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Presidential Documents

Title 3—

The President

Proclamation 5586 of December 8, 1986

National Alopecia Areata Awareness Week, 1986

By the President of the United States of America

A Proclamation

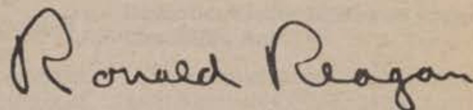
More than two million Americans—men, women, and especially children—suffer from a disorder known as alopecia areata. It is a serious disorder of unknown origin that usually produces small, coin-shaped patches of hair loss on the scalp. In some cases, the disease can progress to the total loss of scalp or body hair.

Basic research is just beginning to reveal the underlying facts about alopecia areata. However, new research findings and new approaches to diagnosis and treatment are needed. Working together, the Federal government and private voluntary organizations have developed a strong and enduring partnership committed to research on alopecia areata and other disorders of the skin and its components. Through these efforts, we hope one day to uncover the cause and cure for this distressing disease.

The Congress, by Public Law 99-524, has designated the week beginning December 7, 1986, as "National Alopecia Areata Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning December 7, 1986, as National Alopecia Areata Awareness Week. I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to observe this week with appropriate programs, ceremonies, and activities.

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



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Rules and Regulations

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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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-363]

Oriental Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document removes from the Domestic Quarantine Notices "Subpart—Oriental Fruit Fly" regulations which quarantined portions of Riverside and San Bernardino Counties in California and imposed restrictions on the interstate movement of regulated articles from these quarantined areas. The regulations were established for the purpose of preventing the artificial spread of the Oriental fruit fly into noninfested areas of the United States. It has been determined that all infestations of Oriental fruit fly in California have been eradicated and the regulations are no longer necessary. The effect of this action is to delete restrictions on the interstate movement of previously regulated articles from the previously quarantined areas in Riverside and San Bernardino Counties.

DATES: Effective December 6, 1986. We will consider your comments if we receive them on or before February 9, 1987.

ADDRESSES: Send written comments to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Room 728, 6505 Belcrest Road, Hyattsville, Maryland 20782. Please state that your comments refer to Docket Number 86-363. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ron Johnson, Acting Assistant Director, Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on September 24, 1986 (51 FR 33862-33870) set forth an interim rule amending 7 CFR Part 301 (Domestic Quarantine Notices) by adding a new subpart captioned "Subpart—Oriental Fruit Fly" quarantine and regulations (7 CFR 301.93 et seq.; referred to below as the regulations). The document of September 24 established regulations restricting the interstate movement of regulated articles from quarantined areas in Riverside and San Bernardino Counties in California, in order to prevent the artificial spread interstate of Oriental fruit fly. This document deletes all of Subpart—Oriental Fruit Fly from Part 301.

The regulations designated a large number of fruits, nuts, vegetables, and berries as regulated articles and portions of Riverside and San Bernardino Counties in California as quarantined areas.

Based on trapping surveys conducted by officials of the United States Department of Agriculture and officials of State and county agencies in California, it has now been determined that the Oriental fruit fly no longer occurs in Riverside and San Bernardino Counties. Specifically, the last finding of fruit flies was made on September 22, 1986. Since then no other fruit flies or other evidence of an infestation has been found. Based on Departmental expertise, it has been determined that sufficient time has passed without finding additional fruit flies or other evidence of an infestation to conclude that an infestation no longer exists in Riverside and San Bernardino Counties.

Further, trapping surveys indicate that the Oriental fruit fly does not exist in any other place in the United States except Hawaii.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from any area in California or elsewhere in the United States except Hawaii because of the Oriental fruit fly. (The quarantine and regulations with respect to Hawaii are contained in 7 CFR Part 318). Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, it is necessary to amend 7 CFR Part 301, by removing Subpart—Oriental Fruit Fly from the Domestic Quarantine Notices.

Emergency Action

The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this interim rule is contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This amendment deletes restrictions that had been imposed on the interstate movement of regulated articles from portions of Riverside and San Bernardino Counties, California. Within the quarantined area there are fewer than 100 small entities which would be affected, including no more than 5 packers, 5 outdoor fruit stands, 9 nurseries and a number of groceries and retail stores. Except for the packers and nurseries, most of the sales of these entities are local intrastate and would not be affected by the removal of the quarantine. Based on the circumstances described above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.93-301.93-10 [Removed]

2. Subpart—Oriental Fruit Fly (7 CFR 301.93 through 301.93–10) is removed.

Done in Washington, DC, this 6th day of December, 1986.

W. Helms,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86–27746 Filed 12–09–86; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limitation of Shipments During Christmas Holidays

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action will establish a limitation of shipment regulation for fresh Florida oranges, grapefruit, tangerines, and tangelos during the period beginning at 6:00 p.m., E.S.T., December 24, 1986, and ending at midnight, E.S.T., December 28, 1986. This action will apply to domestic shipments and exports to Canada and Mexico. The regulation is needed to assist in preventing the accumulation of excessive market supplies of the specified citrus during the specified Christmas Holiday period in which there will be a greatly reduced market demand.

EFFECTIVE DATE: 6 p.m., E.S.T., December 24, 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 the criteria contained therein.

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses 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 of 1937, as amended (the Act, 7 U.S.C. 601–674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Florida citrus subject to regulation under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are approximately 15,000 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000. Handlers are considered small entities if gross annual revenues are less than $3,500,000. The majority of Florida citrus producers and handlers can be classified as small entities.

The Administrator of AMS has considered the impact of this regulatory action on small entities. The regulatory action in this instance is a final rule to prevent the shipment of fresh Florida oranges, grapefruit, tangerines, and tangelos for a period beginning at 6:00 p.m., December 24, 1986, and ending at midnight December 28, 1986. Since the 1946–47 season, Christmas shipping holidays were in effect every season except for six seasons. The last time the committee recommended a Christmas shipping holiday was during the 1983–84 season (48 FR 55721). The last two seasons had damaging freezes which resulted in a smaller citrus crop, therefore negating the need for a shipping holiday.

The Citrus Administrative Committee has found through the years that shipment of fresh oranges, grapefruit, tangerines, and tangelos during Christmas week results in market supplies in excess of market needs. The week of Christmas is traditionally a low demand period, as most purchases are made immediately prior to this. Accumulation of excessive quantities of citrus in the markets during the period immediately prior to and following Christmas tends to depress the market. Absent the shipping holiday, even normal shipments of the specified citrus will cause heavy accumulation of these varieties of fruit in the market prior to and during the post-holiday period, due to the drop in consumer demand. A shipping holiday for orange, grapefruit, tangerine, and tangelo shipments would contribute to a better-managed supply situation.

While the regulation will not permit the shipment of fresh citrus of the specified varieties to any point in the continental United States, Canada, or Mexico, not all of the shipments will be prohibited. For example, export shipments to markets other than Canada or Mexico will be exempt from this regulation. In addition, pursuant to § 905.400, a limitation on shipment of citrus of specified varieties which were prepared for market incidentally as part of a lot packed for export, other than to Canada or Mexico, during the effective period of the shipping holiday, could be

shipped to the continental United States, Canada, or Mexico following that holiday. Also, shipments within the production area or to charitable institutions, relief agencies, commercial processors, and certain gift packages and minimum quantities as well as shipments for animal feed will not be subject to this regulation.

This regulation will be similar to that which has been issued in prior seasons. Costs to producers and handlers as a result of this action are expected to be minimal. If any additional costs are incurred, they are expected to be more than offset by the benefits of this action. This regulation is intended to keep excess supplies off the market during a low demand period, thus preventing a depressed market situation that could be carried over for the remainder of the season, by preventing depressed market prices for fresh citrus.

Based on available information, the Administrator has concluded that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is being issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Act.

This action was recommended by the Citrus Administrative Committee at its November 4, 1986, meeting. The committee works with USDA in administering the marketing agreement and order program. At the meeting, there were 17 of the 18 members present; the vote was 12 in favor and four opposed with one member abstaining.

Of the four members who opposed the shipping holiday, all were from the Indian River District, one handler member and three grower members. The Indian River District cooperative handler member voted for the shipping holiday. Subsequent to the committee meeting, the Department received four letters concerning the recommendation to provide for a Christmas shipping holiday. Three letters were opposed to this action indicating that the shipping holiday would adversely affect Indian River citrus growers whose livelihood depends on uniform sales of fresh citrus throughout the year, and that the market interruption caused by the shipping holiday would result in lost sales and revenues for growers. In addition, those in opposition pointed out that citrus growers pay an advertising tax to the Florida Department of Citrus on each box of citrus they produce but that the money is wasted when advertisements during Christmas holidays encourage the purchase of a product which is not available. Those in opposition further contended that the food trade was reluctant to advertise because of the uncertainty of supply during previous shipping holidays.

The fourth letter was received from the committee. In that letter the committee recommended that the Department approve the four and one-quarter day shipping holiday in view of the increased size of this season's Florida citrus crop, Florida's large shipping capacity, the heavy supplies of citrus from both Florida and California that will be in consumer's hands and the markets prior to Christmas, and that trade be informed as early as possible as to the exact days when there would be no citrus shipments from Florida.

The committee indicated that the 1986–87 Florida citrus crop has been estimated by USDA at approximately 189.4 million boxes (1⅗ bushel) a nine percent increase over last season and the second largest crop in the last six seasons. The only bigger crop in six seasons was the 1982 crop at 191.2 million boxes. Hence, there should be adequate supplies to meet market needs.

The committee further indicated that the Florida citrus industry has excess shipping capacity and that the potential exists for oversupplying the market at anytime. Last season, with a nine percent smaller crop, 9.4 million ⅘ bushel cartons of Florida citrus were shipped during the first three weeks of December 1985. Inspection hours are normally 7:00 a.m. to 7:00 p.m., but the day after Thanksgiving and extending until Christmas Eve, inspection is permitted until 11:00 p.m. including all Sundays during that period. Shipment during the first three weeks of this December are estimated at between 10 and 11 million cartons.

The above shipment estimates include anticipated fund raising sales to schools, churches, and civic groups. Last season 3.2 million cartons were sold to fund raising groups, a 20 percent increase over the previous season. Also, 78 percent of the total season's fund raising sales last year were shipped by Christmas week. This season an increase of 10–15 percent from such sales is expected. In addition to fund raising sales, about 2¼ to 2½ million packages of gift fruit are sold each season with the heaviest volume just prior to Christmas.

The committee further indicated that there will be competition from the California/Arizona navel orange crop this December. The Navel Orange Administrative Committee, which works with the Department in administering the marketing order for navel oranges grown in Arizona and a portion of California (7 CFR 907), has estimated the 1986–87 navel orange crop at 37.8 million field boxes. This is an 11 percent increase over last season and will be the third largest navel orange crop in history. Hence, the supplies of fresh citrus during the Christmas holidays from California, Arizona, and Florida are going to be extremely heavy.

Since there will be ample supplies of citrus from fruit already in the market and enroute, a short shipping holiday for Florida will help clear the market pipelines.

Relative to past seasons, the four and one-quarter day shipping holiday provided in this final rule is one of the shortest Christmas shipping holidays placed into effect. Over the years, shipping holidays have ranged from four and one-quarter to eleven days. In addition, two of the days of the shipping holiday are Christmas Day and Sunday, December 28. It is unlikely that shipments will occur on December 25 and the Federal-State Inspection Service will not provide inspection on Sunday, December 28. Therefore, only Friday, December 26 and Saturday, December 27 will be directly impacted by this regulation.

The handling regulation for all citrus covered under this marketing order is included in Florida Citrus Regulation 6. Florida Citrus Regulation 6 (7 CFR 905.306) was issued on a continuing basis (46 FR 60170; December 8, 1981) subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Florida Citrus Regulation 6 was last amended for a shipping holiday effective December 22, 1983, (48 FR 55721).

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

This action reflects the Department's appraisal of the marketing situation during the period immediately prior to the week in which Christmas Day occurs and for the period immediately following. Shipments of fresh oranges,

grapefruit, tangerines, and tangelos prior to Christmas Day will result in market supplies in excess of market needs. An accumulation of excessive quantities of any variety of citrus fruit in the markets during the period immediately prior to and following Christmas contributes to unstable marketing conditions. It is the Department's view that, absent a four and one-quarter day shipping holiday, excessive shipments of the specified fruits would occur, causing an accumulation of these varieties of fruit in the market prior to and during the post-holiday period, a period in which there is a drop in consumer demand. Hence the curtailment of orange, grapefruit, tangerine and tangelo shipments as hereinafter specified in this final rule would contribute to a better-managed supply situation and in turn to the establishment of orderly marketing.

After consideration of all relevant information, including the recommendation and information submitted by the committee, and the information received from those in opposition, it is hereby found that the establishment of the shipping holiday, as provided in this final rule, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** for the following reasons. There is insufficient time between the date when information became available upon which this action is based and the effective date necessary to effectuate the declared purposes of the Act. Determination as to the need for, and extent of, the regulation in this action requires the development of the crop and the availability of information about market supplies and the demand for such citrus. A reasonable time is permitted, under the circumstances, for preparation for effective date. The recommendation and supporting information for such regulation were promptly submitted to the Department after a meeting of the committee open to the public. This was after notice to growers, shippers, and interested persons had been given, where growers, shippers, and other interested persons were afforded an opportunity to submit information and views of the committee. Information regarding specifications of this action has been provided to shippers, and the regulation is identical with the recommendations of the committee. Compliance with the regulation will not require any special preparation by the persons subject thereto which cannot be completed on or before the effective date. Finally, in past seasons, some confusion has existed as to whether a shipping holiday was or was not in effect. Issuance of this final rule at the earliest possible date will eliminate any confusion among the trade. Accordingly, the citrus industry will be given adequate time to arrange shipping schedules in consideration of the shipping holiday.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising paragraph (d) to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 42.

* * * * *

(d) Notwithstanding the provisions of Table I in paragraph (a) of this section, during the period beginning at 6:00 p.m., E.S.T., December 24, 1986, and ending at midnight, E.S.T., December 28, 1986, no handler shall ship between the production area and any point outside thereof in the continental U.S., Canada, or Mexico, any oranges, grapefruit, tangerines, or tangelos, of the varieties, specified in paragraph (a) Table I of this section, grown in the production area.

* * * * *

Dated: December 2, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-27744 Filed 12-9-86; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6679; 34-23854; FR-28; AAER-120]

Accounting for Loan Losses by Registrants Engaged in Lending Activities

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: This release expresses the Commission's views regarding certain matters affecting reported amounts of loan losses. These matters include: (a) The need for procedural discipline in determining amounts of loan losses to be reported; (b) the requirement to account for loan collateral as repossessed, whether it is repossessed formally or substantively; and (c) valuation of loan collateral that is formally or substantively repossessed.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack, Office of the Chief Accountant (202-272-2130), or Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has determined that certain financial reporting practices of some registrants engaged in lending activities may result in misstatement of their loan losses.

The Commission is publishing its views on these practices so that they may be appropriately considered by registrants and auditors in meeting their responsibilities under the Federal securities laws. The practices regarding substantive repossessions of collateral and valuation of formally or substantively repossessed collateral are described in the context of circumstances illustrative of actual circumstances noted in investigative and other activities of the Commission's staff.

II. Procedural Discipline in Determining the Allowance and Provision for Loan Losses To Be Reported

Certain registrants have appeared to lack adequate documentation of procedures for: (a) Performing periodic detailed reviews to identify risks inherent in their loan portfolios (e.g., problem loans, potential problem loans, loans to be charged off) and assessing the overall quality (i.e., collectibility) of their portfolios; and (b) determining amounts of allowances and provisions for loan losses to be reported based on the results of the detailed reviews. Neither the detailed reviews nor the determinations of amounts to be reported as loan losses appeared to have been conducted in an appropriately systematic manner by those registrants. Periodic fluctuations in their reported loan losses appeared, generally, to have no logical relationship

to the results of their periodic detailed loan reviews.

Arriving at an appropriate reported allowance for loan losses necessarily involves a high degree of management judgment. Because the allowance and the related provision for loan losses are key elements of financial statements of registrants engaged in lending activities, it is critical that those judgments be exercised in a disciplined manner that is based on and reflective of adequate detailed analyses of the loan portfolio.

Accordingly, in conducting an investigation, the Commission's staff normally would expect to find that the books and records of registrants engaged in lending activities include documentation of: (a) Systematic methodology to be employed each period in determining the amount of loan losses to be reported, and (b) rationale supporting each period's determination that the amounts reported were adequate. The systematic methodology to be employed each period would be documented not so that reported amounts will be the result of routine mathematical exercise, but to help ensure that all relevant matters affecting loan collectibility will consistently be identified in the detailed review process, and that the findings of the detailed review will be considered in an appropriately disciplined manner by persons exercising judgment in determining the amounts to be reported. The specific rationale upon which the amount actually reported in each individual period is based—i.e., the bridge between the findings of the detailed review and the amount actually reported in each period—would be documented to help ensure the adequacy of the reported amount, to improve auditability, and to serve as a benchmark for exercise of prudent judgment in future periods.

III. Substantive Repossessions of Collateral

Assume that a registrant had extended loans to oil and gas producers, who had pledged certain producing properties as collateral for those loans. The fair value of the collateral was in excess of the loan balances at the time the loans were extended. However, as energy prices declined, the borrowers determined that their further exploitation of the collateral would not be sufficiently rewarding and defaulted on the loans. The registratnt sought negotiations to restructure the loans by extending the repayment schedule (knowing, of course, that a restructuring would not affect the amount or timing of cash flow that could be generated by operation of the collateral) while the borrowers retained legal title to the collateral.

Further assume that, at the time of default, the properties were still thought to be capable of generating positive cash flow, but at a rate much lower than originally anticipated for various reasons (e.g., the energy price decline and/or downward revisions of reserve quantity estimates). Engineering estimates prepared at the time of default, based on long-tem assumptions regarding energy prices, projected that the undiscounted net cash flow from continued operation of the collateral would recover the carrying amount of the loans over a period much longer than originally anticipated (e.g., thirty to forty years). The present value of that projected cash flow and, thus, the fair value of the collateral, was significantly less than the carrying value of the loans.

The Commission has become aware that, in circumstances such as those described above, some registrants may believe that no loss need be recognized on the loans, on the basis that there is always the option of modifying the terms of the loans to call for repayments which, on an undiscounted basis, would eventually recover the carrying value of the loans. Should that option be exercised, some have argued, no loss recognition would be required under the provisions of paragraphs 30 and 31 of Statement of Financial Accounting Standards No. 15 ("FAS 15").[1] Essentially, this argument is founded on the premise that if collateral is not formally repossessed, there is no requirement to recognize losses based on the collateral's fair value.

Reliance upon accounting standards applicable to restructurings of debt through modification of terms (e.g., changes in maturities and/or interest rates) will often be inappropriate in these circumstances. The lenders may be more exposed to the risks of ownership of the collateral and more in a position to benefit from any recovery in its fair value than the borrowers. Thus, even if the maturity and/or interest rate terms of the loans would be formally modified to allow for repayment over many years, such a troubled debt restructuring may, in substance, constitute a repossession of the collateral. Paragraph 34 of FAS 15 states that a troubled debt restructuring that is in substance a repossession requires loss recognition based on the excess of the recorded investment in the loan over the fair value of the collateral that is, in substance, repossessed.

A registrant cannot avoid the fair value accounting required by FAS 15 when collateral is repossessed, simply by avoiding a formal repossession. That concept is clearly expressed in paragraphs 34 and 84 of FAS 15, although it is expressed there in the context of a formal debt restructuring. Collateral that has substantively been repossessed should be accounted for in the same manner as collateral that has been formally repossessed, irrespective of whether the related loan is formally restructured. To encourage more consistent applications of accounting principles in this area, the following discussion sets forth criteria which generally should be considered in determining whether substantive repossession accounting is appropriate, and the rationale for those criteria.

A. Applicability

The criteria listed below should be applied to any collateralized loan [2] which, because of the surrounding facts and circumstances, represents a loss contingency for the creditor and is being evaluated for possible accrual of the loss contingency,[3] irrespective of whether it has been restructured formally by modification of terms.

B. Criteria

Collateral generally should be considered repossessed in substance and accounted for at its fair value, consistent with repossession accounting as described in paragraphs 28 and 29 of FAS 15, when:

1. The debtor has little or no equity in the collateral, considering the current fair value of the collateral; *and*

2. Proceeds for repayment of the loan can be expected to come only from the operation or sale of the collateral; *and*

3. The debtor has either:

(a) Formally or effectively abandoned control of the collateral to the creditor, *or*

(b) Retained control of the collateral but, because of the current financial condition of the debtor, or the economic prospects for the debtor and/or the

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[1] Statement of Financial Accounting Standards No. 15: *Accounting by Debtors and Creditors for Troubled Debt Restructurings* (Stamford, CT: FASB, 1977).

[2] A collateralized loan, for this purpose, is any loan extended by a creditor in whole or in part on the basis of a security interest in assets or other property (tangible or intangible) of the debtor or a third-party guarantor. It would not include, for example, unsecured loans or loans to governmental agencies secured by tax-supported revenue streams.

[3] The accounting requirements for accrual of loss contingencies are specified in paragraphs 8 (generally) and 22–23 (specifically in the context of receivables) of Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (Stamford, CT: FASB, 1975).

collateral in the foreseeable future, it is doubtful that the debtor will be able to rebuild equity in the collateral or otherwise repay the loan in the foreseeable future.

C. Discussion of Criteria

The first two criteria are analogous to certain criteria contained in the February 1986 AICPA Notice to Practitioners ("the Notice") regarding accounting for real estate acquisition, development and construction ("ADC") arrangements,[4] and are intended to be used here in the same spirit as used in the Notice. Pursuant to the Notice, those criteria are used by a financial institution in determining, at the time it finances an ADC project, whether the financing is in substance an investment rather than a loan based on whether the risks and rewards of the project rest first and foremost with the financial institution. In assessing whether substantive repossession accounting is appropriate, these criteria should be used to identify situations where the primary risks and rewards of collateral ownership have passed from the debtor to the lender.

The third criterion recognizes that ongoing debtor commitment is a factor in assessing whether collateral has in substance been repossessed. It is intended to allow that repossession accounting may not be necessary when the debtor continues good faith efforts toward successful operation of the collateral and eventual repayment of the loan; provided, however, that the creditor can demonstrate a reasonable basis for concluding that the loan will be ultimately collectible.

The spirit of each of the above criteria should be carefully applied in the context of the facts and circumstances surrounding specific loans being evaluated. This is of particular importance with respect to criterion 3(b). For example, when using forecasts to assess a debtor's ability to improve its financial condition or future economic prospects for collateral, registrants and their auditors should be mindful that it is difficult to establish reasonable reliability of assumptions as to future events for purposes of overcoming doubts. Because assumptions underlying forecasts become less reliable as they look farther into the future, the word "foreseeable" in criterion 3(b) establishes that any relied-upon assumptions must be expected to be attainable within a reasonable manageable future period.

IV. Valuation of Formally or Substantively Repossessed Collateral

Assume that a registrant had extended loans to oil and gas drilling companies, with the borrowers' drilling rigs serving as collateral. The fair value of the rigs was in excess of the amounts loaned at the time the loans were granted. However, as energy prices declined, the borrowers were unable to profitably operate the rigs and defaulted on the loans. The registrant repossessed the rigs and placed them in storage while considering whether to sell them immediately or to hold them in anticipation of a future recovery in energy prices.

Assume further that the only active market in which rigs similar to those repossessed by the registrant were then being sold was an auction market where rigs were being purchased for speculative purpose (i.e., by persons who hoped to profit by holding rigs in anticipation of a future recovery in energy prices) or for parts, at prices substantially lower than the rigs' historical prices. The registrant elected to hold the rigs rather than sell them at their then-current market values. The registrant requested and obtained from a petroleum engineering company a projection of energy price and rig utilization levels several years hence and an estimate of the cost to store and maintain the rigs for that number of years, and derived from that data an estimate of the rigs' value which was substantially higher than their then-current market value.

The Commission has become aware that some registrants, in circumstances such as these, may believe that it would be acceptable to value the repossessed rigs at the derived amount, rather than at current market value, for financial reporting purposes.

FAS 15 requires that the accounting for collateral that is formally or substantively repossessed in satisfaction of a loan receivable is to be based on the collateral's fair value, and that fair value for this purpose is equal to market value if an active market for the collateral exists.[5] Registrants will, of course, opt for the strategies they expect will maximize returns or minimize losses. However, where fair value accounting is required by generally accepted accounting principles ("GAAP"), the mere adoption of strategies (such as a hold-for-the-future strategy that is based on expectations of future price increases, or a strategy of operating the repossessed collateral for one's own behalf) cannot justify use of derived accounting valuations that portray results of operations more favorably than would use of current values in active markets.

The Commission will presume that active markets reflect objective measures of current fair values, determined by the beliefs of reasonably informed persons regarding the present and future economic utility of the items being traded and the risks associated therewith. Thus, without independent and objective support for derived valuations that can be demonstrated to more appropriately reflect fair value in particular sets of circumstances, derived valuations exceeding current values in active markets should not be used in cases where fair value accounting is required by GAAP.[6]

V. Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) is updated to:

1. Add a new § 401.09, entitled "Accounting for Loan Losses by Registrants Engaged in Lending Activities".

2. Include in § 401.09 the sections of this Release entitled "Background", "Procedural Discipline in Determining the Allowance and Provision for Loan Losses to be Reported", "Substantive Repossessions of Collateral", and "Valuation of Formally or Substantively Repossessed Collateral"; indentifed respectively as subsections (a), (b), (c), and (d) of § 401.09.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register**/Code of Federal Regulations System.

PART 211—[AMENDED]

Commission Action: Subpart A of 17 CFR Part 211 is amended by adding thereto reference to this Release [FRR No. 28].

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[4] *Notice to Practitioners—ADC Arrangements* (New York: AICPA, 1986).

[5] If no active market exists for a particular item, FAS 15 requires the fair value of the item to be estimated based on selling prices of similar items in active markets or, if there are no active markets for similar items, by discounting the cash flows expected to be generated by the item at a rate commensurate with the risk involved.

[6] Computations of gain or loss on repossession of collateral must consider not only the collateral's fair value, but also whether the registrant's security interest in the collateral is perfected and, if so, the priority of the registrant's claim.

By the Commission.
Jonathan G. Katz,
Secretary.
December 1, 1986.
[FR Doc. 86-27739 Filed 12-9-86; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Ivermectin Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for use of Ivomec® (ivermectin) paste for treating and controlling certain parasites in cattle.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, has filed a new animal drug application (NADA 137-006) for Ivomec® (ivermectin) Cattle Paste 0.153%. The NADA provides for use of the drug for the control and treatment of certain roundworm, lungworm, grub, and lice infestations in cattle. The NADA is approved and the regulations for ivermectin paste (21 CFR 520.1192 (a) and (c)) are amended by revising paragraph (a), by redesignating paragraph (c)(1) as paragraph (c)(1)(i) and revising it, by redesignating paragraphs (c) (2) and (3) as paragraphs (c)(1) (ii) and (iii), and by adding new paragraph (c)(2) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.1192 is amended by revising paragraph (a), by redesignating paragraph (c)(1) as paragraph (c)(1)(i) and revising it, by redesignating paragraphs (c) (2) and (3) as paragraphs (c)(1) (ii) and (iii), and by adding new paragraph (c)(2) to read as follows:

§ 520.1192 Ivermectin paste.

