response to this notice. The schedule for the Focus Meetings is as follows: December 16, 10 a.m.—isopropanol; 1 p.m.—C.I. Disperse Blue 79. December 17, 10 a.m.—methyl *tert*-butyl ether; 1 p.m.—methyl ethyl ketoxime.

Persons wishing to attend this meeting or subsequent meetings on these chemicals should call the TSCA Assistance Office at the toll free number listed above at least one week in advance.

All written submissions should bear the identifying docket number (OPTS-41023).

III. Status of List

In addition to adding the four recommendations to the priority list, the ITC's Nineteenth Report notes the removal of five chemicals from the list since the last ITC report because EPA has responded to the Committee's prior recommendations for testing of the chemicals. Subsequent to the ITC's preparation of its Eighteenth Report, EPA responded to the ITC's recommendations for six additional chemicals. The five chemicals removed and the dates of publication in the **Federal Register** of EPA's responses to the ITC for these chemicals are: methylcyclopentane, May 15, 1986 (51 FR 17854); tetrabromobisphenol A, May 15, 1986 (51 FR 17872); triethylene glycol monomethyl ether, May 15, 1986 (51 FR 17883); triethylene glycol monobutyl ether, May 15, 1986 (51 FR 17883); triethylene glycol monobutyl ether, May 15, 1986 (51 FR 17883). The report also notes that tributyl phosphate, which was originally recommended with intent to designate (51 FR 18368, May 19, 1986), has now

been designated for response within 12 months by the ITC.

The current list contains three designated substances, two chemicals recommended with intent-to-designate, and four recommended substances.

Authority: 15 U.S.C. 2603.

Dated: November 6, 1986.

J. Merenda,

Director, Existing Chemical Assessment Division.

Nineteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Public Law 94–469) provides for the testing of chemicals in commerce that may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee (ITC), composed of representatives from eight designated Federal agencies, to recommend chemical substances and mixtures (chemicals) to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules.

Section 4(e)(1)(A) of TSCA directs the Committee to recommend to the EPA Administrator chemicals to which the Administrator should give priority consideration for the promulgation of testing rules pursuant to section 4(a). The Committee is required to designate those chemicals, from among its recommendations, to which the Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a proceeding. At least every 6 months, the Committee makes those revisions in the TSCA section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

As a result of its deliberations, the Committee is revising the TSCA section 4(e) Priority List by the addition of four chemicals, and is noting the removal of five as a result of responses by EPA. The Committee also is designating one chemical that had been recommended with intent-to-designate in the eighteenth report.

The Priority List is divided into three parts: Part A contains those recommended chemicals and groups designated for priority consideration and response by the EPA Administrator within 12 months. Part B contains chemicals and groups recommended with intent-to-designate. This category was established by the Committee in its seventeenth report (50 FR 47603; November 19, 1985) to take advantage of rules promulgating automatic reporting requirements for nondesignated ITC recommendations under the section 8(a) Preliminary Assessment rule and the TSCA section 8(d) Health and Safety Data Reporting rule. Information received following recommendation with intent-to-designate may influence the Committee to either designate or not designate the chemical or group of chemicals in a subsequent report to the Administrator. Part C contains chemicals and groups of chemicals that have been recommended for priority consideration by EPW without being designated for response within 12 months. The changes to the Priority List are presented, together with the types of testing recommended, in the following Table 1:

TABLE 1.—ADDITIONS TO THE SECTION 4(e) PRIORITY LIST, NOVEMBER 1986

Chemical/Group	Recommended Studies
A. Designated for Response Within 12 Months	
Tributyl phosphate [1] (CAS No. 126–73–8).	Health Effects: Chronic Toxicity including oncogenic, neurotoxic, renal, reproductive and developmental effects. Chemical Fate: Persistence in anaerobic soils and sediments. Ecological Effects: Chronic effects on aquatic and terrestrial plants; chronic effects on daphnids and/or other aquatic invertebrates; acute and chronic effects on benthic organisms and soil invertebrates, if found persistent under anaerobic conditions.
B. Recommended With Intent-to-Designate	
Isopropanol [2] (CAS No. 67–63–0).	Health Effects: Genotoxicity, including tests for mutagenicity in mammalian systems and clastogenicity; chronic toxicity including oncogenicity.
Methyl *tert*-butyl ether [3] (CAS No. 1634–04–4).	Health Effects: Chronic inhalation toxicity including neurotoxic, hematologic and ocogenic effects. Chemical Fate: Monitoring at representative gasoline terminals and service stations.
C. Recommended Without Being Designated for Response Within 12 Months	
C.I. Disperse Blue 79 [4] (CAS No. 3956–55–6).	Health Effects: Subchronic toxicity; adsorption and chemical disposition. Chemical Fate: Solubility in water; biodegradation under aerobic and anaerobic conditions and the identification of any relatively persistent biodegradation intermediates. Ecological Effects: Acute toxicity to fish, aquatic invertebrates, algae and benthic organisms (including filter feeders); bioconcentration in fish; chronic effects on aquatic and benthic biota, if the acute studies show toxicity at low mg/L concentration or if the dye does bioconcentrate.

TABLE 1.—ADDITIONS TO THE SECTION 4(e) PRIORITY LIST, NOVEMBER 1986—Continued

Chemical/Group	Recommended Studies
Methyl ethyl ketoxime [5] (CAS No. 96–29–7).	Health Effects: Chronic toxicity with special emphasis on hematopoietic and oncogenic effects.

CA Index Names (9Ci):

[1] Phosphonic acid, tributyl ester (tributyl phosphate was recommended with intent-to-designate by the Committee in the eighteenth report (51 FR 18368)).

[2] 2-Propanol.

[3] Propane, 2-methoxy-2-methyl-

[4] Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl]-

[5] 2-Butanone oxime.

TSCA Interagency Testing Committee

Statutory Member Agencies and Their Representatives

Council on Environmental Quality
Harvey Doerksen, Member
Department of Commerce
Patrick D. Cosslett, Member
Environmental Protection Agency
John D. Walker, Member and Vice Chairperson
Laurence S. Rosenstein, Alternate
National Cancer Institute
Richard Adamson, Member
Elizabeth K. Weisburger, Alternate
National Institute of Environmental Health Sciences
James K. Selkirk, Member
National Institute for Occupational Safety and Health
Rodger L. Tatken, Member and Chairperson
National Science Foundation
Rodger W. Baier, Member
Jarvis L. Moyers, Alternate
Occupational Safety and Health Administration
Joseph Jarvis, Member [1]
Stephen Mallinger, Alternate

Liaison Agencies and Their Representatives

Consumer Product Safety Commission
Lakshmi C. Mishra
Department of Agriculture
Richard M. Parry, Jr.
Elise A. B. Brown
Department of Defense
Edmund Cummings
Department of the Interior
Ronald Eisler [2]
Food and Drug Administration
Arnold Borsetti
National Library of Medicine
Vera Hudson
National Toxicology Program
Dorothy Canter

Committee Staff

Robert H. Brink, Executive Secretary
Norma Williams, ITC Coordinator

Support Staff

Alan Carpien—Office of the General Counsel, EPA

The Committee acknowledges and is grateful for the assistance and support

[1] Appointed on August 11, 1986.

[2] Appointed on July 11, 1986.

given the ITC by the staff of Dynamac Corporation (technical support contractor) and personnel of the EPA Office of Toxic Substances.

Chapter 1—Introduction

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Public Law 94–469). The specific mandate of the Committee is to recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances and mixtures in commerce that should be given priority consideration for the promulgation of testing rules to determine their potential hazard to human health and/or environment. TSCA specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register.** The Committee is directed by section 4(e)(1)(A) of TSCA to designate those chemicals on the Priority List to which the EPA Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a proceeding. There is no statutory time limit for EPA response regarding chemicals that ITC has recommended but not designated for response within 12 months.

At least every 6 months, the Committee makes those revisions in the section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

The Committee is composed of representatives from eight statutory member agencies and seven liaison agencies. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and priority recommendations are described in previous reports (Refs. 1 through 3).

1.2 *Committee's previous reports.* Eighteen previous reports to the EPA Administrator have been issued by the Committee and published in the FEDERAL REGISTER (Refs. 1 through 3). Ninety-three entries (chemicals and groups of chemicals) were recommended for priority consideration by the EPA Administrator and designated for response within 12 months. In addition, five chemicals and one group of chemicals were recommended without being so designated.

1.3 *Committee's activities during this reporting period.* Between April 1, 1986, and September 30, 1986, the Committee continued to review chemicals from its fourth and fifth scoring exercises, and from nominations by Member Agencies, Liaision Agencies and State Agencies.

The Committee contacted chemical manufacturers and trade associations to request information that would be of value in its deliberations. Most of those contacted provided unpublished information on current production, exposure, uses, and effects of chemicals under study by the Committee.

During this reporting period, the Committee reviewed available information on 26 chemicals and 7 large classes of chemicals. Four chemicals were selected for addition to the section 4(e) Priority List, and five were deferred indefinitely. The remaining chemicals are still under study.

On August 7, 1986, the ITC published an Intent-to-Designate notice (51 FR 28431) that listed hexamethylenediamine and described additional information needed by the ITC to reach a more informed decision on whether or not to designate hexamethylenediamine in a subsequent report to the EPA Administrator. The Committee requested information on biodegradation in aerobic ponds and under both aerobic and anaerobic conditions in disposal wells, in the presence of other waste constituents typical of hexamethylenediamine production. A deadline of October 6, 1986 was provided for receipt of relevant information.

1.4 *The TSCA section 4(e) Priority List.* Section 4(e)(1)(B) of TSCA directs the Committee to: ". . . make such revisions in the [priority] list as it determines to be necessary and . . . transmit them to the Administrator together with the Committee's reasons for the revisions." Under this authority, the Committee is revising the Priority List by adding four chemicals: isopropanol, methyl *tert*-butyl ether, C.I. Disperse Blue 79, and methyl ethyl ketoxime. None of these chemicals is designated for response within 12 months but the Committee intends to designate isopropanol and methyl *tert*—butyl ether unless information received following recommendation influences the Committee to withhold designation. In addition, the Committee is designating for response within 12 months one chemical that wes recommended with intent-to-designate in the eighteenth report. The designated chemical is tributyl phosphate. The testing recommended for these chemicals and the rationales for the recommendations are presented in Chapter 2 of this report.

Five chemicals are being removed from the Priority List because the EPA Administrator has responded to the Committee's prior recommendations for testing them. They are listed in the following Table 2 with citations to EPA responses:

TABLE 2—REMOVALS FROM THE TSCA SECTION 4(e) PRIORITY LIST APRIL 1, 1986 THROUGH SEPTEMBER 30, 1986

Chemical/Group	EPA Responses	
	Federal Register Citation	Publication Date
Methyl cyclopentane	51 FR 17854	May 15, 1986.
Tetrabromobisphenol A	51 FR 17872	May 15, 1986.
Triethylene glycol monomethyl ether.	51 FR 17883	May 15, 1986.
Triethylene glycol monoethyl ether.	51 FR 17883	May 15, 1986.
Triethylene glycol monobutyl ether.	51 FR 17883	May 15, 1986.

Removal of 87 entries was noted in previous reports (Ref. 1 through 3). To date, 92 chemicals and groups of chemicals have been removed from the Priority List.

With the four recommendations and five removals noted in this report, nine entries now appear on the section 4(e) Priority List. The Priority List is divided in the following Table 3 into three parts; namely, A. Chemicals and Groups of Chemicals Designated for Response Within 12 Months, B. Chemicals and Groups of Chemicals Recommended with Intent-to-Designate, and C. Chemicals and Groups of Chemicals Recommended Without Being Designated for Response Within 12 Months. Table 3 follows:

TABLE 3.—THE TSCA SECTION 4(e) PRIORITY LIST, NOVEMBER 1986

A. Chemicals and Groups of Chemicals Recommended and Designated for Response Within 12 Months	
Entry and date of designation:	
1. Cyclohexane	May 1986.
2. 2,6-Di-*tert*-butylphenol	May 1986.
3. Tributyl phosphate	Nov. 1986.
B. Chemicals and Groups of Chemicals Recommended with Intent-to-Designate	
Entry and date of recommendation:	
1. Isopropanol	Nov. 1986.
2. Methyl *tert*-butyl ether	Nov. 1986.
C. Chemicals and Groups of Chemicals Recommended Without Being Designated for Response Within 12 Months:	
1. 3,4-Dichlorobenzotrifluoride	May 1984.
2. Diisodecyl phenyl phosphite	Nov. 1985.
3. C.I. Disperse Blue 79	Nov. 1986.
4. Methyl ethyl ketoxime	Nov. 1986.

References

(1) Sixteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, May 21, 1985, 50 FR 20930–20939.

Includes references to Reports 1 through 15 and annotative list of removals.

(2) Seventeenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 19, 1985, 50 FR 47603–47612.

(3) Eighteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, May 19, 1986, 51 FR 18368–18375.

Chapter 2—Recommendations of the Committee

2.1 *Chemicals recommended for priority consideration by the EPA Administrator.* As provided by section 4(e)(1)(B) of TSCA, the Committee is adding the following chemical substances to the section 4(e) Priority List: isopropanol, methyl *tert*-butyl ether, C.I. Disperse Blue 79, and methyl ethyl ketoxime. The recommendation of these chemicals is being made after considering the factors identified in section 4(e)(1)(A) and other relevant information, as well as the professional judgment of Committee members. In addition, the Committee is designating for response within 12 months one chemical substance that was recommended with intent-to-designate in the eighteenth report. The designated chemical is tributyl phosphate.

2.2 *Chemicals designated for response within 12 months*—2.2.a *Tributyl phosphate.* In the eighteenth report to the Administrator of EPA (51 FR 18368), tributyl phosphate was recommended with intent-to-designate. The rationale for that recommendation appears in the eighteenth report. Information reviewed by the Committee in response to the eighteenth report included any public comments on the Committee's recommendations; production volume, use, exposure and release information reported by manufacturers of tributyl phosphate under the TSCA section 8(a) Preliminary Assessment rule; health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Report rule; and any unpublished and published data available to the Committee. Health effects information included acute toxicity studies and skin and eye irritation studies (Ref. 1, Dow Chemical Co., 1986; Ref. 2, Eastman Kodak Co., 1986; Ref. 3, FMC Corp., 1986; and Ref. 6, Stauffer Chemical Co., 1986), mutagenicity (Ames test) data (Ref. 3, FMC Corp., 1986) and delayed neurotoxicity studies (Ref. 5, Monsanto Co., 1986). Chemical fate information included chemical and physical properties, biological oxygen demand (BOD) data and monitoring reports (Ref. 2, Eastman Kodak Co., 1986; Ref. 3, FMC Corp., 1986; Ref. 4, Glyco, Inc., 1986; and Ref. 5 Monsanto Co., 1986). Ecological effects information included acute toxicity values with aquatic invertebrates and fish (Ref. 5, Monsanto Co., 1986).

After reviewing the information, the Committee concluded that data are still lacking on chronic toxicity, chemical fate and ecological effects. For these reasons and for the reasons previously presented (51 FR 18368) the Committee is now designating tributyl phosphate for response within 12 months and recommending that it be tested for the following:

1. *Health effects.* Chronic toxicity including oncogenic, neurotoxic, renal, reproductive and developmental effects.

2. *Chemical Fate.* Persistence in anaerobic soils and sediments.

3. *Ecological Effects.* Chronic effects on aquatic and terrestrial plants; chronic effects on daphnids and/or other aquatic invertebrates; acute and chronic effects on benthic organisms and soil invertebrates, if found persistent under anaerobic conditions.

References

(1) Dow Chemical Co., Midland, MI. Letter from R.I. Hagerman to Document Control Officer, U.S. EPA. August 15, 1986.

(2) Eastman Kodak Co., Rochester, N.Y. Letter from R. Hays Bell to U.S. EPA. August 11, 1986.

(3) FMC Corp., Philadelphia, PA. Letter from Ann S. Keller to U.S. EPA. August 8, 1986.

(4) Glyco, Inc., Norwalk, CT. Letter from Michael J. Reale to U.S. EPA. August 8, 1986.

(5) Monsanto Co., St. Louis, MO. Letter from J.R. Condray to Document Control Officer, Office of Pesticides and Toxic Substances, U.S. EPA. August 15, 1986.

(6) Stauffer Chemical Co., Westport, CT. Letter from Stauffer Chemical Co. to Document Control Office, Office of Toxic Substances, U.S. EPA. August 12, 1986.

(7) Union Carbide Corp., Danbury, CT. Letter from D.L. Heywood to U.S. EPA. August 11, 1986.

2.3 *Chemicals recommended with intent-to-designate—2.3.a Isopropanol—Summary of recommended studies.* It is recommended that isopropanol be tested for the following:

1. *Health Effects.* Genotoxicity studies, including tests for mutagenicity in mammalian systems and for clastogenicity Chronic toxicity, including oncogenicity.

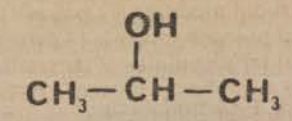
Physical and Chemical Information

CAS Number: 67–63–0

Synonyms: 2–propanol (9 CI); dimethylcarbinol; isopropyl alcohol

Acronym: IPA

Structural Formula:



Empirical Formula: C_3H_8O

Molecular Weight: 60.11

Melting Point: −87.8°C (Ref. 29, Mellan, 1977)

Boiling Point: 82.3°C (Ref. 29, Mellan, 1977)

Vapor Pressure: 33.0 mmHg at 20°C (Ref. 29, Mellan, 1977), 44.0 mmHg at 25°C (Ref. 7, Browning, 1965), 105.6 mmHg at 40°C (Ref. 18, Hatch, 1961)

Solubility in Water: Miscible with water, insoluble in salt solutions (Ref. 56, Windholz, 1983)

Solubility in Organic Solvents: Miscible with ethanol, ether, and chloroform (Ref. 56, Windholz, 1983)

Specific Gravity: 0.79 at 20/20°C (Ref. 29, Mellan, 1977)

Log Octanol/Water Partition Coefficient: (log P): 0.2 (estimated; Ref. 27, Leo et al., 1971)

Description of Chemical: colorless liquid

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal/environmental release.* The annual production capacities of four domestic producers of isopropanol as of January 1, 1985, totaled 2.5 billion pounds (Ref. 46, SRI, 1985). The 1985 U.S. production of isopropanol was reported to be 1.12 billion pounds, giving it the ranking of 50 among the top 50 chemicals for that year (Ref. 9, C&EN, 1986). The 1984 U.S. production of isopropanol was reported to be 1.39 billion pounds (Ref. 54, USITC, 1985), up from the 1983 production of 1.21 billion pounds (Ref. 53, USITC, 1984) but down from the 1980 production of 1.21 billion pounds (Ref. 52, USITC, 1981).

Imports of isopropanol in 1985 totaled 136.2 million pounds (Ref. 49, USDOC, 1986a). Exports in 1985 accounted for 178.4 million pounds (Ref. 50, USDOC, 1986b).

Most isopropanol produced in the United States is manufactured by the indirect hydration process. In this two-step process, propylene reacts first with sulfuric acid; the products are then hydrolyzed to isopropanol and sulfuric acid (Ref. 45. SRI, 1980).

Isopropanol has a large number of uses. The percentage breakdown of isopropanol demand for 1984 was estimated to be the following: production of acetone (24 percent), coatings and related solvents (15 percent), other solvents (11 percent),

pharmaceuticals (11 percent), household and personal products (11 percent), chemical process solvents (9 percent), chemical intermediates (7 percent), and gasoline additives (4 percent). Exports account for the other 8 percent (Ref. 12, CMR, 1984).

It has been estimated that 50 percent of commercial isopropanol is ultimately released to the environment. An additional 1.5 percent is estimated to be lost during production (Dorigan et al., 1976, cited in Ref. 51, USEPA, 1979).

B. *Evidence for human and environmental exposure.* The National Occupational Hazard Survey (NOHS), conducted by the National Institute for Occupational Safety and Health (NIOSH) from 1972 to 1974, estimated that 5,483,862 workers in 357,173 plants were potentially exposed to isopropanol in the workplace (Ref. 32, NIOSH, 1976a). These estimates were derived from observations of the manufacture and use of the compound, of trade name products known to contain the compound, and of generic products suspected to contain the compound (19, 40, and 42 percent of the total estimate, respectively).

NIOSH conducted a second workplace survey, the National Occupational Exposure Survey (NOES), from 1980 to 1983 (Ref. 34, NIOSH, 1984). Preliminary data from NOES indicated that 1,857,962 workers, including 1,186,141 women, in 43,616 plants were potentially exposed to the compound in the workplace in 1980. Unlike NOHS, the NOES estimates were based only on observations of the use and manufacture of the compound, per se.

The American Conference of Governmental Industrial Hygienists (ACGIH) has established a threshold limit value (TLV) of 400 parts per million (ppm) as an 8-hour time-weighted average with a 15-minute short-term exposure limit of 500 ppm (Ref. 2, ACGIH, 1986b). The TLV was set on the basis of eye, nose, and throat irritation (Ref. 1, ACGIH, 1986a). The permissible exposure limit (PEL) for the workplace adopted by the Occupational Safety and Health Administration is also 400 ppm (Ref. 40, OSHA, 1983).

General dilution/ventilation and the use of personal protective equipment have been recommended as effective controls to reduce occupational exposure to isopropanol in a number of operations (Ref. 35, NIOSH/OSHA, 1978).

Isopropanol is a constituent of some commercial food flavors (Ref. 47, Stanley, 1939; Ref. 41, Pendleton, 1970). For this use and its use as an adjuvant, the Food and Drug Administration permits the use of only the minimum quantity of isopropanol necessary to produce the desired effect. No residues of the chemical may remain in foods marked with isopropanol-derived color additives (Ref. 15, FDA, 1986).

Isopropanol has been detected in trace quantities in fish meal (Ref. 21, Iida et al., 1978), white bread (Wideblatt and Kohn, 1960, cited in Ref. 16, Fenaroli, 1975), enzyme-inactivated beef (Wick, 1965, cited in Ref. 16, Fenaroli, 1975), and pressure-cooked pork liver (Mussinan and Walradt, 1974, cited in Ref. 16, Fenaroli, 1975).

Isopropanol was identified in leachates from a Southington, CT, landfill site in 1982–83 at concentrations ranging from 3.9 to 8.8 mg/L (Ref. 43, Sawhney and Kozloski, 1984). Levels of isopropanol ranging fromn 2.3 to 21.3 ug/L have been measured at a municipal effluent in a river in Oklahoma, and levels ranging from 10 to 2,000 ug/L have been found in a well in South Carolina near an industrial impoundment area (Ref. 48, STORET, 1986).

II. *Chemical fate information.* Although very large amounts of isopropanol are released to air and water, most of the releases are widely dispersed and isopropanol in the environment will be rapidly biodegraded or oxidized. Therefore, chemical fate testing is not being recommended at this time.

III. *Biological effects of concern to human health—A. Metabolism and toxicokinetics.* Isopropanol administered intravenously and orally to normal, fasting dogs was rapidly absorbed from the gastrointestinal tract; distribution to the tissues occurred within a range of 30 minutes to 1 or 2 hours (Ref. 26, Lehman et al., 1945).

Isopropanol is metabolized to acetone in rats by alcohol dehydrogenase (ADH) (Ref. 37, Nordmann, 1980). Rats were intraperitoneally administered pyrazole, an inhibitor of ADH and catalase, or amino-1,2,4-triazole, an inhibitor of catalase alone. Isopropanol was then administered either intraperitoneally or by gavage. Blood levels of isopropanol and acetone were then monitored at regular intervals. Animals receiving amino-1,2,4-triazole showed no significant difference in blood isopropanol or acetone levels from those observed in rats receiving only isopropanol. In contrast, pretreatment with pyrazole decreased isopropanol clearance and delayed the rate of acetone production (Ref. 38, Nordmann et al., 1973).

When isopropanol was perfused through rabbit liver *in situ*, a progressive rise in the acetone concentration in blood was observed (Ref. 14, Ellis, 1952).

An average of 10.2 percent of the dose of isopropanol administered by gavage to rabbits was isolated as the glucuronide from the 24-hour urine sample. Acetone (about 0.5 percent of the dose) was also identified in expired air from treated rabbits (Ref. 22, Kamil et al., 1953).

Blood levels of isopropanol and acetone in rats following inhalation exposure to isopropanol for 4 hours, in the test range of 500 to 8,000 ppm, were directly related to atmospheric concentrations of the chemical. Increasing the exposure time to 8 hours magnified the amount of acetone that could be detected even 20 hours following exposure. These results indicate a slow conversion of the alcohol to acetone (Ref. 24, Laham et al., 1980).

In rats given single intraperitoneal doses of isopropanol, the half-life of the chemical in plasma declined with decreasing dose level (Ref. 42, Rietbrock and Abshagen, 1971).

B. *Acute (short-term) effects.* The acute toxicity of isopropanol is summarized in the following Table 4.

TABLE 4.—ACUTE TOXICITY OF ISOPROPANOL IN LABORATORY ANIMALS

Animal	Route	Effect	Reference
Mouse	Orl	LD_{50}: 4.8 g/kg; CNS depression	Levy and Zakhari (1976, Ref. 28).
Do	Ihl	LD_{50}: 10.39 mg/L, 2-hr exposure	Do.
Do	Ipr	LD_{50}: 1.28 g/kg	Do.
Do	Ivn	LD_{50}: 31.0 mmol/kg (about 1.9 g/kg)	Chvapil et al. (1962, Ref. 10).
Rat	Orl	LD_{50}: 5.84 g/kg	Smyth and Carpenter (1948, Ref. 44).
Do	Orl	LD_{50}: 6.73 cm^3/kg	Lehman and Chase (1944, Ref. 25).
Rat (14-day-old)	Orl	LD_{50}: 5.6 mL/kg	Kimura et al. (1971, Ref. 23).
Rat (young adult)	Orl	LD_{50}: 6.0 mL/kg	Do.
Rat (older adult)	Orl	LD_{50}: 6.8 mL/kg	Do.
Rat	Orl	LD_{50}: 4.7 g/kg	Levy and Zakhari (1976, Ref. 28).

TABLE 4.—ACUTE TOXICITY OF ISOPROPANOL IN LABORATORY ANIMALS—Continued

Animal	Route	Effect	Reference
Do	Ihl	LD_{50}: 19,000 ppm (females), 8-hr exposure. Severe irritation to mucous membranes. Ataxia, prostration, narcosis. At levels between 20,000 and 22,000 ppm, paralysis of hind legs was observed in both sexes during first 5 days of exposure.	Laham et al. (1980, Ref. 24).
Rat	Ihl	Congestion of liver, lungs, and spleen was observed in rats exposed at 4,000 and 8,000 ppm.	
		500–16,000 ppm, 4-hr exposure; At 4,000 ppm slight hypothermia was observed. At 8,000 and 16,000 ppm, severe hypothermia recorded.	Laham et al. (1980, Ref. 24).
Do	Ipr	LD_{50}: 1.87 g/kg	Levy and Zakhari (1976, Ref. 28).
Do	Scu	LD_{50}: 5.70 g/kg	Do.
Rabbit	Orl	LD_{50}: 6.41 cm^3/kg	Lehman and Chase (1944, Ref. 25).
Do	Orl	LD_{50}: 6.15 cm^3/kg	Do.

When applied to rabbit eyes, a drop of isopropanol caused mild transitory injury (Ref. 44, Smyth and Carpenter, 1948). Isopropanol did not produce any adverse effects when applied dermally to guinea pigs, dogs, and white rats (Macht, 1922, cited in Ref. 32, NOISH, 1976a; Steele and Wilhelm, 1966, cited in Ref. 32, NIOSH, 1976a). Similarly, the chemical did not produce tissue destruction when applied to intact and abraded skin of rabbits and guinea pigs (Ref. 36, Nixon et al., 1975).