(a) *Specifications*—(1) *Horses.* Paste contains 1.87 percent ivermectin.

(2) *Cattle.* Paste contains 0.153 percent ivermectin.

* * * * *

(c) *Conditions of use*—(1) Horses—(i) *Amount.* 200 micrograms per kilogram (91 micrograms per pound) of body weight.

* * * * *

(2) *Cattle*—(i) *Amount.* 23 milligrams per 250 pounds of body weight.

(ii) *Indications for use.* It is used in cattle for the treatment and control of gastrointestinal roundworms (adults and fourth-stage larvae) (*Ostertagia ostertagi* (including inhibited forms), *O. lyrata, Haemonchus placei, Trichostrongylus axei, T. colubriformis, Cooperia oncophora, C. punctata, Nematodirus helvetianus, Bunostomum phlebotomum, Strongyloides papillosus* (adults only), *Oesophagostomum radiatum, Trichuris ovis* (adults only)); lungworms (adults and fourth-stage larvae) (*Dictyocaulus viviparus*); grubs (first, second, and third instars) (*Hypoderma bovis, H. lineatum*); and sucking lice (*Linognathus vituli, Haematopinus eurysternus*).

(iii) *Limitations.* For oral use only. Do not treat cattle within 24 days of slaughter. Because withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Dated: December 4, 1986.
Gerald B. Guest,
Director, Center for Veterinary Medicine.
[FR Doc. 86-27671 Filed 12-9-86; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Tripelennamine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations by codifying an approved new animal drug application (NADA) filed by Solvay Veterinary, Inc. The application provides for safe and effective use of tripelennamine hydrochloride injection as an antihistamine in horses, cattle, dogs, and cats. Codification of this application reflects compliance with the conclusions of the National Academy of Sciences/ National Research Council (NAS/NRC) (academy) evaluation of the product. This document also amends the regulations to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of the NAS/NRC review. In lieu of certain effectiveness data, approval may require submission of bioequivalence or similar data.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Solvay Veterinary, Inc., P.O. Box 7348, Princeton, NJ 08540, filed NADA 6-417 that provides for use of tripelennamine hydrochloride injection as an antihistamine in horses, cattle, dogs, and cats. NADA 6-417 was originally approved on January 29, 1948. The drug was the subject of a NAS/NRC report which was published in the **Federal Register** of August 21, 1970 (DESI 6417V,

35 FR 13402). The report covered use of tripelennamine hydrochloride tablets and an injectable product containing 20 milligrams of tripelennamine hydrochloride per milliliter of aqueous solution.

The academy evaluated the drug as probably effective for use in conditions in which antihistaminic therapy may be expected to lead to alleviation of some signs of disease in horses, cattle, sheep, swine, goats, dogs, and cats. The academy stated: (1) The rationale underlying the use of the preparation as a central nervous system stimulant for the "downer cow" syndrome is questioned; consequently, this claim should be deleted from the label; (2) references to specific diseases should be deleted from the label unless they can be properly substantiated; (3) the documentation of efficacy is inadequate in that it is based primarily upon clinical reports and no controlled data are available in the veterinary medical literature; (4) evidence must be provided to establish that the tablets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect; (5) the labeling should include information on side effects such as: (a) depression of the central nervous system and the incoordination that may occur when the drug is used at therapeutic dose levels; (b) disturbances in gastrointestinal functions that may occur; and (c) the fact that overdosage may give rise to excitement, ataxia, and convulsions; and (6) it is suggested that the labeling limit the indications for use to conditions in which antihistaminic therapy may be expected to lead to the alleviation of some signs of disease. Efficacy is not well established except in the case of exposure to an antigen to which the animal has a preexisting sensitivity. The sedative and antiemetic actions of antihistaminic drugs on the central nervous system may have prophylactic or therapeutic value in selected situations.

The Food and Drug Administration concurred with the academy's findings.

The NAS/NRC evaluation of the drug is concerned only with the effectiveness and safety of the drug for the treated animal and does not take into account safety of food use of drug-treated animals.

The firm submitted a supplemental NADA which brought the application into compliance with the conclusions of the review. The firm indicated that the tablet (bolus) product would be deleted, and the firm only wanted to update the NADA for use of the injectable product in dogs, cats, horses, and cattle. The regulations are amended by adding a new § 522.2615 (21 CFR 522.2615) to reflect the conditions of approval and to indicate those conditions of use which are NAS/NRC approved.

NADA's that pertain to identical products and reflect those conditions of use as set forth in this regulation do not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(ii)(*a*)(*4*) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*)) of the animal drug regulations. In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

This document does not involve reevaluation or reaffirmation of the underlying human safety data. Human safety data will be evaluated and affirmed in accordance with the scheduled priorities of the agency.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. New § 522.2615 is added to Part 522 to read as follows:

§ 522.2615 Tripelennamine hydrochloride injection.

(a) *Specifications.* Each milliliter of aqueous solution contains 20 milligrams of tripelennamine hydrochloride.

(b) *Sponsor.* See No. 053501 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount*—(i) *Dogs, cats, and horses.* For intramuscular use only at a dose of 0.5 milligram per pound of body weight.

(ii) *Cattle.* Administer intravenously or intramuscularly at a dose of 0.5 milligram per pound of body weight.

(2) *Indications for use.* For use in treating conditions in which antihistaminic therapy may be expected to lead to alleviation of some signs of disease.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *NAS/NRC status.* These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety data.

Dated: December 4, 1986.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 86-27670 Filed 12-9-86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Medico Industries, Inc., providing for use of tetracycline hydrochloride soluble powder in chickens and turkeys. Approval exists for use of the drug in calves and swine. The supplemental NADA provides for (1) control of chronic respiratory disease, air sac infections, and infectious synovitis in chickens; and (2) control of infectious synovitis and bluecomb in turkeys.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., Elkan Estates, P.O. Box 338, Elwood, KS 66024, has filed a supplement to NADA 65-496 for use of Tetracycline Hydrochloride Soluble Powder-324™ in the drinking water of chickens and turkeys in addition to its currently approved use in the drinking water of calves and swine. Drinking water containing 1,000 milligrams of tetracycline hydrochloride activity per gallon is administered to chickens and turkeys to provide 25 milligrams of drug

per pound of body weight daily. The medicated drinking water is administered to chickens for control of chronic respiratory disease and air sac infection caused by *Mycoplasma gallisepticum* and *Escherichia coli* and infectious synovitis caused by *M. synoviae* susceptible to tetracycline. It is administered to turkeys for control of infectious synovitis caused by *M. synoviae* and bluecomb caused by complicating bacterial organisms susceptible to tetracycline.

The supplemental NADA complies with FDA's accepted conclusions of the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation for tetracycline hydrochloride (see 35 FR 10966–10967, July 8, 1970). The supplemental application is approved and 21 CFR 546.180d is amended by adding paragraph (c)(6)(iv)(*c*) to reflect the approval. The basis for approval is discussed in the freedom of information summary. In addition, 21 CFR 546.180d(c)(5) is revised to indicate that these additional claims are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in 21 CFR 514.111, but may require bioequivalency and safety information.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 546 is amended as follows:

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 546 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 546.180d is amended by revising paragraph (c)(5) and by adding paragraph (c)(6)(iv)(*c*) to read as follows:

§ 546.180d Tetracycline soluble powder.

* * * * *

(c) * * *

(5) *NAS/NRC status.* The conditions of use specified in paragraphs (c)(6)(i)(*c*)(*1*), (iii)(*d*)(*1*), and (iv)(*c*)(*1*) of this section are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

(6) * * *

(iv) * * *

(*c*) *Amount.* 1,000 milligrams per gallon.

(*1*) *Indications for use.* Chickens: For control of chronic respiratory disease and air sac infection caused by *Mycoplasma gallisepticum* and *Escherichia coli;* infectious synovitis caused by *M. synoviae* susceptible to tetracycline. Turkeys: For control of infectious synovitis caused by *M. synoviae* and bluecomb (transmissible enteritis, coronaviral enteritis) caused by complicating bacterial organisms susceptible to tetracycline.

(*2*) *Limitations.* Administer medicated drinking water to chickens and turkeys to provide a dose of 25 milligrams per pound of body weight daily; administer for not more than 14 consecutive days; do not slaughter birds for food within 4 days of treatment; not for use in chickens and turkeys producing eggs for human consumption; prepare a fresh solution daily; use as sole source of tetracycline.

(*3*) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter.

Dated: December 2, 1986.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 86-27672 Filed 12-9-86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 610 and 630

[Docket No. 84N-0051]

General Biological Product Standards; Cell Lines Used for Manufacturing Biological Products, Additional Standards for Viral Vaccines

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to establish general requirements for cell lines used for manufacturing any biological product for human use. The regulations will standardize information required to be submitted to FDA in support of license applications regarding cell lines, including cell lines developed using new technologies, such as hybridoma technology or recombinant deoxyribonucleic acid (DNA) technology. FDA also is deleting certain requirements regarding human diploid cell lines used for manufacturing Poliovirus Vaccine Live Oral.

DATE: This regulation becomes effective on January 9, 1987.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 6, 1984 (49 FR 47622), FDA proposed to amend its regulations to establish general requirements for cell lines used for manufacturing any biological product for human use. FDA noted that its general biologics regulations in 21 CFR Parts 600, 601, and 610 have not previously contained general standards that apply to all cell lines used to produce viral vaccines and other biological products. FDA's only regulations concerning cell lines were included in the regulations for one product, Poliovirus Vaccine Live Oral (21 CFR 630.12(b) and 630.13(c)), published in the **Federal Register** of October 16, 1971.

In the proposal, FDA identified substrates in which viruses intended for production of viral vaccines are cultivated. The substrates identified included: (1) Primary cell cultures of avian and mammalian species that can be subcultivated for only a limited number of population doublings, and (2) human diploid cell lines.

FDA approved the use of human diploid cell lines for the cultivation of virus on October 16, 1971 (36 FR 20160). Human diploid cell lines that are capable of propagation of viruses in vitro are now being used extensively worldwide for producing viral vaccines. Currently, licensed viral vaccines that are produced in human diploid cell lines include Adenovirus Vaccine Live Oral Type 4, Adenovirus Vaccine Live Oral Type 7, Rubella Virus Vaccine Live, and Rabies Vaccine. Manufacturers of these vaccines produced in human diploid cell lines are required by their approved

license applications to meet requirements similar to those set forth in the current regulation in § 630.12(b).

In the proposal, FDA noted that other products, including viral vaccines produced in diploid and nondiploid cell lines from human and nonhuman primates and other mammalian species, are being investigated and developed. Thus, nondiploid cell lines (continuous cell lines) are also cell substrates, which can be subcultivated.

To promote uniformity and standardize the information concerning cell lines that each manufacturer is required to submit to FDA to obtain licensure for new products or to obtain approval of a license amendment for new procedures to make currently marketed products, the agency proposed in the **Federal Register** of December 6, 1984 (49 FR 47622) to add to § 610.18 new paragraph (c) *Cell lines used for manufacturing biological products.* The new paragraph applies to all biological products obtained from cell lines. FDA proposed that all such cell lines be (1) identified by history, (2) described with respect to cytogenetic characteristics and tumorigenic potential, (3) characterized with respect to in vitro growth characteristics and life potential, and (4) tested for the presence of detectable microbial agents. FDA also advised that requirements or tests for cell lines other than those in proposed paragraph (c) may be required, as necessary, by the Director, Office of Biologics Research and Review, to ensure the safety, purity, and potency of a product.

The current regulation in § 630.12(b) for a human cell line requires that the cell line be free from oncogenic (tumorigenic) properties. In new § 610.18(c)(1)(ii), FDA proposed that the manufacturer describe in its application the tumorigenic potential of a cell line to provide FDA flexibility either to (1) review, and if appropriate, approve the manufacture of products produced using tumor cells (e.g., hybridoma technology); or (2) as a requisite for approval, require testing of products for tumorigenicity. As an example, for monoclonal antibodies produced by hybridoma technology, FDA may decide not to require tests on certain cell lines for tumorigenic potential or chromosomal abnormalities, because hybridomas, as a class, are tumorigenic and are chromosomally abnormal.

To provide consistency with proposed new § 610.18(c), FDA also proposed conforming amendments to the biologics regulations, as follows:

1. To amend § 610.18 by adding new paragraph (d) to reference the recordkeeping requirements related to cultures including cell lines.

2. To amend § 630.10(a) to revise the phrase "a strain of human cell cultures found by the Director, Office of Biologics Research and Review, to meet the requirements of § 630.12(b)" to read "a cell line found by the Director, Office of Biologics Research and Review, to meet the requirements under § 610.18(c)." The proposed revision identified new § 610.18(c) as the regulation that specifies the general requirements for cell lines.

3. To establish a new title for, and revise, § 630.12(b). FDA proposed to remove § 630.12(b) (1) and (2) because these current requirements would be replaced by new requirements in § 610.18(c) that would apply to all biological products, including Poliovirus Vaccine Live Oral. FDA proposed that the only current requirement remaining in revised § 630.12(b) would be the field studies requirement for Poliovirus Vaccine Live Oral, which was in § 630.12(b)(3).

4. To amend § 630.13(b) to change the term "line cells" to read "cell lines" to be consistent with current terminology.

5. To amend § 630.13 by removing paragraph (c) concerning the requirements for virus propagated in human cell cultures for use in the manufacture of poliovirus vaccine. The specific requirements for Poliovirus Vaccine Live Oral under existing § 630.13(c) would no longer be necessary, because proposed § 610.18(c) included general requirements for characterizing and testing cell lines that would apply to all biological products, including Poliovirus Vaccine Live Oral.

In the proposal, FDA noted that the proposed amendments do not affect the specific suitability criteria under Part 630 for primary cell cultures of avian and mammalian species used for the production of viral vaccines.

Although no comments asked for a clarification on the applicability of new § 610.18(c), FDA believes it will be useful to delineate the cell substrates covered by this section. As indicated in the proposal, § 610.18(c) applies to diploid and nondiploid cell lines. Section 610.18(c) does not apply to primary cell cultures that are not subcultivated (such as primary cell cultures of avian and mammalian species used to manufacture viral vaccines in Part 630). Primary cell cultures that are subsequently subcultivated for only a very limited number of population doublings also are not subject to the requirements of new § 610.18(c). These cell cultures are considered to be different from diploid cell lines that can be subcultivated for a moderate number of population doublings and nondiploid cell lines that can be subcultivated for an infinite number of population doublings.

For primary cell cultures that are subsequently subcultivated for only a very limited number of times, the requirements of § 610.18(c) might not add to assurances of the safety, purity, or potency of the biological product. For example, if a cell culture were subcultivated only twice, a requirement that the cell substrate be characterized with respect to in vitro growth characteristics and life potential might serve no useful purpose. Although not subject to this regulation, such cell cultures will be required to meet specific criteria developed by the manufacturer and approved by FDA in the license application. Therefore, the agency is adding new paragraph (c)(3) to clarify that primary cell cultures that are not subcultivated and primary cell cultures that are subcultivated for only a very limited number of population doublings are not subject to the requirements of § 610.18(c).

The December 6, 1984, proposal provided for a 60-day comment period. The comment period ended on February 4, 1985. Three letters of comment were received. A summary of the comments and FDA response follows:

1. Two comments supported the proposed regulation as drafted. However, one of the comments made two observations concerning information in the preamble of the document.

(a) The comment noted that the "points to consider" document discussed in the proposal concerning cell lines that was created to assist manufacturers in developing and investigating biological products produced from cell lines is a draft document and urged that any revised document be issued in a timely manner.

FDA acknowledges that the "points to consider" document made available to the public on June 6, 1984 (49 FR 23456) and referenced in the preamble of the proposal is a draft document. In response to FDA's request for comments on the draft "points to consider" document, a number of comments were received. The agency is evaluating those comments.

(b) The comment noted the following sentence in the preamble: " * * * FDA is proposing that the manufacturer describe in its application the tumorigenic potential of a cell line to provide FDA flexibility to either (1) review and, if appropriate, approve the manufacturer of products using tumorigenic cells (e.g., hybridoma

technology) or (2) as a requisite for approval, require testing of products for tumorigenicity." The comment suggested that the use of the word "manufacturer" in part (1) of the sentence was meant to read "manufacture" and requested that FDA state that the testing referenced in part (2) is not a lot-to-lot requirement but rather a process validation requirement.

FDA agrees with the comment that the word "manufacturer" was intended to read "manufacture." In response to the request in the comment that FDA state that testing for tumorigenicity will not be a lot-to-lot requirement, the agency agrees that this requirement is intended to refer to process validation rather than lot-to-lot testing. FDA advises that, in the **Federal Register** of July 19, 1984 (49 FR 29272), it announced the availability of a working draft guideline entitled "Guideline on General Principles of Process Validation."

2. One comment on proposed § 610.18(c)(1) objected to changes in the regulations at this time that would permit the use of cell lines with tumorigenic potential for the manufacture of biological products produced in cell lines, such as vaccines, because of concern about the safety of such products. The comment further suggested that the collection of data to support the amended regulations be obtained through the investigational new drug (IND) process.

FDA disagrees with the comment. However, the concern expressed by the comment for the safety of any biological product and the suggestion that the IND process be used to demonstrate the safety of products are consistent with both the agency's policies and legal requirements. Indeed, several firms, having filed with the agency the proper IND notice, are currently investigating the safety and effectiveness of new products, including those produced in tumorigenic cell lines. The amendment to § 610.18 provides the flexibility for FDA to approve license applications for appropriate products produced in tumorigenic cells. However, the amendment does not preclude any requirement that a biological product be safe and effective. Each license application for a new product must continue to include all of the appropriate data required by § 601.2 and no product license will be issued unless the applicable statutory and regulatory standards designed to ensure the safety and effectiveness of the product have been met.

The agency is correcting a minor omission in § 630.10(a). The word "kidney" was inadvertently omitted from the phrase "monkey kidney cell cultures" the first time the phrase appeared in the proposed rule.

Accordingly, FDA is adopting the proposed regulation without change except for the clarification and correction noted above. However, FDA advises that in the **Federal Register** of May 5, 1986 (51 FR 16620), the agency proposed further amendments to the regulations for oral poliovirus vaccine under 21 CFR Part 630. Among other things, the May 5, 1986, proposal would, if published as a final rule, amend the regulation in this document by: (1) Providing the proper name and definition of only the trivalent form of oral poliovirus vaccine under § 630.10(a), and (2) deleting the requirements related to field studies under § 630.12(b).

Paperwork Reduction Act of 1980

Section 610.18 contains collection of information requirements already submitted to and approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980. The recordkeeping requirements in § 610.18 express the recordkeeping requirements in §§ 211.188 and 211.194 (OMB control number 0910-0139), as those requirements apply to cultures.

Environmental Impact

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

Economic Impact

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the rule will delete specific requirements for one product and replace these requirements with general suitability criteria that will apply to any biological product derived from cell lines. Therefore, the agency concludes that the rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects

21 CFR Part 610

Biologics, Labeling.

21 CFR Part 630

Biologics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, Parts 610 and 630 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCT STANDARDS

1. The authority citation for 21 CFR Part 610 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10; § 610.18 also issued under secs. 201, 701, 52 Stat. 1040-1042 as amended, 1055-1056 as amended (21 U.S.C. 321, 371).

2. Section 610.18 is amended by adding new paragraphs (c) and (d) and an OMB Control Number to read as follows:

§ 610.18 Cultures.

* * * * *

(c) *Cell lines used for manufacturing biological products*—(1) *General requirements.* Cell lines used for manufacturing biological products shall be:

(i) Identified by history;

(ii) Described with respect to cytogenetic characteristics and tumorigenicity;

(iii) Characterized with respect to in vitro growth characteristics and life potential; and

(iv) Tested for the presence of detectable microbial agents.

(2) *Tests.* Tests that are necessary to assure the safety, purity, and potency of a product may be required by the Director, Office of Biologics Research and Review.

(3) *Applicability.* This paragraph applies to diploid and nondiploid cell lines. Primary cell cultures that are not subcultivated and primary cell cultures that are subsequently subcultivated for only a very limited number of population doublings are not subject to the provisions of this paragraph (c).

(d) *Records.* The records appropriate for cultures under this section shall be prepared and maintained as required by the applicable provisions of §§ 211.188 and 211.194 of this chapter.

(Approved by the Office of Management and Budget under control number 0910-0139.)

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

3. The authority citation for 21 CFR Part 630 continues to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

4. Section 630.10 is amended by revising paragraph (a) to read as follows:

§ 630.10 Poliovirus Vaccine Live Oral.

(a) *Proper name and definition.* The proper name of this product shall be "Poliovirus Vaccine Live Oral," followed by a designation of the type. The vaccine shall be a preparation of one or more live, attenuated polioviruses grown in monkey kidney cell cultures or a cell line found by the Director, Office of Biologics Research and Review, to meet the requirements under § 610.18(c). The vaccine shall be prepared in a form suitable for oral administration.

* * * * *

5. Section 630.12 is amended by revising paragraph (b) to read as follows:

§ 630.12 Animal source; quarantine; personnel.

* * * * *

(b) *Field studies.* Cell lines used for the manufacture of Poliovirus Vaccine Live Oral shall be shown to be capable of producing a vaccine which, by experience in at least 10,000 persons, has been found to be safe and antigenic. The field studies shall be conducted so that at least 5,000 of the persons when given vaccine reside in areas where health-related statistics regularly are compiled in accordance with procedures such as those used by the National Center for Health Statistics. Information that identifies each person receiving vaccine shall be furnished to the Director, Office of Biologics Research and Review.

* * * * *

6. Section 630.13 is amended by removing paragraph (c) and by revising paragraph (b)(1) to read as follows:

§ 630.13 Manufacture of Poliovirus Vaccine Live Oral.

* * * * *

(b) * * *

(1) *Continuous cell lines.* When primary monkey kidney cell cultures are used in the manufacture of poliovirus vaccine, continuous cell lines shall not be introduced or propagated in vaccine-manufacturing areas.

* * * * *

Dated: November 25, 1986.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-27673 Filed 12-9-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Approval of Permanent Program Amendments for the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

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

Pursuant to 30 CFR 732.17 OSMRE informed Illinois by letter dated May 21, 1985, of certain state regulations, including several governing revegetation, that must be amended in order to be consistent with revised federal regulations contained in 30 Chapter VII. In partial response, by letter dated May 30, 1985, the Illinois Department of Mines and Minerals (IDMM) submitted extensive program amendments to state regulations contained in the Illinois program which govern revegetation of areas disturbed by surface coal mining operations. The amendments proposed by Illinois address those changes deemed necessary by OSMRE but also revise and expand most other Illinois revegetations regulations.

OSMRE published a notice in the **Federal Register** on July 1, 1985 (50 FR 27025) inviting public comment on the adequacy of the proposal amendments and on whether the amendments are no less effective than the federal standards.

By letter dated February 10, 1986, OSMRE notified Illinois of a number of concerns regarding the proposed amendments. In response to OSMRE's concerns and in response to public comments received during its own administrative process, Illinois revised the proposed amendments and submitted the revised amendments along with additional justification and rationale for the Director's consideration on June 2, 1986. Accordingly, OSMRE published a notice in the **Federal Register** on July 15, 1986 (51 FR 25575) inviting public comment on the adequacy of the revised proposed amendments.

After providing an opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSMRE has determined that the amendments meet the requirements of SMCRA and the federal regulations. Accordingly the Director is approving the program amendments. The federal rules at 30 CFR Part 913 are being amended to implement this decision.

This final rule is being made effective January 1, 1987 to expedite the State program amendment process and to encourage states to bring their programs into conformity with the federal standards without delay. Consistency of state and federal standards is required under section 503(a)(7) of SMCRA and 30 CFR Parts 730, 731, and 732.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Director Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 E. Monroe Street, Springfield, Illinois 62701; Telephone (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program, can be found in the June 1, 1982, **Federal Register** (47 FR 23858). Subsequent actions taken with regard to Illinois' conditions of approval, approved program amendments, and required amendments can be found at 30 CFR 913.11, 913.15, and 913.16.

II. Discussion of Amendments

By letter dated May 30, 1985, Illinois submitted program amendments to state regulations contained in the Illinois program. The proposed regulations would amend the following Parts of Title 62; Mining Chapter I: Regulations of the Illinois Department of Mines and Minerals.

Part 1816-Permanent Program Performance Standards, Surface Mining Activities [Amended]

Part 1817–Permanent Program Performance Standards, Underground Mining Operations [Amended]

Part 1823–Special Permanent Program Performance Standards, Operations on Prime Farmland [Amended]

Part 1825–Special Permanent Program Performance Standards, Operations on High Capability Lands [Amended]

On July 1, 1985 OSME published in the **Federal Register** an announcement of the receipt of the amendments and invited public comment on the adequacy of the proposed amendments (50 FR 27025). The notice stated that a public hearing would be held only if requested. No requests were received and a hearing was not held. The comment period closed July 31, 1985.

Following the close of the comment period Illinois resubmitted to OSMRE (by letter dated May 28, 1986) revised amendments as they were promulgated by Illinois in final form. The final amendments contained some differences from the proposed amendments submitted to OSMRE on May 30, 1985, and announced in the **Federal Register** on July 1, 1985. Accordingly, OSMRE reopened and extended the comment period to allow consideration of the final revision of the proposed amendments. The reopened comment period was announced in the **Federal Register** on July 15, 1986 (51 FR 25575). The comment period closed July 30, 1986. No additional comments were received.

III. Director's Findings

The Director finds, in accordance with SMCRA and with 30 CRF 732.17 and 732.15, that the program amendments submitted by Illinois on May 30, 1985, and resubmitted on June 2, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII. Only those provisions of particular interest are discussed below. Any provisions not specifically discussed are found to be consistent with SMCRA and no less effective than the federal rules.

As required by 30 CFR 732.17(h)(10) the Director has solicited the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and heads of other Federal agencies concerned with the program amendments as proposed. The Director has also obtained the written concurrence of the State Soil Conservation Service Director with respect to the program amendments. Since the amendments do not involve or relate to air or water quality standards, the written concurrence of the Administrator of the Environmental Protection Agency was not sought.

Many rules contained in Part 1817 are identical to those in Part 1816 or incorporate by reference the requirements and techniques found in Part 1816. Consequently the Director is enumerating separately findings only for those portions of Part 1817 which contain significant differences from the respective portions of Part 1816. For all other portions of Part 1817 the finding for Part 1816 applies equally to Part 1817.

Title 62 Illinois Administrative Code. Findings are as follows:

Section 1816.116(a)(2(C).

The wording of the new section is virtually identical to that of 30 CFR 816.116(C)(4), which was remanded by Judge Thomas Flannery (In Re: Permanent Surface Mining Regulation Litigation II, Round III). Judge Flannery objected to language in the preamble to the final federal rule which would allow the repair of rills and gullies to be considered a normal husbandry practice. Judge Flannery held the administrative record did not support the position that such repairs are not augmentative in nature and that the period of extended responsibility must begin again when such repairs are made. Judge Flannery did not hold that 30 CFR 816.116(c)(4) violated SMCRA.

Unlike OSMRE, Illinois has developed an extensive administrative record in support of the repair of rills and gullies as a normal husbandry practice. The Department's response to OSMRE's February 10, 1996 review of Illinois' permanent program amendments contains a detailed discussion of the factual basis for Illinois' position on this issue. As outlined below, the Department's review of available data concerning Illinois cropland, even that cropland subjected to no or minimum tillage, shows that erosion repair is a normal activity in the management of agricultural operations.

As set forth in Illinois' response, many prime and most high capability soils found within the State are considered Erodability Class 2 Soils by the United States Soil Conservation Service (soils which have already been significantly eroded). More recent studies conducted on Illinois cropland prove that an average of 6.3 tons of soil are being eroded each year from each of Illinois' 33 million acres of non-urban land. As explained in Illinois' administrative record, this average exceeds the tolerable soil loss (T) accepted by the United States Soil Conservation Service. Thus, soil erosion, a process which routinely results in the formation of rills and gullies in cropland, is a significant problem in Illinois. More importantly, Illinois' regulatory program, as implemented by the Department, must by necessity address the rill and gully erosion routinely associated with Illinois cropland.

Based on an extensive review of the existing technical literature, as well as on many years of experience with reclamation of mined land, the Department has concluded that the repair of rills and gullies is an accepted land management practice typical to that practiced on surrounding farmland. In Illinois, this normal conservation practice would not be considered augmentation and would be expected to continue as part of a long term post-mining agricultural land use. The Department's regulatory program must ensure that coal mine operators use good soil management and cropping practices during reclamation of mined land to protect future soil productivity. Therefore, to characterize rill and gully repair as augmentation, with no allowance for the normal husbandry management practices occurring in neighboring Illinois farmland, would be counter-productive to sound soil management.

Section 101(f) of SMCRA recognizes the diversity in terrain, climate, biologic, chemical and other physical conditions in areas subject to mining operations and that the primary responsibility for implementing a regulatory program to address those specific factors should rest with the State. Based on such factors, the Department, as the agency most familiar with local and regional factors, has chosen to construe and implement its regulations to provide that the repair of rill and gullies can be considered a normal husbandry practice that will not result in an extension of the responsibility period. The Director concurs with the analysis submitted by the IDMM which demonstrates that the repair of rill and gullies is a normal husbandry practice in Illinois cropland soils and is approving sections 1816.116(a)(2)(C) and 1817.116(a)(2)(C) as being in accordance with SMCRA. Should regulations promulgated by OSMRE in response to rulings by Judge Flannery in *In Re: Permanent Surface Mining Regulation Litigation II,* Round III include different requirements, Illinois will be notified of any additional changes necessary following the procedures in 30 CFR 732.17.

Section 1816.116(a)(2)(D).

This new section has no federal counterpart since it governs augmentation of lands reclaimed pursuant to Part 1825 High Capability Lands, a portion of the Illinois program which also has no direct federal

counterpart. Originally submitted as 1825.11(c)(2), the rule was revised and moved to 1816.116(a)(2)(D). The revised rule does not link augmentation of any parcel to augmentation of every parcel, as did its predecessor. This change provides several exceptions to the new requirement that the Director finds to be consistent with SMCRA and the provisions of 30 CFR Chapter VII. The Director considers this rule to be an expansion and clarification of the requirements of preceding (a)(2)(C) which is consistent with the flexibility accorded to States to tailor their programs to better address unique conditions which occur within their boundaries. The rule in not inconsistent with an requirement of 30 CFR Chapter VII. Accordingly, the Director finds this rule to be no less effective than 30 CFR 816.116(C)(4).

Section 1816.116(a)(3)(C).

This new rule is analogous to 30 CFR 816.116(b)(2) and to 30 CFR 816.116(C)(2) since it establishes the success standard for cropland and the number of times the standard must be achieved. 30 CFR 816.116(C)(2) was remanded by Judge Flannery (*In Re: Permanent Surface Mining Regulation Litigation II, Round III*). Judge Flannery held that the administrative record did not support the requirement that only one year of success is sufficient to demonstrate adequate reclamation. OSMRE's previous rule required the last two consecutive years of the responsibility period to meet the success standards to demonstrate adequate reclamation.

The Illionis' cropland success standards rule requires two successful demonstrations of productivity only one of which may take place within the first four years of the responsibility period. Illinois has also incorporated the prime farmland standards of requiring the demonstration of productivity to commence within ten years of the conclusion of backfilling and grading, and requiring that the two successful demonstrations take place within ten years of each other, in the non-prime cropland rule.

Illinois' rule requires two successful demonstration of success for non-prime farmland cropland, while the federal regulations, now remanded, only required one such demonstration. Illinois' prime farmland rule contains the same three successful demonstrations of productivity as the federal rule (30 CFR 823.15(b)(3)).

Accordingly, the Director is approving the section 1816.116(a)(3)(B) as being in accordance with SMCRA. Should regulations promulgated by OSMRE in response to rulings by Judge Flannery in *In Re: Permanent Surface Mining Regulation Litigation II, Round III* include different requirements, Illinois will be notified on any additional changes necessary following the procedures in 30 CFR 732.17.

Section 1816.116(a)(3)(E).

The Director finds this new section, which sets the success standard for pasture and/or hayland or grazing land, to be no less effective than 30 CFR 816.116(b)(1) and 816.116(C)(4). See Finding above.

Illinois' rule 62 IAC 1816.116(a)(4)(D) contains a crop list of acceptable crops that may be used for determination of revegetation success. The sampling procedures for determining revegetation success are in Appendix A of these rules. Not all of the crops listed in 1816.116(a)(4)(D) have sampling procedures found in Appendix A. OSMRE asked the State to review Appendix A and remedy this omission. The State reviewed the Appendix and has assured OSMRE that the sampling methodology for wheat is appropriate for all small grains and will be used accordingly. OSMRE concurs in this assessment. OSMRE also has determined that the use of hay as a crop is consistent with the definition of cropland land use contained in 1701.5. In addition, special IDMM approval is required for its use on cropland as opposed to its use on hayland/grazing land. In either case, Appendix A must be employed. Therefore, the Director finds section 1816.116(a)(4)(D) to be no less effective than the Federal regulations.

Section 1816.116(b)(1)(2).

The Director finds that these amended sections, which establish reporting requirements and which have no direct federal counterpart, are consistent with 30 CFR Chapter VII and will effectively aid the administration of the Illinois program.

Section 1816 Appendix A.

The Director finds this new section, which establishes the productivity success standards, to be no less effective than 30 CFR 816.116(a)(1). OSMRE's letter of May 21, 1985, required Illinois to designate and adopt statistically valid sampling techniques to measure revegetation success. The proposed rule meets this requirement.

8. Part 1816.117 Revegetation: Tree and Shrub Stocking (Amended)

a. *Section 1816.117(a).* In response to OSMRE's letter of May 21, 1985, pursuant to 30 CFR 732.17, Illinois has revised this rule to require that trees and shrubs have utility for the post-mining land use and that vegetative cover must not be less than that required to achieve the post-mining land use. Illinois was also required by the same letter to revise the rule to require that at least 80% of the trees and shrubs counted toward stocking requirements must be in place for three years. The revised rule meets this requirement. Illinois has thus met the requirements of the Director's letter pursuant to 30 CFR 732.17.

After the date of the Director's letter requiring amendment of the Illinois program, the U.S. District Court for the District of Columbia remanded 30 CFR 816.116(b)(3)(ii). The Federal rule required trees and shrubs to be in place only three years, permitting the replanting of trees/shrubs after the beginning of the period of extended responsibility without restarting the period. The judge held that there was not support in the record for the Secretary's view that replanting is a normal husbandry practice. The court remanded this regulation because without such support in the record, the court could not satisfy itself that the Secretary's regulation was not a prohibited augmentative practice. The court did not hold that 816.116(b)(3)(ii) violated SMCRA. In making his decision, Judge Flannery stated that there may be some instances when the replanting of trees/shrubs is a normal conservation practice. Illinois' rule, 1816.117(a) is analogous to the remanded federal regulation.

Unlike OSMRE, the Department's administrative record supports replanting of trees as a normal husbandry practice in Illinois rather than an augmentative practice prohibited by section 515(b)(2) of SMCRA. The Department's response to comment number 17 in OSMRE's February 10, 1986 review of Illinois' permanent program amendments contains a detailed discussion of the factual basis for Illinois' position on this issue. The Department's review of available data shows that reinforcement plantings are necessary to bring the newly established tree stand up to a desired stocking level, thereby accelerating the natural process of succession. The literature search reflected in the Department's administrative record clearly illustrates that "reinforcement planting" is a normal husbandry practice rather than an augmentative practice.

As set forth in the Department's response, Illinois requires that trees and shrubs have been in place for at least three growing seasons at the time of bond release. Having such trees and shrubs in place for at least three years

ensures that the requirement for achieving a permanent vegetative cover is met. Three years should be more than sufficient since the majority of tree mortality on surface-mined lands takes place within the first year, as reflected in the literature on this subject cited in the Department's administrative record. There is ample factual support in the administrative record for Illinois' position. The Director concurs with the analysis submitted by the IDMM which demonstrates that the replanting of trees and shrubs is a normal husbandry practice in Illinois for erosion control and is approving sections 1816.117(a)(1) and 1817.117(a)(1) as being in accordance with SMCRA. Should regulations promulgated by OSMRE in response to rulings by Judge Flannery in *In Re: Permanent Surface Mining Regulations Litigation II*, Round III including different requirements, Illinois will be notified of additional changes necessary following the procedures in 30 CFR 732.17.

9. Section 1817.111 Revegetation: General Requirements (Amended)

Illinois' amended section 1817.111(b) omits the requirement found in 30 CFR 817.111(b)(2) that reestablished plant species have the same seasonal characteristics of growth as the original vegetation. This rule applies to underground coal mining operations. The federal rule does not define seasonal growth characteristics or establish performance or success standards for them. Illinois argues that its rule is no less effective than the federal rule. When all the performance standards contained in the Illinois rule are met, the reestablished vegetation will be permanent and have the same seasonal growth characteristics as the original plant species. Therefore, the effect in the field of Illinois' rule will be negligible. Accordingly, the Director is approving section 1817.111(b) as being consistent with SMCRA and no less effective than the federal rules.

Section 1825.11 High Capability Lands: Special Requirements (Amended)

Section 1825.11(b) and 1825.11(c).

The Director finds these amended rules, which have no direct federal counterpart, to be consistent with 30 CFR Chapter VII. The rules establish standards for successful revegetation of high capability lands.

IV. Disposition of Agency and Public Comments

The comments on the program amendments received during the comment periods described above raised numerous issues. OSMRE considered these comments carefully in evaluating the Illinois program amendments. Disposition of the comments is described below.

1. One commenter noted that section 1816.111(d) referenced 62 Illinois Administrative Code (IAC) 1785.17(a)(5) but could not locate the reference and believed it did not exist. 62 IAC 1785.17(a)(5) was adopted as a program amendment on September 28, 1984 (49 FR 38262). Consequently the reference in 62 IAC 1816.111(d) is appropriate.

2. One commenter urged that all reference to a ten-year period in 62 IAC 1816.116 (a)(3)(C) and (a)(3)(E) be deleted. The commenter believed that these rules unlawfully extended the period of responsibility to ten years for areas receiving more than 26 inches of annual precipitation, in contravention of 30 CFR 816.116(C)(2) and section 515(b)(20) of SMCRA. However, the ten-year periods mentioned in these rules do *not* alter the responsibility period, which remains at a minimum of five years. The period of responsibility extends indefinitely beyond five years until the demonstration of productivity is successful (48 FR 40156).

Illinois has required that the two years used in the demonstration must occur within a ten-year "window". Successful years which occur at intervals of 11 years or more will *not* satisfy requirements for bond release. Illinois has further restricted the definition of success by allowing only one of the successful years to fall within the first four following the start of the responsibility period. Illinois has also required the responsibility period to begin within ten years of final grading. OSMRE can discern no conflict with the requirements of SMCRA nor with federal regulations.

3. One commenter believed that 62 IAC 1816.116 (a)(3)(C) and (a)(3)(E) were inconsistent with 30 CFR 816.116(C)(2) in that they do not require the two successful years to be consecutive nor do they require the successful years to be the last two years of the responsibility period. The same commenter also urged that the three successful years required for prime farmlands must also be the last three years of the responsibility period. The commenter referenced Judge Flannery's remand order of the federal rule in support of these criticisms. Judge Flannery's decisions did not take up the issue of whether multiple successful years must be consecutive. In adopting the final federal rule OSMRE expressed its determination to allow the States flexibility in setting the standards of success (48 FR 40156). The preamble to the final federal rules on prime farmlands was very clear that the required three successful years need not be consecutive (48 FR 21459). The Director's decision to approve Illinois' requirement for two non-consecutive years is consistent with OSMRE's approach to prime farmlands and comports with the substance of Judge Flannery's order.

OSMRE's preamble discussion (48 FR 40156) made it clear that OSMRE wished to ensure that the *last* year of the responsibility period count toward success. The Illinois rule is consistent with this requirement. The second successful year must be in the fifth or a later year and it is only logical that bond release will be sought immediately afterwards.

4. One commenter urged that measurements of productivity taken on fields being tested pursuant to 62 IAC 1816.116(a)(4) be considered bond release inspections subject to the notification and accompaniment requirements of 30 CFR 800.40(b) and the State analog at 62 IAC 1807.11(d). OSMRE regulations contain no requirements similar to those suggested. OSMRE cannot require IDMM to adopt standards more stringent than those contained in the federal regulations.

5. Another commenter suggested that independent and disinterested official monitors be appointed to observe sampling conducted by the Illinois Department of Agriculture pursuant to 62 IAC 1816.116(a)(4). OSMRE believes that the professional employees of these State agencies are sufficiently disinterested and impartial to perform unbiased sampling, making additional monitors unwarranted. Moreover, such monitors would necessarily be paid for their presence, by either the State or the permittee. Hence any charges of interest or impropriety could be levelled at the monitors with equal facility. OSMRE is satisfied that the proposed procedures adequately protect the interest of all parties concerned and assure a fair assessment of reclamation results.

6. One commenter objected that the term "field", as used in 62 IAC 1816.116(a)(4)(A), was not adequately defined and as proposed would allow permittees to delineate boundaries without regard to reclamation practices and would allow boundaries to be shifted annually. Illinois revised the proposed amendment. The revised definition at 62 IAC 1816.116(a)(4)(A) defines a field with respect to reclamation technique and topographical factors, and renders field boundaries subject to Departmental approval. Illinois also added language requiring the responsibility period to start over if boundaries were shifted

providing an exception for minor adjustments which will not affect the validity of productivity sampling results.

7. One commenter believed that any amendment to the field boundary and planting plans approved by the State in 62 IAC 1816.116(a)(4)(A) should be classified as a significant permit revision requiring full public comment and participation. 30 CFR 774.13(b) clearly gives the States the right to establish the scope and extent of revisions which may be classed as significant. OSMRE does not believe that the revisions discussed here are of such scope or extent as to clearly constitute significant revisions and therefore Federal action to set aside the State's judgment that full public participation is not necessary is unwarranted. OSMRE believes the procedures set forth in the revised rule are adequate to inform the public and to protect the public interest.

8. As originally proposed, 62 IAC 1816.116(a)(4) (B) and (D) provided four options for testing restoration of productivity. Several commenters protested that only the whole-field sampling option was statistically valid in the context of Appendix A. Illinois revised the proposed amendments, deleting all options other than whole-field sampling while reserving the right, subject to rulemaking, to propose alternative methods which may become available.

9. OSMRE received a great many comments critical of the deleted sampling procedures. Because these options have been discarded OSMRE finds it unnecessary to address these comments individually.

10. One commenter objected that the list of crops allowed to be grown on cropland contained ambiguous terms, contained crops for which Appendix A appears to have no sampling procedures, and allows hay to be grown as a crop. Illinois revised proposed 62 IAC 1816.116(a)(4)(E) and resubmitted it as 1816.116(a)(4)(D). The ambiguous term "grain" has been dropped. "Barley" has been deleted because it is not a commonly grown crop in Illinois' coal regions. "Milo" has been changed to "sorghum" to comport with the term used in Appendix A. The other issues raised by this commenter are discussed in the Director's Findings for 1816.116(a)(4)(D).

11. One commenter protested that retained 62 IAC 1816.116(c), which provided alternative standards for permit areas of 40 acres or less, was completely inconsistent with the rest of new 62 IAC 1816.116. Illinois revised its amendment proposal to repeal section 1816.116(c) with the exception of (c)(3), which was retained but now appears as 62 IAC 1816.117(a)(4). OSMRE considers these actions appropriate.

12. A commenter noted that proposed 62 IAC 1816.117 allowed replanting of trees during the responsibility period and that the analogous Federal rule had been remanded by Judge Flannery. OSMRE notes that Judge Flannery remanded the regulation on procedural grounds but did not hold it violated SMCRA. The Director finds that the Illinois administrative record supports replanting of trees as a normal husbandry practice in Illinois rather than augmentative as prohibited by section 515(b)(2) of SMCRA. Consequently OSMRE has approved 62 IAC 1816.117. See Finding 7(a) above.

13. The same commenter pointed out that in 62 IAC 1816.117 retention of the language requiring trees to be in place eight years in areas with a ten-year period of responsibility was unnecessary, since no geographic area of Illinois receives annual precipitation low enough to qualify. Illinois has deleted the unnecessary language in the resubmitted rule.

14. The commenter objected to amended 62 IAC 1816.117(a)(2) and contended that the standard for success should be 70% ground cover and the inclusion of the "no less than 50%" clause is unnecessary and should be stricken from the final regulation. Illinois has deleted both percentage standards in their resubmitted rule. The resubmitted rule requires that ground cover shall not be less than that required to achieve the post-mining land use and shall be adequate to control erosion. The preamble discussion of 30 CFR 816.116(b)(3)(iii), at 48 FR 40152, is germane to this rule. The thrust of the discussion is that ground cover must provide control of erosion without inhibiting the establishment of trees and shrubs that are necessary to support the intended post-mining land use. OSMRE believes that the resubmitted rule is adequate for Illinois because the rule requires control of erosion, and maximizes the opportunity for achievement of successful establishment of trees and shrubs necessary for the post-mining land use, while the rule minimizes the possibility of unintentionally establishing an herbaceous ground cover that is too dense for successful establishment of the trees and shrubs component necessary to achieve the post-mining land use.

15. A commenter noted that the term "commercial forest" in proposed 62 IAC 1816.117 was not defined. Illinois revised its proposed amendments by deleting all reference to "commercial forest", substituting the more general term "forest products land use" which covers all reforestation activities. OSMRE earlier determined that States need not distinguish between commercial and non-commercial forest plantings (48 FR 40152).

16. One commenter objected to the structure of proposed 62 IAC 1816.117(c)(2). This section dealt with the use of reference areas to determine the adequacy of post-mining revegetation. The commenter felt that no specific techniques governing the use of reference areas had been proposed and that without specific procedures the rule was useless. Illinois deleted the reference area option; it no longer appears in the proposed amendments.

17. A commenter urged that the person(s) authorized to perform tree sampling should be identified in proposed 62 IAC 1816.117(e). Illinois revised and resubmitted the rule. The rule now states that Illinois Department of Conservation personnel shall conduct the sampling, in revised 62 IAC 1816.117(c)(7).

18. One commenter objected to the restriction in proposed 62 IAC 1823.15(b)(3) that the three successful crop years must occur within a ten-year period, asserting that the three successful years must occur within the five year responsibility period. The responsibility period is the *minimum* time the area must remain under bond, not the *maximum* time within which success must be proven. There is *no* maximum time, state or federal, within which success must be proven, merely a maximum time after which attempts to prove success must begin. Imposition by Illinois of a 10-year window within which success must be proven is within the State's authority.

19. One commenter wrote in support of proposed amendment 62 IAC 1825.11(c)(2) which governed augmentation of high capability lands. This rule was resubmitted by Illinois as 1816.11(a)(2)(D). A discussion of the amendment can be found in the Director's Findings under 1816.116(a)(2)(D).

20. A commenter objected to the term "mixed hay" as used in 62 IAC 1816 Appendix A. OSMRE does not believe that the term as used in Appendix A will have an impact on the implementation of the Illinois program inconsistent with procedures established in Illinois' regulation.

21. One commenter noted that the maps and photos used in implementing Appendix A should be consistent with those required by 62 IAC

1816.116(a)(4)(A). Illinois revised Appendix A to be consistent.

22. One commenter, concerned that the additional sampling points allowed by Appendix A, whether requested by the permittee or determined by the State, might not be randomly selected, urged insertion of a requirement to ensure that all sampling points are randomly selected. OSMRE believes it is unnecessary to alter the rule because the number of sampling points will be determined prior to randomization, not after an initial group has been randomized. OSMRE is confident that Illinois personnel will follow such basic procedures in implementation of the Illinois program.

23. A commenter objected to the use of documentation of the entire field harvest provided by the operator. Appendix A provides that, upon request of the State, the permittee shall verify yields by harvest weight for such reasons as verification of random sampling results, lack of sample enumerators, or a backlog of samples to be analyzed by the Illinois Department of Agriculture. While the commenter did not object to the idea of using the permittee's yield figures as a check against the results of Appendix A, strong objections were raised to any use of data collected by the permittee as a basis for determining revegetation success. Harvest yield figures provided by the permittee may be used to provide corroboration of Appendix A sampling results; also, random samples collected by permittees may be analyzed for the purpose of gaining information for the permittee's management plans. However, yield figures or samples provided by the permittee may be used as the basis for a determination of revegetation success only at the direction of the Department. This should occur only under unusual circumstances. OSMRE will monitor, through its oversight program, the frequency of such occurrences, if any. OSMRE does not believe a permittee's efforts should be wasted if, due to circumstances beyond his control, official enumerators cannot sample his crops. OSMRE is not requiring any change to this section.

24. A commenter urged that Appendix A be required to contain a clause mandating that sampling cannot occur prior to physiological maturity of the crop. OSMRE can discern no advantage to a permittee in sampling prior to physiological maturity. Quite to the contrary, since all samples are adjusted for moisture content, an early harvest could be detrimental to a permittee's interests. OSMRE finds it unnecessary to require modification of the Illinois procedures.

25. One commenter noted that the term "Harvest Loss Factor" is not defined nor is a description of its derivation included in Appendix A. The meaning of the term is described in Appendix A. However, only in the description of the sampling method for drilled or planted soybeans is the derivation of the factor identified. The Appendix states that the Harvest Loss Factor "as calculated by the Illinois Cooperative Crop Reporting Service" will be subtracted. OSMRE has queried IDMM and the Illinois Department of Agriculture as to whether the Cooperative Crop Reporting Service (CCRS) will provide the Harvest Loss Factors for all other crops sampled with Appendix A. As this is indeed the case, OSMRE finds it uneccessary to require amendment of the Appendix to include standard terminology used by the CCRS.

V. Procedural Matters

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

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

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 913

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

Dated: December 1, 1986.

Brent Walquist,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 913—ILLINOIS

30 CFR Part 913 is amended as follows:

1. The authority citation for Part 913 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (3 U.S.C. 1201 et seq.).

2. Section 913.15 is amended by adding a new paragraph (h) to read as follows:

§ 913.15 Approval of regulatory program amendments

* * * * *

(h) The following amendments submitted to OSMRE on May 21, 1985, as modified on June 2, 1986, are approved effective January 1, 1987: Illinois Administrative Code Title 62: Mining Chapter I: Regulations of the Illinois Department of Mines and Minerals; Parts 1816.111–117, Parts 1817.111–117, Part 1823, and Part 1825.

[FR Doc. 86-27724 Filed 12-9-86; 8:45 am]
BILLING CODE 4310-50-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 500 and 515

List of Specially Designated Nationals

AGENCY: Foreign Assets Control Office, Treasury.

ACTION: List of Specially Designated Nationals.

SUMMARY: This notice provides a partial list of persons and firms who are specially designated nationals under the Treasury Department's Foreign Assets Control Regulations (31 CFR Part 500), or the Cuban Assets Control Regulations (31 CFR Part 515).

ADDRESS: Copies of the list of specially designated nationals are available upon request at the following location: Office of Foreign Assets Control, 1331 G Street, NW., Room 400, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Richard Hollas, Chief, Enforcement Section of the Office of Foreign Assets Control, telephone 202-376-0400.

SUPPLEMENTARY INFORMATION: Under the Cuban Assets Control Regulations and the Foreign Assets Control Regulations, persons subject to the

jurisdiction of the United States are prohibited from engaging, directly or indirectly, in transactions with any nationals or specially designated nationals of Cambodia, Cuba, North Korea, or Vietman, except as authorized by the Treasury Department's Office of Foreign Assets Control, by means of a general or specific license.

Sections 500.302 and 515.302 of Part 500 and Part 515, respectively, define the term "national," in part, as (a) a subject or citizen domiciled in a particular country, or (b) any partnership, association, corporation, or other organization owned or controlled by nationals of that country, or that is organized under the laws of, or that has had its principal place of business in that foreign country since the applicable effective date, or (c) any person that has directly or indirectly acted for the benefit or on behalf of any designated foreign country. Sections 500.305 and 515.305 define the term "designated national" as any country or national thereof designated pursuant to Parts 500 or 515, including any person who is a specially designated national. Sections 500.306 and 515.306 define "specially designated national," as any person who has been designated as such by the Secretary of the Treasury; any person who, on or since the applicable effective date, has either acted for or on behalf of the government of, or authorities exercising control over, any designated foreign country; or any partnership, association, corporation or other organization that, on or since the applicable effective date, has been owned or controlled directly or indirectly by such government or authorities, or by any specially designated national. The following list of specially designated nationals is a partial one since the Department of the Treasury may not be aware of all the persons located outside Cambodia, Cuba, North Korea, or Vietnam that might be acting as agents or front organizations for these countries, thus qualifying as specially designated nationals of these countries. Also, names may have been omitted because it seemed unlikely that those persons would engage in transactions with persons subject to the jurisdiction of the United States. Therefore, persons engaging in transactions with foreign nationals may not rely on the fact that any particular foreign national is not on the list as evidence that it is not a specially designated national. The Treasury Department regards it as incumbent upon all U.S. persons engaging in transactions with foreign nationals to take reasonable steps to ascertain for themselves whether such foreign nationals are specially designated nationals of Cambodia, Cuba, North Korea, or Vietnam.