C. *Genotoxicity.* In the *Salmonella* microsomal assay using the spot test, isopropanol was nonmutagenic in strains TA98, TA100, TA1535, and TA1537 both with and without S–9 from Aroclor-induced rats (Ref. 17, Florin et al., 1980). The chemical was nonmutagenic in *Salmonella* strains TA97, TA98, TA100, TA1535, and TA1537 both with and without metabolic activation, when tested using a plate-incorporation modification of this microbial assay (Ref. 39, NTP CHEMTRACK, 1986).

Isopropanol yielded negative results in mutagenicity tests in *Neurospora crassa* (Ref. 6, Brockman et al., 1984). Isopropanol did not enhance simian adenovirus (SA7) transformation using Syrian hamster embryo cells when tested over a concentration range of 62 to 1,000 ug/mL (Ref. 19, Heidelberger et al., 1983).

D. *Oncogenicity.* In inhalation studies, C3H, ABC, and C57 mice were exposed to isopropanol for 3 to 7 hours per day, 5 days per week for 5 to 8 months. There was no significant increase in the number of tumors observed. Similarly, no increases in pulmonary tumors were observed in the same strains of mice received 20 to 40 weekly subcutaneous injections of 0.025 mL isopropanol (Ref. 55, Weil et al., 1952).

In skin painting studies, no tumors were observed when isopropanol was painted on the clipped backs on 30 Rockland all-purpose mice 3 times per week for 1 year (Weil, unpublished data, cited in Ref. 33, NIOSH, 1976b).

E. *Chronic (long-term) effects.* Isopropanol was administered as a 5 percent solution in tap water to male albino rats for 9 months. The average daily consumption of isopropanol was 1.9 mL/kg. There was no significant differences in the death rates of the treated animals compared to controls given tap water. Treated animals experienced a marked decrease in fluid consumption compared to controls, as well as a significant weight depression. Both of these conditions were reversed in the month following withdrawal of the alcohol. Noisy breathing and sluggishness were also noted in the treated animals. In another test, 187 daily applications of a 50 percent solution of isopropanol of the heads of male rats failed to cause injury to the skin, hair, or eyes that would differentiate the treated from the control animals (Ref. 5, Boughton, 1944).

White rats were administered 0.5, 1.0, 2.5, 5.0, and 10.0 percent solutions of isopropanol in water for 27 weeks. Rats given 10 percent isopropanol refused to drink the fluid and died early in the experiment. Some deaths occurred in two of the other exposure groups, but insufficient data were available to determine whether the deaths were treatment related. Food intake by the exposed rats was equal to or greater than that of the control rats. There was a tendency for decreasing fluid intake with increasing alcohol concentration. Gross and histopathologic examination of selected organs showed no evidence of gross or microscopic changes (Ref. 25, Lehman and Chase, 1944).

Three dogs were administered isopropanol in water daily for 7 months. The alcohol concentration was 4 percent from the end of the first month until the conclusion of the experiment. Tolerance to the alcohol developed, as manifested by an increased degree of neuromuscular coordination at similar blood levels in habituated versus control animals and by increased elimination of the alcohol. The only significant histopathologic changes were noted in the kidneys of the one dog that died (Ref. 26, Lehman et al., 1945).

F. *Reproductive and developmental effects.* In a three-generation reproductive study, male and female rats receiving 2.5 percent isopropanol daily in drinking water exhibited no deleterious effects on their reproductive function and embryonic development. Some retardation of growth was observed in the early life of first-generation rats (Ref. 26, Lehman et al., 1945).

Isopropanol was administered by inhalation to groups of 15 pregnant Sprague-Dawley rats for 7 hours per day on gestation days 1 to 19 at doses of 3,500, 7,000 and 10,000 ppm. The highest concentration produced maternal narcosis and reduced weight gain and feed intake. At 7,000 ppm isopropanol, the only observable maternal effect was decreased weight gain. No maternal effects were observed at 3,500 ppm. Following exposure to 10,000 ppm isopropanol, there was a statistically significant increase in resorptions and decrease in fetal weights. Fetal weights were also decreased at the two lower dose levels. There was a significant increase in malformations in the litters of dams exposed to 7,000 and 10,000 ppm isopropanol. No teratogenic effects were observed at the 3,5000 ppm dose level (Ref. 31, Nelson et al., 1985; Ref. 30, Nelson et al., 1986).

A single-generation reproduction study is being conducted in the Wistar rat at dose levels of 0.5, 1.0, and 2.0 percent isopropanol in drinking water. Males will be exposed 70 days prior to mating and females 21 days prior to mating. Also underway is a teratology study in female Wistar rats at does levels of 0.5, 1.5, and 2.5 percent isopropanol in drinking water. The high does was selected to produce maternal toxicity. Both studies are being conducted at the request of the government of the United Kingdom (Ref. 11, CMA, 1986).

G. *Observations in humans.* Occupational exposure to isopropanol was assessed in 12 workers employed in a printing works by testing environmental air, alveolar air, venous blood, and urine during their work shift. Isopropanol in environmental air ranged

between 7 and 645 mg/m ^{3}. It was detected in alveolar air at levels ranging between 4 and 437 mg/m ^{3}. The chemical was not detected in blood or urine. Alveolar concentration of alcohol was significantly corrected with its environmental concentration (Ref. 8, Brugnone et al., 1983).

The blood half-lives of isopropanol in two patients suffering from acute overdoses of the alcohol were estimated at 155 and 187 minutes, respectively. In both patients, acetone levels were higher than the alcohol values at the beginning of the study and remained elevated throughout the study (Ref. 13, Daniel et al., 1981).

In five persons who died as a consequence of drinking isopropanol, deep and stubborn coma was observed as well as varying degrees of shock and hypothermia. Acetonuria without glycosuria was also observed (Ref. 3, Adelson, 1962).

In a historical prospective study of 262 men who had worked at an isopropanol plant in Great Britain, the observed deaths were slightly higher than expected. There was a statistically nonsignificant increase in deaths from neoplasms. One person died from nasal cancer; the authors stated that this finding was unlikely to be due to chance even though based on small numbers (Ref. 4, Alderson and Rattan, 1980).

An increased incidence of cancer of the paranasal sinuses was observed in workers at factories manufacturing isopropanol by the strong acid process. The risk of laryngeal cancer may also have been elevated in these workers (Ref. 20, IARC, 1977).

H. *Rationale for health effects recommendations.* Annual domestic production of isopropanol is greater than 1 billion pounds. Well over 1 million persons are estimated to be exposed to the chemical in the workplace. Widespread consumer exposure results from its use in pharmaceuticals and household products. It has been detected in trace quantities in several foods. It has also been identified in leachates from a landfill site. Although several limited carcinogenicity studies have been performed, insufficient data are available to assess its long-term effects. Therefore, the Committee recommends chronic toxicity studies, including tests to assess its oncogenic potential. Additional genotoxicity studies, including tests to assess its mutagenic potential in mammalian systems and its clastogenic effects, are also recommended. The Committee is concerned about possible reproductive and developmental effects of isopropanol given the teratogenic effects observed at high doses in inhalation studies in rats. However, the Committee recommends deferring the chemical from consideration for such testing pending the outcome of relevant studies presently being conducted at the request of the government of the United Kingdom.

IV. *Ecological effects of concern.* There is sufficient information available to show that isopropanol is unlikely to persist in the environment at concentrations that would cause adverse ecological effects. Therefore, ecological effects testing is not being recommended at this time.

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(11) CMA. Chemical Manufacturers Association. Letter from C. R. Stack, Associate Director, Biomedical and Environmental Special Programs, to R. Brink, Executive Secretary, Interagency Testing Committee, Washington, DC (March 31, 1986).

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2.3.b *Methyl tert-butyl ether—Summary of recommended studies.* It is recommended that methyl *tert*-butyl ether (MTBE) be tested for the following:

1. *Chemical Fate.* Monitoring studies to determine typical concentrations of MTBE at representatives sites where MTBE-containing gasoline is transferred, including gasoline terminals and service stations.

2. *Health Effects.* Chronic inhalation toxicity including neurotoxic, hematologic, and oncogenic effects.

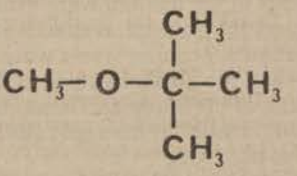
Physical and Chemical Information

CAS Number:
1634–04–4

Synonyms:
Propane, 2-methoxy-2-methyl—(9 CI); Methyl 1,1-dimethylethyl ether; (2-Methyl–2–propyl) methyl ether; *tert*-Butyl methyl either

Acronym:
MTBE

Structural Formula:



Empirical Formula:
$C_5H_{12}O$

Molecular Weight:
88.15

Melting Point:
−110°C (Ref. 16, Phillips Petroleum, 1984)

Boiling Point:
55°C (Ref. 16, Phillips Petroleum, 1984)

Vapor Pressure:
414 mmHg at 38°C (Ref. 16, Phillips Petroleum, 1984)

Solubility in Water:
40,000 mg/L (Ref. 11, Hawley, 1981)
43,000 mg/L (Ref. 4, ARCO, 1986)

Solubility in Organic Solvents:
Very soluble in alcohol and ether (Ref. 12, HSDB, 1986)

Specific Gravity:
0.74 at 20/4°C (Ref. 16, Phillips Petroleum, 1984)

Log Octanol/Water Partition Coefficient: (log P):
1.30 (Ref. 13, Leo, 1982; cited in ISHOW, 1984)

Henry's Law Constant:
4.5×10^{-4} atm-m^3/mol (Ref. 20, USEPA, 1986)

Description of Chemical:
Clear liquid, pleasant hydro-carbon odor (Ref. 16, Phillips Petroleum, 1984)

Rationale for Recommendations

I. *Exposure information*—A. *Production/use.* The commercial production of MTBE uses the reaction of isobutylene and methanol, in the presence of a catalyst, at 30 to 100°C and 7 to 14 atmospheres. Production has increased dramatically since 1979 when MTBE was approved by the EPA for use as a blending component of unleaded gasoline. Current production is in the neighborhood of 2 billion pounds per year in the United States. By 1989, production is predicted to reach 3 billion pounds per year (Ref. 5, CEH, 1985).

Nearly all of the MTBE produced in the Uhited States is used as octane-

enhancing agent in some but not all unleaded gasolines. Although it has been approved as an additive at up to all percent, typical concentrations in gasoline range from 2 to 8 percent by weight (Ref. 4, ARCO, 1986).

B. *Evidence for human exposure.* The National Occupational Exposure Survey (NOES), conducted between 1980 and 1983, indicated that 2,571 workers, including 849 women, were potentially exposed to MTBE in the workplace (Ref. 14, NIOSH, 1984).

Occupational exposures at manufacturing sites are limited because manufacturing occurs in closed systems. However, two companies have reported measured 8-hour time weighted average (TWA) workplace exposures to MTBE of 1 to 3 ppm at manufacturing sites (Ref. 16, Phillips Petroleum, 1984; Ref. 4, ARCO, 1986).

Workers involved in transportation and loading operations of MTBE-containing gasoline have been found to be exposed to less than 2 ppm MTBE (Ref. 4, ARCO, 1986). Halder et al. (Ref. 10 1986) monitored exposures of truck drivers and terminal operators at five gasoline distribution terminals. A total of 183 samples were collected at the terminals over a 12-month period. Worker exposure to C_4 and higher hydrocarbons in gasoline vapors, on a 8-hour TWA basis, varied from 0.4 to 80 ppm, with an overall 8-hour TWA geometric mean of 1.4 ppm. Some of the vapor samples were analyzed for individuals hydrocarbon constituents. No analyses were made for MTBE, but C_4 and C_5 compounds constituted 61 to 74 percent by weight of the total gasoline vapor samples. Similar hydrocarbon exposures were reported in earlier studies at terminals (Ref. 15, Phillips and Jones, 1978; Ref. 8 Diakun, 1983).

In a survey of exposures to gasoline vapors at a service station plaza, Halder, et al. (1986, Ref. 10) reported a geometric mean 8-hour TWA exposure of 1.0 ppm. Diakun (1983, Ref. 8), reporting on analyses of 74 samples obtained during self-service consumer exposures, reported a cumulative mean concentration of 59.9 ppm hydrocarbon vapor during pumping, which, projected to an 8-hour TWA exposure, is 0.28 ppm.

Tests performed in 1983 indicated that MTBE accounts for approximately 3.3 percent of the organic vapors in the head space above gasoline containing 10 percent MTBE (Ref. 4, ARCO, 1986). It is not known how that study was conducted or whether the results are useful in estimating MTBE concentrations in the hydrocarbon vapors in the "breathing zone" locations at gasoline terminals and service station plazas. However, reports that C_4 and C_5 compounds make up 61 to 74 percent by weight of the total gasoline vapors at such sites (Ref. 10, Halder, 1986) demonstrate, as might be expected, that gasoline constituents with lower molecular weights volatilize more readily than the heavier fractions. The available data are not sufficient to permit a reliable estimate of the MTBE concentration in gasoline vapors at terminals and service stations or of worker and consumer exposures at those sites.

C. *Environmental release.* North Carolina authorities have found MTBE in ground water in test wells along the Cape Fear River (Ref. 18, Taylor, 1986) at concentrations of 0.18 to 3.0 parts per million. This ground water contamination is probably due to spills during transfer of gasoline from seagoing tankers to onshore storage facilities. The largest environmental release sources appear to be through fugitive emissions at gasoline terminals and service stations where distribution to and dilution in the atmosphere will be strongly dependent on local conditions. Controls that recover gasoline vapors emitted at filling stations are used at less than 10 percent of the service stations in the nation (Ref. 19, USEPA, 1984).

II. *Chemical fate information*—A. *Transport.* Despite its relatively high water solubility, MTBE is expected to partition largely to air. The Henry's law constant of 4.5×10^{-4} atm-m^3/mol indicates that any MTBE present in surface water will have a half-life of about 9 hours before volatilizing. Furthermore, most of the MTBE released to the environment will be released directly to air during transfer operations. The low octanol/water partition coefficient and relatively high water solubility of MTBE indicate little tendency for significant partitioning to soils, sediments, or biota.

B. *Persistence.* Nearly all of the MTBE released to the environment will partition to the atmosphere where it will be degraded by hydroxy radicals, with an atmospheric half-life of about 3.5 days. The products of this oxidation are likely to include *t*-butyl formate (major product), acetone, and methyl radical (Ref. 7, Cox and Goldstone, 1981). Persistence in ground water following spills is unknown, but it may persist for long periods if volatilization is prevented, since MTBE is not likely to be readily biodegraded or otherwise transformed in ground water.

C. *Rationale for chemical fate recommendations.* MTBE released to the environment will partition to the atmosphere (except at spill and leak sites) where it will be degraded by reaction with hydroxy radicals. Other fate pathways are expected to be less significant. The major concern for MTBE involves exposures in the "breathing zone" of workers and consumers handling MTBE-containing gasoline during transfer operations. In view of this and the lack of data on exposure concentrations, it is recommended that appropriate monitoring studies be conducted to evaluate the concentration of MTBE at representative sites where MTBE-containing gasoline is transferred from shipping units (e.g., tankers, barges) into storage facilities, from storage facilities into shipping units, and from service station plaza pumps into motor vehicles.

III. *Biological effects of concern to human health*—A. *Metabolism and toxicokinetics.* Over 90 percent of an intraperitoneal dose of MTBE (232 mg/kg) was excreted untransformed in rat breath (Ref. 3, API, 1985). A fraction of the dose was also excreted as CO_2 in the breath and as formic acid in the feces and urine.

B. *Acute and subchronic effects.* In rats, the oral LD_{50} (short-term) was reported as 3,865.9 mg/kg. Acute oral exposure resulted in central nervous system depression, ataxia, tremors, labored breathing, and loss of righting reflex. In rats exposed by inhalation, eye irritation, irregular respiration, incoordination and prostration were noted. The inhalation LD_{50} in rats was found to be approximately 120 mg/L (Ref. 3, Atlantic Richfield Co., cited in API, 1985).

In tests with rabbits, MTBE was not found to be a primary skin irritant. It was irritating to the rabbit eye (Ref. 3, Atlantic Richfield Co., cited in API, 1985).

A 9-day inhalation toxicity study was conducted on fasted and unfasted rats. Rats (20 per sex per group) were exposed for 6 hours per day, 5 days per week for 9 days at concentrations of 0, 100, 300, 1,000, or 3,000 ppm. No dose-related mortality was noted. Phosphorus levels were significantly increased in the fasted females in the 1,000 and 3,000 ppm groups. An increase in relative liver weight in both sexes of fasted rats at 3,000 ppm was noted. The same trend was seen in the unfasted high-does male rats. Microscopic pathology revealed chronic inflammation in the nasal mucosa and trachea in the 1,000 and 3,000 ppm groups. (Ref. 3, API 1985)

In a 90-day inhalation study in rats, MTBE was administered at 250, 500, and 1,000 ppm does levels for 6 hours per day, 5 days per week for 3 months. The principal pharmacotoxic sign was increased anesthesia with increased

concentration. A slight decrease in body weight was seen at 1,000 ppm. An increase in hemoglobin levels in male rats was noted at 1,000 ppm at the end of the study, but this was not considered toxicologically significant (Ref. 3, API, 1985).

C. *Genotoxicity.* MTBE was tested in several *in vitro* systems (Atlantic Richfield Co., cited in API, 1985). Negative results were reported in the *Salmonella* and *Saccharomyces* tests with and without metabolic activation. In the mouse lymphoma forward mutation assay both with and without metabolic activation, a dose-related mutagenic effect was noted with S9 activation.

Sister chromatid exchange (SCE) and chromosomal aberration assays produced negative results. An increase in SCE was observed at 0.2 and 1.0 uL/mL in one activated sample. In an *in vitro* cytrogenetic study in rats, negative results were noted.

D. *Oncogenicity.* No information was found.

E. *Reproductive and development effects.* Tests to determine the reproductive and developmental effects of MTBE were conducted in female rats. The animals were exposed to 0, 250, 1,000, and 2,500 ppm for 6 hours per day during gestation days 6 to 15. Dams were sacrificed at day 20. No treatment-related effects were noted. In another study, female mice were exposed to the same concentrations but were sacrificed at day 18 of gestation. No adverse effects were noted in the dams. Minor fetal skeletal malformations were noted, but in the absence of vertebral rib defects these malformations were not considered to be teratogenic (Ref. 6, Conaway et al., 1985).

An inhalation study was conducted on the effects of MTBE on the reproduction of rats through one generation. The animals were exposed to 0, 250, 1,000 or 2,500 ppm MTBE for 6 hours per day, 5 days per week for 12 weeks, including both premating and postmating periods. Males were exposed for 6 hours during the mating period. Female rats were exposed for 6 hours per day, 5 days per week for 3 weeks during premating and daily for 6 hours during mating. After mating, females were exposed 6 hours daily during gestation days 0 to 20 and lactation days 5 to 21. The study involved two litter intervals, and females were exposed for 5 days per week, 6 hours per day during a 2-week period between litter rest intervals. No dose-related adverse effects were noted (Ref. 3, API, 1985).

F. *Chronic (long-term) effects.* No information was found.

G. *Observations in humans. In vivo* dissolution of gallstones by MTBE in four patients was reported (Ref. 2, Allen et al., 1985b). Dissolution occurred within 4 to 7 hours after direct instillation. Hematology and blood chemistry profiles showed no abnormalities. Results of both urinalysis and 24-hour urine collection for measurement of total protein were normal.

The Food and Drug Administration has classified MTBE as an Investigational New Drug. It is currently being used by one team of investigators to dissolve gallstones (Ref. 22, Wyngaarden, 1986).

H. *Rationale for health effects recommendations.* Almost all MTBE produced in the United States is used as a gasoline enhancer in certain unleaded blends, and the annual production is on the rise, with a projected volume of 3 billion pounds in 1989. Consequently, human exposure to MTBE low-level fugitive emissions at gasoline pumps is expected to occur. The major routes of expose would be via the skin and inhalation. In view of this potential exposure and the lack of chronic health effects information, the Committee recommends chronic health effects testing. Special emphasis should be given to neurotoxic, hematologic, and oncogenic effects.

IV. *Ecological effects of concern*—A. *Acute and subchronic (short-term) effects.* Using a flow-through system, Veith et al. (1983, Ref. 21) reported a 96-hour LC_{50} with the fathead minnow of 760 mg/L MTBE. Using static systems, Tarkpea and Svanberg (1982, Ref. 17) found a 24-hour LC_{50} of 1,700 to 1,800 mg/L with the bleak *Alburnus alburnus*, and a 96-hour LC_{50} greater than 10,000 mg/L with the copepod *Nitocra spinipes.*

B. *Chronic (long-term) effects.* No information was found.

C. *Other ecological effects (biological, behavioral, or ecosystem processes).* No information was found.

D. *Bioconcontration and food-chain transport.* Using carp in a flow-through system, Fujiwara et al. (1984, Ref. 9) reported a bioconcentration factor of 1.5. MTBE was rapidly eliminated from the fish when they were transferred to fresh water. No other information was found.

E. *Rationale for ecological effects recommendations.* It does not appear that MTBE will be toxic to biota at concentrations likely to be found in the environment except at spill and leaking storage tank sites. Therefore, ecological effects testing is not being recommended at this time.

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2.4 *Chemicals and groups of chemicals recommended without being designated for response within 12 months*—2.4.a *C.I. Disperse Blue 79—Summary of recommended studies.* It is recommended that C.I. Disperse Blue 79 be tested for the following:

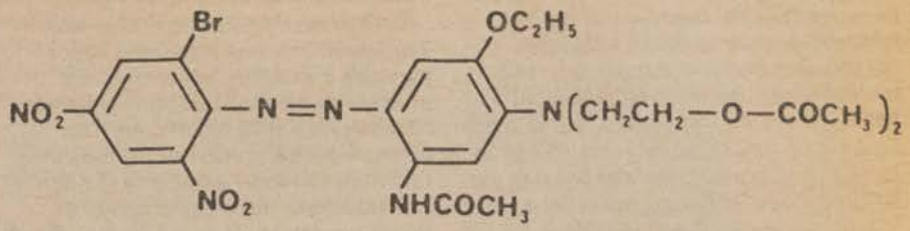
1. *Chemical Fate.* Solubility in water at 25° C. biodegradation under aerobic and anaerobic conditions and the identification of any relatively persistent biodegradation intermediates.

2. *Health Effects.* Absorption and chemical disposition via oral route of administration. Subchronic toxicity (90-day study).

3. *Ecological Effects.* Acute toxicity to fish, aquatic invertebrates, algae, and benthic organisms, including filter feeders. bioconcentration in fish. Chronic effects on aquatic and benthic biota if the acute studies show toxicity at low mg/L concentrations or if the dye bioconcentrates.

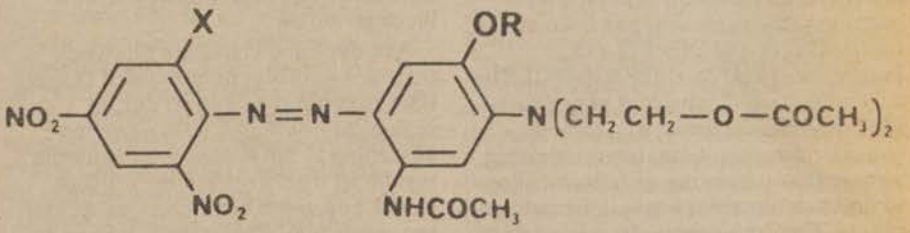
Physical and Chemical Information

CAS Number:
3956–55–6
Synonym:
Acetamide, *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-ethoxyphenyl](9CI)
Structural Formula:



Description of Chemical:
Blue powder with characteristic odor (Ref. 12, Mobay Chemical, 1985)
Empirical Formula:
$C_{24}H_{27}BrN_6O_{10}$
Molecular Weight:
639.44
Melting Point:
143 °C (estimated; Ref. 19, USEPA, 1986a)
Boiling Point:
476 °C (estimated; Ref. 19, USEPA, 1986a)
Vapor Pressure:
3.4×10^{-9} mmHg at 25 °C (estimated; Ref. 19, USEPA, 1986a)
Solubility in Water:
5.4 mg/L (estimated; Ref. 19, USEPA, 1986a)
Solubility in Organic Solvents:
No information was found.
Specific Gravity:
No information was found
Log Octanol/Water Partition Coefficient: (log P):
4.1 (estimated; Ref. 19, USEPA, 1986a)
Henry's Law Constant:
5.9×10^{-10} atm-m^3/mol (estimated; Ref. 19, USEPA, 1986a)
Log Adsorption Coefficient (log K_{oc})
3.6 (estimated; Ref. 19, USEPA, 1986a)
Bioconcentration Factor (fish)
757 (estimated; Ref. 19, USEPA, 1986a)

According to the Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry (Ref. 6, ETAD, 1986), the bromoethoxy compound described above, which has the Colour Index (C.I.) Constitution No. 11345, is the only derivative properly referred to as C.I. Disperse Blue 79. However, there appear to be three other closely related derivatives that have been and may still be called Disperse Blue 79. The concerns expressed in this report for the bromoethoxy derivative apply also to these other derivatives which are expected to have physical and chemical properties similar to the bromoethoxy derivative and which have the following structures:



where, for derivative 1, X=Br and R=CH_3; for derivative 2, X=Cl and R=CH_3, and for derivative 3, X=Cl and R=C_2H_5.

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/environmental release.* The U.S. International Trade Commission listed the annual production of C.I. Disperse Blue 79 at 5 to 10 million pounds per year in the United States from 1980 through 1984 (Refs. 23 through 27, USITC, 1981–1985). Heath (Ref. 21, USEPA, 1986c) has estimated the current annual production at 0.9 to 1.4 million kilograms (2 to 3 million pounds), as active colorant, which is a large production for a dye. Disperse Blue 79 appears to be the major blue dye for textile use and a major component of green, brown, and black dyes. About 40 percent of production is sold to users in a paste or liquid formulation and about 60 percent as a solid, mainly as low dusting granules (Ref. 6, ETAD, 1986).

Heath (Ref. 21 USEPA, 1986c) estimated that during the manufacture of Disperse Blue 79, there would be releases of 4,500 to 14,000 kilograms (10,000 to 30,000 pounds) per year at a total of nine sites, with an estimated 3 to 20 kilograms (7 to 45 pounds) per site per day. Heath estimated releases of 2 to 18 kg (4.4 to 40 pounds) per site per day at 400 to 600 textile dyeing operations.

B. *Evidence for human exposure.* According to the National Occupational Exposure Survey (NOES) 1,450 workers at 25 plants in the chemical and allied products industry were potentially exposed to C.I. Disperse Blue 79 in the workplace in 1980 (Ref. 13, NIOSH, 1984). Workplace exposure limtis have not been established for C.I. Disperse Blue 79 by American Conference of Governmental Industrial Hygienists (Ref. 1, ACGIH, 1986) or the Occupational Safety and Health Administration (Ref. 15, OSHA, 1983). Farris (Ref. 20, USEPA, 1986b) estimated significant worker exposure during manufacture and use. Occupational exposure to this dye is expected from inhalation of dye-containing dust particles, swallowing inhaled particles trapped in saliva and mucous, and from dermal exposure during open batch manufacture (Ref. 20, USEPA, 1986b; Ref. 21, USEPA, 1986c). Consumer exposures should be very low since this is a fast dye which is relatively insoluble in water and not likely to leach from the fabrics.

C. *Environmental exposure.* No published information was found. However, an assessment (based on mathematical modeling) has been made for the ITC by the Office of Toxic Substances (Ref. 22, USEPA, 1986d). The assessment used estimates of releases (Ref. 21, USEPA, 1986c) and took into consideration plant locations, receiving stream characteristics, and the locations of downstream drinking water treatment plants. The assessment also assumed 50 percent removal of the dye during passage through biological treatment plants by adsorption to sludge solids. Mean surface water concentrations downstream from manufacturing plants and fabric dyeing operations were estimated to range from 0.02 to 40 ug/L. A high receiving stream concentration of 306 ug/L was predicted for low flow conditions at one site. Drinking water exposures resulting from releases during manufacture and dyeing were calculated and were estimated to range from 0.06 to 43 ug/kg/year. Variations are due to site features, releases per day, and the number of days per year that releases occur. These estimates assumed no loss of the dye through biodegradation on other transformation processes.