Please take notice that section 16 of the Trading With the Enemy Act ("the Act"), as amended, provides in part that whoever willfully violates any provision of the Act or any license, rule or regulation issued thereunder:

> "Shall, upon conviction, be fined not more than $50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States."

In addition, persons convicted of an offense under the Act may be fined a greater amount than set forth in the Act, as provided in 18 U.S.C. 3623.

Authority: 50 U.S.C. App. 5(b) and 18 U.S.C. 3623.

Specially Designated Nationals of Cuba

Abastecadora Naval Y Industrial, S.A. (a/k/a Anainsa), Panama (address unknown)
Abdelnur, Nury De Jesus, Panama (address unknown)
Aerocaribbean Airlines (a/k/a Aero-Caribbean), Cancun, Mexico (address unknown)
Aero Cozumel, Cozumel, Mexico (address unknown)
Aerotaxi Ejecutivo, S.A., Managua, Nicaragua
Agencia de Viajes Guama (a/k/a Viajes Guama Tours, Guamatur, S.A. and Guama Tour), Bar Harbour Shopping Center, Via Italia, Panama City, Panama
Alfonso, Carlos, (a/k/a Carlos Alfonso Gonzalez), Panama (address unknown)
Aloardi, Carlo Giovanni, Milan, Italy (address unknown)
Alvarez, Manuel (Aguirre), Panama (address unknown)
*American Air Ways Charters, Inc., 1840 West 49th St., Hialeah, Florida
Anainsa (a/k/a Abastecadora Naval Y Industrial, S.A.) Panama (address unknown)
Angelini, Alejandro Abood, Panama (address unknown)
Anglo-Caribbean Shipping Co., Ltd. (trading as Avia Import), Ibex House, the Minories, London EC 3N 1 DY, England
Avalon, S.A., Colon Free Zone, Panama (address unknown)
Azrak, S.A., Panama (address unknown)
Azrak, Victor, Panama (address unknown)
Batista, Miguel, Panama (address unknown)
Belmex Import Export Co., Ltd., 24 Corner Regent and Kings Streets, Belize City, Belize
Bewell Corporation, Inc., Panama (address unknown)
Boileau, Pierre—1078 Rue Champigny, Duvernay, Quebec, Canada
Boutique La Maison, 42 Via Brasil, Panama City, Panama
Burgan International, Kuwait (address unknown)
Caballero, Roger Montanes (a/k/a Roger Montanes and Roger Edward Dooley), Panama (address unknown)
Caribbean Happy Lines (a/k/a Caribbean Happy Lines Shipping Co.) Panama (address unknown)
Carisub, S.A., Panama (address unknown)
Casa Del Respuesto, Panama City, Panama (address unknown)
Castell, Osvaldo Antonio (Valdez) Panama (address unknown)
Cecoex, S.A., Panama City, Panama (address unknown)
Chamet Import S.A., Panama (address unknown)
Cimeco, SRL, Milan, Italy (address unknown)
Cimex, S.A. Panama (address unknown)
Cimex Iberica, Spain (address unknown)
Coll, Gabriel (Prado), Panama (address unknown)
Colon, Eduardo, (Betancourt) Panama (address unknown)
Colony Trading, S.A., Panama (address unknown)
Comei, SPA (a/k/a Compagnia Mercantile Internazionale Milan Italy (address unknown)
Comercial Cimex, S.A., Panama (address unknown)
Comercial de Rodajes Y Maquinaria, S.A., (a/k/a Crymsa) Jose Lazaro Galdeano 6–6, 28016 Madrid, Spain
Comercial Muralla, S.A. (a/k/a Muralla, S.A.) Panama City, Panama
Compagnia Mercantile Internazionale (a/k/a Comei SPA) Milan, Italy (address unknown)
Compania Fenix Internacional, S.A., Caracas, Venezuela (address unknown)
Compania Pesquera Internacional, S.A., Panama (address unknown)
Contex, S.A., Panama (address unknown)
Contreras, Miria (a/k/a Miria Contreras Repert), Paris, France (address unknown)
Coprova (a/k/a Coprova Sarl and Comercialization De Productos Varios), Paris, France (address unknown)

Corporacion Cimex, S.A., Panama (address unknown)
Cotei, Milan, Italy (address unknown)
Cruz, Antonio Pedro (Reyes), Milan, Italy (address unknown)
Crymsa (a/k/a Comercial de Rodajes Y Maquinaria, S.A.), Jose Lazaro Galdeano 6-6, 28016 Madrid, Spain
Crymsa—Argentina, S.A., Buenos Aires, Argentina, (address unknown)
Cuenca, Ramon Cesar, Panama (address unknown)
CUFLET (a/k/a La Empresa Cubana de Fletes (The Cuban Freight Enterprise): Buenos Aires, Argentina; Varna, Bulgaria; Montreal, Canada; Rostock, German Democratic Republic; Genoa, Italy; Pyongyang, Korea (Peoples Democratic Republic); Rotterdam, Netherlands; Syczecin, Poland; Moscow, Soviet Union; Barcelona, Spain
Cumexint, S.A., 1649 Adolfo Prieto, Colonia del Valle, Mexico City, Mexico
Delgado, Antonio (Aresnio) Panama (address unknown)
Delvest Holding, S.A. (a/k/a Delvest Holding Company), Case Postale 236, 10 Bis Rue Du Vieux College 12-11, Geneva, Switzerland
Deprosa, S.A. (a/k/a Desarrollo De Proyectos, S.A.) Panama City, Panama (address unknown)
Desarrollo Industrial Cubano Espanol, S.A. (a/k/a Dicesa), Paseo De La Castellana 157, Madrid, Spain, and Jose Lazaro Caldeano 6-6, 28016 Madrid, Spain
Desarrollo De Proyectos, S.A. (a/k/a Deprosa, S.A.) Panama City, Panama (address unknown)
Diaz, Rolando (Gonzalez), Frankfurt, West Germany (address unknown)
Dicesa (a/k/a Desarrollo Industrial Cubano Espanol, S.A.) Paseo De La Castellana 157, Madrid Spain and Jose Lazaro Caldeano 6-6, 28016, Madrid Spain
Dooley, Michael P., Panama, (address unknown)
Dooley, Roger Edward, (a/k/a Roger Montanes Caballero and Roger Montanes), Panama (address unknown)
Echeverri, German, Panama (address unknown)
ETCO International Commodities Ltd., Devonshire House, 1 Devonshire St., London, England
ETCO International Company, Limited, Kawabe Building, 1-5 Kanda Nishiki-Cho, Chiyoda-Ku, Tokyo, Japan
Exportadora Del Caribe (Medira, Mexico, address unknown)
Fabro Investment, Inc., Panama (address unknown)
Famesa International, S.A., Panama (address unknown)
Fuentes, Fernando (Coba), Cozumel, Mexico (address unknown)
Galax Inc., (a/k/a Galax Trading Co., Ltd.), 5250 Ferrier St., Montreal, Quebec
Garcia Santamarina de la Torre, Alfredo Rafael, Panama (address unknown) see also "Santamarina"
Gemex Aussenhandels GmbH, Hanauer Landstr. 126-128, D-6000 Frankfurt, Main 1
Gonzalez, Carlos Alfonso, (a/k/a Carlo Alfonso), Panama, (address unknown)
Guama Tour (a/k/a Agencia de Viajes Guama, Viajes Guama Tours and Guamatur, S.A.), Bar Harbour Shopping Center, Via Italia, Panama City, Panama
Guamatur, S.A. (a/k/a Agencia de Viajes Guama, Viajes Guama Tours and Guama Tour), Bar Harbour Shopping Center, Via Italia, Panama City, Panama
*Havanatur, S.A. Hialeah, Florida
Havanatur, S.A., Panama City, Panama
Havanatur, 54 Rue Richelieu, Paris France
Havinpex, S.A. (a/k/a Transover, S.A.) Panama City, Panama
Haya, Francisco, Panama (address unknown)
Hernandez, Alexis Eneilo (Carballosa), Milan, Italy (address unknown)
Imprisa, S.A., Panama, (address unknown)
International Transport Corporation, Colon Free Zone, Panama
Inversiones Lupamar, S.A., (a/k/a The Lupamar Investment Company, Panama (address unknown)
Jiminez, Gillermo (Soler) Panama (address unknown)
Kol Investments, Inc., Miami, Florida (address unknown)
Kyoei International Company, Limited, Tokyo, Japan (address unknown)
La Empresa Cubana de Fletes a/k/a CUFLET (The Cuban Freight Enterprise): Buenos Aires, Argentina; Varna, Bulgaria; Montreal, Canada; Rostock, German Democratic Republic; Geno, Italy; Pyongyang, Korea (Peoples Democratic Republic); Rotterdam, Netherlands; Syczecin, Poland; Moscow, Soviet Union; Barcelona, Spain
Leverage, S.A., San Martin 323, Piso 14, Buenos Aires, Argentina
Leybda Corporation, S.A., Panama (address unknown)
Louth Holdings, S.A., Panama (address unknown)
Madan, Jorge (Rivas) Frankfurt, West Germany (address unknown)
Marisco (or Mariscos) de Farallon, S.A. Panama (address unknown)
Marketing Associates Corporation, Calle 52 E, Campo Alegre Panama City, Panama
Medina, Anita (a/k/a Ana Maria Medina), Panama (address unknown)
Mercurius Import/Export Company, Panama, S.A., Calle C, Edificio 18, Box 4048, Colon Free Zone, Panama
Mitsukura Boeki-Kaisha, Ltd (a/k/a Mitsukura Trading Company Limited), 4-1-13 Hachiman-dori, Chuo-Ku Kobe, Japan
Mitsukura Corporation, 4-1-13 Hachiman-dori, Chuo-Ku Kobe, Japan
Mitsukura Trading Company, Limited, (a/k/a Mitsukura Boeki-Kaisha, Ltd), 4-1-13 Hachiman-dori, Chuo-Ku Kobe, Japan
Monet Trading Company, Panama (address unknown)
Montanes, Roger, (a/k/a Roger Montanes Caballero and Roger Edward Dooley), Panama (address unknown)
Montanez, Michael, Panama (address unknown)
Moonex International, S.A., Kingston, Jamaica
Moonex International, S.A., Panama (address unknown)
Muralla, S.A. (a/k/a Comercial Muralla, S.A.) Panama City, Panama
Navarro, Samuel (Martinez), Frankfurt, West Germany (address unknown)
Nippon-Caribbean Shipping Co., Ltd. Chuo-Ku, Akasaki-Chuo 1-1 Akasaki Bldg., Tokyo
Nordstrand Ltd., Liechtenstein (address unknown)
Nordstrand Maritime and Trading Company, 33 Akti Maouli, 185-35 Pireas (Piraeus), Greece
October Holding Company, (a/k/a Octubre Holding Societe Anonime) Vaduz, Liechtenstein
Ors, Jose Antonio Rego, Tokyo, Japan (address unknown)
Ortega, Dario, Panama (address unknown)
Ortega, Dario (Pina) Edificio Saldivar, Panama City, Panama
Padron, Amado (Trujillo), Panama (address unknown)
Panamerican Import and Export Commercial Corporation, Panama (address unknown)
Panoamericana, Panama, (address unknown)
Pena, Jose (Torres), Panama (address unknown)
Pena, Victor, Panama (address unknown)
Perez, Alfonso, Panama (address unknown)
Perez, Manuel Martin, Panama (address unknown)
Perez, Osvaldo (Cruz), Panama (address unknown)
Pescados Y Mariscos de Panama (a/k/a Pesmar (or Pezmar) S.A., Panama City, Panama (address unknown)

Pewsmar (or Pezmar) S.A. (a/k/a Pescados y Mariscos de Panama), Panama City, Panama (address unknown)
Ponce de Leon, Lazaro (Gomez), Medira, Mexico (address unknown)
Prado, Julio (a/k/a Julio Lobato) Panama (address unknown)
Presa, S.A. Panama (address unknown)
Presna Latina Canada Ltd., 1010 O Rue Ste. Catherine, Montreal PQ H303 IGI, Canada
Prima Export/Import, Jamaica (address unknown)
Promotora Andina, S.A. Quito, Ecuador
Quiminter Ges.M.Bh, Vienna, Austria
Radio Service, S.A., Panama (address unknown)
Reciclaje Industrial, S.A. Panama (address unknown)
Rent-A-Car, S.A., Panama (address unknown) Panama (address unknown)
Reyes, Guillermo (Vergara), Panama City, Panama
Rocha, Antonio, Panama City, Panama (address unknown)
Rodriguez, Jesus (Borges or Borjes) Panama (address unknown)
Romeo, Charles (a/k/a Charles Henri Robert Romeo), Panama (address unknown)
Roque, Roberto (Perez), Panama (address unknown)
Ruiz, Ramon Miguel (Poo), Panama (address unknown)
Santamarina, de la Torre Rafael Garcia, Panama, (address unknown)—see also "Garcia"
Servimpex, S.A., Panama (address unknown)
Servinaves, S.A., Panama (address unknown)
Siboney Internacional, S.A. Edificio Balmoral, 82 Via Argentina, Panama City, Panama
Siboney Internacional, S.A., Venezuela (address unknown)
Societa Commercia Minerali E Metalli, SRL (a/k/a SOCOMET, SPA) Milan, Italy (address unknown)
Socomet, SPA (a/k/a Societa Commercia Minerali E Metalli, SRL Milan, Italy (address unknown)
Stern, Alfred Kaufman (last known address Prague, Czechoslovakia, street address unknown)
Suplidora Latino Americana, S.A. (a/k/a Suplilat, S.A.) Panama City, Panama (address unknown)
Suplilat, S.A., (a/k/a Suplidora Latino Americana S.A.) Panama City, Panama (address unknown)
Taller De Reparaciones Navales S.A. (a/k/a Tarena), Panama (address unknown)
Tarena, S.A. (a/k/a Taller De Repraciones Navales S.A.), Panama (address unknown)
Technic Digemex Corp., Calle 34 No. 4–50, Office 301 Panama City, Panama
Technic-Holding, Inc., Calle 34 No. 4–50, Office 301 Panama City, Panama
Tosco, Arnaldo (Garcia), Panama (address unknown)
Transover, S.A. (a/k/a Havinpex, S.A.) Panama City, Panama
* Travel Services, Inc., Hialeah, Florida
Treviso Trading Corporation, Edificio Banco de Boston, Panama City, Panama
Trober, S.A. (a/k/a Trover, S.A.) Edificio Saldivar Panama City, Panama
Tropic Tours Gmbh (a/k/a Tropicana Tours Gmbh) Lietzenburger Strasse 51, West Berlin
Vasquez, Oscar D. (a/k/a Vazques, Oscar D.) Panama (address unknown)
Viacon International, Inc. Apartment 7B Torre Mar Building, Punta Paitilla Area, Panama City, Panama, and France Field, Colon Free Zone, Panama
Viages Guama Tours (a/k/a Guamatur, S.A., Guama Tour and Agencia de Viajes Guama) Bar Harbour Shopping Center, Via Italia, Panama City, Panama
Vinales Tour, Mexico City, Cancun, Monterey, and Guadalajara, Mexico (Street addresses unknown)
Wittgreen, Carlos (a/k/a Carlos Wittgreen Antinori, Carlos Antonio Wittgreen A., and Carlos Antonio Wittgreen), Panama, (address unknown)
Yam, Melvia Isabel Gallegos, Merida, Mexico (address unknown)
Yamaru Trading Co., Ltd., Tokyo, Japan (address unknown)

Designated Nationals of Camodia

Ren Fung Co., Ltd., 242 Des Veoux Road, Central 8/F, Hong Kong

Designated Nationals of North Korea

(None Listed.)

Designated Nationals of Vietnam

(None Listed.)

* Asterisk denotes that firm is no longer operational in the United States.

Note:—The name of an individual, which appears in parenthesis, is the matronymic name and may be used by the individual as the second part of a compound last name.

Dated: November 19, 1986.

Cheryl A. Opacinch,

Acting Director, Office of Foreign Assets Control.

Approved: November 19, 1986.

Francis A. Keating,

Assistant Secretary (Enforcement).

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 76

[DoD Directive 1235.10]

Mobilization of the Ready Reserve

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: 32 CFR Part 76 was last issued on November 18, 1970 (35 FR 17711). This revision spells out more clearly and in detail DoD policy on manning, equipping and training the Ready Reserve in preparation of mobilization. It stipulates screening requirements to ensure that Ready Reserve members can mobilize without delay when ordered and includes provisions for the Services to annually screen the Individual Ready Reserve (IRR).

EFFECTIVE DATE: October 24, 1986.

FOR FURTHER INFORMATION CONTACT: Colonel E. Kufeldt, Office of the Assistant Secretary of Defense (Reserve Affairs), The Pentagon, Washington, DC 20301–1500, telephone (202) 697–0626.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 76

Armed forces reserves.

Accordingly, 32 CFR Part 76 is revised to read as follows:

PART 76—MOBILIZATION OF THE READY RESERVE

Sec.
76.1 Reissuance and purpose.
76.2 Applicability and scope.
76.3 Definitions.
76.4 Legal authority.
76.5 Policy.
76.6 Mobilization procedures.
76.7 Responsibilities.

Authority: Sec. 280, 70A Stat. 14; 10 U.S.C. 280.

§ 76.1 Reissuance and purpose.

This part reissues 32 CFR Part 76 and establishes DoD policy for planning and procedures for executing mobilization of the Ready Reserve, in compliance with DoD Master Mobilization Plan (MMP), June 26, 1982.

§ 76.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD); the Military Departments and the Coast Guard (by agreement with the Department of Transportation) including the National Guard and Reserve Components; the

Organization of the Joint Chiefs of Staff (OJCS); and the Defense Agencies.

(b) Applies to all mobilization of the Ready Reserve. The Ready Reserve comprises units and individuals liable for involuntary order to active duty under sections 672 and 673.

(c) Does not cover the ordering or calling of National Guard units or individuals to duty while under control of State Governments.

(d) Does not cover the involuntary ordering of Coast Guard Reserve units or individuals to active duty in response to domestic emergencies while under the Secretary of Transportation.

§ 76.3 Definitions.

Activation. Order to active duty (other than for training) in the Federal service.

Active Guard/Reserve (AGR) Personnel. National Guard and Reserve members on full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the National Guard and Reserve Components and who are paid from the reserve personnel appropriations of the Military Departments.

F-hour. The effective time of an announcement by the Secretary concerned of a decision to mobilize reserve units.

M-day. The day on which mobilization commences or is due to commence.

Military Technicians. Dual status Federal civilian employees of a Military Department who are assigned to provide support to the National Guard or Reserve Components and are concurrently members in the Selected Reserve of the organization they support.

Mobilization. The process by which the Armed Forces or part of them are brought to a state of readiness for war or other national emergency. This includes activating all or part of the Reserve Components as well as assembling and organizing personnel, supplies, and material. Mobilization of the Armed Forces includes but is not limited to the following categories.

(1) *Full Mobilization.* Expansion of the active Armed Forces resulting from action by Congress and the President to mobilize all Reserve Component units in the existing approved force structure, all individual reservists, retired military personnel, and the resources needed for their support to meet the requirements of a war or other national emergency involving an external threat to the national security.

(2) *Partial Mobilization.* Expansion of the active Armed Forces resulting from action by Congress (up to full mobilization) or by the President (not more than 1,000,000) to mobilize Ready Reserve Component units, Individual Ready Reservists, and the resources needed for their support to meet the requirements of a war or other national emergency involving an external threat to the national security.

(3) *Selective Mobilization.* Expansion of the active Armed Forces resulting from action by Congress and/or the President to mobilize Reserve Component units, Individual Ready Reservists, and the resources needed for their support to meet the requirements of a domestic emergency that is not the result of an enemy attack.

(4) *Total Mobilization.* Expansion of the active Armed Forces resulting from action by Congress and the President to organize and/or generate additional units or personnel, beyond the existing force structure, and the resources needed for their support, to meet the total requirement of a war or other national emergency involving an external threat to the national security.

Ready Reserve. Organized in units or as individuals, members of the Ready Reserve are liable for order to active duty to augment the active forces in time of war or national emergency. The Ready Reserve consists of the Selected Reserve, the Individual Ready Reserve and the Inactive National Guard.

(1) *Inactive National Guard (ING).* The ING consists of personnel of the Army National Guard Ready Reserve who are in an inactive status. The term is not applicable to the Air National Guard. ING members are attached to National Guard units, but do not participate in training activities. Upon mobilization, they would mobilize with their units. To remain members of the ING, such personnel must muster once a year with the assigned unit. In accordance with 32 CFR Part 4, ING personnel are in reserve training category II.

(2) *Individual Ready Reserve (IRR).* The IRR is a manpower pool principally consisting of individuals who have had training and have previously served in the active forces or in the Selected Reserve. The IRR consists of obligors and non-obligors who have fulfilled their military service obligation. IRR members are liable for involuntary active duty for training and fulfillment of mobilization requirements in accordance with Title 10, United States Code, Section 673. In addition, the IRR also includes some personnel who are participating in officer training programs or in the Armed Forces Health Scholarship Program. All IRR members are in an active status. In accordance with 32 CFR Part 4, IRR members include reserve training categories RE, RH, RJ, and RK.

Selected Reserve. The Selected Reserve consists of those units and individuals within the Ready Reserve designated by their respective services and approved by the Joint Chiefs of Staff as so essential to initial wartime missions that they have priority over all other reserves. The Selected Reserve consists of subcategories defined as follows:

(1) *Individual Mobilization Augmentees (IMAs).* Individual members of the Selected Reserve not assigned to a Reserve Component unit. These reservists are trained and preassigned to an active force organization, Selective Service, or Federal Emergency Management Agency billet that must be filled on or shortly after mobilization. IMAs participate in training activities on a part-time basis in preparation for mobilization. In accordance with 32 CFR Part 4 trained individuals include reserve training categories TB, TR, and TW.

(2) *Selected Reserve Units.* Units manned and equipped to serve and/or train as operational or augmentation units. Operational units train and serve as units. Augmentation units train as a unit but lose their unit identity when mobilized, being subsumed into an active unit or activity. Selected Reserve units include trained unit members who participate in unit training activities, and Full-Time Support (FTS) personnel in the Active Guard/Reserve and Military Technicians. In accordance with 32 CFR Part 4 members of Selected Reserve units include reserve training categories SA, SG, SH, and ST.

(3) *Training Pipeline.* Selected Reserve personnel who have not yet completed initial active duty training or are awaiting initial active duty training. In accordance with 32 CFR Part 4 those in the training pipeline include reserve training categories UF, UP, UQ, and UX.

§ 76.4 Legal authority.

Title 10, United States Code, sections 672 and 673 provide authority for mobilization of the Ready Reserve. Specific authorities are vested in the President, Congress, the Secretary of Defense, the Secretary of Transportation, and the Secretaries of the Military Departments. Appropriate authority must be obtained from the President, Congress, or Secretary concerned before mobilization actions may be started.

§ 76.5 Policy.

DoD policy directs an increasing reliance on the Ready Reserve to meet wartime requirements. In certain

contingencies, plans call for the deployment of some Selected Reserve units and individuals before active units. The Selected Reserve, as a subset of the Ready Reserve, shall receive priority in manning, training, and equipment programs when Selected Reserve units and individuals deploy before active units. DoD policy for mobilization of the Ready Reserve is organized under the three major categories of manpower, training, and equipment.

(a) *Manpower.* Achieving manpower goals for both active and Reserve Components is essential for an effective mobilization process. Personnel shortages and military skill imbalances affect wartime capabilities of the total force, not just the DoD Component possessing such deficiencies. DoD manpower policy is as follows:

(1) Achieve and maintain a pretrained manpower pool adequate to staff all shortfalls in active and Reserve Component units to wartime levels of programmed manning within the time specified in mobilization and deployment plans.

(2) Have members of the Individual Ready Reserve (IRR) affiliated or preassigned with units of the active or reserve forces, when practicable, insofar as it would enhance refresher training, rapid deployment, and effective utilization in a war or national emergency.

(3) Achieve an annual aggregate operating strength population in the Reserve Components that possesses skill, grade, and experience qualifications represented in the programmed manning requirements.

(4) Program resources for maximizing the effectiveness and for improving the management of the pretrained manpower pool, including the IRR and the Inactive National Guard (ING).

(b) *Training.* Effective utilization of the total force requires the rapid assimilation of Reserve Component units and individuals into active service in a mobilization. This may be accomplished only if requisite training has occurred before the event. DoD policy is as follows:

(1) Ensure that early deploying Reserve Component units are trained fully in their wartime taskings and are capable of attaining requisite readiness status before the deployment time specified by contingency plans.

(2) Ensure that Reserve Component individuals and units are trained appropriately for augmenting active forces on mobilization.

(3) Determine IRR skill proficiency degradation and conduct skill refresher training.

(4) Ensure that Ready Reserve training and evaluating procedures are consistent with standards established for the active force.

(5) Ensure that training cadres are equipped and prepared for mobilization training base programs supporting the total force after M-Day.

(c) *Equipment.* Equipment compatibility among total force components is a battlefield imperative. Active and Reserve Component units deploying at the same time shall have equal claim on equipment inventories; i.e., the first units scheduled to become operational in theater shall be equipped first regardless whether active or Reserve Component. Equipment policy applies equally to tools, technical documentation, spares and repair parts, and all items of supply that are prescribed for unit issue. DoD policy is to ensure the following:

(1) Procuring and distributing new and/or combat serviceable equipment is consistent with DoD policy guidance in DoD Directive 1225.6.[1]

(2) Equipment interoperability among reserve and active units serving together on the battlefield when interoperability of the respective equipment is essential for effective military operations.

(3) Equipment on hand is adequate for enabling reserve units to conduct effective training before mobilization.

(4) Plans are developed to redistribute those assets left in the Continental United States (CONUS) by units deploying to prepositioned stocks on mobilization, to procure and distribute sufficient assets for not-fully-equipped units before the deployment time specified in contingency plans.

§ 76.6 Mobilization procedures.

(a) *Planning.* Use of the Ready Reserve must consider the entire crisis spectrum. Plans for mobilizing the Ready Reserve must be flexible, consistent, responsive, and sufficiently comprehensive for meeting all contingencies and employment options. Mobilization plans and procedures must:

(1) Provide for fully developed plans of Ready Reserve mobilization including each reserve category in the Ready Reserve; i.e., Selected Reserve, IRR, and ING.

(2) Enhance the readiness of Ready Reserve units and individuals so they may respond rapidly and effectively.

(3) Encompass all actions necessary for warning, alerting, and mobilizing Ready Reserve units and individuals and for bringing them rapidly to full combat capability.

(4) Specify authorizations, responsibilities, and coordination of decisions required for alerting, mobilizing, deploying, and employing Ready Reserve units and individuals.