II. *Chemical fate information*—A. *Transport.* The low estimated vapor pressure and Henry's law constant indicate that volatilization of Disperse Blue 79 will not be significant. The estimated log K_{oc} value of 3.6 indicates that about 50 to 60 percent of the dye will adsorb to the organic matter of waste treatment sludges and that about 40 to 50 percent will be released to receiving streams.

B. *Persistence.* Information supplied by ETAD (Ref. 6, 1986) indicates that in static tests, where the disappearance of total organic carbon (TOC) was followed, 29 to 68 percent of the TOC disappeared over a 2-week period in solutions containing Disperse Blue 79. No data were presented on the specific features of the tests or on whether the TOC disappearance might have been due to some factors other than biodegradation, such as adsorption onto suspended and settled particulates or the walls of test vessels. In standard 5-day biological oxygen demand (BOD) tests, the BOD_5 was 6.8 pounds O_2 per 100 pounds dye (Ref. 7, ETAD, 1986), which is about 4 percent of the theoretical oxygen uptake for complete oxidation. None of this biodegradation information is sufficient to evaluate the biodegradability of Disperse Blue 79. Studies currently underway or planned at the EPA Water Engineering Research Laboratory in Cincinnati, OH, and at the Georgia Institute of Technology (Ref. 6, ETAD, 1986) may provide useful information on both adsorption and biodegradation.

Azo dyes in general are relatively resistant to biodegradation and Disperse Blue 79 is likely to persist during biological treatment, with a portion adsorbing to the sludge solids and the rest being discharged in the effluent. Under anaerobic conditions, microbial processes may cleave the azo bond to form two aromatic amines. The 2-bromo-4,6-dinitroaniline produced by this reaction may be of concern by itself.

In its Fourth Report to the EPA Administrator (44 FR 31867), the ITC recommended and designated certain anilines, including 2-chloro-4,6-dinitroaniline (CAS No. 3531-19-9) and 2-bromo-4,6-dinitroaniline (CAS No. 1817-73-8). In an Advance Notice of Proposed Rulemaking (ANPR) on January 3, 1984 (49 FR 108), the EPA noted that there appeared to be no current production of 2-chloro-4,6-dinitroaniline, but that the 2-bromo compound was being produced and that it was being considered for a battery of chemical fate, health effects and environmental effects testing.

The potential for Disperse Blue 79 to be cleaved to release 2-bromo-4,6-dinitroaniline, both in the environment and *in vivo* following ingestion, needs to be investigated. If this product is formed via microbial processes in sediments, waste treatment facilities, and intestinal tracts, then added emphasis should be placed on testing of the sort described by the EPA in the ANPR of January 3, 1984.

Other transformation processes (e.g., hydrolysis and photolysis) are not expected to be major factors in the transformation of this dye.

C. *Rationale for chemical fate recommendations.* The lack of measured values on physical and chemical properties for C.I. Disperse Blue 79 increases the uncertainty with respect to chemical fate predictions. At a minimum, water solubility values at 25 °C should be obtained for any commercially important forms of Disperse Blue 79.

Disperse Blue 79 released to the environment is likely to partition to both water and sediments. In sediments, it may degrade anaerobically and release 2-bromo-4,6-dinitroaniline. No data have been found to substantiate or refute these predictions. Since the dye has widespread large use in the United States and is likely to be released to the environment during both manufacture and use, it is recommended that biodegradation studies be conducted to determine (1) the potential for aerobic and anaerobic biodegradation, and (2) the identify of relatively persistent intermediates, if any, resulting from biodegradation.

III. *Biological effects of concern to human health*—A. *Metabolism and toxicokinetics.* No information was found on the metabolism of C.I. Disperse Blue 79. The dye is likely to split at the azo bond into 2-bromo-4,6-dinitroaniline, and 2-diethanolamino-4-methoxy-5-amino-6-acetanilide by azoreductases present in the intestinal flora. Many azo dyes are split at the azo bond by the intestinal flora (Ref. 4, Chung et al., 1978; Ref. 7, Grasso and Golberg, 1968; Ref. 9, Honohan et al., 1976; Ref. 15, Pritchard et al., 1976; Ref. 16, Radomski, 1961; Ref 17, Roxon et al., 1967) and liver enzymes (Ref. 5, Daniel, 1967). Studies on the metabolism and disposition of 2-bromo-4,6-dinitroaniline, (BDNA) in male F344 rats were reported by Chopade and Matthews (1986, Ref 3). The gastrointestinal absorption of ^{14}C-BDNA was nearly complete, and approximately 80 percent of the

radioactivity was cleared from most tissues within 6 hours.

B. *Acute and subchronic (short-term) effects.* The acute oral LD_{50} of Disperse Blue 79 in rats was greater than 5,000 mg per kg of body weight (Ref. 6, ETAD, 1986). It was found to be nonirritating in primary skin irritation and eye irritation tests (Ref. 6, ETAD, 1986).

C. *Genotoxicity.* Disperse Blue 79 was found to be strongly mutagenic in the standard *Salmonella* S–9 assay in four tester strains TA1535, TA1537, TA98, and TA100 (Ref. 11, Mishra et al., 1981). It was also found to be negative in the V79 mammalian cell and mouse micronucleus assays (Ref. 6, ETAD, 1986).

D. *Oncogenicity.* No data were found on oncogenicity testing of C.I. Disperse Blue 79. 2,6-Dichloro-4-nitro-aniline, a structural analog of 2-bromo-4,6-dinitroaniline (one of the fragments of azo bond cleavage of the dye), was found to be negative in cancer bioassays in mice (Ref. 16, Innes et al., 1969) and rats (Ref. 8, Hadidian et al., 1968).

2-Chloro-4,6-dinitroaniline and 2-bromo-4,6-dinitroaniline (CAS No. 3531–19–9 and 1817–73–18, respectively) were recommended by the ITC in its Fourth Report to the EPA Administrator for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects studies (see Part IIB, above).

E. *Chronic (long-term) effects.* No information was found.

F. *Reproductive and developmental effects.* No information was found.

G. *Observations in humans.* No information was found.

H. *Rationale for health effects recommendations.* Because of the potential bioavailability of C.I. Disperse Blue 79 to workers from ingestion of inhaled dye-containing dust, it is recommended that the dye be tested for subchronic toxicity (90-day study) and for absorption and chemical dispositon following the oral route of administration. A chemical disposition study is recommended to determine the potential for liberation of 2-bromo-4,6-dinitroaniline in the intestines due to azo bond cleavage of the dye.

IV. *Ecological effects of concern*—A. *Acute and subchronic (short-term) effects.* Acute toxicity studies using rainbow trout and Disperse Blue 79 formulations were reported as follows (Ref. 6, ETAD, 1986):

Granule formulation, containing approximately 26% Disperse Blue 79, LC_{50} = 320 mg/L.
Granule formulation, containing approximately 52% Disperse Blue 79, LC_{50} = 400 mg/L.
Liquid formulation, containing approximately 13% Disperse Blue 79, LC_{50} = 700 mg/L.

Without additional details, it is not possible to evaluate the validity of these test data. The Committee is concerned about the reported LC_{50} concentrations, since the values cited are about 100 times the estimated water solubility of Disperse Blue 79 and the test data are only for a 48-hour exposure time, whereas 96 hours is the minimal exposure period for acute toxicitiy tests in fish.

B. *Chronic (long-term) effects.* No information was found.

C. *Other ecological effects (biological, behavioral or ecosystem processes).* No effects on activated sludge respiration were observed when Disperse Blue 79 was present at concentrations up to 100 mg/L (Ref. 2, Brown et al., 1981).

D. *Bioconcentration and food-chain transport.* No data were found for Disperse Blue 79.

E. *Rationale for ecological effects recommendations.* Although the estimated concentration levels for C.I. Disperse Blue 79 in surface waters are relatively low, ranging from 0.02 to 306 μg/L, the lack of adequate data on ecological effects and the nature of this dye molecule raise concerns for potential effects. Acute toxicity tests should be run with fish, aquatic invertebrates, algae, and benthic organisms. If biodegradation studies demonstrate the formation of 2-bromo-4,6-dinitroaniline, then this transformation product should also be evaluated as noted in the EPA Advance Notice of Proposed Rulemaking of January 2, 1984 (49 FR 108). The estimated log P value of 4.1 for Disperse Blue 79, and an estimated bioconcentration factor in fish of 757, indicate a potential for some sorption and bioconcentration of the dye in biolipids. Bioconcentration studies with fish are recommended to confirm or refute the prediction of Disperse Blue 79 uptake. Chronic studies with aquatic and benthic organisms are recommended if the results of the studies show toxicity at low mg/L concentrations or if the dye bioconcentrates.

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2.4.b *Methyl Ethyl Ketoxime—Summary of recommended studies.* It is recommended that methyl ethyl ketoxime (MEKO) be tested for the following:

1. *Health Effects.* Chronic toxicity, with special emphasis on hematopoietic and oncogenic effects.

Physical and Chemical Information

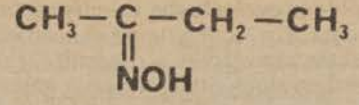
CAS Number:

96–29–7

Synonyms:

2-Butanone oxime (9 CI); MEK–OXIME; MEKO

Structural Formula:



Empirical Formula:

C_4H_9NO

Molecular Weight:

87.12

Melting Point:

−29.5 °C (Ref. 25, Verschueren, 1983)

Boiling Point:

152 °C (Ref. 25, Verschueren, 1983)

Vapor Pressure:

1.06 mmHg at 20 °C 7.6 mmHg at 50 °C (Ref. 7, Kurita, 1967)

Solubility in Water:

100 g/L at unspecified temperature (Ref. 25, Verschueren, 1983)

Solubility in Organic Solvents:

Miscible with alcohol and ether (Ref. 26, Weast, 1984)

Secific Gravity

0.923 at 20/4 °C (Ref. 25, Verschueren, 1983)

Log Octanol/Water Partition Coefficient (log P):

0.8 (Ref. 6, Leo, 1982, cited in ISHOW, 1985)

Description of Chemical:

Clear, colorless to light-yellow liquid at ambient conditions (Ref. 7, Kurita, 1967; Ref. 2, Allied, 1984a)

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/environmental release.* The public portion of the TSCA Inventory listed on aggregate production volume of 520,000 to 5,202,000 pounds of MEKO in 1977 Ref. 23, USEPA, 1986a). In 1982, approximately 1.9 to 2.7 million pounds of MEKO were produced in the United States and in 1983, 2.0 to 2.9 million pounds were produced (Refs. 27 and 28, Zacharias, 1985, 1986; Ref. 17, SRI, 1984). Imports of MEKO totaled 2.6 million pounds in 1984 (Ref. 21, USDOC, 1985) and 2.2 million pounds in 1985 (Ref. 22, USDOC, 1986).

MEKO is used almost exclusively as the major antiskinning agent in alkyd and coatings. (Ref. 4, CEH, 1981). Antiskinning agents are added at less than 1 percent concentration to typical solvent-thinned paint formulations (Ref. 15, Scofield et al., 1975), prevent oxidation of the paint while in the can and volatilize while the coating is drying (Ref. 10, NIOSH, 1984a). Alkyd paints containing MEKO are used in interior semigloss and gloss paints and exterior enamels, in auto refinishing, and in product finishes for metal furniture, machinery, and appliances (Ref. 16, SRI, 1982).

B. *Evidence for human and enviornmental exposure.* The National Occupational Hazard Survey (NOHS), conducted by the Natioal Institute for Occupational Safety and Health (NIOSH) from 1972 to 1974, estimated that 12,114 workers in 1,540 plants were potentially exposed to MEKO in the workplace in 1970 (Ref 10, NIOSH, 1976).

NIOSH conducted a second survey, the National Occupational Exposure Survey (NOES), from 1980 to 1983. Preliminary data from NOES indicated that 2,145 workers (including 209 women) in the chemical and allied products industry were potentially exposed to MEKO in 1980 (Ref. 11, NIOSH, 1984b).

It has been conservatively estimated that more than 900,000 individuals were potentially exposed to MEKO as professional painters in end-use applications in 1984 (Ref. 19, Stoecklein, 1986). This estimate is exclusive of consumers incidentally exposed during routine painting/decorating activities.

Workplace exposure limits have not been recommended for MEKO by the American Conference of Governmental Industrial Hygienists (Ref. 1, ACGIH, 1986) or established by the Occupational Safety and Health Administration (Ref. 13, OSHA, 1983).

In a montoring study (Ref. 5, Himmelsbach, 1984), a MEKO-containing paint was applied by nonpowered equipment in an interior hall in an office building by four painters. During a 4-hour sampling period, the airborne concentration of MEKO ranged from approximately 0.27 to 0.46 ppm.

There are 764 products listed in the U.S. Consumer Product Safety Commission's Chemicals in Products data base that contained MEKO at concentrations of 0.1 to 0.8 percent (Ref. 20, USCPSC, 1985). Of these, all but 16 are in the paints and coatings category, which includes house and trim finish products, floor paints, wood stains, enamel finishes, yacht bottom and marine paints, traffic paints, heavy-duty equipment enamels, varnishes, interior paints, and primers. Some of the products identified in the nonpaint category are bathroom bowl cleaners, aluminum cleaners, adhesives, and caulking compounds.

No information was found on general population exposure to MEKO. However, it appears that consumers as well as professional painters would potentially be exposed to MEKO via the dermal and inhalation routes, principally through contact with alkyd paints (e.g., interior semigloss and gloss paints, exterior enamels).

An exposure assessment (based on mathematical modeling) has been made for the ITC by the Office of Toxic Substances (Ref. 24, USEPA, 1986b). Based on this analysis, the level to which consumers might be exposed to MEKO was estimated. In this analysis, two coats of a solvent-based alkyd paint containing 1 percent MEKO were applied by roller to most of the interior of a house. The total exposure to MEKO resulting from such an activity was estimated to be 432 mg. While consumers could be exposed to this level on a casual basis, the exposure to professional painters would be more frequent. Hence, the levels to which this group could be exposed to MEKO would be considerably higher.

II. *Chemical fate information.* If released tothe environment, it is likely that MEKO will be photooxidized in the atmosphere and photolyzed or biodegraded in the aquatic environment. Therefore, chemical fate testing is not being recommended at this time.

III. *Biological effects of concern to human health*—A. *Metabolism and toxicokinetics.* It is expected that MEKO would metabolize to methyl ethyl ketone and hydroxylamine (Ref. 3, Allied, 1984b).

A summary of an unpublished study on tissue distribution (REF. 3, allied, 1984b), reported that pregnant female mice were administered a single oral (unspecified) dose of ^{14}C–MEKO on day 14 of gestation, and one male mouse was administered an unspecified dose of the compound by intratracheal instillation. The following data were reported:

Whole body autoradiography revealed that MEKO was rapidly absorbed from the stomach and lungs. Widespread uptake and distribution of the label over the entire body of the animal were noted. The tissues with the highest concentration of MEKO included bone, bone marrow, liver, gallbladder, nasal and bronchial epithelium, pancreas, seromucous and salivary glands, spleen, intestinal wall, and thymus. Urine and bile contained significant activity throughout the study. Interstinal activity was minimal. This suggests that MEKO is primarily excreted via the kidneys . . . high concentrations of MEKO were detected in the liver of the fetuses at 24 hours. This concentration was greater than that seen in the livers of the mothers.

B. *Acute and subchronic effects.* The acute toxicity of MEKO is summarized in Table 5 which follows:

TABLE 5.—ACUTE TOXICITY OF METHYL ETHYL KETOXIME IN LABORATORY ANIMALS

Animal	Route	Effects	Reference
Mouse	Orl	LD_{50}: 1.0 g/kg[1]	Allied (1984b, Ref. 3).
Mouse	Ipr	Approx. LD_{50}: 1 g/kg	Plzak and Doull (1969, Ref. 14).
Rat	Orl	LD_{50}: 2.3 g/kg	Allied (1984b, Ref. 3).
Rat	Orl	LD_{50}: 3.7 g/kg	Allied (1984b, Ref. 3).
Rat	Ihl	Saturated vapors for 35 min. Agitation by 2 min and then drowsiness by 35 min when exposed to vapors for 35 min.	Kurita (1967, Ref. 7).
Rat	Ihl	0.19, 1.45, and 4.83 mg/L of MEKO vapors for 4 hr produced no mortality. The high dose group showed evidence of anesthesia after exposure. Methemoglobin formation was noted for the mid- and high-dose levels. Minor changes were noted in hematology or clinical chemistry for all groups.	Allied (1984b, Ref. 3).
Rat	Skn	Doses of 0.02, 0.2, or 2.0 mL/kg for 24 hr produced 100 percent mortality at 2.0 mL/kg; no mortality at lower doses. Methemoglobin was noted at 0.2 and 2.0 mL/kg and a small increase in reticulocytes at 0.2 mL/kg. Nervous system depression was the predominant sign for acute doses. There was no effect at 0.02 mL/kg.	Allied (1984b, Ref. 3).
Rat	Scn	LD_{50}: 2.7 g/kg, LD_{50}: 2.8 g/kg.	Kunta (1967, Ref. 7).

[1] "Oral" LD_{50} reported as cited in Allied (1984b).

In a study in which MEKO in vaseline was applied to rat skin (Ref. 7, Kurita, 1967), transient dermatitis was noted. Mild dermal irritation in the rabbit, usually disappearing within 72 hours of exposure, has also been reported (Ref. 3, Allied, 1984b). Data obtained using the guinea pig maximization test indicated that MEKO has a strong sensitization potential (Ref. 3, Allied, 1984b). Marked hyperemia of the eyelid and bulb conjunctiva was observed in rats following instillation of MEKO into one of the eyes of each of three rats. The observed effects disappeared after 6 to 9 hours (Ref. 7, Kurita, 1967).

The effects of MEKO on various hematologic parameters in rats have been studied (Ref. 7, Kurita, 1967). In one study, five male albino rats received subcutaneous doses of MEKO in olive oil (1.5 mL per kg every other day for 4 weeks). Five control rats were similarly treated with olive oil alone (1.5 mL per kg). At the end of the treatment period, the only statistically significant ($p < 0.05$) effect noted was inhibition of erythrocyte and plasma cholinesterase activity.

In another study (Ref. 7, Kurita, 1967), four groups of male albino rats each received MEKO in olive oil at dose levels of 0.1, 0.5, or 1.0 mL per kg body weight, respectively. The control group received olive oil only. The test material was injected subcutaneously once daily for 4 weeks. Clinical examinations, including body weight and hematologic measurements were performed throughout the experimental period. After 4 weeks, the rats were sacrificed, with blood samples taken and gross and microscopic pathological examinations performed. Dose-related effects were observed at the two highest doses but not at the lowest dose level (0.1 mL per kg per day). According to the author, the effects associated with exposure to MEKO included growth inhibition, increases in the absolute and/or relative weights of the spleen, liver, and kidneys, decreased erythrocyte count and hemoglobin content, secondary leukocytoses, lymphopenia, splenic hypertrophy, impairment of clotting function, atrophy of lymphatic tissue, pulmonary atelectasis, pulmonary emphysema, and bronchial pneumonia. A statistically significant ($p < 0.01$) decrease in serum protein concentration also was noted.

A summary of an unpublished study (Ref. 3, Allied, 1984b) reported that rats were administered MEKO by gavage at doses of 25, 75, and 225 mg per kg per day for 13 weeks. The following data were reported:

No mortality, changes in appearance or behavior, or abnormalities in urine values were observed in the rats during the study. Slight to moderately lower mean body weights and food consumption were noted at the high dose level at eight and thirteen weeks in the males. All of the treated groups from both sexes showed dose related decreases in erythrocyte count, hematocrit and hemoglobin values and displayed a moderate to market reticulocytosis. Heinz bodies, occasional siderocytes, polychromasia, basophilic stippling and Howell-Jolly bodies were generally present in the mid and high dose groups. Blood chemistries revealed an elevation of total bilirubin and erythrocyte cholinesterase in mid dose males and high dose males and females. Alkaline phosphatase levels of high dose males also increased. A slight depression in blood urea nitrogen and plasma cholinesterase levels were noted in the high dose level female group.

Dose related increases in the absolute and/or relative weight of the spleen, liver and kidney were observed in all treatment groups. The spleens and livers appeared large and/or darkened upon necropsy. Histopathological examination revealed extramedullary

hematopoiesis and increased amounts of greenish-brown pigment located in macrophages of the spleen and liver.

Kidney sections revealed an accumulation of greenish-brown pigment in the epithelial cells lining the proximal convoluted tubules. These data suggest that MEKO induces a hemolytic anemia in the rat with compensatory erythropoiesis. A NOEL (no observable effect level) was not established but was predicted to be less than 25 mg kg/day.

C. *Genotoxicity.* This chemical has been selected by the National Toxicology Program for testing in the Ames assay and is currently on test for *in vitro* cytogenetics (Ref. 12, NTP, 1986). In previously conducted assays, however, MEKO was nonmutagenic in both the Ames and sister chromatid exchange assays (Ref. 3, Allied, 1984b). In another study, MEKO was nonmutagenic in *Salmonella* strains TA98, TA100 TA1535, TA1537, and TA1538 (Ref. 8, NCI, 1985a). MEKO has also been tested in the mouse lymphoma assay (Ref. 9, NCI, 1985b). Under the conditions of the assay, MEKO produced a positive response without metabolic activation and a negative response with metabolic activation.

D. *Oncogenicity.* No information was found.

E. *Chronic (long-term) effects.* No information was found.

F. *Reproductive and developmental effects.* No information was found.

G. *Observations in humans.* No information was found.

H. *Rationale for health effects recommendations.* MEKO is the major antiskinning agent in alkyd coating resins for use in interior semigloss and gloss paints and exterior enamels, in auto refinishing and in product finishes for metal furniture, machinery, and appliances. It volatilizes while the coating is drying and may be inhaled in indoor settings by professional painters and consumers. Apart from the workers exposed to MEKO in the chemical and allied products industry, more than 900,000 professional painters are conservatively estimated to be exposed to this chemical at low levels on a continuous basis in end-use applications. The number of consumers exposed to MEKO through casual painting and decorating activities is assumed to be high, though data do not exist to provide a precise estimate.

Although several short-term toxicity studies have been performed, limited data exist to evaluate its long-term toxicologic effects, particularly on the hematopoietic system. In addition, no data are available that address the oncogenic potential of this compound. Therefore, the Committee recommends the performance of chronic toxicity studies with special emphasis on potential hematopoietic and oncogenic effects.

IV. *Ecological effects of concern.* MEKO is unlikely to persist in the environment at concentrations likely to cause adverse ecological effects. Therefore, ecological effects testing is not being recommended at this time.

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(17) SRI. "The U.S. Paint Industry: Technology Trends, Markets, Raw Materials" (Formerly "NPCA Data Bank Program"). Prepared for The National Paint and Coatings Association, Inc., Washington, DC. pp. 173–174 (Menlo Park, CA: SRI International, 1984).

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(19) Stoecklein, P. Letter from P. Stoecklein, American Painting Contractor, St. Louis, MO, to L. Borghi, Dynamac Corporation, Rockville, MD (September 25, 1986).

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(27) Zacharias, K. Personal communication from K. Zacharias, National Paints and Coatings Association, to A. Prevesz, Existing Chemical Assessment Division, EPA (September 3, 1985).

(28) Zacharias, K. Personal communication from K. Zacharias, National Paints and Coatings Association, to A. Revesz, Existing Chemical Assessment Division, EPA (September 24, 1986).

[FR Doc. 86–25584 Filed 11–13–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Frandsen Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than November 28, 1986.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Frandsen Financial Corporation*, Rush City, Minnesota; to acquire 100 percent of the voting shares of Farmers and Merchants State Bank of Hinckley, Hinckley, Minnesota.

Board of Governors of the Federal Reserve System, November 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25664 Filed 11-13-86; 8:45 am]

BILLING CODE 6210-01-M

Joseph Rinaudo, Jr., et al.; Acquisition of Banks or Bank Holding Companies; Change in Bank Control

The notificants listed in this notice have applied for the Board's approval under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they 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 indicated for that application or to the offices of the Board of Governors.

Comments regarding these applications must be received not later than November 28, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Joseph Rinaudo, Jr.*, and Rinaudo Investments, both of St. Francisville, Louisiana; to acquire 15.35 percent of the voting shares of St. Francisville Bancshares, Inc., St. Francisville, Louisiana, and thereby indirectly acquire Bank of St. Francisville, St. Francisville, Louisiana.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Jacoby Dickens* and Paul Montes, Chicago, Illinois; to acquire 68.20 percent of the voting shares of Seaway Bankshares, Inc., Chicago, Illinois, and thereby indirectly acquire Seaway National Bank, Chicago, Illinois.

Board of Governors of the Federal Reserve System, November 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25663 Filed 11-13-86; 8:45 am]

BILLING CODE 6210-01-M

Thompson Falls Holding Co.; 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 December 3, 1986.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Thompson Falls Holding Company*, Thompson Falls, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Montana, Thompson Falls, Montana.

In connection with this application, Applicant has also applied to acquire Valley Insurance Agency, Thompson Falls, Montana, and thereby engage in general insurance agency activities in a community with a population not exceeding 5,000, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in Thompson Falls, Montana.

Board of Governors of the Federal Reserve System, November 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25665 Filed 11-13-86; 8:45 am]

BILLING CODE 6210-01-M

CNB Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank 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 December 11, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street), Chicago, Illinois 60690:

1. *CNB Bancorp, Inc.*, Danville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The City National Bank of Hoopeston, Hoopeston, Illinois.

2. *Conover Bancorporation*, Creston, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank in Creston, Creston, Iowa.

3. *Warranty Bancorporation*, Ottumwa, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of South Ottumwa Savings Bank, Ottumwa, Iowa.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bancorp, Inc.*, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of The First Western Bank, Sturgis, South Dakota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Bancshares of Marysville, Inc.*, Marysville, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank, Marysville, Kansas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. **Security Pacific Corporation**, Los Angeles, California; to acquire 100 percent of the voting shares of California Pacific National Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, November 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25790 Filed 11-13-86; 8:45 am]

BILLING CODE 6210-01-M

First Acadiana Bank Employee Stock Ownership Plan Trust and William N. Salin; Change in Bank Control Notice; Acquisition of Banks or Bank Holding Companies

The notificants listed in this notice have applied for the Board's approval under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board's Regulation Y (12 U.S.C. 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7).

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the applications have been accepted for processing, they 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 indicated for that application or to the offices of the Board of Governors.

Comments regarding these applications must be received not later than December 1, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Acadiana Bank Employee Stock Ownership Plan Trust*, Eunice, Louisiana; to acquire 24.9 percent of the voting shares of First Acadiana Corporation, Eunice, Louisiana, and thereby indirectly acquire First Acadiana Bank, Eunice, Louisiana.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William N. Salin*, Ft. Wayne, Indiana; to acquire 17 percent of the voting shares of Logansport Bancorp, Inc., Ft. Wayne, Indiana, and thereby indirectly acquire shares of Farmers and Merchants Bank, Logansport, Indiana.

Board of Governors of the Federal Reserve System, November 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25791 Filed 11-13-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[IOA-004-N]

Meeting of the Task Force on Technology-Dependent Children

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), this notice announces a meeting of the Task Force on Technology-Dependent Chidlren.

DATE: The meeting will be held on December 4, 1986 from 9:00 a.m. to 4:30 p.m., and on December 5, 1986 from 8:30 a.m. to 1:00 p.m., e.s.t. the meeting will be open to the public.

ADDRESS: The meeting will be held in the Stouffer Concourse Hotel, 2399 Jefferson Davis Highway, Crystal City, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Wilhelm Pickens, (202) 245-0070).

SUPPLEMENTARY INFORMATION:

Purpose

The Task Force on Technology-Dependent Children, established under section 9520 of the Consolidated Omnibus Reconciliation Act of 1985 (Pub. L. 99-272), will investigate alternatives to institutional care for technology dependent children. Technology-dependent children are those with chronic conditions requiring continuing use of medical technology.