(5) Provide sufficient flexibility in the mobilization decision and execution process for accommodating rapid changes.

(6) Include appropriate provisions for using National Guard and Ready Reserve members on a voluntary basis during the early stages of increasing tensions.

(7) Include appropriate provisions to facilitate employing mobilized National Guard and other Reserve Component force in support of civil protection where authorized by Federal Statute and directed by the National Command Authority.

(b) *Screening.* 32 CFR Part 44 provides guidance on screening members of the Ready Reserve. The screening system is a continuous peacetime process and the primary means for ensuring that reserve members receive fair treatment and are evaluated on their mobilization responsibilities. The screening process shall be used to identify members not meeting mobilization requirements and to eliminate them from the Ready Reserve before mobilization. On mobilization, all members remaining in the Ready Reserve shall be considered immediately available for active duty service.

(c) *Alert Notification.* An official action informing commands, staffs, members of Selected Reserve units, and individual reservists that mobilization is imminent or seems imminent. Each Military Service shall publish procedures for alerting any or all of its Ready Reserve and for systematically executing the mobilization order. Based on a decision by the President and/or the Congress, the Secretary of Defense shall direct the Military Departments to mobilize all or any specified number of reservists (F-Hour) and shall determine the day that mobilization is to begin (M-Day). The Secretary of Transportation shall perform this function for the Coast Guard when the Coast Guard is not operating as a Service in the Navy.

(d) *Ordering.* An official notification directing members of a Reserve Component to report for active duty is a legal order whether written or oral. Each Military Service shall establish procedures for notifying Ready Reserve members by the simplest and fastest means consistent with military and security requirements. When ordered, a member shall report for active duty at

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

the location and time specified in the notification order. Under Title 10, United States Code, section 892, persons lawfully notified of the requirement to report for active duty are subject to military jurisdiction from the date and time they are required to report.

(e) *Reporting.* When mobilization is ordered, all members of the Ready Reserve shall report to their respective units or initial reporting assignment unless it is physically impossible. Members shall be available to report for active duty in the times specified below, unless a different reporting time is specified by the Military Service concerned. Military Services shall develop policy and procedures to deal with members who fail to report or fail to contact their units within specified reporting times.

(1) *Selected Reserve.* Report within 24 hours of notification.

(2) *Individual Ready Reserve/Inactive National Guard.* Report within 5 to 15 days of notification as determined by the different Military Service procedures.

(f) *Execution of Orders.* All Ready Reserve members shall be prepared to execute mobilization orders when ordered to active duty. To ensure reporting times are met, members shall arrange in advance the handling of family, personal, business and other responsibilities. While circumstances may hinder an individual from reporting as directed, no member of the Ready Reserve shall be exempt from mobilization. Military Services shall develop specific procedures to deal with members having difficulty in mobilizing. Those persons having difficulty in executing mobilization orders due to unusual circumstances shall be guided by the following:

(1) *Deferments.* Members physically unable to report for active duty or who cannot qualify for active duty service because of temporary health disorders may be granted a deferment. This category includes Ready Reserve members who are hospitalized, unqualified temporarily for active duty for medical reasons, or incarcerated temporarily. When a deferment is granted, it shall contain written authorization and shall specify a reporting date. Members authorized a deferment shall remain obligated to enter active duty while the mobilization order remains in effect. Deferments shall not be authorized for civilian employment, civilian occupation, or for exempting members from active duty. No categories or groups shall be granted an automatic deferment except non-prior Service members with a reporting date for initial active duty.

(2) *Emergency Leave.* Members with temporary personal emergencies such as death of a family member may be granted a short period of emergency leave, but only after physically reporting for active duty and receiving proper authorization.

(3) *Separation.* Continuous screening in peacetime ensures the transfer or discharge of Ready Reserve members who may not mobilize. On mobilization all members shall report for active duty as ordered. Once on active duty, a member with an unexpected hardship may request release, separation, or discharge. Services shall evaluate each request utilizing the policies established for evaluating active duty members.

(g) *Integrity of Units.* Title 10, United States Code, section 672(c) provides that,"so far as practicable, during any expansion of the active Armed Forces that requires that units and members of the Reserve Components be ordered to active duty (other than for training), members of units organized and trained to serve as units, who are ordered to that duty without their consent, shall be so ordered with their units." Members of those units may be reassigned after being ordered to active duty (other than for training) to meet requirements of the Military Service concerned.

(h) *Extension of Service.* (1) Title 10, United States Code, sections 511(a) and 511(c) provide for extending the terms of reserve enlistments or the terms of service in Reserve Components in time of war or national emergency declared by Congress for a maximum of 6 months after the end of the war or emergency unless terminated sooner by the Secretary concerned.

(2) Section 671a of Title 10, United States Code provides that the period of active service of a Service member is extended for the duration of any war in which the United States is engaged and for 6 months thereafter.

(3) Section 671b of Title 10, United States Code allows the President to authorize the Secretary of Defense to extend maximally for 6 months the enlistments, appointments, and periods of active duty, periods of active duty for training, periods of obligated service or other Military Service when Congress is not is session, with a provision for Congressional review when reconvening.

(4) Section 673c of Title 10, United States Code empowers the President to suspend any law on promoting, retiring, or separating any member of the Armed Force, whom the President finds to be essential to U.S. security.

§ 76.7 Responsibilities.

(a) The *Under Secretary of Defense (Policy) (USD(P))* shall provide overall mobilization policy and planning guidance for DoD programs with other DoD Directives.

(b) The *Assistant Secretary of Defense (Reserve Affairs) (ASD(RA))* shall provide policy, programs, and guidance for the management and mobilization of the Ready Reserve, in accordance with 32 CFR Part 379.

(c) The *Assistant Secretary of Defense (Force Management and Personnel (ASD(FM&P))* shall provide policy and planning guidance for military and civilian defense manpower, in accordance with the DoD Master Mobilization Plan.

(d) The *Assistant Secretary of Defense (Health Affairs) (ASD(HA))* shall provide policy, programs, and guidance for the management and mobilization of reserve health personnel and medical assets, in coordination with ASD(RA).

(e) The *Assistant Secretary of Defense (Acquisition and Logistics) (ASD(A&L))* shall provide policy, programs, and guidance for the management of Reserve Component logistical resources, installations, and associated functions, in accordance with DoD Directive 5128.1.[1]

(f) *The Assistant Secretary of Defense (Public Affairs) (ASD(PA))* shall ensure a free flow of news and information to the media, other appropriate forums, and the American people, limited only by U.S. security constraints and statutory mandates.

(g) The *Assistant Secretary of Defense (Legislative Affairs) (ASD(LA))* shall provide specific information on mobilization activities to the jurisdictional Congressional Committee members and staff.

(h) The *Joint Chiefs of Staff* shall:

(1) Ensure that the Joint Deployment Agency (JDA), Military Transportation Management Command, and other Agencies responsible for ensuring that logistics, transportation, and other requirements for Ready Reserve mobilization may be met promptly.

(2) Ensure that JCS-sponsored mobilization exercises include realistic scenarios that facilitate Military Service testing and assessing of management and mobilization of the Ready Reserve.

(i) The *Secretaries of Military Departments* shall:

(1) Prepare mobilization plans in accordance with this part and with

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[1] See 376.5(c)(1).

supplementary guidance issued by OJCS.

(2) Ensure that mobilization plans and procedures provide for all exigencies so that Ready Reserve units and members execute their responsibilities effectively and the active DoD Components support and effectively assimilate mobilized reserve units and individuals.

(3) Conduct comprehensive assessments for ensuring that a balanced capability exists to mobilize reserve forces. The following areas should be in this assessment:

(i) Intra-CONUS transportation requirements.

(ii) Training base equipment, manpower, and facilities requirements.

(iii) Units training, equipping, and manning requirements.

(iv) Deficiencies in any of these areas should be identified and both short term and long term solutions developed.

(4) Conduct periodic mobilization and readiness tests of Selected Reserve units.

(5) Order IRR members to active duty at least 1 day each year for annual screening.

(6) Order IRR members to active duty, as necessary, for refresher skill proficiency training.

(j) The *Commandant of the Coast Guard*, with respect to the Coast Guard when it is not operating as a Service in the Navy, shall fulfill the same responsibilities with which the Secretaries of the Military Departments are charged in this part, but within the policy and fiscal parameters also established by the Secretary of Transportation.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 3, 1986.

[FR Doc. 86-27582 Filed 12-9-86; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300152A; FRL-3124-1]

Barium Sulfate and Carnauba Wax; Pesticide Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts barium sulfate and carnauba wax from the requirements of a tolerance when used as a carrier, density control agent (barium sulfate), and binder (carnauba wax) in pesticide formulations applied to animals. This proposed regulation was requested by Mobay Corp., Animal Health Division.

EFFECTIVE DATE: Effective on December 10, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Diane Ierley, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 27, 1986 (51 FR 30516), which announced that Mobay Corp., Animal Health Division, Shawnee, KS 66201, had requested that 40 CFR 180.1001(e) be amended by establishing exemptions from the requirement of a tolerance for barium sulfate and carnauba wax when used as a carrier and density control agent (barium sulfate) and as a binder (carnauba wax) in pesticide formulations applied to animals.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticides are considered useful for the purposes for which the exemptions are sought. It is concluded that the exemptions from the requirement of a tolerance will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the following inert ingredients, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Barium sulfate (CAS Reg. No 7727-43-7).	....	Carrier, density control agent.
* * * * *		
Carnauba wax (CAS Reg. No. 8015-86-9).	....	Binder.
* * * * *		

[FR Doc. 86-27237 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300151A; FRL-3123-8]

Dextrin; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts dextrin from the requirement of a tolerance

when used as an inert ingredient (surfactant, suspending agent, dispersing agent) in pesticide formulations applied to animals. This regulation was requested by Scientific Research Associates, Inc.

EFFECTIVE DATE: Effective on December 10, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Diane Ierley, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of August 27, 1986 (51 FR 30517), which announced that Scientific Research Associates, Inc., Silver Spring, MD 20901, had requested that 40 CFR 180.1001(e) be amended by establishing an exemption from the requirement of a tolerance for dextrin when used as a surfactant, suspending agent, or dispersing agent in pesticide formulations applied to animals.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * *		* *
Dextrin (CAS Reg. No. 9004-53-9).	....	Surfactant, suspending agent, dispersing agent.
* * *		* *

[FR Doc. 86-27238 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300150A; FRL-3123-5]

Tolerance Exemptions for Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of a tolerance for (1) low erucic acid rapeseed oil, when used as an inert ingredient (surfactant, related adjuvants of surfactant) in pesticide formulations applied to growing crops only and (2) oleic acid, when used as inert ingredient (defoaming agent) in pesticide formulations applied to animals. These regulations were requested by Collins Agricultural Consultants, Inc. and Thompson-Hayward Chemical Co. respectively.

EFFECTIVE DATE: Effective on January 9, 1987.

ADDRESS: Written objections, identified by the document control number [OPP-300150A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Diane Ierley, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued proposed rules, published in the **Federal Register** of September 24, 1986 (51 FR 33906), which announced that at the request of the companies named in this document, the Administrator proposes to amend (1) 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for low erucic acid rapeseed oil when used as a surfactant, related adjuvants of surfactant in pesticide formulations applied to growing crops only and (2) 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for oleic acid when used as a defoaming agent in pesticide formulations applied to animals.

Name of inert ingredient. Low erucic acid rapeseed oil.

Name and address of requestor. Collins Agricultural Consultants, Inc., Route 2—Box 344, Hillsboro, OR 97123.

Name of inert ingredient. Oleic acid.

Name and address of requestor. Thompson-Hayward Chemical Company, P.O. Box 2383, Kansas City, KS 66110.

There were no comments or requests for referral to an advisory committee received in response to the proposed rules.

The toxicological data and other scientific bases used in arriving at a conclusion of safety in support of the exemptions were discussed in the notice of proposed rulemaking. Based on the information and review of its use, the

Agency concludes that when used in accordance with good agricultural practices, the ingredients are useful and do not pose a hazard to humans and the environment. Therefore, the exemptions from the requirement of a tolerance are established as set for below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted these rules from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001 is amended by adding and alphabetically inserting the inert ingredients in paragraphs (d) and (e) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Low erucic acid rapeseed oil, conforming to 21 CFR 184.1555(c) (CAS Reg. No. None).	....	Surfactant, related adjuvants of surfactant.
* * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Oleic acid, conforming to 21 CFR 172.862 (CAS Reg. No. 112-80-1).	....	Defoaming agent.
* * * * *		

[FR Doc. 86-27239 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300142A; FRL-3123-6]

Naphthalene Sulfonic Acid-Formaldehyde Condensates, Sodium Salts; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts a mixture of mono-, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts, from the requirement of a tolerance when used as a dispersing-wetting agent in flowable pesticidal formulations employed in dip vat operations for large animals, such as cattle. This regulation was requested by Petrochemicals/DeSoto, Inc.

EFFECTIVE DATE: Effective on December 10, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Diane Ierley, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 20, 1986 (51 FR 29669), which announced that the Petrochemicals/DeSoto, Inc., P.O. Box 2199, Fort Worth, TX 76113, had requested that 40 CFR 180.1001 be amended by establishing an exemption from the requirement of a tolerance for mono, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts, when used as a dispersing-wetting agent in flowable pesticidal formulations employed in dip vat operations for large animals, such as cattle.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	*	*
Mono, di-, and trimethylnaphthalene sulfonic acids-formaldehyde condensates, sodium salts.	Not to exceed 0.006% in final formulation.	Dispersing-wetting agent in dip vat operations for large animals, such as cattle.
* * *	*	*

[FR Doc. 86-27240 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300140A; FRL-3123-7]

Polypropylene; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts polypropylene from the requirement of a tolerance when used as an inert ingredient (carrier) in pesticide formulations applied to animals. This regulation was requested by Akzo Chemie America.

EFFECTIVE DATE: Effective on December 10, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Diane Ierley, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of March 19, 1986 (51 FR 9468), which announced that Akzo Chemie America, McCook, IL 60525, had requested that 40 CFR 180.1001(e) be amended by expanding the existing exemption from the requirement of a tolerance for polypropylene. The ingredient is listed for use as a component of plastic slow-release tags in pesticide formulations applied to animals, and the amendment adds the additional use as a carrier. A separate entry is not necessary in order to reflect this change. The proposal incorrectly listed the uses "Carrier, component of plastic slow-release tag" under the "Limits" column in 40 CFR 180.1001(e); the amendment below reflects the correct placement under the "Uses" column.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by revising the entry for polypropylene, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	*	*
Polypropylene (CAS Reg. No. 9003-07-0).	....	Carrier, component of plastic slow-release tag.
* * *	*	*

[FR Doc. 86-27241 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 114-52

Property Management; Establishing Rental Rates for Government Furnished Quarters

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule revises the regulations for establishing rental rates for Government furnished quarters. These changes are necessary because of the revisions to the Office of Management and Budget Circular A-45, policy governing charges for Government furnished quarters and related facilities.

The revisions provide bureaus of this Department with specific policy guidance and instructions for implementing the provisions of the revised Circular. The rule also clarifies the methodolgy for establishing rental rates for various housing units and advises employees more precisely on the scope and nature of their appeal rights.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: James R. Rodden, Division of Real Property Management, (202) 343-2080.

SUPPLEMENTARY INFORMATION: DOI published a notice of proposed rulemaking on this subject in the **Federal**

Register on September 16, 1986 (51 FR 32796). Comments were received from tenants, managers, and employee appraisers.

A summary follows of the major comments grouped by subject, with a response to each—including a brief description of any changes made as a result of the comments. O'her changes of a less significant character were made to increase clarity and readability.

A. Scope

Comment: One commenter noted that the language was unclear as to whether or not contract employees are required to pay comparable rents.

Response: We agree. The language in § 114–52.101 has been revised to note that the provisions of the regulations also apply to nonfederal tenants.

B. Rental Rate Principle

Comment: Several commenters expressed the opinion that the rental rates should be adjusted downward to reflect the fact that, unlike the private sector, the Government does not have to pay taxes, a mortgage, or make a profit on the properties.

Response: We disagree. These comments ignore the provisions of the Office of Management and Budget (OMB) Circular A–45 which require that rates for our housing reflect private sector rents in the general area near our housing. Such comments also ignore the language in the Circular concerning maintaining fairness between those employees in Government housing and those in private sector housing. Finally, rental rates such as those proposed would provide an employee subsidy, which we may not do, nor will we seek permission to do so.

C. Employees in Leave Status

Comment: One commenter suggested that § 114–52.109 be changed to include employees in furlough status and that a separate paragraph be added to provide instructions on calculating the bi-weekly payroll deduction for employees whose income spans less time than their occupancy (e.g., school teachers whose contracts are for 10 months but who occupy the units for 12 months).

Response: We partially agree. Section 114–52.109 has been amended to include employees in furlough status. However, the suggested second paragraph is not included here. The more proper place for such instructions is in Departmental and/or bureau handbooks.

D. Base Rent Principles

Comment: Several commenters suggested that base rental rates should be reduced to reflect the services provided by occupants of our housing. Their primary argument seems to be that the employees are either working overtime, are on standby, or are providing security for the installation and its assets without compensation. Some also argue that state governments often do not charge their employees who are similarly situated, but make housing a part of the compensation package.

Response: We partially agree. If employees are working overtime or are on standby we have a payroll system to compensate them. As to the issue of providing security for the installation and its assets, we agree that the presence of someone at the installation can have an impact on security. That is why we have the housing, and why we often make occupancy a condition of employment. However, the proper way to compensate an employee for such services is through the issuance of a paycheck, which we do. Finally, as to the issue of providing the housing as part of the compensation package, we are not authorized to do so, nor shall we seek such authority. The existing regulations provide the tools necessary to allow us to compute a rental rate which is fair to the employee in the circumstances under which the housing is provided, occupied, or made available. No employee is ever charged more inside the installation than the same structure would cost in the nearest established community. Indeed, given the large number and wide range of administrative adjustments available, the rental rate actually paid by the employee is often much lower than the same structure would cost in the nearest established community.

E. Appraisals

Comment: Several commenters suggested additional language that would clarify the instructions to the appraisers. One commenter suggested that appraisals for rural quarters should include rural comparables so as to reflect the generally lower rents due to lack of services, poor highways, and general isolation associated with rural living.

Response: We partially agree. The clarifying language suggested has been incorporated in § 114.52.202. However, the suggestion to utilize rural comparables is rejected. There is not always a sufficient number of comparables available in rural areas to allow us to establish an accurate picture of the local rental market. In addition, the administrative adjustments for isolation, site amenities, inadequate size, etc., already adjust for such factors if appropriate. To include them as part of the appraisal would duplicate their effect on the final rent.

F. Regional Surveys

Comment: Several commenters were quite concerned that regional surveys would automatically raise rents. At least one employee suggested that regional surveys do not reflect local rental rates and, therefore, we should authorize local surveys in addition to the regional surveys.

Response: We disagree. These comments are a clear indication that the Office of Acquisition and Property Management needs to expand its training efforts in those areas of the country which generated these comments. When properly conducted, regional surveys are quite capable of reflecting local rental values. Over the past three years the Department has conducted eight separate regional surveys which established rents for more than 12,000 quarters units at more than 300 installations. Not once in that time has any employee or organization ever demonstrated that the rental rates produced by the survey method did not reflect the rates in the nearest surveyed community. However, employees should understand that if such an error does occur, we will correct it and rebate or credit any overpayment. Because we have not encountered the problems cited in the comments, and because the regional survey method is reliable and accurate we will not authorize local surveys or appraisals except in *very* unusual circumstances.

G. Establishment of Charges for Utilities and Related Services

Comment: One commenter suggested that we delete the existing language which requires that, where practicable, utilities should be provided directly to the employees by a private supplier. Instead, they suggested language allowing program Assistant Secretaries to decide when the government will supply utilities. Another stated that the language was unclear concerning the proper charge to the tenant when the Government collects the fee for a contractor.

Response: We partially agree. The existing language in § 114–52.204 concerning when the Government will supply utilities already provides the requested authority to the Assistant Secretaries. However, that authority must be exercised within the constraints imposed by our policy statement, i.e., where practicable we will rely on the private sector to provide utilities and related services. The existing language

will stand. The language in § 114-52.204 concerning what the tenant will pay when the Government collects the fee for a private supplier has been clarified.

H. Isolation Adjustment

Comment: Several commenters suggested that we should either increase the value of the isolation adjustment or allow it to apply to units closer to the nearest established community.

Response: We disagree. The limitations outlined in the proposed regulations are taken directly from the OMB Circular A-45, and we are not authorized to alter them. Employees were given ample opportunity to comment on that document when it was released for comment in 1983. All comments were considered then and the resulting isolation adjustment is much more generous and more flexible than the now defunct "unusual transportation costs" adjustment. We would not support a request to liberalize the current language.

I. Site Amenities

Comment: Several commenters suggested that the list of site amenities be expanded to include poor television reception.

Response: We disagree. We are not authorized to expand on the list of site amenities in A-45. In addition, this element was considered when the Circular was rewritten in 1983, and it was determined then that it would duplicate the intended effects of the isolation adjustment.

J. Temporary Quarters/Maintenance of Two Households

Comment: One commenter suggested that the word excessively be deleted from the last sentence in § 114-52.305.

Response: We disagree. The language in that section was taken directly from OMB Circular A-45, and we are not authorized to change it.

K. Excessive Size

Comment: Several commenters stated that the ten percent deduction for excessive size was inadequate and should be increased. One commenter suggested that in lieu of the procedures outlined in the proposed regulations and the Departmental Quarters Handbook (DQH), that we instead only charge an employee for the type of unit that he or she might logically occupy in the private rental market (e.g., charge a single person for an average size one bedroom apartment) rather than administratively adjusting the charge for the unit actually provided.

Response: We disagree. The value of the adjustment is already established in the OMB Circular A-45, and we are not authorized to change it. In addition, we believe that the procedures outlined in the DQH yield a rent which is fair to the employee. In the example provided by the commenter, the rent for a three bedroom house was reduced from $405 down to $249 after closing off some excess space and recomputing the base rent and then applying the administrative adjustment. We do not find this to be unfair to the employee.

L. Implementation of New and Revised Rental Rates

Comment: Several commenters suggested that a new section be added that requires tenants to sign a rental agreement as a condition of continued occupancy. Apparently some employees are under the impression that if they do not sign a new rental agreement then the Government has no authority to adjust the rent and withhold the new amount from their pay.

Response: We agree. A new paragraph has been added to § 114-52.401 which requires tenants to sign rental agreements as a condition of occupancy. In addition, clarifying language has been added to § 114-52.403(b).

M. Employee Participation and Appeals

Comment: Many commenters asked that the time for employees to file a request for reconsideration or an appeal be extended from the current limit of 20 days to as much as 90 days.

Respose: We partially agree. The time limits have been extended to 30 days.

N. General Comment

Comment: Several commenters noted that the proposed regulations were redundant of materials found in the Departmental Quarters Handbook and the OMB Circular A-45. They questioned the need for regulations when these publications appeared adequate to the task of informing our employees and managers of their rights and responsibilities in this area.

Response: We partially agree. To the extent we felt comfortable with the results, we have eliminated extraneous materials from these regulations. However, the rent setting process has been and is now the subject of litigation. We felt it inadvisable to eliminate all regulations in this area.

The Department of the Interior has determined that this document is not a major rule under Executive Order (E.O.) 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) because the rule deals only with internal management practices and policies.

The recordkeeping and information collection requirements in § 114-52.201(c), have been approved by OMB under 44 U.S.C. 3501 *et. seq.* and assigned clearance number 1084-0007.

The Department has determined that these regulations will not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 41 CFR Part 114-52

Government property management, Housing.

For the reasons set out in the preamble, Part 114-52 of Title 41 of the Code of Federal Regulations is revised to read as set forth below.

Dated: December 3, 1986.

Gerald R. Riso,

Assistant Secretary of the Interior.

PART 114-52—ESTABLISHMENT OF QUARTERS RENTAL RATES

Subpart 114-52.1—General

Sec.

114-52.101 Scope.
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Authority: 5 U.S.C. 301, 40 U.S.C. 486(c) and 5 U.S.C. 5911.

Subpart 114-52.1—General

§ 114-52.101 Scope.

The regulations in this Part 114-52 apply to all Government-owned or leased personnel quarters rented in support of Federal programs, whether rented to employees of the holding Bureau, to employees of another Interior Bureau or other Federal agency, or to nonfederal tenants who are housed in order to facilitate the accomplishment of a Federal program. They apply to rental quarters in the 50 states, the District of Columbia, the territories and possessions, and Puerto Rico. These regulations do not apply to:

(a) Government-owned or leased quarters, custody of which has been transferred to a non-Federal entity pursuant to a written lease or contract authorized by law.

(b) Quarters, which under proper authority, are rented to the public for revenue pending future offical use or disposal.

§ 114-52.102 Statutory authority.

Public Law 88-459, approved August 20, 1964, 5 U.S.C. 5911, provides that quarters rental rates shall be based upon the reasonable value of the quarters to the employee in the circumstances under which provided, occupied, or made available.

§ 114-52.103 Regulatory authority.

Office of Management and Budget (OMB) Circular No. A-45, revised, *(Policy Governing Charges for Rental Quarters and Related Facilities)* establishes the basic regulations governing the setting of quarters rental rates, adjustments thereto, and charges for furnishings and utilities. These are supplemented by the provisions of this Part 114-52, and by the procedures outlined in the Departmental Quarters Handbook (DQH), 400 DM. A copy of the DQH is available at each installation.

§ 114-52.104 Statutory restrictions.

Rental rates for quarters and charges for utilities may not be set so as to provide a housing subsidy, serve as an inducement in the recruitment or retention of employees, or encourage the occupancy of available rental quarters. (See 5 U.S.C. 5536.)

§ 114-52.105 Definitions.

The terms used in this Part 114-52 are defined in the OMB Circular A-45 and the DQH. The Department of the Interior adds the following definitions:

(a) *Net contract rent.* The rental rate of the comparable housing after adjusting for the value of any furniture, furnishings, services, or utilities included in the rent.

(b) *Same general area.* The areas in or adjacent to the established communities nearest a Government installation.

§ 114-52.106 Rental rate principle.

Base rental rates and charges for utilities will be set at the rates prevailing for comparable private housing in the same general area in which the rental quarters are located. The procedures for doing so are outlined in the OMB Circular A-45 and supplemented by this Part 114-52 and by the procedures in the DQH.

§ 114-52.107 Extension of comparability.

The principle of comparability with private rental practice may be modified in the following circumstances:

(a) Where employees must occupy space for use as quarters which is generally unsuitable for that purpose or where they must reside in quarters which are suitable only for particular types of occupancy, such as rooming houses, bunkhouses, bachelor quarters, residence hotel-type structures, barracks-type structures, or guard and lookout cabins. In these circumstances, where no comparable rental data are obtainable or professional appraisals are not made, rental rates will be determined by the square footage occupied, at a rate equivalent to one-half the base rental rate per square foot charged for the nearest adequate rental quarters of the same or any other Federal agency. Rates established in this manner apply only to the shelter rental, with a separate charge for any other facilities and services provided (such as water, heat, light, and furniture) at rates comparable to those in the survey or appraisal area.