The Task Force must report to the Secretary of Health and Human Services, the Administrator of the Health Care Financing Administration (HCFA), and to the Congress concerning alternatives to institutional care for technology-dependent children. The Task Force must develop recommendations designed to:

(1) Identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) Recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

To the extent that time and resources permit, the Task Force may develop recommendations that would address additional technology-dependent children concerns. The Task Force will address fully the two specified goals before it takes up any other questions. The Task Force recommendations are intended to be used only at the option of the Department of Health and Human Services and the Congress.

Agenda

Agenda items for the meeting will include orientation, introduction of Task Force members, presentations from experts in the field of technology-dependent children and those conducting studies in this subject area, and discussions of directions and issues to be addressed at the next meeting.

Agenda items are subject to change as priorities dictate.

(Sec. 9520 of Pub. L. 99-272 (42 U.S.C. 1396a note); Sec. 10(a)(2) of Pub. L. 92-463, as amended (5 U.S.C. App. 1))

Dated: November 5, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-25696 Filed 11-13-86; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Establishment and Reestablishment of Committees; Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee et al.

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92-463, 86 Stat. 770-776[and the Health Research Extension Act of 1985, November 20, 1985 [Pub. L. 99-158, section 402(b)(6)], the Director, National Institutes of Health, announces the establishment of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee and the reestablishment, effective December 1, 1986, of the following committees:

Biomedical Library Review Committee
Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases
Board of scientific Counselors, National Institute of Environmental Health Sciences
Board of Scientific Counselors, National Library of Medicine
Diabetes and Digestive and Kidney Diseases Special Grants review Committee
Environmental Health Sciences Review Committee.

The duration of these committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: November 7, 1986.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 86-25783 Filed 11-13-86; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of Ad Hoc Acrylonitrile Study Advisory Panel

Notice is hereby given of the meeting of the Acrylonitrile Study Advisory Panel on December 17, 1986, Building 31, C Wing, Conference Room 7, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The meeting will be open to the public from 9:00 a.m. to adjournment for discussion and review of the study protocol and study progress. Attendance by the public will be limited to space available.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-6927) will provide summaries of the meeting, rosters of panel members and substantive program information, upon request.

Dated: November 6, 1986.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 86-25784 Filed 11-13-86; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of National Cancer Advisory Board

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, December 8-10, 1986, to be held at Memorial Sloan-Kettering Cancer Center, 1275 York Avene, New York, New York 10021. The entire meeting will be open to the public December 8 from 8:30 a.m. until recess: December 9 from 8:30 a.m. until recess; and December 10 from 8:00 a.m. until adjournment. The Director's Report on the National Cancer Institute, and the Program Review on the NCI Cancer Centers Program will be presented. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will furnish summaries of the meetings and rosters of members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5147) will furnish substantive program information.

Dated: November 6, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-25785 Filed 11-13-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14880-A]

Alaska Native Claims Selection; Kikiktugruk Inupiat Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Kikiktugruk Inupiat Corporation for approximately 0.28 acre. The lands involved are in the vicinity of Kotzebue, Alaska.

Kateel River Meridian, Alaska

Tract C, U.S. Survey No. 2863A.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Tundra Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal Government or regional corporation, shall have until December 15, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart

E, shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-25672 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-JA-M

[UT-050-4432-17]

Utah; Richfield District Advisory Council; Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Advisory council meeting and tour.

SUMMARY: Notice is hereby given that a Council Meeting will be held in the Richfield District Office in Richfield, Utah on December 11, 1986 at 10:00 a.m. The tour is scheduled for the following day.

Agenda items include: the noxious weed problem, the status of Annual Work Plan, the Henry Mountain Coordinated Resource Management Plan, the proposed Mt. Ellen chaining rehabilitation plan, an update on the Riley Creek and Mt. Ellen road appeals, and an overview of the rules and regulations of the mineral program.

The tour will be to review the fire rehabilitation program for areas involved with wild fires this past summer. The tour is open to the public however they must provide their own transportation.

The business meeting is also open to the public. Interested persons may make oral statements to the Council from 2:00 p.m. to 3:00 p.m. December 11, 1986.

For further information contact Bert Hart, Public Affairs Officer, BLM, 150 East 900 North, Richfield, Utah 84701, (801) 896-8221.

Larry R. Oldroyd,

Associate District Manager.

November 5, 1986.

[FR Doc. 86-25669 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-040-06-4133-15]

Wyoming; Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Rock Springs, Interior.

ACTION: Notice of meeting of the Rock Springs District Advisory Council.

DATE: The meeting will be held December 18, 1986, at 10 A.M.

ADDRESS: Rock Springs District Office, Bureau of Land Management, U.S. Highway 191 North, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902-1869, (307) 382-5350.

SUPPLEMENTARY INFORMATION: The meeting will begin at 10 A.M., Thursday, December 18 in the District Office Conference Room.

The agenda is:

Roles and Responsibilities for Wildlife Programs in Wyoming
Update on Hickey Mountain EIS
Update on Cedar Canyon EA
Public Comment Period

Donald H. Sweep,

District Manager.

[FR Doc. 86-25671 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-22-M

Albuquerque District, NM; Proposed Land Disposal in Santa Fe and Rio Arriba Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action on proposed land disposal.

SUMMARY: This notice is to advise the public that the Albuquerque District, of the Bureau of Land Management (BLM), is proposing to dispose of approximately 30.44 acres of public land near the Village of Chimayo within Santa Fe and Rio Arriba Counties, State of New Mexico.

SUPPLEMENTARY INFORMATION: The BLM has determined that the acres of public land described below are suitable for disposal under the Color-of-Title Acts of 1928 (45 Stat. 1069), 1932 (47 Stat. 53; 43 U.S.C. 178), and Sales Under section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 (1976).

New Mexico Principal Meridian

Chimayo I, New Mexico Public Land Disposal Block

Township 20 North, Range 9 East
Sec. 1: Lots 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 59;
Sec. 4: Lots 28, 30, 32, 33, 34, 35, 36, 37;
Sec. 5: Lot 22;
Sec. 8: Lots 22, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 38.
Township 21 North, Range 9 East
Sec. 33: Lot 3.

Comprising approximately 30.44 acres.

Disposal of these lands is consistent with: (1) The approved Land Use Recommendations of the BLM's 1979 Rio Grande Management Framework Plan, (2) their location as well as the physical characteristics and the private ownership of adjoining lands, make them difficult and uneconomical to manage as public lands, so disposal would best serve the public interest, (3) this Notice of Realty Action will be published once a week for three weeks in a newspaper of general circulation and will be sent to the New Mexico Congressional Delegation and the relevant congressional committees by BLM. The specific parcels of public land will be disposed of using the following "Tract Disposal Criteria" in descending order of priority:

1. *Color-of-Title.* Color-of-Title disposals will be made to any applicant within the disposal area who qualifies under the Color-of-Title Acts.

2. *Non-Competitive (Direct) Sale.* Public lands within the disposal block will be sold without competition at Fair Market Value to those individuals who occupied the parcels before June 11, 1979 (the date land use plans were approved) but who do not qualify for title under one of the color-of-title acts.

The terms and conditions applicable to the disposal are:

1. The patents will contain a reservation to the United States for ditches and canals.

2. All disposals are for surface estate only. The patents will contain a reservation to the United States for all minerals.

3. Tracts which lie within the 100 year floodplain of the Santa Cruz River will be subject to EO 11988 which precludes the seeking of compensation from the United States or its agencies in the event existing or future facilities on those tracts are damaged by flood.

4. All disposals will be made subject to prior existing rights.

Additional information pertaining to this disposal including the environmental documents are available for review at the Taos Resource Area Office, Plaza Montevideo, Cruz Alta Road, Taos, New Mexico 87571, or telephone (505) 758-8851. For a period of 45 days from the date of this notice, interested parties may submit written comments to the Taos Resource Area Manager. Any adverse comments will be evaluated by the New Mexico State Director, Bureau of Land Management, 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.

Dated: November 6, 1986.

L. Paul Applegate,

District Manager.

[FR Doc. 86-25668 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-050-07-4212-12; A-20349]

Realty Action; Exchange of Public Lands in Mohave County, AZ for State Lands in Mohave, La Paz, and Yuma Counties, AZ

The following described in lands and interests therein 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:

Gila and Salt River Meridian, Arizona

Twp.	Rge.	Sec.	Subdivision
16N	20½W	14	NE¼; E½NW¼; N½N½SW¼; Lots 1, 2, 3, 4
		15	NE¼SE¼; E½NE¼; Lots 1, 2, 3, 5, 8
16N	21W	1	Lots 1, 2, 3, 4; S½N½; S½
		3	E½
		12	All.
		13	All.
		24	E½; S½NW¼; N½SW¼; SE¼SW¼
		25	All
		26	E½; NW¼

Containing 4,579.47 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from the State of Arizona:

Twp.	Rge.	Sec.	Subdivision
2S	19W	16	SE¼SE¼
2S	23W	32	All
3S	23W	2	Lot 4
		32	SE¼SW¼
4S	23W	2	Lots 1, 2, 3, 4, 5, 6; N½S½; N½
		16	All
2N	19W	2	Lots 1, 2, 3, 4; S½N½; S½
4N	20W	16	SE¼SE¼
5N	19W	2	Lots 1, 2, 3, 4; S½N½; S½
		16	SE¼; S½SW¼
		36	All
5N	20W	32	Lots 5, 6, 7, 8; E½E½
8N	15W	32	SW¼SW¼
8N	16W	2	Lots 1, 2, 3, 4; S½N½; SW¼SW¼SW¼
8N	17W	16	All
		36	All
8N	18W	2	Lots 1, 2, 3, 4; S½N½; S½
		16	All
		32	S½S½N½; S½
		36	NE¼; N½SW¼; SW¼SW¼
9N	15W	16	All
		32	All
9N	16W	2	Lots 1, 2, 3, 4; S½N½; S½
		16	All
		32	All
		36	All
9N	18W	16	NW¼
10N	16W	2	All
11N	16W	2	E½; NW¼
		4	Lots 1, 2, 3, 4; S½N½; S½
		8	All
		10	All
		14	All
		18	All
		22	All
		26	N½, N½S½
11N	17W	2	Lots 1, 2, 3, 4; S½N½; S½
		24	All
		36	SW¼
11N	18W	2	SW¼NE¼; SE¼NW¼
12N	17W	1	Lots 1, 2, 3, 4; S½
		2	NE¼SE¼
		3	Lots 1, 2, 3, 4; S½
		5	Lots 1, 2, 3, 4; S½
		7	Lots 1, 2, 3, 4; E½W½; E½
		9	All
12N	18W	1	Lots 1, 2, 3, 4; S½
		2	Lots 1, 2
		3	Lots 1, 2, 3, 4; S½
		11	All
		13	All
		15	All
		21	All
		36	E½; E½W½; W½NW¼; NW¼SW¼
13N	17W	16	All
		32	All
13N	18W	32	All
15N	18W	32	SW¼
16N	18W	36	E½

Containing 29,000 acres more or less.

The public land to be transferred will be subject to existing rights.

A final appraisal will be completed to determine the value of the disposal and acquired lands. On the basis of the appraisal, all or a portion of the lands will be exchanged to compensate an equal value exchange.

Publication of this Notice will segregate the subject lands form all appropriations under the public lands laws, including the mining laws, but not mineral leasing laws. This segregation will terminate upon issuance of a patent or two years from the date of publication of this Notice in the **Federal Register**, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Havasu Resource Area Office, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85364. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: November 7, 1986.

Robert B. Abbey,

Acting District Manager.

[FR Doc. 86-25767 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-32-M

Alaska State Office; Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-49464-Z has been received covering the following lands:

Kateel River Meridian, Alaska

T. 2S., R. 4 W.,
Sec. 23. SW¼SE¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accuring from June 1, 1985, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-49464-Z as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effecative June 1, 1985, subject to the terms and conditions cited above.

Dated: November 6, 1986.

Kay K. Fletka,

Acting Chief, Branch of Mineral Adjudication.

[FR Doc. 86-25764 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-84-M

[WY-010-07-4332-09]

Draft Resource Management Plan/ Environmental Impact Statement, Draft Wilderness Environmental Impact Statement, and Public Hearing Schedule; for the Washakie Resource Area, Worland District, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Washakie Resource Management Plan/Environmental Impact Statement, the Draft Washakie Wilderness Environmental Impact Statement, and Public Hearing Schedule.

SUMMARY: The Bureau of Land Management announces the availability for public review of the Draft Washakie Resources Management Plan/ Environmental Impact Statement (RMP/ EIS) and the Draft Washakie Wilderness Environmental Impact Statement (EIS), which is a supplement of the RMP/EIS. The Washakie Resource Area encompasses portions of Big Horn, Washakie, and Hot Springs Counties.

The Draft Wilderness EIS addresses wilderness suitability recommendations for five wilderness study areas covering 67,610 acres of public land in the Washakie Resource Area. The Draft RMP/EIS analyzes future options for managing 1,234,000 acres of public land and 1,603,000 acres of Federal mineral estate in the Bureau's Washakie Resource Area in the Big Horn Basin of north-central Wyoming.

The Draft RMP/EIS also recommends the designation of about 11,200 acres of BLM administered public surface and mineral estate within the Trapper and Medicine Lodge Creek watersheds as the Spanish Point Karst Area of Critical Environmental Concern (ACEC). Within the boundaries of the ACEC, are lands in the national forest system and privately owned surface. The designation of an ACED would pertain to the surface and mineral estate managed by the BLM and to the BLM administered Federal mineral estate under private and forest system lands. The non-BLM administered surface would not be affected by the designation of the ACEC.

It is recommended, upon designation of the Spanish Point Karst ACEC, that management prescriptions for the area pursue a course of optimizing watershed opportunities over other resource concerns in the area due to recharge areas for the Madison aquifer and the existence of regional and nationally important caves. Management options for the area vary and are described in the watershed management sections of the draft RMP/EIS.

Notice is also given that a public hearing will be held to seek public comment on the wilderness suitability recommendations, including the impacts of the proposed action and alternatives, as explained in the Draft EIS document, and that a public meeting will be held to accept comments on the Draft Washakie RMP/EIS.

DATES: Written comments on the analysis and recommendations contained in both the Draft RMP/EIS and the Draft wilderness EIS will be accepted for 90 days following the date the Environmental Protection Agency publishes the notice of filing of these drafts in the **Federal Register**. A public hearing on the wilderness suitability recommendations will be held on Thursday, December 11, 1986, at 7:30 p.m., at the BLM's Worland District Office. Oral and written testimony will be accepted at that hearing. Immediately following the formal wilderness public hearing, a public meeting will be held to accept oral and written comments on the Washakie RMP.

ADDRESSES: Written comments on the documents should be addressed to: Area Manager, Washakie Resource Area, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. The public hearing will be held at the Worland District Office, 101 S. 23rd Street, Worland, Wyoming.

SUPPLEMENTARY INFORMATION: The Draft Washakie RMP/EIS analyzes five comprehensive alternatives for managing and allocating public land and resource uses within the Washakie Resource Area. Any of the alternatives could be chosen as the proposed management for the resource area and would provide for realistic management of the public lands.

The preferred alternative identified in the RMP/EIS is a combination of three of the four other alternatives analyzed. The RMP/EIS is primarly focused on resolving four key resource management issues that were identified with public involvement early in the planning process. These issues are: (1) Affects on vegetative resources, (2) special designations, (3) affects on water resources, and (4) adequacy of resource accessibility and manageability.

The Draft Wilderness EIS evaluates the environmental consequences expected to result from alternative management options for the wilderness study areas. The effects of continuing present management are examined in a "No Wilderness" alternative. Other alternatives analyzed ("All Wilderness", "Wilderness Enhancement", and "Partial Wilderness") recommend wilderness designation for different combinations of study area lands. The proposed action for the Honeycombs (WY-010-221), Cedar Mountain (WY-010-222), Medicine Lodge (WY-010-240), and Alkali Creek (WY-010-241) wilderness study areas is the "No Wilderness" alternative. The proposed action for the Trapper Creek WSA (WY-010-242) is the "All Wilderness" alternative.

Oral and written testimony on the wilderness suitability recommendations will be accepted at the public hearing. Persons wishing to testify should provide a written copy of their testimony to the Hearings Officer at the hearing. Oral and written comments will be accepted during the public meeting on the Washakie RMP/EIS, and a written copy of these comments should be made available to BLM personnel during the meeting.

Copies of the Washakie RMP/EIS and the Wilderness EIS supplement are available at the Worland District Office, at the addresses listed above.

FOR FURTHER INFORMATION CONTACT: Roger Inman, Washakie Resource Area Manager, David Stout, RMP/EIS Team Leader, or Mark Goldbach, Wilderness EIS Team Leader, at the addresses listed above, or at (307) 347-9871.

Hillary A. Oden,

State Director.

[FR Doc. 86-25624 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-22-M

[UT-040-4410-10]

Utah; Cedar City District Management Plan Preparation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of Resource Management Plan Preparation; Dixie Planning Unit, Dixie Resource Area, Cedar City District, Utah.

ADDRESS: Comments or requests for information should be directed to David Brine, Team Leader, Bureau of Land Management, P.O. Box 726, St. George, Utah 84770. Telephone (801) 673-4654.

SUMMARY: The Cedar City District, Bureau of Land Management announces it's intent to prepare a Resource Management Plan (RMP) for 638,518 acres of public land located in the Dixie Resource Area in Washington County, Utah. Washington County is located in the south-western corner of Utah and is bordered on the west by Lincoln County, Nevada and on the south by Mojave County, Arizona and on the north and east respectively by Iron and Kane Counties, Utah. Zion National Park and parts of the Dixie National Forest are also located adjacent to BLM administered Federal lands in the planning area.

The Bureau of Land Management has completed the replanning phase of the RMP process. The primary emphasis of this phase has been to identify preliminary planning issues, preliminary planning criteria, preliminary alternatives and to focus the analysis. Three preliminary issues were identified at topics of public controversy or dispute. Briefly, they are to determine: (1) The highest and best use for those public lands in Washington County where rapid urban encroachment is generating problems with the management of natural resources; (2) future management of outdoor recreation near the burgeoning communities; (3) how proposed water storage projects will influence natural resource management.

The planning area has one designated 3,040 acre research natural area, the

Woodbury Desert Study Area, which will be considered for ACEC designation. Other ACEC designations will be considered during this planning process. Nominations may be made by the public and other agencies. They must be accompanied by descriptive materials, maps, and evidence of the relevance and importance of the values or hazards involved.

Four preliminary alternatives have been developed. These are: (1) Continue with current Management Framework Plan (1979); (2) develop an RMP with emphasis on community development trends integrated with the principles of multiple use: (3) maximize opportunities to dispose of public lands identified by local and state planning interests as needed for community expansion; (4) maximize retention and protection of public lands where disposal could jeopardize natural resource values.

The Cedar City District has identified an interdisciplinary team to participate in each phase of the planning process. Discplines represented are: lands, recreation, minerals, wildlife, range, soil, water and air resources, forestry, archaeology, fire, and socio-economics.

The public will have opportunities to provide input into this RMP via public scoping meetings, mail distribution of information, news media releases, **Federal Register** Notices and public reviews of all documents at appropriate states of the planning process. A public participation plan schedule of actions has been developed as part of the preplanning analysis.

Documents relevant to the planning process are available from the above adress: Interested persons wishing to participate in issue identification, development of planning criteria, alternatives or other phases of the planning process should contact David Brine, Team Leader, at the above address or telephone.

Dated: November 4, 1986.

Morgan S. Jensen,

District Manager.

[FR Doc. 86-25670 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Applicant: World Insectivorus Plants, Marietta, GA, PRT-710158.

The applicant requests a permit to sell in interstate commerce, artificially propagated green pitcher plants (*Sarracenia oreophila*) grown from seeds obtained from several locations prior to the date upon which this species was determined to be endangered. The applicant postulates that disposal of these specimens would prevent hybridization and therefore facilitate efforts at this nursery to propagate green pitcher plants from seeds supplied by the Georgia Department of Natural Resources. Plants propagated from those seeds are intended to be used to restock wild populations in Georgia.

Applicant: Dennis McEwan, California State University, Sacramento, CA, PRT-713124.

The applicant requests a permit to conduct the following activities with the Owens tui chub (*Gila bicolor snyderi*) in Hot Creek Headwater springs, Mono County California, for scientific research: (a) Capture thirty chubs and place them in an artificial stream chamber for approximately two days for a microhabitat selection study; (b) capture, mark and release an unlimited number of chubs for an estimation of the population size and structure; (c) capture fifteen chubs and transport them to California State University, Sacramento, where they will be placed in an aquarium for investigation of water quality tolerance limits; and (d) collect and sacrifice ten chubs every three months for a one year period to examine their stomach contents for a study on their food habits.

Applicant: Dallas Zoo, Dallas TX, PRT-713227.

The applicant requests a permit to export one male Malayan tapir (*Tapirus indicus*) to the Sao Paul Zoo, Brazil for breeding and exhibition. This animal was captured in the wild prior to December 1959.

Applicant: Pamela Bompart, Helena, MT, PRT-713273.

The applicant requests a permit to import four pairs of captive-born goldern parakeets (*Aratinga guarouba*) from Carterton Breeding Aviaries, Oxford, England for breeding purposes.

Applicant: San Diego Zoo, San Diego, CA, PRT-713277.

The applicant requests a permit to import one female captive-born lowland tapir (*Tapirus terrestris*) from the West Berlin Zoo, Federal Republic of Germany for breeding and exhibition. This female will be placed on exhibit with a single male currently held at San Diego Zoo.

Applicant: San Diego Zoo, San Diego, CA, PRT-713331.

The applicant requests a permit to import one male captive-born Bactrian deer (*Cervus elaphus bactrianus*) from the Koln Zoo, Federal Republic of Germany for breeding purposes. This male will be added to their herd of one male and two females to increase genetic variability.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: November 10, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86-25781 Filed 11-13-86; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Mineral Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4565, Block 303, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Pelican Island, Texas.

DATE: The subject DOCD was deemed submitted on November 4, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Serive, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section,

Exploration/Development Plans Unit; Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979. (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: November 7, 1986.

J. Rogers Pearcy

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–25766 Filed 11–13–86; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Company, U.S.A.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the West Delta Block 30, C–4, Reservoir Q Federal Unit Agreement No. 14–08–0001–11690, submitted on October 28, 1986, and October 30, 1986, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the West Delta Block 30, C–4, Reservoir Q Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Parkway, New Orleans, Louisiana 70123.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 114, open weekdays 9:00 a.m. to 3:30 p.m., 1201 Wholesalers Parkway, New Orleans, Louisiana 70123, phone (504) 736–2519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 7, 1986.

J. Roger Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–25763 Filed 11–13–86; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than November 24, 1986. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875–1573, IRM/PE, Room 1109, SA–14, Washington, DC 20523. Date Submitted: November 6, 1986.

Submitting Agency: Agency for International Development.

Form Number: AID Form 1550–2.

Type of Submission: Renewal.

Title: Computation of Percentage of Private Funding for PVO's International Activities.

Purpose: A.I.D. is required to collect information regarding the financial support of private and voluntary organizations (PVOs) registered with the Agency. The information is used to determine the eligibility of PVOs to receive A.I.D. funding.

Reviewer: Francine Picoult (202) 395–7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: November 5, 1986.

Fred D. Allen,

Planning and Evaluation Division.

[FR Doc. 86–25677 Filed 11–13–86; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[No. MC–C–30002]

Motor Carriers; Victoria Terminal Enterprises, Inc.; Transportation of Fertilizer Within Texas; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: Victoria Terminal Enterprises, Inc., a motor carrier, seeks institution of a declaratory order proceeding to determine whether the transportation of fertilizer from terminals in seven Texas counties to other Texas points is interstate or intrastate in nature. Arcadian Corporation, the involved shipper, ships bulk fertilizers from out-of-state manufacturing facilities to the terminals by barge and rail, temporarily stores them there, breaks them down into smaller volumes, and then reships them by motor carrier to customers at other Texas points.

DATES: Persons interested in participating in this proceeding should so advise the Commission in writing by December 1, 1986. A list of interested parties will then be complied and served. Victoria will have 10 days from service date of that list to serve each party on the list and the Commission with a copy of its petition and any additional comments. Other parties will then have 35 days from the service date of the service list to submit their comments to the Commission and to petitioner's representative. Petitioner will have 50 days from the service date of the service list to reply.

ADDRESS: Send an original and, if possible, 10 copies of comments referring to No. MC–C–30002 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of comments to petitioner's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210.

FOR FURTHER INFORMATION CONTACT: Paul Schach, (202) 275–7885

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.

Decided: October 28, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison and Commissioner Lamboley commented with separate expressions. Vice Chairman Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25819 Filed 11–13–86; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30931]

Colleton County Railroad Co., Inc.; Trackage Rights; Hampton and Branchville Railroad Co., Inc.;

Hampton and Branchville Railroad Company, Inc., has agreed to grant overhead trackage rights to Colleton County Railroad Company, Inc., between Hampton and H & B Junction, SC, a distance of 17 miles. The trackage rights were effective on November 1, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: November 3, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25555 Filed 11–13–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

District of Columbia:
DC86–1 (Jan. 3, 1986) ..... p. 80, pp. 86–89.
Florida:
FL86–17 (Jan. 3, 1986) ..... p. 144.
Massachusetts:
MA86–3 (Jan. 3, 1986) ..... pp. 375–382.
New York:
NY86–13 (Jan. 3, 1986) ..... p. 752.
Pennsylvania:
PA86–5 (Jan. 3, 1986) ..... p. 831

Volume II

Arkansas:
AR86–1 (Jan. 3, 1986) ..... p. 4.
Illinois:
IL86–1 (Jan. 3, 1986) ..... p. 71.
IL86–2 (Jan. 3, 1986) ..... pp. 93, 103.
IL86–3 (Jan. 3, 1986) ..... p. 106.
IL86–4 (Jan. 3, 1986) ..... pp. 112, 114.
IL86–5 (Jan. 3, 1986) ..... pp. 116–117.
IL86–6 (Jan. 3, 1986) ..... pp. 121–122.
IL86–7 (Jan. 3, 1986) ..... pp. 127, 129.
IL86–8 (Jan. 3, 1986) ..... pp. 133, 135.
IL86–9 (Jan. 3, 1986) ..... pp. 137–141.
IL86–11 (Jan. 3, 1986) ..... pp. 147, 150.
IL86–12 (Jan. 3, 1986) ..... pp. 153–154.
IL86–13 (Jan. 3, 1986) ..... pp. 163–164.
IL86–14 (Jan. 3, 1986) ..... p. 174.
IL86–15 (Jan. 3, 1986) ..... p. 184.
IL86–16 (Jan. 3, 1986) ..... pp. 194, 200.
IL86–17 (Jan. 3, 1986) ..... pp. 208, 212a.
Michigan:
MI86–1 (Jan. 3, 1986) ..... pp. 385–398b.
MI86–4 (Jan. 3, 1986) ..... p. 423.
MI86–5 (Jan. 3, 1986) ..... p. 430, pp. 433–434, pp. 436, 439.
MI86–12 (Jan. 3, 1986) ..... pp. 470–471

MI86–17 (Jan. 3, 1986)..... pp. 486–487.
Minnesota:
MN86–5 (Jan. 3, 1986)..... pp. 497–499.
MN86–7 (Jan. 3, 1986)..... pp. 511, 520.
MN86–8 (Jan. 3, 1986)..... p. 530.
Missouri:
MO86–3 (Jan. 3, 1986)..... pp. 569–571.
Oklahoma:
OK86–13 (Jan. 3, 1986)..... pp. 821–822.
OK86–14 (Jan. 3, 1986)..... p. 832.

Volume III

California:
CA86–2 (Jan. 3, 1986)..... p. 51.
North Dakota:
ND86–2 (Jan. 3, 1986)..... pp. 209, 212.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts." This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 7th day of November 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86–25620 Filed 11–13–86; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

[Docket No. M–86–133–C]

International Anthracite Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Anthracite Corporation, Box 546, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its B&M Tunnel Mine (I.D. No. 36–01781) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The Mine is in the Lykens Valley No. 5 Seam which ranges from 3.0 to 22.0 feet in thickness, dips to the south at 52–55 degrees and has a hardgrove of approximately 90.

3. The method of coal extraction is a sublevel caving method. A gangway (rock tunnel), sixteen feet wide by 10.5 feet in height, is driven approximately forty feet behind the seam and paralleling the strike. Shuttle entries are then driven on seventy foot centers and at a sixty degree angle off the gangway to intersect the coal. The coal is then loaded out using a Joy 14–BU loader, Long AirDox continuous haulage system and belt conveyors.

4. The Joy 14–BU loader is operated using the remote control unit with the operator standing on a platform behind the kitchen using the shortened canopy as an area to set controls.

5. When operating from the above stated platform position, the operator's visibility is increased. The placement of a cab or canopy would result in decreased visibility and blind areas, increasing the chances of an accident.

6. As an alternate method, petitioner states that the roof for twenty feet outby the intersection of the shuttle entry and the coal is bolted on four foot spacings, and wire mesh (chain link fencing) is installed and supported by these same bolts.

7. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1986. Copies of the petition are available for inspection at that address.

Dated: November 3, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86–25758 Filed 11–13–86; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–86–142–C]

New Lincoln Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

New Lincoln Coal Company, Inc., 837 East Grand Avenue, Tower City, Pennsylvania 17980 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 1 Vein Slope (I.D. No. 36–07629) located in Schuylkill County, Pennsylvania. The petition is filed under seciton 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slope with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed, they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1986. Copies of the petition are available for inspection at that address.

Dated: November 4, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-25759 Filed 11-13-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-141-C]

Snyder Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Snyder Coal Company, R.D. #2, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its N. & L. Slope (I.D. No. 36-02203) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed, they would be activated on knuckles and curves when when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting advice. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1986. Copies of the petition are available for inspection at that address.

Dated: November 3, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-25760 Filed 11-13-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-136-C]

Western Fuels-Utah, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Western Fuels-Utah, Inc., P.O. Box 1067, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.326 (air courses and belt haulage entries) to its Deserado Mine (I.D. No. 05-03505) located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return air courses be separated from belt haulage entries.

2. Coal is produced from two coal seams and an interaction between these seams must be considered in the layout of the mine.

3. Petitioner states that application of the standard would result in a diminution of the safety due to the instability of roof and rib caused by increasing the number of entries.

4. Through past experience, petitioner has discovered that roof-falls are greater in panels which were developed using three-entry systems than in panels using two-entry systems. Over-development on advance contributes to the degradation of roof strength caused by the density of kettlebottoms and associated slickensides. Use of the entries would also result in benefits to ventilation, fire control, and escapeway.

5. As an alternate method, petitoner proposes to use the belt entry for return air in a two-entry type development section as follows:

(a) For fire protection: (1) Diesel scoops will meet the requirements of 30 CFR Part 36. Mantrips and utility vehicles which do not meet the requirements of 30 CFR Part 36 will be equipped with 2-10 lb. fire extinguishers. Only one such machine will operate at a time in the dual entry and a dispatcher will be present to enforce this rule;

(2) All overcasts and stoppings will be structurally equivalent or superior to 8 inch hollow core concrete blocks with mortared joints and provide a minimum fire resistance of 1 hour. Aluminum will not be used in ventilation controls;

(3) Combustible liquid storage will not exceed daily usage. No diesel will be stored in the two-entry;

(4) No battery charging stations or trolley will be permittted in the two-entry, and no underground storage of polyurethane will be allowed;

(5) The emulsion pump station will be located off panel in a minimum 1-hour fire resistant structure, and monitored for carbon monoxide (CO);

(6) All electrically powered equipment will use fire resistant hydraulic fluid or be protected by a fire suppression system;

(7) Plug and receptable type connector will be used for high voltage cable; and

(8) Continuous rock dusting units will operate during mining in belt entry/return on development and in tailgate on retreat.

(b) For fire detection: (1) The intake escapeway will be continuously monitored for CO on both retreat and development. Sensors will be located at the intake split and at not more than 2000 foot intervals inbye to the last open crosscut. All permanent electrical installations in two-entry will have CO sensors. The section or longwall power center will have a CO sensor;

(2) Belt line monitoring will consist of CO sensors at drive rollers, tailpiece, and less than 2000 foot spacing along the belt line. Belt line in return will also have methane (CH_4) sensors every 2000 feet;

(3) The tailgate return and the bleeder return will be continuously monitored for CO and CH_4 inbye the intersection with the main air course;

(4) The CO and CH_4 monitoring devices will be visually examined every 24 hours, and inspected by a qualified person every seven days. The monitor will be calibrated at least every 30 days, and an inspection record kept on the surface;

(5) On development, the belt entry return methane monitoring will provide an audio/visual alarm on the working section and at a staffed surface location when the level of methane reaches 0.8 volume per centum. The device will automatically deenergize the section power and conveyor belt when the level of methane reaches 1.0 volume per centum. The detection system will operate for a minimum of four hours on battery if the mine power is deenergized;

(6) A visual and audible alarm will be activated when the CO reaches a designated level. The alarms will be activated at an attended surface location where there is two-way

communication. The monitor will be capable of identifying any activated sensor and to detect system malfunctions; and

(7) If the CO or CH_4 system is deenergized for any reason, a qualified person will patrol the affected area using hand-held CO or CH_4 detectors. CO or CH_4 detection devices will be available for use on each two-entry section, development or retreat.

(c) For fire control: (1) The water system at the mine is gravity fed. Power disruptions will not affect the firefighting capabilities of the system;

(2) Reflective signs or markers will be used to identify the location of fire outlets, hoses, and extinguishers;

(3) Fire suppression systems will be installed on all belt drives and permanent electrical installations in two-entry; and

(4) Water line will be installed the entire length of the belt conveyor, equipped with outlets every 300 feet and at tailpiece and drive.

(d) For evacuation-escapeways: (1) Four specific escapeways (2 primary and 2 secondary) will be provided;

(2) Longwall panels will not operate without passable primary escapeways;

(3) Systematic supplemental support will be installed throughout the tailgate entry of the first dual entry longwall panel prior to mining the panel. Systematic supplemental support for tailgate entries of subsequent panels will be installed in advance of the frontal abutment stresses of the adjacent panel being mined;

(4) Sufficient numbers of self-contained self-rescuers will be stored in the tailgate to service all personnel normally working on the face and tailgate; and

(5) A dual communication line will be maintained into the dual entry on both development and retreat. One line will be in the roadway, the other in the belt entry.

(e) For ventilation: (1) Velocity of air will be between at least 50 but not more than 500 feet per minute;

(2) An intake air velocity station will be mounted on intake split. This velocity will be continuously monitored at an attended surface station. An alarm will indicate a 25% reduction from normal velocity. A return air velocity station will be mounted on the return, inby its junction with the main return. This velocity will be continuously monitored at an attended surface station; and

(3) The bleeder system will be protected by barrier pillars, and will be designed to have two separate entries all the way to the main return.

6. Petitioner states that the proposed alternative method and associated safety precautions outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1986. Copies of the petition are available for inspection at that address.

Dated: November 5, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-25761 Filed 11-13-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

4,4'-Methylenedianiline Mediated Rulemaking Advisory Committee; Meetings; Correction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of relocation of meetings, correction.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of the relocation of the next Advisory Committee meeting. It is anticipated that the meeting will last from one to three days but this may vary as the work of the Committee proceeds. For the purpose of this notice only the beginning date is given.

DATES: The meeting is scheduled to begin on November 18, 1986 at 9:30 a.m. in the Walter J. Burke Education Center of the United Steelworkers of America International Union at Linden Hall in Dawson, Pennsylvania 15428.

Status: These meetings will be open to the public.

ADDRESS: Submissions presented in response to this notice should be sent in quadruplicate to the Docket Officer, Docket No. H-040, Room N3670, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210; (202) 523-7894. Written comments received, as well as other information in Docket H-040, will be available for inspection and copying at this address, Monday through Friday, 8:15 a.m. to 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523-8615.

SUPPLEMENTARY INFORMATION: On October 22, 1985, OSHA announced its intent to make use of negotiated rulemaking in developing a proposed standard for MDA (50 FR 42790-42793). The notice also set forth the basic concepts of negotiated rulemaking and outlined the participant selection criteria which OSHA expected to use in establishing an MDA Advisory Committee.

OSHA established the committee in accordance with the Federal Advisory Committee Act (FACA) and section 7(b) of the Occupational Safety and Health Act (OSH Act) to mediate issues associated with the development of a Notice of Proposed Rulemaking on MDA.

Appointees to the committee include representatives from labor, industry, health and safety groups, and government agencies.

A schedule of meeting dates and agenda items was published on August 4, 1986 (51 FR 27919), and corrected on October 6, 1986 (51 FR 35571). This notice changes the location for the meeting beginning November 18, 1986.

Members of the public wishing to submit written statements to the Committee that are germane to the agenda may do so. Such statements should be in reproducible form and should be submitted to the OSHA Division of Consumer Affairs at least 5 days before the meeting. In addition, the Mediator or Chairman of the Committee has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting.

Minutes of these meetings will be available for public inspection at the OSHA Docket Office, U.S. Department of Labor, Rm. N-3670, 200 Constitution Ave., NW., Washington, DC 20210; Telephone (202) 523-7894.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-25873 Filed 11-13-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-93]

NASA Advisory Council, History Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

DATE AND TIME: November 25, 1986, 8:30 a.m. to 3:30 p.m.

ADDRESS: NASA Johnson Space Center, Building One, Room 817, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code LBH, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2999).

SUPPLEMENTARY INFORMATION: The History Advisory Committee was established to provide advice and guidance to the NASA history program, which maintains a non-record historical reference file and publishes works in the history of aeronautics and space science and technology. The Committee, chaired by Dr. Melvin Kranzberg, consists of 9 members. The meeting must be held at this time in order to assure full attendance of committee members prior to the end of the academic year.

This meeting will be closed to the public from 1:30 p.m. to 3:30 p.m. on November 25 for a discussion of (a) the qualifications of candidate historians to do a contract history project and (b) new committee members. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public. Visitors will be requested to sign a visitor's register.

Type of Meeting

Open, except for a closed session as noted in the agenda below.

Agenda

November 25, 1986

8:30 a.m.—Program Status and Briefings.
11 a.m.—Review of NASA Johnson Space Center History Office Functions.
12:30 p.m.—Review of NASA History Program Plans.
1:30 p.m.—Discussion of Candidate Committee Members (closed session).
2:30 p.m.—Discussion of Candidate Historians and Proposals for NASA Funded Histories (closed session).
3:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

November 7, 1986.

[FR Doc. 86-25695 Filed 11-13-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Interdisciplinary Arts Projects Section) to the National Council on the Arts will be held on December 1-2, 1986, from 9:00 a.m.-8:00 p.m.; on December 3, 1986, from 9:00 a.m.-6:00 p.m.; on December 4, 1986, from 9:00 a.m.-8:00 p.m.; and on December 5, 1986, from 9:00 a.m.-5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 5, from 3:00 p.m.-5:30 p.m. to review guidelines and discuss policy issues.

The remaining sessions of this meeting on December 1-2, 1986 from 9:00 a.m.-8:00 p.m.; on December 3, from 9:00 a.m.-6:00 p.m.; December 4, from 9:00 a.m.-8:00 p.m.; and on December 5, from 9:00 a.m.-3:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

November 7, 1986.

[FR Doc. 86-25687 Filed 11-13-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-11834, License No. 12-06539-02, EA 86-102]

Cook County Highway Department; Order Imposing Civil Monetary Penalties

In the Matter of Cook County Highway Department, Bureau of Construction, 118 North Clark Street, Chicago, IL 60602.

I

Cook County Highway Department, Chicago, IL (the licensee) is the holder of License No. 12-06539-02 issued by the Nuclear Regulatory Commission (the Commission/NRC) which authorizes the licensee to use byproduct material in a source holder (gauge) for moisture/density measurements.

II

An NRC special inspection of the licensee's activities under the license was conducted May 8 and 14, 1986. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements and the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated July 1, 1986. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil penalties. A response dated July 28, 1986, to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

After consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement has determined that the violations occurred as stated and the penalties proposed in the Notice of

Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that: The licensee pay civil penalties in the cumulative amount of Five Hundred Dollars ($500) within thirty days of the date of this Order, by check, draft or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the hearing request also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether, on the basis of such violations, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 6th day of November, 1986.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

In a letter dated July 28, 1986, the licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties dated July 1, 1986. In its response, the licensee admits the violations occurred as described in the Notice, requests mitigation of the civil penalties and provides reasons why it believes that mitigation of the penalties is appropriate. Provided below are: (I) A restatement of each violation, the licensee's response regarding each violation, and NRC's evaluation of each licensee response, (II) a summary of the licensee's arguments in support of mitigation of the proposed penalties, and (III) NRC's evaluation and conclusion.

I. Restatement of Violations, Licensee's Response, and NRC's Evaluation

A. Restatement of Violation A

Lisense Condition No. 12 requires that licensed material be used by or under the supervision and in the physical presence of specifically named individuals.

Contrary to the above, during the period April 16 through May 7, 1986, a moisture/density gauge containing licensed material was used by an individual who was not specifically named in License Condition No. 12 and was not under the supervision and in the physical presence of an individual specifically named in License Condition No. 12.

Licensee's Response

The licensee admits that License Condition No. 12 was violated, yet contends the training it provided the unauthorized user was more extensive than the authorized training course provided by the guage manufacturer. In addition, the licensee claims the unauthorized user was conversant with radiological safety procedures since he had studied the manufacturer's manual and also had worked with X-ray equipment in college.

NRC Evaluation

A licensee's training program must be reciewed by NRC, approved, and incorporated into a license before it can be implemented. The training that the licensee provided to the individual had not been approved by the NRC and incorporated into the license.

The licensee claims that the individual was conversant with safety procedures since he had studied the manufacturer's manual; however, when questioned during the inspection, the individual was not familiar with the NRC rules and requirements governing gauge licenses. These rules and requirements are described, in detail, in the Troxler instruction manual. The licensee's claim that the individual had experience with X-ray equipment in college is not of significance since the individual apparently had no previous experience with the radioactive materials or devices that were used by the licensee.

Based upon the above information, no adequate reason has been provided for withdrawal of this violation.

B. Restatement of Violation B.1

License Condition No. 18 requires that licensed material be possessed and used in accordance with the statements, representations, and procedures contained in the application dated February 24, 1981 and the letter dated June 29, 1981.

Contrary to the above, licensed material was not possessed and used in accordance with statements, representations, and procedures contained in the referenced application and letter as evidenced by the following example:

The referenced letter, dated June 29, 1981, requires that when gauge use is not required, the guage shall be stored at the permanent storage location at the LaGrange Maintenance Facility.

However, from July 1981 when this requirement became effective until May 8, 1986, individuals routinely stored moisture/density gauges at their private residences when use was not required, rather than at the LaGrange Maintenance Facility.

Licensee's Response

The licensee admits that License Condition No. 18 was violated; however, the Illinois Department of Nuclear Safety allows storage of radium gauges at the operators' residences due to hardships encountered when returning gauges to the storage area at the main facility after hours. The licensee claims that since it is regulated by the NRC and the Illinois Department of Nuclear Safety and there are varying regulations, the NRC requirement for the storage of the gauges was overlooked. The licensee currently is storing all NRC licensed guages at the approved storage area at the main facility until temporary storage facilities are authorized by the NRC.

NRC Evaluation

The licensee stated in its June 29, 1981 letter that gauges would be stored at its permanent storage location at the LaGrange Maintenance Facility. Storage at any other location, including a private residence, requires a license amendment and the submission of detailed information to the NRC pertaining to the storage and control of such material to protect the public health and safety. The licensee did not submit such information to the NRC and did not request that its license be amended to authorize storage at private residences; therefore, the LaGrange Maintenance Facility is the only authorized place of storage. Overlooking the NRC requirement for the storage of the gauges is significant and is not justification for violating a NRC requirement.

Based upon the above, no adequate reason has been provided for withdrawal of this violation.

C. Restatement of Violation B.2.

License Condition No. 18 requires that licensed material be possessed and used in accordance with the statements, representations, and procedures contained in the application dated February 24, 1981 and the letter dated June 29, 1981.

Contrary to the above, licensed material was not possessed and used in accordance with statements, representations, and procedures contained in the referenced application and letter as evidenced by the following example:

The referenced application, dated February 24, 1981, designates a specific individual as the Radiation Protection Officer.

However, in April 1984, the licensee appointed an individual to act as the Radiation Protection Officer who was not designated in the referenced application and who had not been approved by the NRC.

Licensee's Response

The licensee admits it failed to amend its NRC license to reflect the appointment of a new Radiation Protection Officer. The

licensee stated the transitional period between Radiation Protection Officers was a turbulent time at the highway department due to hospitalization of the new Radiation Protection Officer. When the Radiation Protection Officer returned to work, the required amendment request was simply overlooked. The licensee also claimed that the new Radiation Protection Officer was familiar with NRC regulations and Troxler gauge and X-ray diffraction equipment at the time of his appointment.

NRC Evaluation

It is the licensee's responsibility to submit an amendment request prior to changing Radiation Protection Officers. The credentials of the individual must be reviewed by the NRC prior to issuing a license amendment to ensure that the individual is qualified to fill the position of Radiation Protection Officer.

In the case of the Cook County Highway Department, licensee management failed to request a license amendment as required and failed to ensure that the newly appointed Radiation Protection Officer was familiar with the NRC rules and requirements. This is evidenced by the fact that the NRC inspector had to provide the Radiation Protection Officer with copies of the NRC license and referenced material during the curse of the inspection.

Based upon the above information, no adequate reason has been provided for withdrawal of the violation.

D. Restatement of Violation B.3

License Condition No. 18 requires that licensed material be possessed and used in accordance with the statements, representations, and procedures contained in the application dated February 24, 1981 and the letter dated June 29, 1981.

Contrary to the above, licensed material was not possessed and used in accordance with statements, representations, and procedures contained in the referenced application and letter as evidenced by the following example:

The reference application, dated February 24, 1981, requires that each gauge be monitored on a weekly basis with a gamma survey meter. The application also requires that each gauge be monitored once per year by the safety and training division of the Cook County Highway Department and an insurance company agent.

However, from October 25, 1982 until May 8, 1986, no monitoring was performed of any gauges possessed by the licensee.

Licensee's Response

The licensee admits the required radiation surveys were not performed. The licensee stated that surveys were required by both the NRC and the Illinois Department of Nuclear Safety licenses and in 1982, when the licensee amended its State license to eliminate the requirement of surveys, it failed to amend its NRC license to reflect the change in procedures. Due to the confusion that resulted from operating under two licenses, the required NRC surveys were inadvertently discontinued. The licensee has initiated the surveys again and proposes to eliminate the requirement in its pending NRC license renewal application.

NRC Evaluation

It is the licensee's responsibility to ensure compliance with the NRC's rules and regulations. The licensee's failure to either amend its NRC license or perform the surveys is further evidence that the licensee was not familiar with the NRC's rules and regulations.

Based upon the above information, no adequate reason has been provided for withdrawal of the violation.

E. Restatement of Violation B.4.

License Condition No. 18 requires that licensed material be possessed and used in accordance with the statements, representations, and procedures contained in the application dated February 24, 1981 and the letter dated June 29, 1981.

Contrary to the above, licensed material was not possessed and used in accordance with statements, representations, and procedures contained in the referenced application and letter as evidenced by the following example:

The referenced application dated February 24, 1981 requires that the licensee's Victoreen Model 592B survey meter be calibrated on an annual basis.

However, the licensee's Victoreen Model 592B survey meter was not calibrated during the period January 13, 1982 through May 8, 1986.

Licensee's Response

The licensee admits that the survey meter had not been calibrated as required. The licensee stated that the meter had been placed in storage when surveys were discontinued. The survey meter has been calibrated and is now back in service.

NRC Evaluation

It is the licensee's responsibility to ensure compliance with NRC's rules and regulations. The licensee's failure to calibrate the Victoreen Model 592B survey meter further demonstrates the licensee's lack of knowledge regarding the requirements set forth in its NRC license.

Based upon the above information, no adequate reason has been provided for withdrawal of the violation.

II. Licensee's Request for Mitigation

The licensee offers the following reasons why it believes the proposed civil penalty should be mitigated.

1. The actions that resulted in violations are not prohibited by the Commission's own regulations, but are present in its license due to a poor job of preparation five years ago.

2. The violations resulted from confusion arising from operating under two separate licensing entities and two sets of regulations.

3. The licensee has operated safely for the past 23 years and has taken necessary steps to bring its operations into full compliance with the terms of its NRC license.

III. NRC Evaluation and Conclusion

A. NRC Evaluation

The following evalation will address each of the three reasons set forth by the licensee in support of its request for mitigation.

1. All license conditions are regulatory requirements and violation of these requirements is a basis for taking appropriate enforcement action. The licensee is attempting to excuse its failure to comply with regulatory requirements by claiming it did a poor job of preparing the license application and as a result committed to actions that were not required by NRC regulations. The NRC licensing staff concluded during its license application review that the licensee's commitments were appropriate and were correctly incorporated into the license as regulatory requirements. Therefore, this does not provide a basis for mitigation.

2. It is management's responsibility to ensure that it is actively involved in the licensed program and is aware of NRC regulatory requirements. Although the licensee is regulated by the NRC and the Illinois Department of Nuclear Safety, it is management's responsibility to assure that NRC regulatory requirements are understood and followed. Confusion on the part of the licensee management is not a basis for mitigation.

3. The licensee's actions to bring its program into compliance with NRC regulatory requirements were prompted by the special inspection conducted by the NRC and the enforcement conference conducted at the Region III office. Such actions are no more than is expected of licensees when violations of NRC regulations or license conditions are identified. Although no violations were identified during the initial inspection on January 21, 1981 it was shortly thereafter, in July 1981, that the licensee instituted the practice of permitting individuals to store gauges in their private residences. Therefore, the NRC does not consider that there is a basis for mitigation.

B. NRC Conclusion

The NRC staff has concluded that all of the violations occurred as stated in the July 1, 1986 Notice of Violation and Proposed Imposition of Civil Penalties. These violations collectively demonstrated that adequate control and oversight of the radiation safety program at the licensee's facility had not been exercised. A sufficient basis was not provided for mitigation of the Civil Penalty; therefore, the NRC staff has concluded that the $500 civil penalty should be imposed.

[FR Doc. 86-25774 Filed 11-13-86; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for amendments to Facility Operating License Nos. DPR-77 and DPR-79, issued to the Tennessee Valley Authority (the licensee) for operation of the Sequoyah Nuclear Plant (the facility) located in Hamilton County, Tennessee.

The amendments, as proposed by the licensee, would modify the Sequoyah Technical Specifications to remove the requirement for testing of the instantaneous elements of the molded case circuit breakers (MCCBs). The licensee's application for the amendments was dated August 8, 1986. Notice of consideration of issuance of these amendments was published in the **Federal Register** on September 24, 1986 (51 FR 33958). Other changes requested in that letter are still under staff review.

Although the Commission initially proposed a determination of "no significant hazards consideration" (NSHC) regarding the amendment request, upon additional considerations reached based upon a full safety review, the request to remove the requirements for testing of MCCBs was denied because no reasonable basis to eliminate such testing has been provided by the licensee.

The licensee was notified of the Commission's denial of this request by letter dated November 7, 1986.

By Dec. 15, 1986, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by the proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Serivce Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Lewis E. Wallace, Acting General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see: (1) The application for amendment dated August 8, 1986, and (2) the Commission's letter to Tennessee Valley Authority dated Nov. 7, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 7th day of November 1986.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Director, PWR Project Directorate #4, Division of PWR Licensing–A.

[FR Doc. 86–25771 Filed 11–13–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Co., North Anna Power Station Units 1 and 2; Exemption

I

The Virginia Electric and Power Company (VEPCO, the Licensee) is the holder of Operating License No. NPF–4 which authorizes operation of North Anna Power Station Unit 1 and Operating License No. NPF–7 which authorizes operation of Unit 2. These operating licenses provide, among other things, that the North Anna Power Station is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The station comprises two pressurized water reactors at the Licensee's site located in Louisa County, Virginia.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specified requirements for a particular aspect of the fire protection features at a nuclear power plant. Two of these subsections, III.G and III.J, are the subject of the Licensee's exemption requests.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier.

b. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

c. Enclosure of cable and equipment and associated nonsafety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

Subsection III.G.3 of Appendix R requires that for areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

Subsection III.J of Appendix R requires that emergency lighting units with at least an 8-hour battery-powered supply be provided in all areas needed for operation of safe shutdown equipment; and in access and egress routes thereto.

III

By letters dated May 1, 1984, the Licensee requested exemptions from sections III.G and III.J of Appendix R. By letters dated October 31, 1984, August 21, 1985, and March 21, 1986, the Licensee transmitted revisions to their Appendix R evaluation. These exemption requests are the subject of this report.

The following list of exemption requests, therefore, reflects the latest status:

1. Auxiliary, Fuel, and Decontamination Buildings (Fire Area 11). An exemption was requested from the specific requirement of Section III.G.3 to the extent that full area fire detection and fixed suppression systems are not installed throughout the area.

2. Containment Incore Instrument Tunnel (Fire Areas 1–1 and 1–2). An exemption was requested from the specific requirement of Section III.G.2.d to the extent that intervening combustibles exist between redundant cables and equipment.

3. Quench Spray Pump House (Fire Areas 15–1 and 15–2). An exemption was requested from the specific requirement of Section III.G.3 to the extent that automatic fire suppression systems are not installed throughout the fire areas.

4. Main Steam Valve House (Fire Areas 17–1 and 17–2). An exemption was requested from the specific requirement of Section III.G.3 to the extent that automatic fire suppression systems are not installed throughout each fire area.

5. Auxiliary Feedwater Pump House (Fire Areas 14B–1 and 14B–2). An exemption was requested from the specific requirement of Section III.G.3 to the extent that automatic fire

suppression systems are not installed throughout the fire areas.

6. Charging Pump Cubicles (Elevation 244 Feet, 6 Inches). An exemption was requested from the specific requirement of section III.G.2.a to the extent that nonrated removable concrete walls do not provide a 3-hour fire resistance rating.

7. Separation of Instrumentation Inside the Containment (Fire Areas 1–1 and 1–2). An exemption was requested from the specific requirement of section III.G.2.d to the extent that intervening combustibles exist between redundant cables and equipment separated by 20 feet or by radiant energy shields.

8. Emergency Lighting in the Seal Water Filter Area, Main Control Room, and Exterior Access Routes. An exemption was requested from the specific requirement of section III.J to the extent that it requires 8-hour emergency lighting in all areas needed for operation of safe shutdown equipment; and in access and egress routes thereto.

9. Chiller Rooms (Elevation 254 Feet, 0 Inch of the Service Building). An exemption was requested from the specific requirements of section III.G.2.a to the extent that ventilation penetrations through fire barriers are not provided with fire dampers.

10. Auxiliary Building Ventilation Equipment Area, Fire Area 11. An exemption was requested from the specific requirement of section III.G.2.b to the extent that full area detection and suppression are not provided.

In summary, the exemptions were requested from separating cables and associated nonsafety circuits of redundant trains by 3-hour rated fire barriers as required in section III.G.2.a of Appendix R, and from providing automatic fire suppression and detection systems as part of the protection requirements of sections III.G.2.b and III.G.3 of Appendix R. Additionally, exemptions from the intervening combustible requirements of section III.G.2.b and the emergency lighting requirements of section III.J were requested.

The Licensee has provided alternative and/or acceptable levels of fire protection for areas containing redundant safe shutdown systems not separated from each other. Fire protection in areas containing more than the negligible combustible load and containing safe shutdown equipment or cables consists of fire detectors and/or automatic fire suppression systems, portable extinguishers, and hose stations.

The staff finds that there is reasonable assurance that a fire in these areas would be of low magnitude, promptly detected, and extinguished by the fire brigade. The low combustible loading ensures that redundant safe shutdown equipment located in the adjoining areas will not be damaged before the fire brigade can extinguish the fire.