(b) Where quarters are occupied on a temporary or transient basis—normally for 60 days or less. Quarters so occupied will be charged for at rates equivalent to private transient quarters of comparable type and quality when available. Rates may be set on a nightly, weekly, bi-weekly, or monthly basis as appropriate. Where comparable private transient quarters are not available in the area, rates may be established by determining the reasonable monthly rental rate for the quarters and adding thereto an additional charge of 20 percent. The sum of these will be divided by 30 to determine the nightly rate, or by 4⅓ to determine the weekly rate.

(c) None of the administrative adjustments in § 114-52.3 will be applied to rents established in the manner described in paragraphs (a) and (b) above.

§ 114-52.108 Quarters in the territories and possessions.

The policies outlined in this Part 114-52 also apply to quarters located in the territories and possessions. Rents will be established in accordance with these policies and the procedures outlined in the DQH.

§ 114-52.109 Employees in leave status.

Employees on leave or furlough, with or without pay, will continue to be charged for quarters. Employees on leave or furlough for more than 30 days may vacate quarters and make them available for reassignment. No charge will be made once the quarters are made available for reassignment.

§ 114-52.110 Workroom used as quarters.

(a) Where an employee is required to utilize alone, or with his/her family a workroom as quarters, a reasonable charge shall be made for use of the quarters. This charge should reflect the degree to which the space is suitable for occupancy. The rental charge, for a lack of private rental market comparables, shall be based on the principle of an extension of comparability. Examples of facilities that could be subject to this provision are guard stations, lookout towers, one room cabins, administrative sites, observatories, etc.

(b) The above situations are distinguishable from those instances where only a room or small portion of a quarters unit is required for official business purposes. In the latter situation, the use of a portion of the quarters as an office, workroom, etc., is considered an intrusion into the living

space, resulting in a loss of privacy, and an adjustment is made in the base rental rate in accordance with § 114-52.304.

§ 114-52.111 Departmental Quarters Handbook (DQH).

A handbook has been prepared to supplement IPMR Parts 114-51 and 114-52. It provides detailed guidelines governing administration, management and rental rate establishment activities related to Government furnished quarters (GFQ). Bureau officials responsible for administration and management of rental quarters are expected to have and maintain current copies of the handbook. The handbook is issued as a looseleaf service so that updated text material may be interleaved. It is available for examination by all employees.

§ 114-52.112 Information collection.

The information collection requirements contained in § 114-52.201(c) have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1084-0007. The information is being collected to provide a sample of private sector rental rates in communities near government installations. The information will be used to establish base rental for government furnished quarters near the surveyed communities. Response is voluntary.

Subpart 114-52.2—Appraisals and Surveys

§ 114-52.201 Base rent principles.

(a) As provided in Subpart 114-52.1 of this Part, rental quarters including trailer spaces, shall be rented at rates (and furnishings, utilities, and related services charged for at rates) prevailing for comparable private housing and services in the same general area as where the rental quarters are located. Generally, base rental rates lower than those prevailing in the general area may not be charged for GFQ, since this would be a form of employee subsidization specifically forbidden by statute, Comptroller General decisions, and OMB regulations. Conversely, base rental rates higher than those prevailing in the general area should not be charged.

(b) It is recognized, however, that the rent actually charged (i.e., the reasonable value of the quarters to the employee) as established under the rental valuation system promulgated under OMB Circular A-45, as revised, does not necessarily equate to fair market valuation of the comparables after required administrative adjustments are made to the base rental rate. These administrative adjustments are designed to provide a uniform basis for assessing differences in physical and economic characteristics, and to establish reasonable value to the employee in the circumstances under which the units are provided, occupied, or made available.

(c) The determination of reasonable value of GFQ will be based upon an impartial study of comparable private rental housing. There are two methods that may be employed to determine the base rental rate. The first, an appraisal, involves direct comparison with individual private rental housing units. The second, a regional survey, creates a series of economic models based upon a survey of comparable private rental properties throughout the region.

(d) Where regional surveys are used for establishing rental rates, the resulting rates will be utilized by all bureaus. The individual bureaus are not authorized to conduct individual surveys or appraisals in lieu of a regional survey directed by the Department.

(e) There will be an appraisal or a regional survey conducted at least once every five years, or as otherwise appropriate to establish the "reasonable value" of the GFQ for all Departmental quarters meeting the OMB Circular A-45 definition of "rental quarters".

§ 114-52.202 Appraisals.

When base rental rates are to be determined by the individual appraisal method, only qualified real property appraisers (staff or contract) may undertake the assignment. Such appraisals will be reviewed for technical acceptance by qualified review appraisers, prior to their use in establishing the monthly rental charge. Generally, appraisals may only be conducted in those areas not covered by a regional survey.

(a) Appraisals in urban and suburban locations. If Government quarters are located in or within five miles of an established community, in an urban or suburban location, the base rental rate may be determined by either a staff or contract appraiser, applying recognized real estate valuation principles, within the constraints outlined in the OMB Circular A-45.

(1) Rental rates will be derived directly from the prevailing private rental market in the appraisal community (which is normally the nearest established community). It is not necessary that there be numerous vacancies in the established community. However, if there is no rental market in the nearest established community for one or more classes of housing, the appraiser will proceed to the next closest established community to secure comparable rental data for those rental classes.

(2) The appraiser will make direct comparative adjustments between the comparables and the Government quarters.

(b) Appraisals in rural areas.

(1) Where GFQ are located in areas other than in or within five miles of an established community (as defined OMB Circular A-45), the appraiser will utilize comparable market rentals for that GFQ in the nearest established community. If there is no rental market in that community for one or more classes of housing, the appraiser will proceed to the next closest established community to secure comparable rental data for those rental classes.

(2) The appraiser will apply only physical characteristic adjustments (adjusting the quarters to the comparables in their setting). No adjustments will be made for isolation, amenities, imposition on privacy and living space, excessive size or quality, or excessive heating and cooling costs. These adjustments will be administratively applied by the appropriate quarters officers.

(3) Further guidance is provided in the DQH.

§ 114-52.203 Regional surveys.

Regional surveys may be used in all locations where Government quarters are located. If the regional survey method is used, the base rental rates will be set by means of a series of economic models that utilize typical rental rates for comparable private rental housing in the general area in which the Government quarters are located. The actual analysis of rental data for the establishment of base rental rates may be accomplished using appropriate statistical techniques, such as step-wise multiple regression.

(a) The regional survey is the preferred method for establishing base rental rates. It will be utilized by all Department of the Interior bureaus where feasible.

(1) The boundaries of the regional survey areas will be established by the Office of Acquisition and Property Management (PAM), in consultation with the participating bureaus and agencies. The area selected for survey should be large enough to permit an adequate sampling of comparable rental properties in at least several established communities and may encompass one or more States. Surveys will be

coordinated by the Director, PAM, unless other arrangements are approved.

(2) The methods of analysis must be capable of recognizing different physical characteristics and differences in economic conditions, and of reflecting such differences in the base rents. Private rental housing samples reflecting extremely high or low rental rates (i.e., 50% above or below the regional average) should be excluded from analysis.

(b) *Survey principles.* The purpose of the regional survey is to produce reasonable GFQ rents. Such reasonable rents are derived from the analysis of market rents of comparable properties in established communities nearest to concentrations of Government housing. The result of the surveys is to be a general, cost-adjusted, market-derived base rent schedule for the region and not the specific market appraisal of a unit on a specific site in a specific neighborhood. This schedule will reflect physical differences in structures and economic differences between communities where these differences are shown to impact the rental rate structure.

(c) *Survey practices.* The regional surveys will include the following elements:

(1) *A survey of the private sector rental market.* The purpose of this data collection is to gather community and private rental housing data to be used for rent setting and establishing charges for related facilities.

(2) *Base rent tables.* The base rental rate of a GFQ is derived from the survey data in paragraph (c)(1) above, and is the estimated value of that unit before applying any administrative adjustments or charges for related facilities.

(3) *A regional survey report that will be prepared and distributed to the affected bureaus.* The report should include, as a minimum: a list of the communities surveyed, the base rent tables, and charges for utilities and related services.

§ 114-52.204 Establishment of charges for utilities and related services.

Where practicable, utilities (electricity, gas, oil, propane, water, etc.), and related services (sewer, garbage and trash disposal, cable TV, etc.) shall be provided to occupants of Departmental quarters directly by a private supplier and the occupants billed directly for such services. Where the Government collects for services provided by a private supplier, the final charges shall be the actual cost and may also reflect the addition of an administrative charge to the occupant. Where the Government furnishes the service, the charges should reflect the cost of similar services provided renters of private rental housing in the established communities or survey area. Charges to occupants of rental quarters for utilities and related services, when furnished by the Government will be established as follows:

(a) When utilities are capable of being individually metered and related services measured, by application of the prevailing rates for comparable utilities and related services in the community or survey area used for comparison rental rates.

(b) When utilities cannot be individually metered and related services measured, by the most appropriate of the following methods:

(1) *Multiple housing units.* By equitably prorating among the occupants, the combined costs, determined through metering or measuring the overall service, if possible, or otherwise by estimating same and by applying prevailing rates for comparable private rental housing in the community or survey area used for comparison of rental rates.

(2) *Single family units.* By comparison with the estimated cost of such service to occupants of comparable private rental housing at the time base rental rates are established, affirmed, or adjusted through a private rental market survey.

(3) *Bunkhouses/dormitories.* Where bunkhouses or dormitory quarters are provided, the rental rates shall combine the charges for shelter, furnishings, utilities, and related services into a single monthly, biweekly, weekly, or daily rate.

In either paragraph (a) or (b) of this Section, the utility charge shall be adjusted whenever changes occur in the prevailing rates for comparable services in the locality or by annual application of the Consumer Price Index (CPI).

§ 114-52.205 Establishment of charges for furnishings.

(a) Charges to occupants of rental quarters for furnishings (freezers, window air conditioners, washer, dryer, etc.) when provided by the Government will be established as follows:

(1) By comparison with the cost of such service to tenants of comparable private rental housing when base rental rates are established, affirmed, or adjusted through a survey of the private rental market; or

(2) If direct comparison is not available, through application of replacement cost from a national schedule furnished by PAM.

(b) Central air conditioning will be considered to be real property, not an appliance or furnishing, and an adjustment will be made in the appraisal or regional survey as part of the base rental rate. Window unit air conditioners are items of personal property and the proper separate charge will be made administratively for them.

(c) A fireplace in a dwelling is part of the real estate and will be considered in the appraisal or survey process when comparing properties. No adjustment will be made for this item as a personal property furnishing or appliance.

§ 114-52.206 Records.

To facilitate program review and coordination, quarters rental files will be maintained at the installation, approving office, and headquarters levels. The minimum record requirements for each of these levels are outlined fully in the DQH.

§ 114-52.207 Periodic adjustments of base rental rates and related charges.

To ensure that rental rates and related charges reflect changes in the private rental market, rent schedules and the charges for utilities, services, and furnishings will be affirmed or adjusted at periodic intervals as provided in the OMB Circular A-45 and the DQH.

Subpart 114-52.3—Administrative Adjustments to Base Rental Rates

§ 114-52.301 Adjustment policies.

(a) Once the base rental rates are established, whether by appraisal or regional survey, certain administrative adjustments to the rates, reflecting special circumstances of occupancy, are authorized by OMB Circular A-45. Complete instructions for application of these adjustments are contained in the DQH, available to all employees. The adjustments authorized by section 7c of the Circular are to be used, when and as appropriate, to establish ". . . . reasonable value of the quarters to the employee" and to reflect the circumstances under which the quarters are provided, occupied, or made available.

(b) *Adjustment limitation.* The total amount deducted for all reasons must not be excessive, resulting in a rental rate to the occupant that is less than the reasonable value of the quarters, since this would constitute a supplement of salary in contravention of law. The rental rate, after all adjustments and the addition of charges for furnishings, must not be less than 50 percent of the base rental rate, unless an adjustment for isolation has been made. In such instances, the rental rate may be set at

not less than 40 percent of the base rental rate.

(c) *Public rentals.* Where the rental of quarters is not in furtherance of a Government program objective but to raise revenue in the interim between official occupancies or pending disposal action, the rental rate shall not be subject to any of the administrative adjustments authorized under this Subpart. Instead, an appraisal of the fair market value (economic rental) of the property will be required. See Subpart 114–52.7 for instructions on how such rentals are to be handled.

(d) The absence of a finding in the project or installation files that an administrative adjustment has been made for any or all of the administrative adjustments outlined in §§ 114–52.302 thru 52.310, shall constitute a presumption that no adjustment for the forgoing shall be made. Employee tenants may seek application of said adjustments, if warranted, upon written application and submission of documentation to the installation housing office.

§ 114–52.302 **Isolated locations.**

In some cases, the Government supplies quarters in locations where minimal community services are available, but only at some distance from the quarters. In addition, travel conditions or mode of transportation serve to further isolate some employees from minimal community services. In such situations, the head of an agency shall grant a reasonable adjustment to the base rent in accordance with OMB Circular A–45 and the DQH.

§ 114–52.303 **Site amenities.**

Establishment of the base rental rate under OMB Circular A–45 procedures employs the presumption that the Government quarters occupy identical lot as the private rental comparable. Thus, only the salient differences in the structures are subject to comparison and adjustment.

(a) The guidelines in the DQH are to be applied by each bureau in determining whether GFQ have superior, equal, or inferior site amenities as compared to private rental housing in the nearby communities surveyed. The factors listed below are generally, but not always, present in the communities surveyed. If present, their contributory value will have been included in the base rent. The lack of availability of any of these items at the quarters location should be reflected as a negative percentage adjustment to the base rental rate. Similarly, an upward percentage adjustment should be made in the base rental rate for quarters possessing site amenities which are not present in the survey or appraisal communities used to establish the base rent. The standards to be used for determining the presence or absence of the amenity factors listed below appear in OMB Circular A–45 and the DQH.

(1) Reliability and adequacy of water supply.

(2) Reliability and adequacy of electric service.

(3) Reliability and adequacy of fuel for heating, cooling, and cooking.

(4) Reliability and adequacy of police protection.

(5) Reliability and adequacy of fire protection.

(6) Reliability and adequacy of sanitation service.

(7) Reliability and adequacy of telephone service.

(8) Absence of noise and odors.

(9) Miscellaneous Improvements.

(b) *Documentation.* Whenever it is determined that certain of the amenity factors for a given quarters are either inferior or superior to comparable private rental market housing, documentation supporting the decision must be included in the appraisal or survey report and the installation quarters file.

§ 114–52.304 **Impositions on privacy or living space.**

Administrative adjustments to the base rental rate are allowed if the living space or privacy of the occupant is restricted. In each such case, the bureau will make a determination of the specific conditions, making certain that they have not already been reflected in establishing the base rental rate.

§ 114–52.305 **Temporary quarters/ maintenance of two households.**

Where permanent personnel occupy rental quarters while performing assigned work, they may be transferred to a field location under certain conditions. Where it is necessary for an employee to maintain two households for the convenience of the Government, one permanent and one temporary, and he or she is not eligible for per diem, the rental rate for the rental quarters may be adjusted so that the combined housing costs (exclusive of utilities) which the employee must pay over a twelve-month period is not excessively burdensome.

§ 114–52.306 **Inadequate size or quality.**

Where an employee, because of the lack of available housing or rental quarters, is required to accept quarters which are inadequate in size or quality for the needs of his family, a deduction not to exceed 10 percent of the base rental rate is allowed.

§ 114–52.307 **Excessive size or quality.**

At some locations, due to program needs or a lack of available alternative housing, an employee may be required to occupy rental quarters which are larger or of better quality than he would select in a private community. The rental quarters must be clearly in excess of his family's needs. In such instances, the quarters would not constitute "reasonable value" to the employee. In these circumstances, the base rent may be reduced by up to 10 percent, in direct proportion to the degree of excess.

§ 114–52.308 **Excessive heating and cooling.**

Where GFO are determined to be inadequately constructed or insulated so that the annual heating/cooling costs are excessive (and not attributable to tenant actions) the Government shall reimburse, in accordance with the DQH and OMB Circular A–45, the costs actually incurred which are 25% over and above the average estimated for comparable private housing. Tenants are required to present receipts when applying for this adjustment.

§ 114–52.309 **Administrative review.**

Each bureau shall establish a system of review to determine the appropriateness of initial adjustments to the base rental rate and the continued applicability of such adjustments.

(a) Administrative adjustment factors subject to modification or termination should be reviewed each year prior to any annual adjustment actions such as provided for in § 114–52.207, to determine whether such administrative adjustment is still warranted. Example: an adjustment for inferior telephone service should be eliminated if adequate service is installed.

(b) A system should be established whereby field leaders provide notification to the appropriate quarters administrating office of a basis for modifying current adjustments.

§ 114–52.310 **Adjustment for possessory interest tax payments.**

Where an employee-tenant provides evidence of payment of a possessory interest tax based upon the value, as determined by a State or local taxing authority, of the tenant's use and occupancy of Government-owned quarters, the amount of the tax will be returned to the employee without interest, either by offset against future rent payments or by lump sum payment, as determined by the agency.

§ 114-52.311 Administrative relief.

Where the head of a bureau or office believes that extreme circumstances exist for specific housing situations such as to cause the rental rate, established pursuant to OMB Circular No. A–45, as revised, and these Departmental regulations, to be unreasonable, he will refer such situations to the Director, PAM. Bureau heads will ensure that all other avenues (e.g., reassignment, private sector rentals, etc.) have been exhausted prior to making such a request. If the circumstances appear to warrant such extraordinary relief, PAM will refer the case to the Office of Management and Budget for consideration.

Subpart 114-52.4—Implementation of New and Revised Rental Rates

§ 114-52.401 New quarters.

(a) No housing is to be used as quarters unless approval of the appropriate program Assistant Secretary, or the head of the bureau if the approval authority is redelegated, has first been obtained. Requests to provide quarters shall be submitted on Justification for New or Replacement Quarters, Form DI 1871, or similar form.

(b) Where additional quarters are approved for use as employee housing, the monthly rental charge for the quarters, utilities, furnishings, and related services are to be established and communicated to the employee prior to occupancy of the quarters.

(c) No one may occupy a quarters unit until they have first signed an occupancy agreement.

§ 114-52.402 Existing quarters.

The revised monthly rental charges for quarters, furnishings, utilities, and related services, when and as applicable, shall become effective in accordance with the following guidelines.

(a) *Adjustments.* The annual (interim year) adjustments to the rental rate shall be based upon changes in the rental series CPI and shall become effective at the beginning of the first full pay period which starts on or after February 1 of each year. Because the CPI adjustment action is mandated by OMB Circular A–45, it is not subject to request for reconsideration or appeal (see 114–52.6). The CPI adjustment shall be applied to:

(1) Base rental rate.

(2) Furnishings, where no adjustment is made at least annually to reflect actual replacement costs.

(3) Utilities, where the utilities are flat rated (no metered or otherwise measured), and no adjustment review is conducted at least annually to ensure application of current domestic rate schedules.

(4) Related services, where no documented review is conducted at least annually to determine current prevailing charges in the locality or survey area or where no similar service is available in the surrounding community.

(b) *Resurveys.* Where the private rental market is resurveyed or appraised in accordance with the guidelines contained in OMB Circular A–45 and IPMR 114–52 et seq., the rental charges shall be implemented as soon as possible after completion of the survey or appraisal.

§ 114-52.403 Tenant notification.

(a) Where revised rental charges are to be implemented, whether due to resurvey, appraisal, or CPI adjustment actions, the monthly rental charges (biweekly payroll charge) shall not be implemented until *at least 30 days* after the tenant shall have received notification *in writing* of the basis for and amount of the charge. This notice should also inform the tenant of the right to request reconsideration of the rental rate and to which office or official(s) they must submit the request. (See § 114–52.602)

(b) Receipt of notice shall be deemed effective upon placing the notice in the United States mail for delivery or upon hand delivery to the employee. Automatic implementation of revised rental rates shall be made at least 30 days after such notice.

(c) Revised rental rates shall be collected whether or not the occupant signs a new rental agreement. Signing the agreement does not nullify appeal rights. Failure to sign is cause for eviction.

§ 114-52.404 Rental period.

Rates shall be established on a biweekly basis for quarters, utilities, services, and furnishings, except that rates for dormitory rooms and similar accommodations may be set on a daily, weekly, or monthly basis. Monthly rates shall be converted to biweekly rates by multiplying by 0.4615 or to daily rates by dividing by 30.

Subpart 114-52.5—Program Coordination

§ 114-52.501 General.

Intradepartmental and interdepartmental coordination of the quarters program is the responsibility of PAM. This includes determining survey boundaries, scheduling and coverage of surveys, coordination with other Agencies, approving the annual budget and reviewing and approving survey results.

§ 114-52.502 Bureau responsibilities.

Bureaus should ensure that one individual is assigned the responsibility for implementation of these regulations and for program coordination. This position may be funded from rental income.

Subpart 114-52.6—Employee Participation and Appeals

§ 114-52.601 Employee participation in rate setting processes.

Employees occupying GFQ shall be furnished upon request the criteria and procedures (i.e., a copy of OMB Circular A–45 and/or the survey or appraisal report) followed in establishing the rental rates for such quarters, utilities, furnishings, and services. Bureau conducted presurvey and postsurvey meetings with the employees are recommended as an effective means of ensuring a full disclosure and understanding of survey actions. Employees should be afforded an opportunity, individually or through employee organizations, to have their views and representations considered during the rental ratemaking process. However, they should understand that rental rates are not negotiated. Employee-tenants or representatives of employee organizations may not accompany a person conducting a survey of private rental market comparables.

§ 114-52.602 Requests for reconsideration and appeals.

(a) *Requests for reconsideration.* A request for reconsideration is the first step in the appeal process. It is a written request by the employee-tenant for reconsideration of any aspect of the rate establishment process. It is a prerequisite to an appeal to the Office of Hearings and Appeals. Only employee-tenants may request reconsideration of rental rate determinations. Private party occupants, as defined in § 114–52.701(b), may not seek reconsideration or subsequent appeal.

(1) Employee-tenants may request reconsideration of rental rates, adjustments, or other charges whenever they believe the quarters have been improperly classified by erroneous factual determinations, or rates have not been established within these guidelines or those of the OMB Circular A–45. The request for reconsideration shall be made in writing, outlining in detail the basis for the request and the names of all occupants participating in the request for reconsideration. The request shall be

filed with the appropriate office or official(s) within 30 days following receipt of the notice of change in rate.

(2) The filing of a request for reconsideration shall not serve to delay implementation of the revised rental rates. However, the employee shall be credited with whatever overpayment, if any, resulted during the period from the date the rental increase became effective to the date the rate is modified. Conversely, the employee shall pay the Government whatever underpayment, if any, resulted during this period.

(3) The bureau reviewing official shall issue a decision on a request for a reconsideration within 30 days of receiving it. The failure of the responsible bureau official to issue a decision within 30 days of receiving a request for reconsideration shall be deemed a decision of denial, and grounds for appeal. While the bureaus may have additional review steps, these do not extend the 30 day response time.

(4) The employee-tenant shall have the burden of proof on a request for reconsideration and subsequent appeal as to questions of fact.

(b) *Appeals.* An appeal is a written request by the employee to the Office of Hearings and Appeals (OHA), 4015 Wilson Boulevard, Arlington, VA 22203, for an examination of the issues raised in a request for reconsideration. The appeal shall be filed within 30 days of receipt of a decision on a request for reconsideration. The filing of a request for reconsideration and a decision thereon, are prerequisites to an appeal. The Director, OHA, shall refer the appeal to an Ad Hoc Board consisting of one of more persons. The decision of the Ad Hoc Board shall be final. The appeal to the OHA shall be the sole procedure for appeal from the bureau reviewing official's decision on reconsideration. Appeals shall be subject to the following conditions:

(1) Matters not raised in the initial request for reconsideration shall not be considered on appeal.

(2) Appeals undertaken as to either existing or proposed rates shall be adjudicated as of the date the rate increases were implemented.

(3) The filing of an appeal shall not result in postponing implementation of a proposed rate pending adjudication of the appeal.

(4) Where an appeal results in a revision of the rental rate, the employee shall be credited with whatever overpayment, if any, resulted during the period from the date the rental increases were implemented to the date of the appeal decision. Conversely, the employee shall pay the Government whatever underpayment, if any, resulted during this period.

(5) PAM shall have the right to intervene in any appeal concerning the quarters program. The OHA shall direct a copy of all incoming appeals to PAM. A separate copy shall be sent to the Associate Solicitor—Division of General Law, who shall appoint a Departmental Counsel to represent the Department before the Ad Hoc Board in those cases where PAM intervenes. When PAM desires to intervene, it shall do so in writing to the appellant and OHA within 30 days of receiving its copy of the appeal. Thereafter, the appellant shall furnish copies of all submissions on appeal to PAM.

(6) An appeal shall list the errors alleged with specificity, along with the names of all occupants participating in the appeal. No errors or ocupants shall be considered that have not been so listed. A failure to specify the errors alleged is cause for summary dismissal of the appeal by the Ad Hoc Board.

(7) Except as otherwise specifically provided herein, an appeal shall be conducted in conformance with 43 CFR 4, Subparts A, B, and G.

(c) If an employee is in official leave or travel status at the time rates are issued, the time period for filing a request for reconsideration or appeal shall be extended accordingly.

(d) Implementation of the regularly scheduled CPI adjustment shall not serve as a vehicle for reexamination of the survey process or appraisal. This may only be done within 30 days of receipt of the original notice of change in rate resulting from a survey or appraisal.

Subpart 114-52.7—Non-Federal (Private Party) Quarters Rentals

§ 114-52.701 General.

(a) Where Departmental owned or leased quarters are unoccupied pending possible future program use or disposal as excess to program needs, it is in the Government's interest to have the quarters occupied. When the quarters are leased to private parties, the rates and charges for the quarters and facilities shall be determined in accordance with the provisions of this subpart.

(b) Rental to a private party (general public) includes rental to any person, not an Interior employee, whose occupancy is not directly related to performance of a contract, memorandum of understanding, or other formal agreement between the bureau or office managing the quarters and another cooperating Federal or State agency or with a contractor providing services or supplies to the managing bureau or office.

§ 114-52.702 Basic policy.

User charges for Departmental-owned or -leased quarters rented on an interim basis to private parties are controlled by the policies and principles set forth in OMB Circular No. A-25, as revised. That policy provides, ". . . a fair market value rental should be obtained (when rented to the public). Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to recovery of costs; they may produce net revenues to the Government."

§ 114-52.703 Rate determination.

(a) The establishment of fair market value rental rates (also known as "economic rent") shall be based upon accepted real estate valuation principles. Under such circumstances, it would be inappropriate to base the charges upon the quarters valuation guidelines promulgated pursuant to OMB Circular No. A-45, as revised. The Departmental guidelines (IPMR 114-52.2 and 114-52.3) are not designed to produce fair market value rental rates.

(b) To establish the fair market value rental rate, as appraisal shall be accomplished in accordance with the following requirements:

(1) The appraisal shall be conducted by a professional fee appraiser or a similarly qualified staff appraiser.

(2) The appraisal shall establish the "economic rent," taking into consideration all relevant factors including the imposition of special terms and conditions required by the Government.

(3) The valuation process shall be adequately documented and the appraisal approved by a qualified review appraiser.

§ 114-52.704 Interim rental of excess quarters.

When a determination is made that quarters excess to a bureau's program needs are not required in support of another Federal agency program, the bureau, with GSA approval, may lease the quarters for non-Federal use. Prior to granting non-Federal use, the bureau must comply with the requirements of IPMR 114-47.802.50 and FPMR 101-47.20-39.

[FR Doc. 86-27595 Filed 12-9-86; 8:45 am]

BILLING CODE 4310-RF-M

Bureau of Land Management

43 CFR Public Land Order 6634

[OR-940-07-4220-10; OR-39055]

Oregon; Withdrawal of Public Lands for U.S. Army Test Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 235.57 acres of public lands from surface entry and mining for 20 years to be used as a U.S. Army electronic communications test facility. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone: 503-231-6905).

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

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, and entry, under the general land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use by the Department of the Army in connection with the U.S. Army Central Oregon test Facility:

Willamette Meridian

T. 18 S., R. 13 E.,
 Sec. 11, SE¼.
T. 15 S., R. 14 E.,
 Sec. 31, that portion of the SW¼ lying easterly of the easterly right-of-way line of the Frank McCaffery County Road and the westerly 273 feet of the W½SE¼.

The areas described aggregate approximately 235.57 acres in Crook and Deschutes Counties.

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

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

J. Steven Griles,
Assistant Secretary of the Interior.
December 3, 1986.

[FR Doc. 86-27666 Filed 12-9-86; 8:45 am]
BILLING CODE 4310-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 84-1299; FCC 86-471]

Common Carrier Services; Establishment of Satellite Systems Providing International Communications

AGENCY: Federal Communications Commission.

ACTION: Denying Petition for Reconsideration.

SUMMARY: The Commission has denied a Petition for Further Reconsideration of its *Separate Systems* Final Rule decision (50 FR 42266, Oct. 18, 1985) and affirmed its previous finding that separate systems operators and their resellers may provide occasional use television or any other services not interconnected with the public switched network under a one-year minimum requirements contract. It found that its interpretation of the Dougan-Joyce letter is correct and is consistent with the intent of the Executive branch's operational restrictions.

FOR FURTHER INFORMATION CONTACT: Anna Lim, International Facilities Division, Common Carrier Bureau, (202) 632-7265.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion & Order, CC Docket 84-1299, FCC 86-471, adopted October 23, 1986, and released October 31, 1986.

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

Summary of Memorandum Opinion and Order

This MO&O affirms the Commission's previous finding that, based on the letter from Diana L. Dougan, Coordinator and Director, Bureau of International Communications and Information Policy, Department of State and Rodney L. Joyce, Acting Secretary for Communications and Information, Department of Commerce, to Mark S. Fowler, Chairman, Federal Communications Commission, dated January 10, 1986 (Dougan-Joyce letter) which interprets the Executive branch's operational restrictions, occasional use television or any other services not interconnected with the public switched network can be provided by separate systems operators and resellers of separate systems capacity under a one-year minimum requirements contract.

Specifically, the Commission finds that its interpretation of the Dougan-Joyce letter is correct and is consistent with the intent of the Executive branch's operational restrictions as adopted in its *Separate Systems* decision, that this interpretation is also consistent with the instruction letter of March 4, 1986 issued jointly by the State Department, NTIA and the Commission to Comsat in its capacity as U.S. Signatory to INTELSAT. In addition, the Commission rules that the long-term lease requirement remains meaningful in practical application, and that permitting occasional use television and other services to be provided under requirements contracts will not result in economic harm to INTELSAT.

Ordering Clause

Accordingly, it is ordered that the Petition for Reconsideration filed by Communications Satellite Corporation is denied.

William J. Tricarico,
Secretary.

[FR Doc. 86-27682 Filed 12-9-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 2 and 73

[MM Docket No. 86-264; FCC 86-484]

Broadcast Services; Modifications of Broadcast Transmitters

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects the effective date of a final rule document in this proceeding concerning modifications of broadcast transmitters, published on November 18, 1986, 51 FR 41628. The document was not published in time to satisfy the 30 day prior notice requirement.

EFFECTIVE DATE: The effective date for the final rule action is now December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Lewis, (202) 632-9660.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 86-27677 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 31

[CC Docket No. 79-105; FCC 86-513]

Detariffing the Installation and Maintenance of Inside Wiring; Petitions; Reconsideration and Waivers

AGENCY: Federal Communications Commission (FCC).

ACTION: Disposition of petitions for reconsideration and petitions for waivers.

SUMMARY: This action is in response to petitions for reconsideration of the *Second Report and Order* (*2nd R&O*) in CC Docket 79-105, 51 FR 8498 (Mar. 12, 1986), and petitions for waiver of requirements established in that document. The petitions for reconsideration request that certain changes be made in the actions taken in the *2nd R&O.* In the petitions for waiver, Southwestern Bell, Pacific Bell, and BellSouth request waiver of certain deadlines set in the *2nd R&O.* This action partially grants the petitions for reconsideration by eliminating the requirement that telephone companies relinquish their claims to ownership of inside wiring and by deferring preemptive detariffing of inside wiring maintenance in the State of New York until January 1, 1990. This action also dismisses and denies the petitions for waiver.

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

FOR FURTHER INFORMATION CONTACT: William A. Kehoe III, tel. (202) 634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Memorandum Opinion and Order in CC Docket 79-105, FCC 86-513, adopted November 13, 1986, and released November 21 1986. The full text of the FCC's 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 be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. The *2nd R&O* detariffed the installation of simple inside wiring and the maintenance of all inside wiring effective January 1, 1987; gave preemptive effect to the FCC's decisions deregulating the installation and maintenance of inside wiring; and ordered telephone companies to relinquish all claims to ownership of expensed inside wiring by January 1, 1987, and of capitalized inside wiring by the end of the amortization period for the investment in that wiring. Collectively, the petitions for reconsideration challenge the preemption and ownership relinquishment actions described above, and request deferral of the detariffing and ownership relinquishment deadlines set in the *2nd R&O.* The petitions for waiver request waiver of those deadlines for particular companies.

2. The FCC's *Memorandum Opinion and Order (MO&O)* finds merit in certain of the arguments made against the requirement that telephone companies relinquish their claims to ownership of inside wiring and, accordingly, eliminates that requirement. The *MO&O,* however, precludes telephone companies from restricting the removal, replacement, rearrangement or maintenance of inside wiring that has been installed or maintained under tariff, from requiring that such wiring be purchased after it has been expensed or fully amortized, and from imposing charges for the use of expensed or fully amortized inside wiring. The *MO&O* also affirms the prior preemption of State regulation of inside wiring installation and maintenance as well as the application of the January 1, 1987 deadline for detariffing those services on a nationwide basis. However, to avoid subjecting consumers in the State of New York to abrupt rate adjustments, the *MO&O* defers the effectiveness of the FCC's preemption decision for inside wiring maintenance services in that state until January 1, 1990. In addition, the *MO&O* dismisses Southwestern Bell's petition for waiver as moot, and denies Pacific Bell's and BellSouth's petitions for waiver.

Ordering Clauses

1. Accordingly, It Is Ordered, that the petitions for reconsideration of the *Second Report and Order* in Docket 79-105 Are Granted to the extent indicated above and otherwise Are Denied.

2. It Is Further Ordered, that the petition for waiver filed April 14, 1986, by Southwestern Bell Is Dismissed.

3. It Is Further Ordered, that the petitions for waiver filed July 25, 1986, and August 25, 1986, by Pacific Bell and BellSouth, respectively, Are Denied.

4. It Is Further Ordered, that the telephone companies shall comply with the prohibitions described in Paragraph 35 of this Order.[1]

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86-27678 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Correction to Appendix III of the Convention of International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. This notice corrects the scientific name for the Rodriguez Island warbler, a bird listed in Appendix III of CITES.

EFFECTIVE DATE: This technical amendment is effective on December 10, 1986.

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[1] Paragraph 35 states:

35. Customers' ability to obtain inside wiring installation and maintenance from sources of their own choosing could be inhibited if a telephone company were to use a claim of ownership as a basis for restricting the removal, replacement, rearrangement or maintenance of inside wiring. Therefore, we will preclude telephone companies from imposing such restrictions with respect to inside wiring that has ever been installed or maintained under tariff. Ratepayer rights would also be abridged if telephone companies were to receive additional compensation for such wiring after it has been expensed or fully amortized. Therefore, we will preclude the telephone companies from requiring that such wiring be purchased and from imposing a charge for the use of such wiring.* Telephone companies may, of course, collect wiring maintenance fees on an untariffed basis from anyone who chooses to use that service, provided the companies use the accounts provided for unregulated activities. In addition, telephone companies shall account for any sale of unamortized inside wiring on the books of the regulated company and in accordance with prescribed retirement accounting requirements.

*This requirement does not affect the recovery of costs associated with capitalized inside wiring which was installed or maintained under tariff and whose costs have not been fully amortized.

ADDRESSES: Please send correspondence concerning this document to the Chief, Office of Scientific Authority, Mail stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. Background materials, as well as correspondence received, are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the address given above, or telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of November 30, 1981 (46 FR 58088), the U.S. Fish and Wildlife Service (Service) intentionally, but mistakenly, changed the scientific name in the entry for the Rodriguez Island warbler, giving it the name of another species listed below it in 50 CFR 23.23. The error may have occurred in manuscript when attempting to correct the spellings of both scientific names as they appeared in the **Federal Register** of September 4, 1981 (46 FR 44669). The Service herein restores the correct scientific name to the warbler. The entry for this warbler, including the scientific name, has remained unchanged in the Appendix III list of the CITES Secretariat.

Note.—This correction notice is needed to make the regulatory listing of the warbler consistent with that in Appendix III of CITES. Therefore, the Service finds good cause that this document shall be effective immediately upon publication (5 U.S.C. 553(d)) and that the public notice and comment procedure under 5 U.S.C. 553 is unnecessary and impractical. The Service is trying to maintain an accurate list of species protected under CITES. This prompt action is needed so that the correction can be made before the 1986 edition of Title 50, Code of Federal Regulations, is published.

This document was prepared by Dr. Bruce MacBryde, Office of Scientific Authority, under authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 23

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

Regulation Promulgation

Accordingly, for the reasons set out in the preamble above, Title 50, Part 23 of the Code of Federal Regulations is amended as set forth below.

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531-43.

§ 23.23 [Amended]

2. In § 23.23(f) under Class Aves, Order Passeriformes, change the scientific name of the Rodriguez Island warbler in the Species column from *Dasyornis brachypterus longirostris* to *Bebrornis rodericanus*.

Dated: December 3, 1986

Frank Dunkle,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 86-27694 Filed 12-9-86; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 51, No. 237
Wednesday, December 10, 1986

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 301 and 319

[Docket No. 86-341]

Unshu Oranges; Japan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period and announcement of public hearing.

SUMMARY: This notice reopens the comment period and announces a public hearing on a proposed rule to allow Unshu oranges from Japan to be imported into additional areas of the United States. The proposed rule, published in the **Federal Register** on August 13, 1984, is reprinted (with minor, nonsubstantive corrections) in this notice for your convenience.

DATES: We will consider your comments if we receive them on or before February 9, 1970. We will hold a public hearing on the proposed rule on January 6, 1987, in Hyattsville, Md.

ADDRESSES: Send written comments to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 86-341. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays. The public hearing will be held in Conference Room 643A of the Federal Building, 6505 Belcrest Road, Hyattsville, MD.

FOR FURTHER INFORMATION CONTACT: Steven Poe, Plant Pathologist, Survey and Emergency Response Staff, PPQ, APHIS, USDA, Room 609, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-6365.

SUPPLEMENTARY INFORMATION:

Public Hearing

A representative of the Animal and Plant Health Inspection Service will preside at the hearing. Any interested person may appear and be heard in person, by attorney, or by other representative.

The hearing will begin at 9 a.m. and is scheduled to end at 4:30 p.m., local time. However, the hearing may be ended at any time after it begins if all persons desiring to speak have been heard. Anyone wishing to speak should register with the presiding officer on the morning of the hearing, between 8:30 a.m. and 9 a.m., at the hearing room. Those registered will be heard in the order of their registration. Anyone else who wishes to speak at the hearing will be heard after the registered speakers. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

If the number of registered speakers and other participants at the hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

Background

We proposed, in the **Federal Register** of August 13, 1984 [49 FR 32207-32209], to amend the Citrus Fruit regulations (contained in 7 CFR 319.8) and the Unshu Oranges regulations (contained in 7 CFR 301.83) to allow Unshu oranges (*Citrus reticulata* Banco var. *unshu,* also known as Satsuma) grown in Japan to be imported and moved into all areas of the United States except Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States. The Citrus Fruit regulations currently permit Unshu oranges grown in Japan to be imported only into Alaska, Hawaii, Idaho, Montana, Oregon, and Washington. In addition, the Unshu Oranges regulations prohibit the movement of imported Unshu oranges from these States into any area of the United States.

We regulate the importation and interstate movement of Unshu oranges grown in Japan to prevent the spread into the United States of citrus canker disease from Japan. Citrus canker, a disease that affects citrus, is caused by the infectious bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. It is found in the United States only in Guam and, since August 23, 1984, in Florida.

The **Federal Register** of August 13, 1984, invited the submission of written comments on the proposed rule on or before October 12, 1984, and announced that a public hearing on the proposal would be held on September 18, 1984, in Washington, DC. We received 10 written comments before the close of the comment period. After the discovery of citrus canker in Florida, however, we canceled the public hearing (**Federal Register** notice of September 17, 1984, 49 FR 36391) and postponed action on the proposal until we could learn more about the Florida outbreak.

We have found no evidence linking the infestations of citrus canker in Florida to Unshu oranges. Furthermore, based on the reasons given in the proposal (and recounted below), we have determined that the provisions of the proposed rule are still valid, and we are reopening the comment period and rescheduling the public hearing.

Restatement of the Proposal of August 13, 1984

The citrus fruit regulations now allow Unshu oranges grown in Japan to be imported and moved into only six States in the United States: Alaska, Hawaii, Idaho, Montana, Oregon, and Washington, and then only in accordance with certain safeguards.

We have evaluated the effectiveness of these safeguards and have reviewed what is know about the host range, symptoms, and epidemiology of the strain of citrus canker found in Japan. Based on our findings, we have concluded that Unshu oranges grown in Japan may be safely imported and distributed throughout the United States except in areas where known hosts of the A strain of citrus canker can be grown. These areas are Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States.

Specifically, we have found that Unshu oranges are considered highly resistant to the strain of citrus canker found in Japan and that the safeguards employed in Japan in growing, processing, and packaging Unshu

oranges are effective in keeping Unshu oranges free from citrus canker. These safeguards consist of a series of independent measures that include growing Unshu oranges in isolation and surrounded by a disease free buffer zone containing no species of citrus other than *Citrus reticulata* Blanco var. *unshu;* inspecting the trees and oranges in the isolation area and buffer zone during growing, harvesting and packing; washing each orange to be exported in a chlorine solution that kills surface bacteria; and visually inspecting for evidence of citrus canker each orange to be exported. In addition, samples of oranges from the isolation area and buffer zone are phage tested to confirm the absence of citrus canker bacteria. We believe it is extremely unlikely that citrus canker bacteria would be found on any Unshu orange imported into the United States under these conditions. And, in fact, Japanese Unshu oranges have been imported into the United States under these conditions for the last 12 years without any findings of citrus canker on any of the oranges.

We recognize, though, that no matter how effective the existing safeguards, there is always a possibility, however remote, that citrus canker bacteria might come into contact with Unshu oranges in Japan and go undetected until the oranges have been imported into the United States. Although we believe the likelihood of this occurring is so slight as to pose a negligible risk, we want to protect citrus in the United States from even this risk. Therefore, while we proposed to relieve most of the existing geographic restrictions on the importation and interstate movement of Unshu oranges, the oranges would be permitted only in areas where the strain of citrus canker found in Japan could not become established. As stated earlier, our proposal would continue to prohibit the movement of Unshu oranges into areas where hosts of the strain of citrus canker found in Japan could be grown: Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States.

The proposed geographic restrictions on the movement of Unshu oranges in the United States, combined with the existing safeguards employed in Japan in growing, processing, and packaging the oranges, would be adequate to protect citrus in the United States from exposure to citrus canker from Unshu oranges grown in Japan.

The proposed rule was issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information we have compiled, we have determined that the proposed rule would have an annual effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Specifically, Unshu oranges from Japan constitute only about 3 percent of the total number of tangerines imported into the United States. (Unshu oranges are listed as tangerines for gathering data about commerce.) We do not expect the volume of Unshu oranges imported into the United States to increase significantly compared with importations of other tangerines if the proposed rule is adopted. Furthermore, because the Unshu orange is a specialty orange not grown in the United States, it would not be marketed in competition with domestic citrus.

Alternatives considered in developing the proposed rule included: (1) Not amending the regulations; (2) Removing all geographical restrictions on the importation and distribution of Unshu oranges; or (3) Expanding the geographical areas into which Unshu oranges could be imported and distributed to include all areas except where hosts of the strain of citrus canker found in Japan could be grown. We did not choose alternative (1) because we believe there is no biological basis for continuing to impose the current geographic restrictions on importation and distribution of Unshu oranges. We did not choose alternative (2) because we believe it would not adequately protect citrus growing areas in the unlikely event that the citrus canker bacteria were brought into the United States on Unshu oranges. We chose alternative (3) because it would protect citrus growing areas of the United States from the citrus canker found in Japan should that strain be bought into the United States by Unshu oranges.

Only three small entities import Unshu oranges from Japan into the United States. The Unshu orange is a premium product aimed at a luxury market. It sells at two to three times the price of tangerines and is available for distribution in the United States only during late November through December of each year. For these reasons, we do not anticipate that adoption of the proposed rule would cause a significant increase in the number of Unshu oranges imported into the United States or have a significant effect on small entities in the import or domestic tangerine market.

Under the circumstances referred to above, the Administrator of the Animal and Plant Health Inspection Service has determined that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

Proposed Rule

1. The authority citations would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

PART 301—[AMENDED]

2. Section 301.83 would be revised to read as follows:

§ 301.83 Prohibition and Notice of Quarantine.

(a) To prevent the interstate dissemination of the citrus canker bacteria, Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, also known as Satsuma) grown in Japan are prohibited from being moved from any quarantined State, Territory, or District of the United States.

(b) All States, Territories, and Districts of the United States, except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, and the Virgin Islands of the United States are quarantined.

PART 319—[AMENDED]

3. In § 319.28, the introductory text of paragraph (b), paragraph (b)(6), and paragraph (g) would be revised to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(b) The prohibition shall not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, also known as Satsuma) grown in Japan and imported under permit into any area of the United States except for the States and Territories of Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Purerto Rico, South Carolina, Texas, and the Virgin Islands of the

United States: *Provided*, that each of the following safeguards are fully carried out: * * *

* * * * *

(6) The Unshu oranges shall be imported into the United States only through a port of entry listed in § 319.37-14 of this part, except that such importation shall not be allowed through ports of entry located in the following States or Territories: Alabama, American Samoa, Arizona, California, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, the Northern Mariana Islands, Puerto Rico, South Carolina, Texas, or the Virgin Islands of the United States.

* * * * *

(g) The term "United States" means the States, District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

Done in Washington, DC, this 5th day of December, 1986.

W.F. Helms,

Deputy Administator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-27745 Filed 12-9-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

Proposed Customs Regulations Amendment Relating to the Definition of Fraud Under 19 U.S.C. 1592

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposed to amend the Customs Regulations by revising the definition of "fraud" in the revised penalty guidelines for violations of 19 U.S.C. 1592, to remove the requirement that the violation be deliberately done with intent to violate the laws of the U.S. The amendment would enhance the enforcement of section 1592 fraud cases.

DATE: Comments must be received on or before January 26, 1987.

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

FOR FURTHER INFORMATION CONTACT: Sandra L. Gethers, Entry Procedures and Penalties Division (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

Appendix B to Part 171, Customs Regulations (19 CFR Part 171, Appendix B), sets forth the revised penalty guidelines for violations of title 19, United States Code, section 1592. Section 1592 imposes monetary penalties and other sanctions for entering, introducing, or attempting to enter or introduce any merchandise into the commerce of the U.S. by means of any document, written or oral statement, or act which is material and false, or any omission which is material. The revised guidelines provide for, among other things, mitigation of the monetary penalty according to the degree of culpability involved in the violation of section 1592.

There are three degrees of culpability under § 1592: negligence, gross negligence and fraud. Under the current defintion of fraud, as set forth in section (B)(3) of the revised penalty guidelines in Appendix B to Part 171, Customs Regulations, a fraudulent violation of section 1592 is one that results from an act or acts (of commission or omission) deliberately done with intent to defraud the revenue or to otherwise violate the laws of the U.S., as established by clear and convincing evidence.

Customs believes that this definition of fraud imposes a burden of proof that is greater than is necessary for establishing civil fraud under section 1592. It should be sufficient to prove that the acts (including false statements) were "knowingly" committed or made, without the additional burden of proving that the violator knew that the direct consequences of its action would be loss of duties to the Government or violation of any of its laws. Also, to require evidence that the acts constituting a section 1592 violation were deliberately done with the intent to defraud the revenue or otherwise violate U.S. laws in order to establish fraud, could impair the enforcement of section 1592 fraud cases.

Proposed Action

Accordingly, it is proposed that the definition of fraud in section (B)(3) of Appendix B to Part 171, Customs Regulations, be amended. The new definition would require, in order to establish fraud, evidence that the false statement or act in connection with the transaction was committed (or omitted) knowingly, i.e., voluntarily and intentionally, and not because of mistake or accident or other innocent reason, as established by clear and convincing evidence.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

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

List of Subjects in 19 CFR Part 171

Customs duties and inspection, Penalties, Seizures and forfeitures.

Proposed Amendment

PART 171—[AMENDED]

1. The authority citation for 19 CFR Part 171 continues to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624. Subpart C also issued under 22 U.S.C. 401, 46 U.S.C. 320, 2107; § 171.44 also issued under 40 U.S.C. 304; 304k.

2. It is proposed to amend Appendix B to Part 171, Customs Regulations (19 CFR Part 171, Appendix B), by revising subparagraph (B)(3) to read as follows:

Appendix B to Part 171—Customs Regulations, Revised Penalty Guidelines, 19 U.S.C. 1592

* * * * *

(B) *Degrees of Culpability*

* * * * *

(3) *Fraud.* A violation is determined to be fraudulent if the material false statement or act in conection with the transaction was committed (or omitted) knowingly, i.e., was done voluntarily and intentionally, and not because of mistake or accident or other innocent reason, as established by clear and convincing evidence.

* * * * *

William von Raab,

Commissioner of Customs.

Approved:

November 26, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-27705 Filed 12-09-86; 8:45 am]

BILLING CODE 4820-02-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Withdrawal of Proposed Revisions to the Procedures for Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Withdrawal of proposed revisions to the Commission's rules of practice and procedure.

SUMMARY: The Commission has determined to withdraw its proposed revisions to the procedures for the conduct of investigations of unfair practices in import trade pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Those revisions would have authorized the Commission's administrative law judges to award attorneys fees and costs as a remedy for certain classes of discovery abuse. *See* 51 FR 5087 (February 11, 1986).

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E St. NW, Washington, DC 20436, telephone 523-0493. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-724-0002.

SUPPLEMENTARY INFORMATION: On February 11, 1986, the Commission published a notice of proposed amendments to its section 337 rules to empower its administrative law judges to award attorneys fees and costs as a remedy certain classes of discovery abuse. 51 FR 5087. The proposal was patterned after the 1980 amendments to Rule 37 of the Federal Rules of Civil Procedure.

After considering the public comments, the Commission disapproved, on a tie vote, a proposal to promulgate a final rule. Of the three Commissioners opposing promulgation of the proposed final rule, two did so because they found the advantages to be obtained by availability of an additional discovery tool outweighed by the increased complication in section 337 proceedings and because they believed that, as a matter of policy, the Commission should not be involved in monetary awards. The third Commissioner opposed the proposed rule primarily because she believes that the Commission lacks authority to promulgate such a rule.

Copies of all documents filed in connection with this matter are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW, Washington, DC 20436, telephone 202-523-0161.

By order of the Commission.

Issued: November 24, 1986

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27758 Filed 2-9-86; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Areas Unsuitable for Mining; Definitions of Fragile Lands and Historic Lands

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

ACTION: Proposed rule, Reopening of comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior is reopening the public comment period on a proposed rule amending its regulation which defines fragile and historic lands in order to afford additional time for public comment on issues raised by commenters.

DATES: *Written comments:* The comment period on the proposed rule is reopened until February 9, 1987.

Request for public hearings: OSMRE will accept requests for public hearings until January 9, 1987.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1110 L Street NW., Washington DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315-L 1951 Constitution Avenue NW., Washington, DC 20240.

Request for public hearings: Submit in writing to the person and address specified under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Annetta Cheek, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone 202-343-7951 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: On July 25, 1985 (50 FR 30408), OSMRE published a proposed rule to revise the 30 CFR 762.5 definitions for "fragile lands" and "historic lands". These lands may be found unsuitable for certain types of surface coal mining operations under the lands unsuitable petition process. The proposed rule would revise the definitions by eliminating the requirement of a finding of irreparable damage in order for land to be classified as fragile or historic. These changes were proposed in response to a court settlement agreement resulting from litigation. *In Re: Permanent Surface Mining Regulation Litigation II,* No. 79-1144 (D.D.C. December 3, 1984).

In response to the notice of proposed rulemaking, several commenters requested deletion of buffer zones as examples of fragile lands. Some of the commenters stated that there was no authority to protect buffer zones around fragile lands unless they themselves are fragile. The buffer zone provision was upheld by court decision in *In Re: Permanent Surface Mining Regulation Litigation II,* No. 79-1144 (D.D.C. July 15, 1985). Other commenters questioned the need to include in the definition of fragile lands a buffer zone which "itself contains fragile resources."

In order to analyze this issue fully, OSMRE is reopening the comment period to solicit additional comments on this aspect of the proposed rule. Comments are requested specifically on the need to further revise the § 762.5 definition of fragile lands by the removal of the phrase "buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under section 522(e) of the Act and Part 761 of this chapter, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources" from the list of examples in the definition.