Base on the review of the licensee's analyses, the staff concludes that the level of fire protection provided is equivalent to the technical requirements of sections III.G and III.J of Appendix R. Additional details concerning the exemptions are provided in the safety evaluation dated November 6, 1986.

By letter dated September 30, 1986, the Licensee provided information relevant to the "Special circumstances" finding required by revised 10 CFR 50.12(a) (see 50 FR 50764). The Licensee stated that existing and proposed fire protection features at North Anna Power Station Units 1 & 2 accomplished the underlying purpose of the rule. Implementing additional modifications to provide additional suppression and detection systems and fire barriers would require the expenditure of engineering and construction resources as well as the associated capital costs which would represent an unwarranted burden on the licensee's resources. The Licensee stated that it would be necessary to design and install modifications to provide additional fire detection and fire suppression systems, fire barriers, fire doors and dampers, emergency lighting, and instrumentation. Additional dedicated personnel may be required. Engineering and construction support would be necessary to reroute substantial amounts of existing cable and conduit and install fire-rated wrap and conduit seals. Increased surveillance, test and maintenance effort would be necessary to support the new or augmented systems. Overall, these changes would require a significant expenditure of engineering, construction, and operations resources, as well as associated capital costs.

The Licensee stated that these costs are significantly in excess of those required to meet the underlying purpose of the rule. The staff concludes that "special circumstances" exist for the Licensee's requested exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR 50. See 10 CFR 50.12(a)(2)(ii).

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a): (1) These exemptions as described in section III are authorized by law and will not present an undue risk to the public health and safety and are consistent with common defense and security, and (2) special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR 50. Therefore, the Commission hereby grants the following exemptions from the requirements of sections III.G and III.J of Appendix R to 10 CFR 50:

1. Auxiliary, Fuel, and Decontamination Buildings (Fire Area 11) to the extent that automatic fire suppression and detection systems are not installed throughout the fire area pursuant to section III.G.3.

2. Containment Incore Instrument Tunnel (Fire Areas 1–1 and 1–2) to the extent that safe shutdown cables and equipment are not separated by 20 feet of separation with no intervening combustibles pursuant to the requirements of section III.G.2.d.

3. Quench Spray Pump House (Fire Areas 15–1 and 15–2) to the extent that automatic fire suppression systems are not installed throughout the areas pursuant to section III.G.3.

4. Main Steam Valve House (Fire Area 17–1 and 17–2) to the extent that automatic fire suppression systems are not installed throughout the fire areas pursuant to section III.G.3.

5. Auxiliary Feedwater Pump House (Fire Areas 14B–1 and 14B–2) to the extent that automatic fire suppression systems are not installed throughout the fire areas pursuant to section III.G.3.

6. Charging Pump Cubicles (Elevation 244 Feet, 6 Inches) to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to section III.G.2.a.

7. Separation of Instrumentation Inside the Containment (Fire Areas 1–1 and 1–2) to the extent that safe shutdown cables and equipment separated by 20 feet, or radiant energy shields are not free of intervening combustibles pursuant to section III.G.2.d.

8. Emergency Lighting in the Seal Water Filter Area, Main Control Room, and Exterior Access Routes to the extent that 8-hour battery-powered emergency lighting is not provided pursuant to section III.J.

9. Chiller Rooms to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to section III.G.2.a.

10. Auxiliary Building Ventilation Equipment Area (Fire Area 11) to the extent that full area detection and suppression are not provided.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (51 FR 35708).

A copy of the Safety Evaluation dated November 6, 1986, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the local public document rooms located at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commissison, Washington, DC 20555. Attention: Director, Division of PWR Licensing-A.

These Exemptions are effective upon issuance.

Dated at Bethesda, Maryland this 6th day of November, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-25770 Filed 11-13-86; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC/the Commission) is considering issuance of an exemption from the requirements of Appendix R of 10 CFR 50 to the Philadelphia Electric Company (PECO/the licensee), for the Peach Bottom Atomic Power Station, Units 2 and 3 located in York County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The licensee would be exempted from the requirements of Sections III.F and III.M of Appendix R to 10 CFR 50 to the extent that automatic fire detection systems would not be required in the Emergency Cooling Tower Stairwell (III.F) and that certain penetration seals would be constructed of non-combustible materials (III.M).

The Need for the Proposed Action

The licensee has undertaken a penetration seal modification program in accordance with staff accepted ASTM tests. However, certain modified seals still contain combustible material not in accordance with III.M of Appendix R although they meet the ASTM test standards.

In addition, the licensee has requested that the Emergency Cooling Tower Stairwells be exempt from the requirements of III.F (Automated Fire Detection Systems) of Appendix R because there are no fixed combustibles. The area and access is strictly limited by plant security.

Environmental Impact of the Proposed Action

The proposed action would not impact the ability to effect safe shutdown of the plant in the event of a fire and would provide an acceptable level of safety, equivalent to that attained by compliance with Section III.F and III.M of Appendix R to 10 CFR 50. On this basis, the Commission concludes there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted areas as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Peach Bottom Atomic Power Station, Units 2 and 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated May 27, 1984, as supplemented July 22, September 16, December 2, 1983, February 10, September 17, 1984, January 16 and September 24, 1985 (Section III.M) and request for exemption dated September 16, 1983 (Section III.F), which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Government Publication Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania, 17126.

Dated at Bethesda, Maryland this 10th day of November 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Division of BWR Licensing.

[FR Doc. 86-25773 Filed 11-13-86; 8:45 am]

BILLING CODE 7590-01-M

Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision concerning certain pleadings submitted to Commissioner Asselstine by Marvin Lewis. The pleadings requested that the Commission shutdown all Boiling Water Reactors (BWRs) until all residual heat removal problems have been resolved.

The Director, Office of Nuclear Reactor Regulation, has determined to deny the request to shutdown all BWRs. The reasons for this decision are explained in the "Director's Decision Under 10 CFR 2.206", DD-86-16, which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute the final action of the Commission twenty-five (25) days after issuance, unless the Commission, on its own motion, institutes review of the Decision within that time period.

Dated at Bethesda, Maryland, this 6th day of November 1986.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86-25772 Filed 11-13-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-24234]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 6, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 1, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Natural Gas Company (70-7290)

Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration pursuant to section 12(b) of the Act and Rule 45 thereunder.

Consolidated requests authorization to enter into a General Agreement of Indemnity ("Agreement") for an indefinite period or such such period as this Commission may approve with Continental Casualty Company, National Fire Insurance Company of Hartford and American Casualty Company of Reading, Pennsylvania ("CNA"). Under the terms of the Agreement, CNA will issue bonds and similar undertakings on behalf of the subsidiary companies of Consolidated relating to such matters as self-insured workers' compensation, oil and gas well drilling, fuel tax, condemnation and road damage. Consolidated will guarantee the obligations of the subsidiary companies and will indemnify CNA against any liability which it may pay or incur.

Approximately 200 bonds totalling $9.8 million are currently outstanding. This amount may increase over time, according to the requirements of state or local law.

Gulf Power Company and Mississippi Power Company (70-7294)

Gulf Power Company ("Gulf"), 75 North Pace Boulevard, Pensacola, Florida 32520, and Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, electric utility subsidiaries of The Southern Company, a registered holding company, have filed a declaration pursuant to section 6(a), 7 and 12(b) of the Act and Rules 45 and 50 thereunder.

Mississippi has reached agreements for the termination of two existing contracts for the supply of coal to Plant Daniel, an electric generating facility in Jackson County, Mississippi which is jointly owned by Mississippi and Gulf. Under a new agreement, Mississippi will make payments to the suppliers of $59.6 million and $61.0 million, respectively ("Termination and Closure Payments"). Mississippi will borrow up to $121.6 million from a special purpose corporation ("SPC") and will enter into a new contract with SPC for the supply of coal to the plant ("New Contract"). In turn, SPC will enter into an agreement for the supply of coal to it under terms substantially identical to those of the New Contract.

To provide funds to finance the Termination and Closure Payments, it is contemplated that SPC will issue and sell up to $121.6 million aggregate principal amount of its notes ("Notes"), payable semi-annually at a rate per annum to be determined by negotiations with the purchasers thereof and maturing no later than December 31, 1997. Mississippi would agree in the New Contract to make payments for coal which will include a sum ("Minimum Payments") to amortize the principal of and interest on the Notes. The Minimum Payments will be made as the coal is delivered to Mississippi, but Mississippi's obligation to pay sums equal to the Minimum Payments under the Notes will be irrespective of the delivery of coal. The Minimum Payments would be assigned by SPC to a trustee for the benefit of the holders of the Notes. In addition, Mississippi would guarantee the payment of the Notes pursuant to a Contingent Guaranty Agreement. In order to secure its obligations under the Contingent Guaranty Agreement and the New Contract, Mississippi may convey a subordinated security interest in certain of its properties.

As owner of a 50% undivided interest as tenant in common in Plant Daniel, Gulf will be responsible for one-half of all costs incurred by Mississippi pursuant to such arrangement. Mississippi acts as Gulf's agent in the operation of the plant.

If the financing arrangement described is not consummated on a timely basis, Gulf and Mississippi propose in the alternative that each of their short-term borrowing authorizations be increased by $65,000,000 to permit interim financing of the Termination and Closure Payments.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-25685 Filed 11-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15401; File No. 812-6465]

Application and Opportunity for Hearing; Security First Life Insurance Co. et al.

November 6, 1986.

Notice is hereby given that the Security First Life Insurance Company ("Security First Life"); Security First Life Separate Account A ("Separate Account") and Security First Financial, Inc., a registered broker-dealer and principal underwriter of the Separate Account (hereinafter collectively referred to as "Applicants"), at 11365 West Olympic Boulevard, Los Angeles, California 90064, filed an application on August 29, 1986, and an amendment thereto on October 9, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Applicants from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

Applicants state that Security First Life is an insurance company organized under the laws of the State of Delaware in 1980, and the Separate Account was established by Security First Life on May 29, 1980, under the laws of the State of Delaware and registered as a unit

investment trust under the Act. Applicants state that the Separate Account presently consists of three Series, each of which invests solely in the shares of one of the following open-end, diversified management investment companies: Security First Legal Reserve Fund, Inc., Security First Variable Life Fund, Inc., and Security First Money Market Fund, Inc. (hereinafter collectively referred to as the "Funds").

Applicants state that annuity payments will not be affected by the mortality experience of persons receiving such payments or of the general population, and that this mortality risk is assumed by virtue of annuity rates guaranteed in the Contract. The basis for these annuity rates is Security First Life's Modified Select Annuity Mortality Table projected to the year 2000 on Projection Scale C, with interest at 4.25%. The annuity rates cannot be changed after issuance of a Contract. For assuming this mortality risk and the risk inherent in the death benefit under the Contracts, Security First Life deducts a mortality risk charge from the Separate Account. The charge is computed and deducted from each Series at an annual rate of .80% of the Contract value. The rate imposed for the mortality risk charge may not be changed.

Applicants state that Security First will perform necessary administrative services for the Contracts and will absorb the expense of administration other than certain transaction charges. Applicants state that once a Contract has been issued, no charge for administrative services will be imposed under the Contract; Security First Life will provide such services based on the actuarial margins presently provided in the Contracts. Applicants state that the risk exists that the margins presently provided in the Contracts will prove insufficient to bear the administrative expenses. For assuming this expense risk, Security First Life deducts an expense risk charge deducted at an annual rate of .45% of the Contract value of the Separate Account. Applicants represent that the rate imposed for the expense risk charge may not be changed.

Applicants request that an exemption from sections 26(a) and 27(c)(2) be granted to allow Security First Life to deduct mortality and expense risk charges from the Separate Account. Applicants represent that the mortality risk is assumed by virtue of annuity rates contained in the Contract; the annuity rates cannot be changed after issuance of the Contract. Applicants also represent that no administrative charge will be imposed, regardless of actual expenses incurred. If either the mortality or expense risk charges are insufficient to cover the actual costs, Security First Life will bear the loss. Applicants state that to the extent that the charges are in excess of actual costs, Security First Life may use the excess at its discretion.

Applicants assert that the mortality and expense risk charge is reasonable in relation to the risks assumed by Security First Life under the Contracts, and falls within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based on their analysis of publicly available information about similar industry practices, taking into consideration such factors as current charge levels and the existence of expense charge guarantees and guaranteed annuity rates. Applicants further represent that Security First Life will maintain at its home office memoranda, available to the Commission, setting forth in detail the products analyzed in the course of, and the methodology and results of, Security First Life's comparative survey.

Applicants represent that Security First Life has concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and investors and that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

Applicants represent that the Separate Account will only invest in open-end management investment companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, and will not formulate and approve any plan pursuant to Rule 12b-1 under the Act to finance distribution expenses.

A notice is further given that any interested persons wishing to request a hearing on the Application may, not later than December 1, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of the fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the Application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-25683 Filed 11-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15393; File No. 812-6351]

Application and Opportunity for Hearing; Sun Life Insurance and Annuity Company of New York et al

November 5, 1986.

Notice is hereby given that Sun Life Insurance and Annuity Company of New York ("Sun Life"), Sun Life (N.Y.) Variable Account D ("Account D"), of 67 Broad Street, New York, New York 10004, and Clarendon Insurance Agency, Inc., of 200 Berkeley Street, Boston, Massachusetts 02116 (collectively, "Applicants") filed an application on April 18, 1986, and an amendment thereto on October 8, 1986, requesting an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from the provisions of sections 2(a)(32), 2(a)(35), 9(a), 13(a), 15(a), 15(b), 22(c), 26(a)(1), 26(a)(2), 27(a)(1), 27(c)(2) and 27(d) of the Act and Rules 6e-2(b)(1), 6e-2(b)(12), 6e-2(b)(13)(i), 6e-2(b)(13)(iii), 6e-2(b)(13(iv), 6e-2(b)(13)(viii), 6e-2(b)(15), 6e-2(c)(1), 6e-2(c)(4) and 22c-1, thereunder, to the extent necessary to permit the offer of certain single premium variable life insurance contracts (the "Contracts"), as described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant provisions.

Applicants state that Sun Life is a stock life insurance corporation incorporated under the laws of New York, and Account D is a separate account of Sun Life registered as a unit investment trust under the Act. Applicants state that Sun Life and Account D intend to offer and sell the Contracts, which will be funded through Account D, and that several subaccounts of Account D will each invest its assets exclusively in shares of a corresponding investment portfolio of MFS/Sun Life Series Trust (the "Series

Fund"). Applicants represent that they are relying on Rule 6e–2 under the Act, but that they require additional exemptions in connection with certain features of the Contracts, as described below. With respect to the exemptive relief requested, Applicants submit that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Custody Requirements: Applicants request exemptive relief from sections 26(a)(1), 26(a)(2) and 27(c)(2) of the Act, and from Rule 6e–2(b)(13)(iii) thereunder, to permit Account D to hold shares of the Series Fund, or such other registered management investment companies in which Account D may in the future invest, under an open account arrangement without the use of stock or other certificates and without Sun Life acting as a trustee or custodian pursuant to a trust indenture. Applicants represent that Sun Life will comply with all other applicable provisions of section 26 as if it were a trustee, depositor or custodian for Account D; Sun Life will file with the Superintendent of Insurance of the State of New York an annual statement of financial condition, which most recent statement indicates that it has a combined capital and surplus of not less than $1,000,000; and Sun Life is examined from time to time by the Superintendent of Insurance of the State of New York as to its financial condition and other affairs, and is subject to supervision and inspection with respect to Account D's operations. Applicants assert that the safekeeping of the assets of Account D does not depend on the issuance of certificates or interposition of a trustee and trust indenture, which measures would, in fact, result in additional unnecessary expense.

Mixed Funding: Applicants request exemptions from sections 9(a), 13(a), 15(a) and 15(b) of the Act and from Rule 6e–2(b)(15) thereunder, to permit Account D to invest its assets in the Series Fund or additional registered management investment companies which may be established in the future, shares of which are presently, or are expected to be, sold to separate accounts established by Sun Life or its affiliates in order to fund variable annuity contracts ("mixed funding"). Applicants state that these separate accounts currently include Sun Life of Canada (U.S.) Variable Accounts A and E and Sun Life (N.Y.) Variable Accounts B and C. Applicants state that Rule 6e–2(b)(15) expressly requires that all assets of the separate account consist of shares of registered management investment companies which offer their shares *exclusively* to variable life insurance separate accounts of the life insurer or its affiliates. Applicants assert that there is no policy reason for excluding situations involving mixed funding from the exemptions in paragraph (b)(15), and that the monitoring costs that section 9(a) would entail would not result in any corresponding benefit to contractowners. Moreover, Applicants state that the use of a common underlying fund benefits both variable annuity and variable life insurance contractowners because it avoids additional startup and ongoing expenses for the operation and administration of funds. In addition, maintain the Applicants, the increased size of the resulting fund may benefit contractowners by economies of scale, reduced investment management fees and the possible inclusion of additional portfolios.

In order to meet concerns regarding conflicts of interest between holders of variable life insurance contracts and variable annuity contracts, Applicants represent that they will comply with the following conditions:

1. The Series Fund and any other underlying fund which is organized in the future will comply with all provisions of the Act requiring voting by shareholders, and, in particular, such fund will either provide for annual meetings or comply with section 16(c) of the Act as well as with section 16(a) and, if and when applicable, section 16(b).

Further, such fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

2. A majority of the Board of Trustees/Directors of each fund shall be persons who are not interested persons of the fund within the meaning of section 2(a)(19) of the Act.

3. The Board of each fund will monitor the fund for the existence of any irreconcilable material conflict between the interests of variable annuity contractowners and the interests of owners of variable life contracts that provide for investment in shares of the fund.

4. Sun Life and/or any affiliated insurance company, a separate account of which invests in such fund, will be responsible for reporting any potential or existing conflicts to the Board of Directors/Trustees, and providing all information required to enable the Board to consider the matter. If it is determined by either the Board of Trustees/Directors of a fund, a majority of its Disinterested Trustees/Directors or Sun Life or an affiliate whose separate account invests in the fund, that an irreconcilable material conflict exists, Sun Life or its affiliate shall, at their expense and to the extent reasonably practicable (as determined by a majority of the Disinterested Trustees/Directors), take whatever steps are necessary to remedy such conflict, including but not limited to establishing a new registered management investment company or unit investment trust, or a new series of a series fund, segregating the assets of any appropriate group (such as annuity contract owners or owners of variable contracts of a particular company), or submitting the question of such remedy to all affected contract owners. Notwithstanding the foregoing, neither Sun Life nor its affiliate nor any fund shall be required by this condition to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of the contract owners materially adversely affected by the irreconcilable material conflict.

Contingent Deferred Sales Charge: Applicants state that under the Contracts, no sales charge is deducted from premium payments. Instead, state Applicants, a contingent deferred sales charge ("CDSL") will be assessed if a Contract is surrendered before thirty days prior to the tenth contract anniversary. According to Applicants, the CDSL will be a percentage of the premium payment declining from eight percent during the first two contract years to two percent in the tenth year. Applicants request exemptions from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(a)(1), 27(c)(1), 27(c)(2) and 27(d) of the Act, and from Rules 6e–2(b)(1), 6e–2(b)(12), 6e–2(b)(13)(i), 6e–2(b)(13)(iv), 6e–2(c)(4) and 22c–1 thereunder, to the extent deemed necessary to permit imposition of this CDSL.

Applicants state that the CDSL will not be imposed in connection with a transfer of amounts under the Contract between sub-accounts or payment of the death benefit. Applicants assert that the imposition of a CDSL rather than a front-end sales load operates to the advantage of contractowners in that the entire premium payment will be invested from the time of receipt of the payment and completed application and the sales load will remain fully invested

until the Contract is surrendered. Applicants further represent that the CDSL will never exceed eight percent of the premium payment and will thus never be greater than the charge that could have been deducted as a front-end sales load under section 27(a)(1) of the Act and Rule 6e–2.

Applicants state that the CDSL will be imposed, if at all, at the time a contractowner surrenders or converts his or her Contract. They assert that the mere fact that the timing of Applicants' sales load may not fall within the literal pattern of section 2(a)(35) and Rule 6e–2(c)(4) does not change its essential nature. The CDSL will cover expenses associated with the offer and sale of the Contract, including commissions paid to sales personnel, promotional expenses and sales administration expenses, just as other forms of sales loads do.

On the basis of the foregoing, Applicants believe that a CDSL is consistent with the definition of "sales load" set out in Rule 6e–2(c)(4). However, in order to avoid any question concerning full compliance with the Act and rules thereunder, Applicants request exemption from section 2(a)(35) and Rule 6e–2, paragraphs (b)(1) and (c)(4), to the extent necessary, to be deemed to contemplate the CDSL under Applicants' Contract. For the same reasons, Applicants also request exemptions from sections 26(a)(2)(C) and 27(c)(2).

Applicants state that, although sections 2(a)(32) and 27(c)(1) do not specifically contemplate the imposition of a sales charge at the time of redemption, such a charge is not necessarily inconsistent with the definition of redeemable security. Applicants submit that deferring the imposition of the sales charge in no way restricts the contractholder from receiving his proportionate share of the value of Account D on redemption. On the basis of the foregoing, Applicants believe that a contract providing for a CDSL is consistent with the definition of redeemable security within the meaning of sections 2(a)(32) and 27(c)(1), as adapted for variable life insurance by Rule 6e–2, paragraphs (b)(12) and (13)(iv). However, in order to avoid any question concerning full compliance with the Act and rules thereunder, Applicants request exemption from such sections and rules, to the extent deemed necessary, to permit the CDSL under the Contract.

Applicants also request exemption from section 22(c) and from Rules 6e–2(b)(12) and 22c–1 to the extent deemed necessary to permit the CDSL. Applicants state that the redemption price will be based on the then current net asset avalue. Applicants argue that Rule 6e–2(b)(12) was intended to afford exemptive relief from 22c–1 with respect to redemption procedures in the context of variable life insurance, including surrender and exchange procedures but that Rule 6e–2(b)(12) could be read as not recognizing such a deferred sales load. Applicants maintain that their CDSL will not have the dilutive effect Rule 22c–1 was designed to prohibit.

Charge for Insurance Protection: Applicants state that under the Contracts, Sun Life will impose a monthly charge for insurance protection against the account value based on the net amount at risk under the Contract. Applicants state further that this charge, including charges for substandard risks, will be determined from time to time by Sun LIfe based on its expectations of future mortality experience, but it will never be higher than an amount based upon the 1980 Commissioners' Standard Ordinary Blended Mortality Table C ("1980 CSO Table"). Applicants request exemptions from sections 26(a)(2) and 27(c)(2) of the Act and Rules 6e–2(b)(13)(iii) and 6e–2(c)(4) to the extent necessary to permit use of the 1980 CSO Table as opposed to the 1958 CSO Table specified in Rule 6e–2, and to permit deduction of this charge monthly, based on the amount at risk under each Contract. Applicants assert that the 1980 CSO Table reflects improved mortality experience among all age groups over the 1958 Table. Applicants further assert that monthly deduction of the cost of insurance charge, as described, is more equitable and beneficial to contract owners because it increases the amount initially invested on their behalf and permits deductions on an ongoing basis directly from each Contract rather than from the premium payment based on estimates and assumptions regarding various factors considered in determining the net amount at risk over the life of the Contract. Applicants represent that any extra charge for cost of insurance for insureds in substandard risk catagories will not be included in the "premium" figures for the purpose of calculating CDSL.

Minimum Death Benefit Guarantee Charge: Applicants request an exemption from sections 26(a)(2) and 27(c)(2) of the Act and Rule 6e–2(b)(13)(iii) to permit Sun LIfe's deduction from Account D of a charge for the minimum death benefit guarantee equal, on an annual basis, to 0.25% for the first ten years of the Contract, to compensate Sun Life for the risk it assumes in providing such guarantee. No charge is deducted after the tenth Contract year. Applicants represent that they have reviewed the level of minimum death benefit guarantee charges under other single premium variable life insurance contracts and that the charge under the Contracts is reasonable in relation to the risks assumed under the Contracts and is within the range of industry practice, taking into account differences in product design and the timing and manner of deducting this risk charge in contrast with differing features of other products. Applicants further represent that Sun Life will maintain and make available to the Commission upon request a memorandum explaining the basis for this representation and the documents used to support this representation including the identity of the other products compared.

Applicants state that the CDSL may cover the expenses of distributing the Contracts but that surplus arising from the minimum death benefit guarantee charge and from other sources may be used for distribution.

Applicants represent that Sun Life has concluded and represents that there is a reasonable likelihood that the distribution financing arrangement being used to sell the Contracts will benefit Account D and contractowners. Applicants also represent that Sun Life has prepared and will maintain, and make available to the Commission upon request, a memorandum setting forth the basis of this representation.

Notice is further given that any interested person wishing to request a hearing on the Application may, not later than December 1, 1986 at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reason for such request and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed with the request. After the above date an order disposing of the Application will be issued as of course unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–25684 Filed 11–13–86; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 02/02-5502]

Trans-Pac Capital Corp.; Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (the Act), 15 U.S.C. 661 et. seq., has been filed by Trans-Pac Capital Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1986).

The officers, directors and shareholders of the Applicant are as follows:

Name and address	Title or relationship	Percentage of shares owned
Sandy Shwu-Yea Su, 56-15 228th Street, Bayside, NY 11364	President, Directory	10
Tsuey Tang Wang, 74 Oak Ridge Avenue, Summit, NJ 07901	Vice President, Board Chairman	15
Edward J. Chrvala, 1709 Riveria Court, Point Pleasant, NJ 08742	Assistant to President	0
Margaret M. Wang, 74 Oak Ridge Avenue, Summit, NJ 07901	Secretary	0
Pangyen S. Hsu, 544 Spring Valley Drive, Bridgewater, NJ 08807	Treasurer	7
K. Peter Hsu, 544 Spring Valley Drive, Bridgewater, NJ 08807	Director	0
Cheng Chung Hsung, 64-08 Wetherole Street, Rego Park, NJ 11374	Investor	20
Li-Chu Huang, 173-25 Croydon Road, Jamaica, NY 11432	Investor	20
Ter-Shan Chen, 6F-1 Sec. 4, 258, Sin-Yi Road, Taipei, Taiwan	Investor	20
Cho Hwa Wang Chen, 62-24 Cronwell Crescent, Rego Park, NY 11374	Investor	6

The Applicant, a New Jersey corporation, with its principal place of business at 605 King Georges Post Road, Suite 2B, Fords, New Jersey 08863, will begin operations with $1,000,000 of paid-in capital and paid-in surplus. The Applicant will initially conduct its activities in the States of New Jersey and New York.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Fords, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 6, 1986

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 25678 Filed 11-13-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-11-20; Docket 44485 etc.]

Baltimore-London Service Case et al.; Order

Issued by the Department of Transportation on the 10th day of November, 1986.

In the matter of Baltimore-London Service Case, U.S.-London Gateways Case; Applications of Air Specialties Corp., d/b/a Air America, Trans World Airlines, Inc. under section 401 of the Federal Aviation Act for certificate of public convenience and necessity.

The selection of primary and backup carriers to serve the Baltimore-London market was placed at issue in the *U.S.-London Gateways Case*, by Order 86-10-38 (See summary published October 24, 1986, 51 FR 37812). That proceeding will also consider the selection of two additional U.S. gateway cities to London, as well as the carriers that will serve those routes. Given the broad scope of the *Gateways* case, we announced in our instituting order that we intended to sever the issue of carrier selection at Baltimore in the event that no carrier applied for both Baltimore-London and new gateway authority.

Prior to our instituting the *Gateways* case, Air America and Trans World Airways had filed applications seeking only Baltimore-London authority. Additional applications for the Baltimore-London route were due on November 3, 1986, and none were filed. Therefore, as no carrier has applied for both Baltimore-London and new gateway authority, we have decided to sever the selection of primary and backup carriers to serve the Baltimore-London market from Docket 44432, and we will open a new docket, the *Baltimore-London Service Case*, to consider these issues.[1] We have already determined, in Order 86-10-38, that the certification of service on this route is consistent with the public convenience and necessity,[2] and we expect parties to adhere to the evidence request that is attached as an appendix to that order.

Accordingly,

1. We sever the selection of primary and backup carriers for authorization to engage in foreign air transportation of persons, property, and mail between Baltimore, Maryland and London, United Kingdom from Docket 44432;

2. We open Docket 44485, the *Baltimore-London Service Case*, which will be set for an oral evidentiary hearing before an Administrative Law Judge of the Department at a time and place to be designated;

3. The proceeding instituted in ordering paragraph 2 shall include consideration of the following issues:

a. Which primary carrier and which backup carrier should be authorized to engage in foreign air transportation of persons, property, and mail between Baltimore, Maryland and London, United Kingdom;[3]

b. What terms, conditions and limitations, if any, should be placed on any authority awarded in this proceeding;

4. We make the Office of Essential Air Service together with the Office of Aviation Enforcement and Proceedings of the Office of the General Counsel, the Public Counsel party to this case; and

5. We shall publish this order in the **Federal Register**, and serve a copy of this order on all parties to Dockets 44349, 44416, and 44432.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-25780 Filed 11-13-86; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ending—November 7, 1986

The following agreements were filed with the Department of Transportation

[1] As we stated in Order 86-10-38, we will not consider the issue of awarding local traffic rights between London and Frankfurt in this proceeding.

[2] We incorporate by reference from Order 86-10-38, our intention to award 5 years, experimental certificates in this case, together with all other findings as they relate to this proceeding.

[3] This includes the issue of carrier fitness.

under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44480—R-1-R-4

Parties: Members of International Air Transport Association
Date Filed: November 6, 1986
Subject: Amends So Atlantic-Europe/Middle East Fares
Proposed Effective Date: November 15, 1986

Docket No. 44481—R-1 & R-2

Parties: Members of International Air Transport Association
Date Filed: November 6, 1986
Subject: Circle Pacific Fares
Proposed Effective Date: April 1, 1987

Docket No. 44442

Parties: Members of International Air Transport Association
Date Filed: November 6, 1986
Subject: RIO-CHI SCRs for Various Electronics
Proposed Effective Date: November 5, 1986

Docket No. 44483—R-1 & R-2

Parties: Members of International Air Transport Association
Date Filed: November 6, 1986
Subject: Amend Seasonality of Family Fares from Japan to Guam/Saipan
Proposed Effective Date: April 1, 1987

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-25779 Filed 11-13-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-86-20]

Petition for Exemption; Summary of Petitions Received; Executive Air Charter, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. The comment period for these petitions for exemption has been shortened in order to allow the agency to consider public comments and act on these petitions prior to the approaching compliance date established by the Federal Aviation Regulations. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before November 21, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket NO. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11.)

Issued in Washington, DC, on November 12, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25124	Executive Air Charter, Inc	14 CFR 121.310	To allow petitioner a 4-day extension from the compliance date of November 26 for meeting emergency exit lighting requirements.

[FR Doc. 86-25823 Filed 11-12-86; 11:25 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemption.

SUMMARY: In accordance with the procedures governing the application for and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes December 15, 1986.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590..

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street, SW, Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9684-N	General Electric Railcar Services Corporation, Chicago, IL	49 CFR 179.105-4, 179.105-8(b)	To authorize a number of tank cars in the 112J and 114J series, equipped with a thermal protection system, which are not painted white, to be converted to the 112S and 114S series for the shipment of anhydrous ammonia. (Mode 2)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9685-N	Certified Tank Manufacturing Inc., Wilmington, CA.	49 CFR 173.119, 173.154, 173.245, 173.245b.	To manufacture, mark and sell non-DOT specification portable tanks designed for top loading and end dump operations for shipment of certain flammable or corrosive liquids and solids for disposal. (Mode 1)
9686-N	Fluoroware, Inc., Chaska, MN	49 CFR 173.119, Part 173, Subpart F	To manufacture, mark and sell non-DOT specification 20 liter capacity rotationally molded teflon fiberglass wrapped containers for shipment of those flammable and corrosive liquids presently authorized in DOT Specification 34 and 6D/2S or 2SL containers as well as nitric acid not to exceed 71%. (Modes 1, 2)
9687-N	American Cyanamid Company, Wayne, NJ.	49 CFR 179.200-18-b	To authorize the installation on DOT Specification 111A100W2 tank cars in sulfuric acid service, safety vents on nozzles equipped with surge baffles having equivalent nozzle diameters of 1½ inches instead of 1¾ inches. (Mode 2)
9688-N	GTE Government Systems Corporation, Waltham, MA.	49 CFR 173.247	To authorize shipment of thionyl chloride, classed as a corrosive material in non-DOT specification teflon bottles of either 10 ounces or 16 ounces overpacked in DOT Specification 17H stainless steel drums not to exceed 54 bottles per drum. (Mode 1)
9689-N	Olin Corporation, Stamford, CT	49 CFR 176.76(a)(4)	To authorize drums of dense or heavy materials such as toluene diisocyanate and other hazardous materials not exceeding 12.09 pounds per gallon, to be secured against movement in a transport vehicle by the use of a fabric restraint dunnage system when shipped by the water mode. (Mode 3)
9690-N	Snyder Industries, Inc., Lincoln, NE	49 CFR Part 173, Subpart D, F	To manufacture, mark and sell non-DOT specification polyethylene portable tanks of 110 gallon capacity and 175 gallon capacity for shipment of certain corrosive or flammable liquid including 52% hydrogen peroxide. (Modes 1, 2)
9691-N	Gottlieb Duttenhoefer GmbH & Co. KG, Federal Republic of Germany.	49 CFR Part 173	To manufacture, mark and sell 15 gallon capacity steel overpack similar to DOT Specification 37M except for a slight reduction in wall thickness with polyethylene liner meeting DOT-2SL except for marking for shipment of those commodities authorized in DOT-37M/2SL. (Modes 1, 2, 3)
9692-N	Halliburton Services, Duncan, OK	49 CFR 173.119(m)	To authorize shipment of a flammable liquid which is also corrosive, classed as flammable liquid, corrosive, n.o.s. in DOT Specification 57 portable tanks. (Mode 1)
9693-N	Ashland Chemical Company, Dublin, OH	49 CFR 173.24, 173.300, 173.34	To authorize shipment of leaking cylinders containing certain hazardous materials to be overpacked in a specially designed container not to exceed one cylinder per overpack. (Mode 1)
9694-N	All Pure Chemical Company, Tracy, CA	49 CFR 173.315(i)(13), 173.33(f)(9), 173.33(h)(5)(i).	To authorize use of modified angle valves and pressure relief valves on MC-331 chlorine cargo tanks. (Mode 1)
9695-N	Southern California Gas Company, Los Angeles, CA.	49 CFR 173.34(e)(1)(iii)	To authorize a one-time shipment of 155 DOT Specification 4AA480 cylinders which have past their retest dates and were inadvertently charged with a ammonium hydroxide/sodium chromate solution. (Mode 1)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 5, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-25777 Filed 11-13-86; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing a public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes November 28, 1986.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2709-X	Atlas Powder Co., Dallas, TX	2709
5022-X	Morton Thiokol, Inc., Elkton, MD	5022
5248-X	Rockwell International Corp., Anaheim, CA	5248
5557-X	U.S. Department of Energy, Washington, DC	5557
5600-X	Amoco Oil Co., Whiting, IN [1]	5600
6267-X	Alden Leeds, Inc., South Kearney, NJ	6267
6267-X	Coastal Industries, Inc., Carlstadt, NJ	6267
6543-X	Airco, The BOC Group, Inc., Riverton, NJ [2]	6543
6583-X	Phillips Petroleum Co., Bartlesville, OK	6583
6762-X	Texo Corp., Cincinnati, OH	6762
6922-X	General Electric Co., Waterford, NY	6922
7052-X	ENDECO, Inc., Marion, MA	7052
7546-X	Grumman Aerospace Corp., Bethpage, NY [3]	7546
7731-X	Minnesota Valley Engineering, Inc., New Prague, MN [4]	7731
7808-X	Whitmire Research Laboratories, Inc., Saint Louis, MO	7808
7808-X	Cline-Buckner, Inc., Artesia, CA	7808
8053-X	Eastman Kodak, Co., Rochester, NY	8053
8060-X	Parlefer S. A. R. L., Paris, France	8060
8084-X	IRECO Inc., Salt Lake City, UT	8084
8084-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	8084
8115-X	Acurex Corp., Mountain View, CA	8115
8126-X	Arbel-Fauvet-Rail, Paris, France	8126
8126-X	SLEMI, Paris, France	8126
8348-X	Frell, Inc., Corpus Christi, TX [5]	8348
8451-X	Pyrotechnic Specialties, Inc., Byron, GA	8451
8519-X	Polish Ocean Lines, Gdynia, Poland	8519
8519-X	Atlantic Container Line, Limited, Elizabeth, NJ	8519
8520-X	Atlas Powder, Co., Dallas, TX	8520
8523-X	Arbel-Fauvet-Girel, Paris, France	8523
8526-X	3M Co., Saint Paul, MN	8526
8554-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	8554
8554-X	THR Corp., Pennuco, FL	8554
8570-X	Snyder Industries, Inc., Woodland, Hills, CA [6]	8570
8802-X	EVA Eisenbahn-Verkehrsmittel, GmbH, Dusseldorf, West Germany	8802
8906-X	FMC Corp., Philadelphia, PA	8906

Application No.	Applicant	Renewal of exemption
9130-X	Aquarius Pool & Spa Supply, Inc., Elk Grove Village, IL [7]	9130
9271-X	Missouri Pacific Railroad, Co., Omaha, NE	9271
9271-X	Union Pacific Railroad Co., Omaha, NE	9271
9319-X	W. R. Grace & Co., Dearborn, Division, Lake Zurich, IL	9319
9329-X	Dreser, Atlas, Houston, TX	9329
9332-X	Englehard, Corp., Edison, NJ	9332
9340-X	Pioneer Plastics & Services, Co., Ltd., Brampton, Ont., Canada [8]	9340
9678-X	Rossborough Manufacturing Co., Avon Lake, OH [9]	9678

[1] To renew and to authorize an additional manufacture of cylinder parts.
[2] To authorize a non-DOT specification 12 gauge, Type 316L stainless steel cylinder as an additional packaging for shipment of certain flammable or corrosive liquids.
[3] To renew and authorize slightly larger pipe assembly, containing certain flammable and nonflammable gases, overpacked in specifically designed wooden box and to add rail as additional mode.
[4] To authorize an additional model non-DOT specification vacuum insulated portable tank for shipment of helium or hydrogen.
[5] To authorize a rear door dump feature on non-DOT specification cargo tanks used for the shipment of certain waste materials.
[6] To authorize an additional polyethylene portable tank of 300 gallon capacity for shipment of certain flammable or corrosive liquids and an oxidizer.
[7] To authorize a polyethylene pail not to exceed 50 pounds of product overpacked in a fiberboard box for shipment of an oxidizer.
[8] To authorize certain blasting agents and an oxidizer as additional commodities.
[9] To renew an exemption originally issued on an emergency basis to authorize shipment of magnesium and calcium salt mixtures classed as flammable solid, in dry bulk tank semi-trailer.

Application No.	Applicant	Parties to exemption
4719-P	Halocarbon Products Corp., Hackensack, NJ	4719
6626-P	Messer Griesheim Industries, Valley Forge, PA	6626
6929-P	Morton Thiokol, Inc., Brigham City, UT [1]	6929
7544-P	Jones Chemicals, Inc., Caledonia, NY	7544
7951-P	Ready Food Products, Inc., Philadelphia, PA	7951
8091-P	U.S. West Material Resources Inc., Englewood, CO	8091
8445-P	Polaroid Corp., Cambridge, MA	8445
8445-P	American Cyanamid Co., Wayne, NJ	8445
8554-P	IRECO Inc., Salt Lake City, UT	8554
8554-P	Pepin Explosives, Inc., Negaunee, MI	8554
8554-P	Southwestern Explosives, Inc., Midland, TX	8554
8893-P	Atlas Powder Co., Dallas, TX	8893
9209-P	Jones-Hamilton Co., Newark, CA	9209
9617-P	D & J Maurer, Inc., Philipsburg, PA	9617
9617-P	Buckley Powder Co., Englewood, CO	9617
9623-P	Buckley Powder Co., Englewood, CO	9623

[1] Request party status and to authorize a specially designed wooden container for shipment of rocket motor, Class B explosive.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 5, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-25778 Filed 11-13-86; 8:45 am]

BILLING CODE 4910-60-M

Saint Lawrence Seaway Development Corporation

Advisory Board Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 2:00 p.m., December 3, 1986, at the Corporation's Administration Headquarters, Room 5424, 400 Seventh St. SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than November 25, 1986, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC, 20590; 202/366-0118.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on November 7, 1986.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 86-25792 Filed 11-13-86; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 7, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New
Title: Tele-Tax Publication 1163 Survey
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Comptroller of the Currency

OMB Number: 1557-0070
Form Number: FFIEC 004
Type of Review: Extension
Title: Extensions of Credit to National Bank Insiders (12 CFR 31)
Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86-25775 Filed 11-13-86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 6, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New
Title: Public Questionnaire
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and

Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Douglas J. Colley,

Departmental Reports, Management Office.

[FR Doc. 86-25776 Filed 11-13-86; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

VA Medical Center, Dayton, OH, Bed Addition and Renovation; Revised Notice of Finding of No Significant Impact

The Veterans Administration published a FONSI for this project (49 FR 24099, June 11, 1984). Since then the project scope has been revised. The previous project included new construction for 360 beds and renovation of Brown Hospital for 300 beds. The revised project includes new construction of 511 beds, as well as selected diagnostic and support functions. It would be built east of the existing clinical building. Upon completion, Brown hospital would be phased out and eventually demolished.

Development of this project depends upon the availability of budgetary resources and administrative approval. The potential environmental impacts that may occur have been assessed for the revised project scope. The VA has determined that the potential environmental impacts associated with the project would be minimal.

Construction of this project would have permanent impacts on the historic/cultural environment. Views from within the site would be changed by demolition of Brown Hospital. Mitigation of these impacts would be accomplished through compatible design of the new addition. The VA would adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in the assessement.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Susan Livingstone, Director of Environmental Affairs (088A), Room 512, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3717. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: November 4, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86-25688 Filed 11-13-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 220
Friday, November 14, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Friday, November 21, 1986.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY '87 Operating Plan

The Commission will consider the 1987 Operating Plan.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

November 12, 1986.

[FR Doc. 86–25855 Filed 11–12–86; 1:54 pm]y

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, November 20, 1986.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Enforcement Matter OS #5168

The staff will brief the Commission on Enforcement Matter OS #5168.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

November 12, 1986.

[FR Doc. 86–25856 Filed 11–12–86; 1:54 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, November 19, 1986.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

All-Terrain Vehicle (ATVs); Options

The ATV Task Force will brief the Commission on regulatory options for ATVs. The staff will review the major findings and recommendations of the ATV Task Force.

*If circumstances require, this meeting may be continued on Thursday, November 21, 1986 at the same location.

FOR A RECORDED MESSAGE CONTAINING THE LASTEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

November 12, 1986.

[FR Doc. 86–25857 Filed 11–12–86; 1:54 pm]

BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time) Tuesday, November 25, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Request for Commission Approval to Receive Proposals to Mailout and Process the 1986 State and Local Government Information EEO–4 Survey

Closed

1. Commission Resolution To Effectuate Settlement in a Case
2. Litigation Authorization: General Counsel Recommendations
3. Proposed Commission Decisions

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated and issued November 12, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–25904 Filed 11–12–86; 8:45 am]

BILLING CODE 6750–06–M

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 5:17 p.m. on Friday, November 7, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Metropolitan Bank & Trust Company, Baton Rouge, Louisiana, which was closed by the Commissioner of Financial Institutions for the State of Louisiana on Friday, November 7, 1986; (2) accept the bid for the transaction submitted by Whitney National Bank of New Orleans, New Orleans, Louisiana; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Chokio State Bank, Chokio, Minnesota, which was closed by the Deputy Commissoner of Commerce for the State of Minnesota on Friday, November 7, 1986; (2) accept the bid for the transaction submitted by First Bank of Chokio, Chokio, Minnesota, a newly-chartered State nonmember bank; (3) approve the applications of First Bank of Chokio, Chokio, Minnesota, for Federal Deposit Insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Chokio State Bank, Chokio, Minnesota; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(C) Consider matters relating to The First National Bank and Trust Company of Enid, Enid, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, November 6, 1986.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the

Currency), seconded by Director C.C. Hope, Jr. (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earler notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 10, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-25829 Filed 11-12-86; 11:33 am]

BILLING CODE 6714-01-M

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 the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, November 18, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance and for consent to exercise limited trust powers:

Sumitomo Trust and Banking Co. (U.S.A.), a proposed new bank to be located at 527 Madison Avenue, New York City (Manhattan), New York.

Application for consent to purchase assets and assume liabilities:

The Citizens and Peoples National Bank of Pensacola, Pensacola, Florida, for consent to purchase certain assets of and assume the liability to pay deposits made in the Gulf Breeze, Florida, Branch; Milton, Florida, Branch; and Pace, Florida, Branch of Pioneer Savings Bank, Clearwater, Florida, a non-FDIC-insured institution.

Application for consent to purchase assets and assume liabilities and establish three branches:

Century North Shore Bank and Trust Company, Lynn, Massachusetts, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in St. Michael's Credit Union, Lynn, Massachusetts, a non-Federally-insured institution and to establish the three offices of St. Michael's Credit Union as branches of the resultant bank.

Application for consent to merge:

Phoenix National Bank, Phoenix, Arizona, for consent to merge, under its charter and with the title of "Northern Trust Bank of Arizona, National Association," with The Northern Trust Company of Arizona, Phoenix, Arizona, a non-FDIC-insured institution.

The First National Bank of Mayfield, Mayfield, Kentucky, for consent to merge, under its charter and title, with Bank of Farmington, Farmington, Kentucky, a noninsured institution.

The Peoples' National Bank of Wapakoneta, Wapakoneta, Ohio, for consent to merge, under its charter and title, with The Peoples Savings Bank, New Knoxville, Ohio, a noninsured institution.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,740 (Amendment)
Atlanta Regional Office, Atlanta, Georgia
Case No. 46,756-L
First National Bank of Prior Lake, Prior Lake, Minnesota

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 898-3813.

Dated: November 10, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-25830 Filed 11-12-86; 11:34 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, November 18, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Discussion Agenda:

Application for Federal deposit insurance:

Liberty Savings Bank, an operating noninsured savings association located in Philadelphia, Pennsylvania.

Notice of acquisition of control:

Firstrust Savings Bank, Flourtown, Pennsylvania.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC

Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: November 10, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–25831 Filed 11–12–86; 11:36 am]

BILLING CODE 6714–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 10, 1986.

TIME AND DATE: 10:00 a.m., Tuesday, December 16, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Secretary of Labor, MSHA, and United Mine Workers of America v. NACCO Mining Company, Docket No. LAKE 85–87–R, LAKE 86–2. (Issues include whether an enforcement action under section 104(d) of the Mine Act, 30 U.S.C. 814(d), can be taken only when a violation is discovered during the course of an inspection and where the inspector actually observes the violation.)

TIME AND DATE: 2:00 p.m., Tuesday, December 16, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Greenwich Collieres v. Secretary of Labor, MSHA and United Mine Workers of America, Docket No. PENN 85–188–R, etc. (Issues are same as above).

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clark.

[FR Doc. 86–25847 Filed 11–12–86; 1:39 pm]

BILLING CODE 6735–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 10, 1986.

TIME AND DATE: 10:00 a.m., Wednesday, December 17, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. White County Coal Corporation v. Secretary of Labor, MSHA, Docket No. LAKE 86–58–R, LAKE 86–59–R. (Issues include whether an enforcement action under section 104(d) of the Mine Act, 30 U.S.C. 814(d), can be taken only when a violation is discovered during the course of an inspection and where the inspector actually observes the violation.)

TIME AND DATE: 2:00 p.m., Thursday, December 17, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Emerald Mines Corporation v. Secretary of Labor, MSHA, Docket No. PENN 85–298–R. (Issues are same as above).

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–25848 Filed 11–12–86; 1:40 pm]

BILLING CODE 6735–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, November 19, 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. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. 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: November 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–25789 Filed 11–10–86; 5:05 pm]

BILLING CODE 6210–01–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The agenda for the upcoming meeting of the U.S. National Commission on Libraries and Information Science has been revised to include an Executive Session on November 19, 8:00–9:00 a.m. This session, as noted on this notice, is Closed.

The U.S. National Commission on Libraries and Information Science will meet November 19–20, 1986.

DATE AND TIME: November 19–20, 1986.

PLACE: Sheraton National Hotel, Concourse II Meeting Room, Columbia Pike and Washington Boulevard, Arlington, Virginia 22204.

STATUS:

November 19, 8:00 a.m. to 9:00 a.m. Executive Session—Closed
November 19, 9:00 a.m. to 4:30 p.m.—Open
November 20, 9:00 a.m. to 5:00 p.m.—Open

MATTERS TO BE DISCUSSED:

Introduction of New NCLIS Chairman and Executive Director
Chairman's Report
Approval of August 1986 Minutes
Executive Director's Report
  —FY 1986 Final Program Report
  —Administrative Matters
  —FY 1987 Program Plans
NCLIS Program Objectives: FY 1986–1988
Committee Reports
  —1989 National Conference
  —Bicentennial
  —Budget and Finance
  —Program Review
  —Public Affairs
Guest Speakers on Preservation:
  Warren Haas, Council on Library Resources (CLR)
  Peter Sparks, Library of Congress
Meeting Reports
  —Information in the Economy
  —Chief Officers of State Library Agencies (COSLA)
  —White House Conference on Library and Information Services Taskforce (WHCLIST)
Guest Speakers on the Information Age Bill:
  Jane Bortnick, Congressional Research Service (CRS)
  John Clement, American Federation of Information Processing Societies (AFIPS)
  Ralph Petta, Senator Nunn's Office
  Milton Wessell, Association of Data Processing Service Organizations (ADAPSO)
ALA President's Committee on Library Services to Minorities
Old Business

New Business

CONTACT: Vivian J. Arterbery, Executive Director (202) 382–0840.

Jane D. McDuffie,

Staff Assistant.

October 30, 1986.

[FR Doc. 86–25835 Filed 11–12–86; 1:37 pm]

BILLING CODE 7527–01–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 1:30 p.m., Thrusday, November 20, 1986.

PLACE: Red Lion Inn—Jantzen Beach, 909 North Hayden Island Drive, Portland, Oregon 97217, (503) 283–4466.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Operating Fee Scale.
3. Economic Commentary.
4. Review of Central Liquidity Facility Lending Rate.
5. Insurance Fund Report.
6. Proposed Amendments to Part 708, NCUA Rules and Regulations, involving mergers of federally-insured credit unions and voluntary termination or conversion of Federal share insurance.
7. Withdrawal of Proposed Rule, Part 744, NCUA Rules and Regulations, Payout Priorities for Involuntary Liquidation of Federally-Insured Credit Unions.
8. Appeal of Charter Application Denial by the Proposed American Postal Workers Emergency Fund Federal Credit Union.

TIME AND DATE: 5:00 p.m., Wednesday, November 19, 1986.

PLACE: Red Lion Inn—Jantzen Beach, 909 North Hayden Island Drive, Portland, Oregon 97217.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Appeal of Insurance Application Denial. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Actions under section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
4. Delegations of Aauthority. Closed pursuant to exemption (2).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86–25875 Filed 11–12–86; 3:28 pm]

BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, November 26, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Briefing:* Mr. Archie Trammel, Inc., of Business and Commercial Aviation magazine, and Mr. Jim Cook, Independent Contract Research Pilot, will brief the Board on the use of airborne weather radar.

FOR MORE INFORMATION, CONTACT: Ray Smith (202) 382–6525.

Ray Smith,

Federal Register Liaison Officer.

November 10, 1986.

[FR Doc. 86–25808 Filed 11–12–86; 8:45 am]

BILLING CODE 7533–01–M

Federal Register

Friday
November 14, 1986

Part II

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3402

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program Administrative Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3402

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to establish Part 3402 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program conducted under the authority of section 1417(a)(3)(B) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(a)(3)(B)). The issuance of this rule will establish the procedures to be followed annually in the solicitation of competitive graduate fellowships grant proposals, the evaluation of such proposals, and the award of graduate fellowships grants under this program.

DATES: Written comments concerning the proposed rule are invited from interested individuals and organizations. To be considered, all relevant material must be received on or before December 15, 1986.

ADDRESSES: Please submit written comments to: Director, Higher Education Programs, Cooperative State Research Service, U.S. Department of Agriculture, Room 350A, Administration Building, 14th and Independence Avenue SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jane Coulter (202) 447–7854.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this proposed rule is currently under review by the Office of Management and Budget.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96–534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment.

Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.210, Food and Agricultural Sciences National Needs Graduate Followships Grants. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, when the authority to administer this program resided in the Agricultural Research Service, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

This document proposes to establish Part 3402 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program conducted under the authority of section 1417(a)(3)(B) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(a)(3)(B)). The issuance of this rule will establish the procedures to be followed annually in the solicitation of competitive graduate fellowships grant proposals, the evaluation of such proposals, and the award of graduate fellowships grants under this program. In the past, a Notice was published in the **Federal Register** announcing the availability of funds for the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program and soliciting proposals. In addition, the Notice set forth the procedures and conditions relating to the award of grants and administration of the program. This rule will establish and codify such procedures, criteria, and conditions, and eliminate the need to republish them annually.

List of Subjects in 7 CFR Part 3402

Higher Education Programs (HEP) Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program.

It is therefore proposed to amend Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, by adding Part 3402 to read as follows:

CHAPTER XXXIV—COOPERATIVE STATE RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3402—FOOD AND AGRICULTURAL SCIENCES NATIONAL NEEDS GRADUATE FELLOWSHIPS GRANTS PROGRAM

Subpart A—General Introduction

Sec.

3402.1 Applicability of regulations.
3402.2 Definitions.
3402.3 Institutional eligibility.

Subpart B—Program Description

3402.4 Food and agricultural sciences areas targeted for national needs graduate fellowships grant support.
3402.5 Overview of Graduate Fellowships Grants Program.
3402.6 Fellowship appointments.
3402.7 Fellowship activities.
3402.8 Financial provisions.

Subpart C—Preparation of a Proposal

3402.9 Program brochure and application kit.
3402.10 Proposal cover page.
3402.11 National need summary.
3402.12 National need narrative.
3402.13 Budget.
3402.14 Faculty vitae.
3402.15 Appendix.

Subpart D—Submission of a Proposal

3402.16 Where to submit proposals.
3402.17 Intent to submit a proposal.

Subpart E—Proposal Review and Evaluation

3402.18 Proposal review.
3402.19 Evaluation criteria.

Subpart F—Supplementary Information.

3402.20 Terms and conditions of grant awards.
3402.21 Notice of grant awards.
3402.22 Other federal statutes and regulations that apply.
3402.23 Confidential aspects of proposals and awards.
3402.24 Access to peer review information.
3402.25 Documentation of progress on funded projects.
3402.26 Evaluation of program.

Authority: Sec. 1470, National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3316).

Subpart A—General Introduction

§ 3402.1 Applicability of regulations.

(a) The regulations of this part apply to competitive grants awarded under the provisions of section 1417(a)(3)(B) of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(a)(3)(B)).

This statute designates the Department of Agriculture as the lead Federal agency for agricultural research, extension, and teaching in the food and agricultural sciences. It authorizes the Secretary of Agriculture, who has delegated the authority to the Cooperative State Research Service (CSRS), to make competitive grants to U.S. colleges and universities to administer and conduct graduate fellowship programs to help meet the Nation's needs for development of scientific and professional expertise in the food and agricultural sciences. The fellowships are intended to encourage outstanding students to pursue and complete graduate degrees in the areas of food and agricultural sciences designated by CSRS through its Higher Education Programs (HEP) as national needs.

(b) The regulations of this part do not apply to grants awarded by the Department of Agriculture under any other authority.

§ 3402.2 Definitions.

As used in this part:

(a) "Graduate degree" means a master's or doctoral degree.

(b) "Citizen or national of the United States" means a citizen or native resident of any one of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, or the Virgin Islands of the United States. It does not refer to a citizen of another country who has applied for United States citizenship.

(c) "College and university" means an educational institution in any State which—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate,

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which a bachelor's degree or any other higher degree is awarded;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

(d) "Food and agricultural sciences" denotes research, extension, and teaching activities concerned with the production, processing, marketing, distribution, conservation, consumption, research and development of food and agriculturally related products and services, inclusive of programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and closely allied fields.

(e) "Teaching activities" specific to the food and agricultural sciences denote academic programs of study designed to train scientists and professionals in production, processing, marketing, distribution, conservation, consumption, research and development of food and agriculturally related products and services.

§ 3402.3 Institutional eligibility.

Proposals may be submitted by all U.S. colleges and universities that confer a graduate degree in at least one area of the food and agricultural sciences targeted for national needs fellowships, that have a significant ongoing commitment to the food and agricultural sciences generally, and that have a significant ongoing commitment to the specific subject area for which grant application is made. It is the objective to award grants to colleges and universities which have notable teaching and research competencies in the food and agricultural sciences. The grants are specifically intended to support fellowship programs that encourage outstanding students to pursue and complete a graduate degree at such institutions in an area of the food and agricultural sciences for which there is a national need for the development of scientific expertise. Therefore, institutions which currently have excellent programs of graduate study and research in the food and agricultural sciences dealing with targeted national needs are particularly encouraged to apply.

Subpart B—Program Description

§ 3402.4 Food and agricultural sciences areas targeted for national needs graduate fellowships grants support.

Areas of the food and agricultural sciences appropriate for fellowship grant applications are those in which developing shortages of expertise have been determined and targeted by CSRS–HEP for national needs fellowship grant support. When funds are available, the specific areas will be identified in a **Federal Register** notice announcing the program and soliciting program applications.

§ 3402.5 Overview of graduate fellowships grants program.

Grants, providing funds for a limited number of fixed graduate student stipends and a fixed cost-of-education institution allowance, will be awarded competitively to selected U.S. institutions. Based on the amount of funds appropriated in any fiscal year, CSRS will determine the allowable stipend amount and cost-of-education allowance. In addition, it will establish minimum and maximum numbers of fellowships that an institution may apply for and support with grant funds and the minimum and maximum funds that may be awarded under a single grant. These determinations and the limits on the total number of proposals which can be submitted by an institution as well as the number of proposals submitted by an institution on behalf of the same college or equivalent administrative unit will be published as a part of the program announcement in the **Federal Register.**

§ 3402.6 Fellowship appointments.

Fellowships must be awarded within 15 months of the effective date of a grant. Institutions failing to meet this deadline will be required to refund monies associated with any unawarded fellowship(s). Fellowship appointments may be held only by persons who enroll and pursue full-time study in a graduate degree program in an area of the food and agricultural sciences targeted for national needs fellowships. In addition, fellows must be newly recruited and may not have been enrolled previously in the academic program at the same degree level; must be citizens or nationals of the United States as determined in accordance with Federal law; and must have a strong interest, as judged by the institution, in pursuing a degree in a targeted national need area and in preparing for a career as a food or agricultural scientist or professional. It will be the responsibility of the grantee institution to award fellowships to students of superior academic ability. A doctoral fellow who maintains satisfactory progress in his or her course of study is eligible for support for a maximum of 36 months within a 45-month period. Master's level fellows, maintaining satisfactory progress, are eligible for support for a maximum of 24

months during a 33-month period. However, it is the intent of this program that fellows pursue full-time uninterrupted study. For fellows requiring additional time to complete a degree, it is expected that the institution will endeavor to continue supporting individuals originally appointed to fellowships through such other institutional means as teaching assistantships and research assistantships.

Within the framework of these regulations, all decisions with respect to the appointment of fellows will be made by the institution. Throughout a fellow's tenure, the institution should satisfy itself that the fellow is making satisfactory academic progress, and carrying out, or plans to carryout, national needs related research. If an intitution finds it necessary to terminate support of a fellow for insufficient academic progress or by decision on the part of the fellow, the fellow becomes ineligible for future assistance under the program. If a fellow finds it necessary to interrupt his or her program of study because of health, personal reasons, outside employment, or acceptance of an assistantship, the institution must reserve the funds for the purpose of allowing the fellow to resume funded study any time within a 9-month period. However, a fellow who finds it necessary to interrupt his or her program of study more than one time cannot exceed a total of 9 months cumulative leave status without forfeiting eligibility. For fellowships terminated because of insufficient academic progress, a decision on the part of the fellow, or reserved due to an interrupted program of study but not resumed within the required time period, unexpended monies must be refunded. Institutions may not use unexpended monies associated with a terminated fellowhip to recruit and support a "replacement" fellow.

§ 3402.7 Fellowship activities.

A fellow must be enrolled at all times during tenure in a full-time program leading to a graduate degree in one of the targeted national needs areas. However, the normal requirement of formal registration during part of this tenure may be waived if permitted by the policy of the fellowship institution, provided that the fellow remains engaged in appropriate full-time fellowship activities. Fellows in academic institutions are not entitled to vacations as such. They are entitled to the short normal student holidays observed by the institution. The time between academic semesters or quarters is to be utilized as an active part of the training period. During the period of support, a fellow may not accept employment by the institution or any other agency. However, a grant supporting research costs of the fellow is acceptable, exclusive of salary or wages and fringe benefits for the fellow.

§ 3402.8 Financial provisions.

The basic fellowship stipend and cost-of-education institution allowance that may be paid from grant funds will be contingent on and determined by annual appropriations. The amount of both the stipend and the cost-of-education allowance will be cited in the program announcement in the **Federal Register**. The cost-of-education allowance cannot exceed the authorized percent (cited in the annual program announcement) of the total fellowship stipends requested. An institution may elect to use these funds to apply to fellows' tuitions and fees; however, such is not required. The allowance may be used also by an institution to defray other program expenses (e.g., recruitment, travel, publications, or salaries of project personnel). Tuition and fees are the responsibility of a fellow unless an institution elects to use its cost-of-education allowance for this purpose or elects to pay such costs out of other non-USDA monies. No dependency allowances are provided for fellows. Monthly stipend payments will be made to fellows by the institution, according to standard institutional procedures.

Subpart C—Preparation of a Proposal

§ 3402.9 Program Brochure and Application Kit.

A Program Brochure and Application Kit will be made available to any potential grant applicant who requests a copy. This brochure and kit provide instructions, regulatory provisions applicable to the submission and administration of the grants, and forms.

§ 3402.10 Proposal cover page.

The Proposal Cover Page, Form CSRS–701, can be found in the program brochure and must be completed in its entirety including all authorizing signatures. One copy of each grant application must contain the pen-and-ink signature(s) of the Project Director(s), as well as the the Authorized Certifying Representative for the college, and institution.

§ 34021.11 National need summary.

Using the National Need Summary, Form CSRS–702, summarize the proposed graduate program of study and the academic and research strengths of the institution in the national need area for which funding is requested. If support for both master's and doctoral fellowships is requested, prepare a summary for each degree level. The summary should not include any reference to the specific number of fellowships requested. The information on this summary page(s) will be used in assigning the most appropriate panelists to review a proposal. If a proposal is supported, this page may be used in program publications. The *National Need Summary* form is provided in the program brochure.

§ 34021.12 National need narrative.

A narrative for the national need area should be written in four sections and limited to no more than 20 pages. The four sections to be included are as follows:

(a) *Section 1.* Present a detailed description of the proposed fellows' graduate plan of study. Identify courses and summarize content. Discuss any special features such as multidisciplinary aspects of the program of study, multiuniversity collaborative approaches, experiential learning opportunities such as a practicum or internship, or a unique disciplinary collateral specialization. Also discuss areas of research that fellows will be encouraged to engage in via a thesis or dissertation. In essence, this section must clearly establish that the proposed program of study will result in the development of outstanding scientific/professional expertise in the national need area for which funding is requested. Caution: If a proposal requests support for both master's and doctoral fellowships, all information in this section should be provided specific to each degree level.

(b) *Section 2.* Justify the institution's position that it presently provides a major, productive, recognized program of graduate study and research in the area of national need in which selected fellows would be engaged. Include evidence of the quality of existing attributes and resources of the institution such as teaching and research faculty, instructional and research instrumentation and facilities, library resources, computing resources, and so forth. Also, discuss the extent to which graduate students have access to such institution resources.

(c) *Section 3.* Thoroughly document the institution's plans and procedures for managing fellowship appointments. Explain in-depth the plan for recruiting academically outstanding fellows and procedures for selecting fellows of superior quality who appear to be highly motivated to prepare for and pursue a

career as a food or agricultural scientist or professional. In addition, cite specific plans for advising and guiding fellows through a program of study, as well as any special programs or activities that will be offered to enrich the fellows' graduate training.

(d) *Section 4.* Include important supplementary summary data for your institution relevant to the national need area for which funding is requested. Examples of appropriate data are indices of student quality, enrollments and degrees awarded for recent years, placement of graduates, facilities, and faculty research support.

§ 3402.13 Budget.

Prepare the Proposal Budget, Form CSRS–703, identifying all costs associated with the proposal. Instructions for completing the *Proposal Budget* are provided on the form.

§ 3402.14 Faculty vitae.

This section should include summary vitae (emphasizing major accomplishments during the past 5 years) for faculty contributing significantly to institutional competence in the national need area addressed in the proposal. Arrange the vitae in alphabetical order, assign a number to each individual vita in the upper right hand corner, and refer to this number when appropriate within the context of the proposal.

§ 3402.15 Appendix.

Any additional supporting information deemed important for clarifying and/or strengthening the proposal should be included in an appendix.

Subpart D—Submission of a Proposal

§ 3402.16 Where to submit proposals.

Submit 6 copies of the complete proposal and one copy of the institution's latest graduate catalog as a single package to:

USDA-CSRS, Office of Grants and Programs Systems, Grants Administrative Management, Room 010 Justin Smith Morrill Building, 15th and Independence Ave. SW., Washington, DC 20251.

The deadline date for submission will be cited in the annual program announcement published in the **Federal Register.**

§ 3402.17 Intent to submit proposal.

To assist CSRS-HEP in preparing for review of fellowship proposals, institutions planning to submit proposals for fellowships are requested to complete and return the *Intent to Submit Card* provided on the inside back cover of the program brochure. One card should be completed and returned for *each* proposal an institution anticipates submitting. Sending this card does not commit an institution to any course of action.

Subpart E—Proposal Review and Evaluation

§ 3402.18 Proposal review.

The proposal evaluation process includes both internal staff review and merit evaluation by panels of scientists, educators, industralists, and Government officials who are highly qualified to render expert advice in the targeted areas. The goal of the process of selection and structuring of evaluation panels is to provide optimum expertise and objective judgment in the evaluation of proposals specific to a particular area of national need.

§ 3402.19 Evaluation criteria.

A proposal addressing a particular national need area will be evaluated in competition with other proposals addressing the same national need area at the same level of graduate study. Proposals addressing more than one level of graduate study will be rated for each degree level addressed. Therefore, funding may be awarded to a particular portion of a proposal addressing a degree level in lieu of funding a proposal in its entirety. Both internal staff and the panelists will evaluate proposals primarily on the basis of the following criteria:

Evaluation Criteria

Criteria and Weight

a. The degree to which the proposal clearly establishes that the proposed program of graduate training will result in the development of outstanding scientific/professional expertise related to the national need area and in a reasonable period of time—25 points.

b. The degree to which the proposed program of study reflects special features such as multidisciplinary and/or multiuniversity collaborative approaches, experiential learning opportunities, or a unique disciplinary collateral specialization—15 points.

c. The degree to which the proposal establishes that the institution's faculty, facilities and equipment, instructional support resources, and other attributes are excellent for providing outstanding graduate study and research at the forefront of science and technology related to the chosen area of national need—20 points.

d. The degree to which the institution's plans and procedures for recruitment and selection of academically outstanding fellows and for monitoring and facilitating fellows' progress through a program of study reflect excellence as documented in the proposal—20 points.

e. Supporting summary data—10 points.

f. The quality of the proposal as reflected by its substantive content, organization, clarity, and accuracy—10 points.

Additional evaluation criteria may be cited in the annual program announcement published in the **Federal Register.**

Subpart G—Supplementary Information

§ 3402.20 Terms and conditions of grant awards.

Within the limit of funds available for such purpose, the awarding official shall make project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015).

§ 3402.21 Notice of grant award.

(a) The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization.

(2) Title of project.

(3) Name(s) and address(es) of Project Director(s).

(4) Identifying grant number assigned by the Department.

(5) Project period, which specifies how long the Department intends to support the effort without requiring reapplication for funds.

(6) Total amount of Federal financial assistance approved during the project period.

(7) Legal authority(ies) under which the grant is awarded.

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award.

(9) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of this particular project grant.

(b) The notice of grant award, in the form of a letter, will provide pertinent instructions and information to the grantee which are not included in the grant award document described above.

§ 3402.22 Other Federal statutes and regulations that apply.

Several other Federal regulations or statutes apply to project grants awarded under this part. These include but are not limited to:

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, as amended, implementing OMB directives (i.e. Circular Nos. A–110 and A–21), as well as general policy requirements applicable to recipients of Departmental financial assistance

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and CFR 7 Part 15b (USDA effectuation of statute), prohibiting discrimination based upon physical handicap in Federally assisted programs.

§ 3402.23 Confidential aspects of proposals and awards.

When a proposal results in a grant, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the Agency and the grantee mutually agree to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of three years. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

§ 3402.24 Access to peer review information.

After final decisions have been announced, CSRS–HEP will, upon request, inform the project director of the reasons for its decision on a proposal. Verbatim copies of reviews, not including the identity of the reviewer, will be made available to respective project directors upon specific request.

§ 3401.25 Documentation of progress on funded projects.

A *Fellowship Appointment Documentation* form is included in the program brochure. Upon request by CSRS–HEP, project directors awarded grants under the program will be required to complete and submit this form. Follow-up progress reports will focus on assessing continuing progress of fellows through their graduate programs of study and on institution adherence to program guidelines.

§ 3401.26 Evaluation of program.

Grantees should be aware that CSRS may, as a part of its own program evaluation activities, carry out in-depth evaluations of assisted activities through independent third parties. Thus, grantees should be prepared to cooperate with evaluators retained by CSRS to analyze both the institutional context and the impact of any supported project.

Done at Washington, DC, this 7th day of November 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–25686 Filed 11–13–86; 8:45 am]

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Printing schedules and pricing information	523-3419

Laws	523-5230

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United States Government Manual	523-5230

Other Services

Library	523-5240
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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

39847-39992....3
39993-40120....4
40121-40300....5
40301-40398....6
40399-40780....7
40781-40956....10
40957-41066....12
41067-41292....13
41293-41470....14

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5562....39849
5563....39851
5564....40399
5565....40403
5566....40957
5567....40959
5568....40961
5569....41293

Executive Orders:
11157 (Amended by EO 12573)....40954
12170 (See Notice of November 10, 1986)....41067
12572....40401
12573....40954

Administrative Orders:
Notices:
November 10, 1986....41067
Presidential Determinations:
No. 87-2 of October 22, 1986....39847
No. 87-3 of October 27, 1986....40301

5 CFR

Ch. XIV....40121
532....39853
874....40975

Proposed Rules:
335....40436

7 CFR

29....40405
68....40121
210....41295
421....40963
905....40781
906....41069
907....40778, 41295
910....39853, 40778, 41296
944....41069
966....41071
989....40122
1097....40782
1280....40408
1900....40783
1941....40783
1943....40783
1945....40783
1955....40783
1962....40783
1965....40783
1980....40783

Proposed Rules:
57....40174
68....40174
425....40438
1011....40030
1064....40176
1102....40176
1106....40176
1108....40176
1126....40176
1137....39863
1138....40176
3402....41466

8 CFR

103....39993
316a....40123

Proposed Rules:
103....40207
214....40207

9 CFR

91....41075
92....40124

Proposed Rules:
51....41108
92....41109
115....40034
118....40034

10 CFR

50....40303, 41353
51....40303

Proposed Rules:
50....40334, 40335
70....40208
73....40438
74....40208
430....40441
961....40684

11 CFR

Proposed Rules:
100....41110
106....41110
9001....41110
9002....41110
9003....41110
9004....41110
9005....41110
9006....41110
9007....41110
9031....41110
9032....41110
9033....41110
9034....41110
9035....41110
9036....41110
9037....41110
9038....41110
9039....41110

12 CFR

225....39994, 30963
543....40127
546....40127

552.....40127
562.....40127
563.....40127
563b.....40127
574.....40127

13 CFR

107.....441

14 CFR

1.....40692
39.....40001–40003, 40312, 40408, 40409, 40969, 41076–41079
43.....40692
45.....40692
61.....40692
71.....39855, 40156, 40410, 40970
91.....40692
97.....40971
133.....40692
135.....40692
204.....40410
291.....40410

Proposed Rules:

39.....39864, 39865, 40032–40035, 40209, 40210, 40442, 40811, 40985, 41110, 41112, 41113
71.....39866, 39867, 40036, 40812
73.....41114, 41116
150.....40037
159.....41290

15 CFR

372.....40156
373.....40156
374.....40156
377.....40156
379.....40156
390.....40156
399.....40159

Proposed Rules:

303.....40813

16 CFR

13.....40788
307.....40005

Proposed Rules:

13.....40039, 40336, 40443

17 CFR

200.....40789
202.....40791
211.....41079
240.....40792, 41296

Proposed Rules:

1.....41117
3.....40814
33.....41117
201.....39868
229.....39868
230.....39868

18 CFR

154.....41080
270.....40972
271.....40973

Proposed Rules:

1307.....40338

19 CFR

103.....40338, 40792

21 CFR

73.....40160
81.....39856
131.....40313
172.....40160
520.....41081
814.....40414
868.....40378
874.....40378

Proposed Rules:

150.....40817
874.....40394, 40396
878.....40396
886.....40396

22 CFR

526.....40160
527.....40160

23 CFR

625.....40817
637.....40415

26 CFR

31.....40167
602.....40167

Proposed Rules:

1.....40211
7.....40211
20.....40211
25.....40211
31.....40232
53.....40211
56.....40211

27 CFR

19.....40023

Proposed Rules:

4.....41355
5.....41355
7.....41355

29 CFR

2509.....41262
2510.....41262
2520.....41285
2550.....41262
2619.....41298
2676.....41299

30 CFR

705.....40026
918.....40793
948.....40795

Proposed Rules:

15.....41046
250.....40819
256.....40819

31 CFR

316.....39990
332.....39990
342.....39990
351.....39990
352.....39990

Proposed Rules:

10.....40340

32 CFR

291b.....41300
2003.....40680

Proposed Rules:

166.....40820
231a.....40828
855.....41121

33 CFR

110.....39857
117.....39857, 40315
320.....41206
321.....41206
322.....41206
323.....41206
324.....41206
325.....41206
326.....41206
327.....41206
328.....41206
329.....41206
330.....41206

Proposed Rules:

100.....40341
117.....40342
151.....40950
158.....40950

34 CFR

682.....40886
683.....40886

35 CFR

251.....40418
253.....40418

36 CFR

7.....40418
223.....40315
251.....41081

39 CFR

111.....41300
221.....40796
222.....40796
223.....40796
244.....40796
776.....40170

40 CFR

51.....40656
52.....40316, 40317, 40419, 40656, 40798, 40799, 40975
62.....40799, 40802
81.....40803
260.....39859, 40572
261.....39859, 40572, 41082, 4110, 41306, 41323
262.....39859, 40572
264.....39859, 40572
265.....39859, 40572
268.....39859, 40572
270.....39859, 40572
271.....39859, 40572
413.....40420
433.....40420
712.....41328
716.....41328
790.....41331
795.....40318
799.....40318, 41331

Proposed Rules:

52.....40446, 40447, 40828
60.....40043, 40448
81.....40043, 41355
86.....40986
180.....40987, 40988
260.....40726
261.....39968, 40343
264.....40726
270.....40726

41 CFR

101–40.....40805

42 CFR

405.....41332
406.....41332
408.....41332
409.....41332
410.....41332
421.....41332
431.....41332
433.....41332
435.....41332
489.....41332

Proposed Rules:

36.....40108

43 CFR

2910.....40807

Public Land Orders:

6628.....40421
6629.....41104

Proposed Rules:

11.....41131
426.....40742, 40774

44 CFR

64.....39859
65.....40330

Proposed Rules:

205.....41132

45 CFR

5b.....41352
96.....40026
1612.....40422

46 CFR

252.....40422

Proposed Rules:

580.....41132

Proposed Rules:

98.....40951
151.....40951
153.....40951
172.....40951

47 CFR

0.....41105
73.....40170, 40433, 40434, 40976, 40977
97.....39859

Proposed Rules:

25.....40467
67.....40232
69.....40990
73.....40467, 40468, 41357–41360
74.....40990
78.....40990

48 CFR

502.....39861
509.....39861
516.....39862
702.....41106
2413.....40331
2433.....40331
2901.....40372
2902.....40372
2903.....40372
2905.....40372
2906.....40372
2909.....40372
2913.....40372
2914.....40372

2915.....40372
2916.....40372
2917.....40372
2919.....40372
2933.....40372
2943.....40372
2949.....40372
5350.....40977

Proposed Rules:
1.....39964
22.....39964
52.....39964
53.....39964
PHS 352.....40108

49 CFR

571.....40979
1135.....40171
1312.....40171

Proposed Rules:
Ch. V.....39877
533.....40344

50 CFR

216.....40171
611.....40810
652.....40173
671.....40027
675.....40810

Proposed Rules:
17.....40044-40051
644.....40233
650.....40468

LIST OF PUBLIC LAWS

Last List November 13, 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).

H.R. 897/Pub. L. 99-604

To recognize the Army and Navy Union of the United States of America. (Nov. 6, 1986; 3 pages) Price: $1.00

H.R. 1452/Pub. L. 99-605

Refugee Assistance Extension Act of 1986. (Nov. 6, 1986; 8 pages) Price: $1.00

H.R. 1790/Pub. L. 99-606

To withdraw certain public lands for military purposes, and for other purposes. (Nov. 6, 1986; 13 pages) Price: $1.00

H.R. 2434/Pub. L. 99-607

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes. (Nov. 6, 1986; 3 pages) Price: $1.00

H.R. 4244/Pub. L. 99-608

To authorize funds to preserve the official papers of Joseph W. Martin, Jr. (Nov. 6, 1986; 2 pages) Price: $1.00

S. 5554/Pub. L. 99-609

Community Development Credit Union Revolving Loan Fund Transfer Act. (Nov. 6, 1986; 2 pages) Price: $1.00

H.J. Res. 36/Pub. L. 99-610

To authorize the establishment of a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. (Nov. 6, 1986; 1 page) Price: $1.00

H.J. Res. 594/Pub. L. 99-611

To designate the week beginning May 3, 1987 as "National Correctional Officers Week." (Nov. 6, 1986; 1 page) Price: $1.00

H.J. Res. 684/Pub. L. 99-612

Calling for recognition of United Way's one hundredth anniversary. (Nov. 6, 1986; 1 page) Price: $1.00

H.J. Res. 755/Pub. L. 99-613

Providing for the convening of the first session of the One hundredth Congress. (Nov. 6, 1986; 1 page) Price: $1.00

S. 386/Pub. L. 99-614

To confirm a conveyance of certain real property by the Southern Pacific Transportation Company to Ernest Pritchett and his wife, Dianna Pritchett, and for other purposes. (Nov. 6, 1986; 3 pages) Price: $1.00

S. 511/Pub. L. 99-615

To change the name of the Loxahatchee National Wildlife Refuge, Florida, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge. (Nov. 6, 1986; 1 page) Price: $1.00

S. 1230/Pub. L. 99-616

To amend the patent laws implementing the Patent Cooperation Treaty. (Nov. 6, 1986; 3 pages) Price: $1.00

S. 1311/Pub. L. 99-617

To authorize the Board of Regents of the Smithsonian Institution to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research in Edgewater, Maryland, and to designate the United States Courthouse and Customhouse in Louisville, Kentucky, as the "Gene Snyder United States Courthouse and Customhouse." (Nov. 6, 1986; 2 pages) Price: $1.00

S. 2852/Pub. L. 99-618

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes. (Nov. 6, 1986; 1 page) Price: $1.00

S. 2864/Pub. L. 99-619

Department of Labor Executive Level Conforming Amendments of 1986. (Nov. 6, 1986; 2 pages) Price: $1.00

S.J. Res. 43/Pub. L. 99-620

Authorizing establishment of a memorial to honor the American Armored Force. (Nov. 6, 1986; 1 page) Price: $1.00

S.J. Res. 268/Pub. L. 99-621

Providing for reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution. (Nov. 6, 1986; 1 page) Price: $1.00

S.J. Res. 336/Pub. L. 99-622

To express the sense of Congress on recognition of the contributions of the seven Challenger astronauts by supporting establishment of a Children's Challenge Center for Space Science. (Nov. 6, 1986; 1 page) Price: $1.00

S.J. Res. 427/Pub. L. 99-623

Reaffirming our friendship and sympathy with the people of El Salvador following the devastating earthquake of October 10, 1986. (Nov. 6, 1986; 1 page) Price: $1.00

H.R. 4302/Pub. L. 99-624

To establish a commission for the purpose of encouraging and providing for the commemoration of the centennial of the birth of President Dwight David Eisenhower. (Nov. 7, 1986; 3 pages) Price: $1.00

H.R. 4531/Pub. L. 99-625

To improve the operation of certain fish and wildlife programs. (Nov. 7, 1986; 4 pages) Price: $1.00

H.R. 4731/Pub. L. 99-626

Recreational Boating Safety Act of 1986. (Nov. 7, 1986; 4 pages) Price: $1.00

H.R. 5420/Pub. L. 99-627

To amend section 3726 of title 31, United States Code, relating to payment for transportation, to permit prepayment audits for selected transportation bills, to permanently authorize payment of transportation audit contractors from carrier overpayments collected, to authorize net overpayments collected to be transferred to the Treasury, and for other purposes. (Nov. 7, 1986; 2 pages) Price: $1.00

H.R. 5560/Pub. L. 99-628

Child Sexual Abuse and Pornography Act of 1986. (Nov. 7, 1986; 3 pages) Price: $1.00

H.J. Res. 10/Pub. L. 99-629

To designate the week beginning January 19, 1987, as "Shay's Rebellion Week" and Sunday, January 25, 1987, as "Shay's Rebellion Day." (Nov. 7, 1986; 1 page) Price: $1.00

H.J. Res. 67/Pub. L. 99-630

Calling for a wildlife sanctuary for humpback whales in the West Indies. (Nov. 7, 1986; 1 page) Price: $1.00

H.J. Res. 756/Pub. L. 99-631

To make corrections in the Comprehensive Anti-Apartheid Act of 1986. (Nov. 7, 1986; 5 pages) Price: $1.00

S. 565/Pub. L. 99-632

To provide for the transfer of certain lands in the State of Arizona, and for other purposes. (Nov. 7, 1986; 2 pages) Price: $1.00

S. 2245/Pub. L. 99-633

To authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities. (Nov. 7, 1986; 1 page) Price: $1.00

S. 2250/Pub. L. 99-634

Anti-Kickback Enforcement Act of 1986. (Nov. 7, 1986; 4 pages) Price: $1.00

S. 2351/Pub. L. 99-635

To revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes. (Nov. 7, 1986; 3 pages) Price: $1.00

S. 2452/Pub. L. 99-636

To provide for the naming or renaming of certain buildings of the United States Postal Service. (Nov. 7, 1986; 2 pages) Price: $1.00

S. 2534/Pub. L. 99-637

To authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and for other purposes. (Nov. 7, 1986; 3 pages) Price: $1.00

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