Dated: December 3, 1986.

J. Steven Griles,

Assistant Secretary for land and Minerals Management.

[FR Doc. 86-27674 Filed 12-9-86; 8:45 am]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1602, 1605, 1621, 1630, 1633, 1648, and 1656

Selective Service Regulations

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures for the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) are proposed to be revised to assure greater fairness and efficiency in administration in the processing of registrants.

DATES: Comment Date: Written comments received on or before February 9, 1987 will be considered.

EFFECTIVE DATE: Subject to the comments received, the amendments are proposed to become effective upon publication in the **Federal Register** of a final rule.

ADDRESS: Written comments to: Selective Service System, ATTN: General Counsel, Washington, DC 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435. Phone (202) 724-1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. These Regulations implement the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Discussion of Proposed Regulations

Section 1605.6 would be revised to clarify the duties of members of the National Appeal Board and of the Director of Selective Service and to provide that members of the National Appeal Board would serve without compensation.

The section defining Class 1-O would be revised to permit a registrant seeking such classification to be considered for Class 1-O and if found qualified to enter into alternative service without examination.

Sections 1630.17, 1602.2, 1633.1(f), 1633.6 and 1648.3(c) would be revised to create an administrative classification of Class 1-O-S: Conscientious Objector to all military service (separated). Registrants who had been separated from the armed forces by reason of conscientious objection to participation in both combatant and noncombatant training and service in the armed forces would be entitled to classification in Class 1-O-S unless their military service qualified them for Class 4-A.

Section 1621.3 is added to establish the registrant's duties pursuant to an order to report for examination comparable to those duties pursuant to an order to report for induction.

Sections 1656.2 and 1656.5(e) are revised to clarify the processing of registrants required to perform alternative service.

Part 1698 is added to established procedures whereby individuals and governmental agencies may request and secure from the Selective Service System advisory opinions as to whether a named individual is or was required to register with the Selective Service System in accord with the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Interested persons are invited to submit written comments on the proposed regulations. Reference should be made to the number of the sections to which comments are directed. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), I have determined that these regulations do not have a significant economic impact on a substantial number of small entities.

List of Subjects

Selective Service System.

32 CFR Part 1605

Government employees, Selective Service System, organization and function.

32 CFR Part 1621

Selective Service System.

32 CFR Parts 1630, 1633, and 1648

Selective Service System.

32 CFR Part 1656

Conscientious objector, Selective Service System.

Dated: December 4, 1986.

Wilfred L. Ebel,

Acting Director.

The proposed regulations are:

PART 1602—DEFINITIONS

1. The authority citation for Part 1602 continues to read as follows:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

2. Section 1602.2 is revised to read:

§ 1602.2 Administrative classification.

A reclassification action relating to a registrant's claim for Class 1-C, 1-D-D, 1-D-E, 1-H, 1-O-S, 1-W, 4-A, 4-B, 4-C, 4-F, 4-G, 4-T, or 4-W. These classes shall be identified as administrative classes.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

3. The authority citation for Part 1605 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

4. Section 1605.6 is revised to read:

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Appeal Board. The President shall appoint not less than three members to the National Appeal Board, and he shall designate one member as chairman.

(b) The President shall appoint members of the National Appeal Board from among citizens of the United States who:

(1) Are not active or retired members of the Armed Forces or any reserve component thereof;

(2) Have not served as a member of the National Appeal Board for a period of more than five years;

(3) Are at least 18 years of age;

(4) Are able to devote sufficient time to duties of the Board; and

(5) Are willing to fairly and uniformly apply Selective Service Law.

(c)(1) A majority of the members of the board shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present, shall decide any question.

(2) The National Appeal Board may sit *en banc*, or upon the request of the Director or as determined by the chairman of the National Appeal Board,

in panels, each panel to consist of at least three members. The Chairman of the National Appeal Board shall designate the members of each panel and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present, shall decide any question. Each panel of the National Appeal Board shall have full authority to act on all cases assigned to it.

(3) The National Appeal Board or a panel thereof shall hold meetings in Washington, DC, and, upon request of the Director or as determined by the Chairman of the National Appeal Board, at any other place.

(d) The National Appeal Board or panel thereof shall classify each registrant whose classification has been appealed to the President under Part 1653 of this chapter.

(e) No member of the National Appeal Board shall act on the case of a registrant who is the member's first cousin or closer relation either by blood, marriage, or adoption, or who is the member's employer, employee or fellow employee or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Appeal Board. A member of the National Appeal Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(f) Each member of the National Appeal Board while on the business of the National Appeal Board away from his home or regular place of business shall receive actual travel expenses and per diem in lieu of subsistence in accordance with rates established by Federal Travel Regulations.

(g) The Director shall pay the expenses of the members of the National Appeal Board in accord with applicable Federal Travel Regulations and shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services.

PART 1621—DUTY OF REGISTRANTS

5. The authority citation for Part 1621 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

6. Section 1621.3 is revised to read:

§ 1621.3 Duty to report for and submit to examination.

When the Director orders a registrant for examination, it shall be the duty of the registrant to report for and submit to examination at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for examination is postponed, it shall be the continuing duty of the registrant to report for and submit to examination at such time and place as he may be reordered. Regardless of the time when, or the circumstances under which a registrant fails to report for examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to examination at the place specified in the order to report for examination.

PART 1630—CLASSIFICATION RULES

7. The authority citation for Part 1630 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et. seq., E.O. 11623.

8. Section 1630.16 is revised to read:

§ 1630.16 Class 1–O: Conscientious objector to all military service.

(a) Any registrant whose acceptability for military service has been satisfactorily determined and who, in accord with Part 1636 of this chapter, has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces shall be classified in Class 1–O.

(b) Upon the written request of the registrant filed with his claim for classification in Class 1–O, the local board will consider his claim for classification in Class 1–O before he is ordered to report for examination. If the local board determines that the registrant would qualify for Class 1–O if he were acceptable for military service, it will delay such classification until he is found acceptable for military service. Upon the written request of such registrant, he will be deemed acceptable for military service without examination only for the purpose of paragraph (a) of this section.

9. Section 1630.17 is revised to read:

§ 1630.17 Class 1–O–S: Conscientious objector to all military service (separated).

Any registrant who has been separated from the Armed Forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the Armed Forces shall be classified in Class 1–O–S unless his period of military service qualifies him for Class 4–A. A registrant in Class 1–O–S will be required to serve the remainder of his obligation under the Military Selective Service Act in Alternative Service.

PART 1633—ADMINISTRATION OF CLASSIFICATION

10. The authority citation for Part 1633 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

11. Section 1633.1(f) is revised to read as follows:

§ 1633.1 Classifying authority.

* * * * *

(f) Compensated employees of an area office may in accord with § 1633.2 classify a registrant into Class 1–C, 1–D–D, 1–D–E, 1–O–S, 1–W, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W for which he is eligible. No individual shall be classified into class 4–F unless the Secretary of Defense has determined that he is unacceptable for military service.

12. Section 1633.6 is revised to read:

§ 1633.6 Consideration of classes.

Claims of a registrant will be considered in inverse order of the listing of the classes below. When grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 1–H considered the lowest class, according to the following table:

Class 1–A–O: Conscientious Objector Available for Noncombatant Military Service Only.

Class 1–O: Conscientious Objector to all Military Service.

Class 1–O–S: Conscientious Objector to all Military Service (Separated).

Class 2–D: Registrant Deferred Because of Study Preparing for the Ministry.

Class 3–A: Registrant Deferred Because of Hardship to Dependents.

Class 4–D: Minister of Religion.

Class 1–D–D: Deferment for Certain Members of a Reserve Component or Student Taking Military Training.

Class 4–B: Official Deferred by Law.

Class 4–C: Alien or Dual National.

Class 4–G: Registrant Exempted From Service Because of the Death of his Parent or Sibling While Serving in the Armed Forces or Whose Parent or Sibling is in a Captured or Missing in Action Status.

Class 4–A: Registrant Who Has Completed Military Service.

Class 4–W: Registrant Who Has Completed Alternative Service in Lieu of Induction.

Class 1-D-E: Exemption of Certain Members of a Reserve Component or Student Taking Military Training.

Class 1-C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.

Class 1-W: Conscientious Objector Ordered to Perform Alternative Service in Lieu of Induction.

Class 4-T: Treaty Alien.

Class 4-F: Registrant Not Acceptable for Military Service.

Class 1-H: Registrant Not Subject of Processing for Induction.

PART 1648—CLASSIFICATION BY LOCAL BOARD

13. The authority citation for Part 1648 continues to read:

Authority: Military Selective Service Act, 50 U.S.C. App. 451 et seq.; E.O. 11623.

14. Section 1648.3(c) is revised to read as follows:

§ 1648.3 Opportunity for personal appearances.

* * * * *

(c) Any registrant who has filed a claim for classification in Class 1-C, 1-D-D, 1-D-E, 1-O-S, 1-W, 4-B, 4-C, 4-F, 4-G, 4-T or 4-W and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

PART 1656—ALTERNATIVE SERVICE

15. The authority citation for Part 1656 continues to read:

Authority: Sec. 6(j) Military Selective Service Act; 50 U.S.C. App. 456(j).

16. Section 1656.2 is revised to read:

§1656.2 Order to perform alternative service.

(a) The local board of jurisdiction shall order any registrant who has been classified in Class 1-O or 1-O-S to perform alternative service at a time and place to be specified by the Director.

(b) When the local board orders a registrant to perform alternative service, it shall be the duty of the registrant to report for and perform alternative service at the time and place ordered unless the order has been canceled. If the time when the registrant is ordered to report for alternative service is postponed, it shall be the continuing duty of the registrant to report for and perform alternative service at such time and place as he may be reordered. Regardless of the time when or the circumstances under which a registrant fails to report for and perform alternative service when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and perform alternative service at the place specified in the order to report for and perform alternative service.

(c) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness or injury of the registrant, or other emergency beyond the registrant's control, the Director, after the order to perform alternative service has been issued, may postpone for a specific time and date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the order to perform alternative service. When necessary, the Director may grant one further postponement but the total postponement shall not exceed 90 days from the reporting date on the order to perform alternative service.

(d) The Director may authorize a postponement of the reporting date to perform alternative service when the registrant qualifies and is scheduled for a State or National examinaion in a profession or occupation which requires certification before being authorized to engage in the practice of that profession or occupation.

(e) The Director shall issue to each registrant whose reporting date to perform alternative service is postponed a written notice thereof.

(f) A postponement of reporting date to perform alternative service shall not render invalid and order to report for alternative service which has been issued to the registrant, but shall operate only to postpone the reporting date, and the registrant shall report on the new date scheduled without having issued to him a new order to report for alternative service.

(g) Any registrant receiving a postponement under the provisions of this section, shall, after the expiration of such postponement, be rescheduled to report for alternative service at the place to which he was originally ordered.

§1656.5 [Amended]

17. Section 1656.5(e) is revised to read:

* * * * *

(e) A registrant classified in Class 1-O or Class 1-O-S may seek his own alternative service work by identifying a job with an employer he believes would be appropriate for Alternative Service assignments and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability of the job and employer so identified will be evaluated in accordance with § 1656.5(a).

[FR Doc. 86-27683 Filed 12-9-86; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300153; FRL-3125-6]

Revocation of Tolerances for Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes the revocation of tolerances established for residues of 20 pesticide chemicals in or on certain raw agricultural commodities. This proposed regulatory action is being initiated by the EPA to revoke tolerances for those pesticides which have no registered food uses. Either these pesticides never were registered for food uses or, if they were registered, the registrations were subsequently cancelled.

DATES: Written comments, identified by the document control number [OPP-300153], must be received on or before February 9, 1987.

ADDRESSES: By mail, submit comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Rosalind Gross, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA initiated a Data Call-In (DCI) Program in January 1981, notice of which was published in the **Federal Register** of October 7, 1980 (45 FR 66736), to require those pesticide registrants with active registrations for food uses to provide the Agency with needed studies under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such studies, including chronic toxicology, product chemistry, residue and environmental fate data, are an integral part of the data base used to reassess each chemical during the reregistration process. The purpose of a DCI is to assure that these data are available or under development before the pesticide chemical is reassessed for reregistration under FIFRA section 3(g).

During the DCI Program, the Agency determined that tolerances existed for 20 pesticide chemicals which had no current food use registrations. These 20 chemicals are: Aramite (2-(*p*-*tert*butylphenoxy)-isopropyl-2-chloroethyl sulfite); sulphenone (*p*-chlorophenyl phenyl sulfone); ovex (*p*-chlorobenzyl *p*-chlorobenzenesulfonate); chlorbenside (*p*-chlorobenzyl *p*-chlorophenyl sulfide); copper arsenate; magnesium arsenate; sodium arsenate; chloropropylate (isopropyl 4,4'-dichlorobenzilate); neodecanoic acid; *p*-chlorophenyl-2,4,5-trichlorophenyl sulfide; *O,O*-diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog (diethyl 2-pyrazinyl phosphate); benzadox (benzamidooxyacetic acid); chlorbromuron (3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea); 1-chloro-2-nitropropane; fluorodifen (*p*-nitrophenyl-2-nitro-4-(trifluoromethyl)phenylether); secbumeton (2-(*sec*-butylamino)-4-ethylamino-6-methoxy-*s*-triazine); potassium arsenite; ethiolate (*S*-ethyl diethylthiocarbamate); glyphosine (*N,N*-bis-(phosphonomethyl)glycine); and 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate (pirimicarb). Registrations for food uses of these pesticide chemicals were either never issued following the establishment of the related tolerance or, for various reasons, were cancelled subsequent to registration. Registration of a food or feed use pesticide subsequent to the establishment of a tolerance may not occur for a variety of reasons, such as a lack of a prospective registrant, or a loss of interest on the part of the prospective registrant. Similarly, cancellations may occur when a registrant no longer has an interest in marketing the pesticide in the United States. Since there were no registrants for these chemicals to whom DCI notices could be directed, the specific data gaps, which are usually identified at the beginning of the DCI process, have not been identified for these 20 chemicals.

EPA issued a "Policy Statement on Revocation of Tolerances for Cancelled Pesticides," published in the **Federal Register** of September 29, 1982 (47 FR 42956). This statement, with which the Food and Drug Administration (FDA), the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), and the Agricultural Marketing Service (AMS) of USDA agreed, discusses the revocation of formal tolerances for residues of cancelled pesticides and the consequent need to determine whether replacement action levels should be set for these pesticides at the time the tolerances are revoked. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from prior legal usage of the pesticides. Crops grown in previously treated fields may contain detectable residues of the persistent pesticides for years after the application of the cancelled pesticide has ceased. For pesticides which degrade rapidly in the environment, however, revoking a tolerance would not necessitate setting a replacement action level because residues from past use would not be expected to be present in food commodities at detectable levels.

Based on the fact that there are no current food use registrations for any of the subject 20 pesticide chemicals, EPA has decided to revoke the tolerances for these pesticide chemicals on the basis that a tolerance is generally not necessary for a pesticide chemical which is not registered for the particular food uses. As noted herein, the Agency is not recommending the establishment of action levels in place of these tolerances. Since there are no registrations of these products and hence no legal use in the United States, and since most of these pesticides are not persistent, residues should not appear in any domestically produced commodities. The Agency also does not expect residues to be present in imported commodities. However, EPA is soliciting comments on whether there is a need to modify the proposal to address residues in imported commodities.

EPA now proposes to revoke the existing tolerances for residues in or on raw agricultural commodities for 20 pesticide chemicals listed in 40 CFR Part 180. The tolerances listed in 40 CFR Part 180 being proposed for revocation are as follows:

§ 180.107—Aramite (2-(*p*-*tert*-butylphenoxy)-isopropyl-2-chloroethyl sulfite).
§ 180.112—Sulphenone (*p*-chlorophenyl phenyl sulfone).
§ 180.134—Ovex (*p*-chlorophenyl-*p*-chlorobenzenesulfonate).
§ 180.168—Chlorbenside (*p*-chlorobenzyl *p*-chlorophenyl sulfide).
§ 180.193—Copper arsenate (see also "§ 180.319" below).
§ 180.195—Magnesium arsenate.
§ 180.196—Sodium arsenate.
§ 180.218—Chloropropylate (isopropyl 4,4'-dichlorobenzilate).
§ 180.248—Neodecanoic acid.
§ 180.256—*p*-Chlorophenyl-2,4,5-trichlorophenyl sulfide.
§ 180.264—*O,O*-Diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog (diethyl 2-pyrazinyl phosphate).
§ 180.270—Benzadox (benzamidooxyacetic acid).
§ 180.279—Chlorbromuron (3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea).
§ 180.286—1-Chloro-2-nitropropane.
§ 180.290—Fluorodifen (*p*-nitrophenyl-2-nitro-4-(trifluoromethyl)phenylether).
§ 180.319—Interim tolerances (Copper arsenate).
§ 180.323—Secbumeton (2-(*sec*-butylamino)-4-ethylamino-6-methoxy-*s*-triazine).
§ 180.334—Potassium arsenite.
§ 180.343—Ethiolate (*S*-ethyl diethylthiocarbamate).
§ 180.354—Glyphosine (*N,N*-bis(phosphonomethyl)glycine).
§ 180.365—2-(Dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate (pirimicarb).

Simultaneously with this proposal EPA is informing the members of the Codex Alimentarius Commission and other countries of its intended revocation action so that those who might be affected are afforded the opportunity to comment on the action and to submit information on potential trade problems which could be created by the revocation action.

Any person who has registered or who has submitted an application under FIFRA, as amended, for the registration of a pesticide which contains any of these 20 chemicals may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA). Interested persons are invited to submit written

comments on this proposal to revoke tolerances for residues of the 20 chemicals discussed. Should the Agency receive a request for maintenance of any of these tolerances, the Agency will require the proponent of tolerance continuation to submit data to support the tolerance. This is consistent with Agency practice concerning support of tolerances for domestically registered pesticides. The Agency will identify the specific data requirements necessary to maintain the tolerance following receipt of a request to maintain the tolerance. Any person who wishes to retain the tolerance of 1 or more of these 20 chemicals must then commit to provide the data identified by the Agency as necessary to support tolerance continuation within a timeframe set by the Agency, and to furnish progress reports. Failure to commit, to take any required interim steps, or to submit satisfactory data within the designated timeframe will result in tolerance revocation. Comments must bear a notation indicating the document control number [OPP-300153]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

Currently, there is no legal usage of any of these chemicals for food uses in the United States. This eliminates the possibility of direct domestic impacts, apart from possible residues due to past usage. Background residues are likely to be small, if any, due to lack of recent usage for most of the chemicals and the low volume presumed to be involved.

There is, however, some foreign production of ovex (*p*-chlorophenyl-*p*-chlorobenzenesulfonate) and pirimicarb (2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate). Ovex is produced in Japan and pirimicarb in the United Kingdom. Both chemicals have been used for food crops in the past and there is a possibility that United States imports of food products could contain residues. Commodities which could contain residues of these two chemicals include fruits, nuts, cereals, sugar beets, potatoes and vegetables.

An impact on imported commodities is less likely for chlorbromuron and glyphosine. There are, however, reports of renewed United States production of chlorbromuron for export. Chlorbromuron was historically used on soybeans, potatoes and wheat. Glyphosine is a growth regulator used on sugarcane. It is believed that production was discontinued in the United States in 1984, but stocks may still be available. The United States imports about 20 percent of its yearly consumption of beet and cane sugar. However, no recent findings of residues have been reported in imported commodities by FDA/USDA for these four pesticides.

For the remaining chemicals, it is believed that there is no current production or usage worldwide. This would indicate that no impacts are likely from tolerance revocation for these chemicals, provided there are no residues present from past usage.

Thus, for the majority of the chemicals, there would be no impact from revoking the tolerances. For ovex, pirimicarb, chlorbromuron, and glyphosine, EPA's information does indicate possible, but unlikely, significant impacts.

This proposed regulatory action has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq.) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. However, based on limited information, there is the possibility that revocation of tolerances for residues of the four chemicals previously mentioned could, but are not likely to, have significant impacts as defined by Executive Order 12291 and the Regulatory Flexibility Act.

As this proposed regulatory action is intended to prevent the sale of commodities containing residues of any of these pesticides primarily where the subject pesticides have been used in an unregistered or illegal manner, it is anticipated that little or no economic impact would occur at any level of business enterprises.

Accordingly, I certify that this proposed regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: November 26, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

§ 180.107 [Removed]

2. Section 180.107 is removed.

§ 180.112 [Removed]

3. Section 180.112 is removed.

§ 180.134 [Removed]

4. Section 180.134 is removed.

§ 180.168 [Removed]

5. Section 180.168 is removed.

§ 180.193 [Removed]

6. Section 180.193 is removed.

§ 180.195 [Removed]

7. Section 180.195 is removed.

§ 180.196 [Removed]

8. Section 180.196 is removed.

§ 180.218 [Removed]

9. Section 180.218 is removed.

§ 180.248 [Removed]

10. Section 180.248 is removed.

§ 180.256 [Removed]

11. Section 180.256 is removed.

§ 180.264 [Removed]

12. Section 180.264 is removed.

§ 180.270 [Removed]

13. Section 180.270 is removed.

§ 180.279 [Removed]

14. Section 180.279 is removed.

§ 180.286 [Removed]

15. Section 180.286 is removed.

§ 180.290 [Removed]

16. Section 180.290 is removed.

§ 180.319 [Amended]

17. By amending § 180.319 to remove the entry Copper arsenate from the list.

§ 180.323 [Removed]

18. Section 180.323 is removed.

§ 180.334 [Removed]

19. Section 180.334 is removed.

§ 180.343 [Removed]

20. Section 180.343 is removed.

§ 180.354 [Removed]

21. Section 180.354 is removed.

§ 180.365 [Removed]

22. Section 180.365 is removed.

[FR Doc. 86-27656 Filed 12-9-86; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 455

Medicaid Program; Fraud and Abuse, Withholding of Medicaid Payments to Providers Under Criminal Investigation

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would specifically encourage State Medicaid agencies to withhold program payments without first granting administrative review to providers where (a) there is an ongoing criminal investigation against that provider, or (b) the State agency has reliable evidence of fraudulent activity by the provider. These changes would serve both to reinforce and strengthen existing State Medicaid agency responsibilities in the withholding of program funds, and to make Medicaid program policy consistent with existing Medicare regulations in this area.

DATES: To assure consideration, comments should be mailed by February 9, 1987.

ADDRESS: Address comments in writing to: Office of Inspector General, Department of Health and Human Services, Attention: LRR-5-P, Room 5246, 330 Independence Avenue SW., Washington, DC 20201.

If you prefer, you may deliver your comments to Room 5643, 330 Independence Avenue SW., Washington, DC. In commenting, please refer to file code LRR-5-P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection beginning approximately two weeks after publication in Room 5643, 330 Independence Avenue SW., Washington, DC 20201, on Monday through Friday of each week from 9:00 a.m. to 5:00 p.m. (202) 472-5270.

FOR FURTHER INFORMATION CONTACT: Clarke Bowie, (301) 594-1827.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 1977, program instructions were issued to State Medicaid Agencies (Action Transmittal 77-105) advising them to establish administrative mechanisms to remedy abusive situations and handle the recovery of Medicaid program overpayments. While this document included specific procedures for administrative review, the covering memorandum to the action transmittal indicated that it was the Department's position that hearings were not necessary prior to termination or suspension action, or for the suspension of offsetting the payment of claims. However, many States now provide for a pre-termination administrative hearing.

Recently, the Department has been advised of problems in several States involving the withholding of Medicaid program payments to providers where overpayments have been made as a result of potential fraud. In each instance, the requirements for administrative review appear to have caused significant problems where criminal investigations are being conducted by either OIG's Office of Investigations or by the State's Medicaid Fraud Control Unit. Where States have such administrative review requirements in place, we believe there exists a major problem in the State agency's ability to withhold Medicaid payments to providers under criminal investigation. It appears that criminal investigators may be reluctant to allow any withholding action against providers since their case could be jeopardized if a hearing was held. This inability to stop the flow of money has, in turn, resulted in the potential for additional overpayments and has hampered efforts already undertaken by the State Medicaid agency to recover overpayments.

Current Medicare Regulations

For years it has been a standard procedure to withhold payments to Medicare providers at the point when reliable evidence of fraud or misrepresentation has been gathered without the initiation of administrative review procedures. As presently promulgated, the regulations at 42 CFR 401.371(b) state that prior administrative review should *not* be provided where there is reliable evidence that the circumstances giving rise to the need for suspension of payments involve fraud or willful misrepresentation. A withholding action taken under this provision is for a temporary period, pending resolution of the issues raised, and is only taken with the approval of the investigative or prosecuting authority that may be involved.

In accordance with our general rulemaking authority set forth in section 1102 of the Social Security Act, we believe specific Medicaid regulations, similar to those at 42 CFR 405.371(b) for Medicare, would further encourage State Medicaid agencies who retain such authorities to pursue these actions and withhold payments when necessary to protect the integrity of the Medicaid program. As with the current Medicare regulations, in an instance where there is reliable evidence of fraud or misrepresentation, we believe State agencies should be permitted to withhold payments without first granting an administrative review or hearing. We believe these proposed regulations will serve to provide the Federal encouragement and acquiescence needed to have States take appropriate actions on the withholding of program reimbursements.

II. Provisions of the Proposed Regulations

These proposed regulations specifically would encourage Medicaid agencies to withhold all Medicaid payments to any provider if the State agency has reliable evidence that the provider has committed fraud against the program, or the provider is presently under criminal investigation. Under these provisions, State Medicaid agencies would not be required to institute administrative hearings prior to the withholding of payments since such review may adversely affect or compromise any criminal or civil fraud proceedings already initiated. However, the provider may still be granted an administrative review in those instances where such rights are so established and required by State law. The withholding of Medicaid payments would remain in effect until such time as (a) the State agency or prosecuting authrities conclude that fraud has not been committed by the provider, or (b) all

legal proceedings are concluded against the provider.

Withholding of payments under these regulations would not deprive Medicaid providers of program funds indefinitely. The provider would continue to be credited for services furnished, even though payments would be temporarily withheld. Because withholding is not a final action, we believe that concurrent, rather than advance, notice to providers would be sufficient.

It is expected that the State Medicaid agency will confer with and rceive the concurrence of investigative or prosecuting authorities conducting the criminal investigation before imposing withholding actions.

These provisions are intended to make Medicaid policy consistent with existing Medicare policy, and further clarify State agency responsibility in their withholding of Medicaid program payments. This rule should serve both to stimulate withholding actions by State authorities and reiterate Federal regulatory requirements in this area.

III. Impact Analysis

A. Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule." A major rule is one that:

- Has an annual effect on the national economy of $100 million or more;
- Results in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic regions; or
- Has significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or import markets.

We have determined that these proposed regulations do not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12991 and that an initial regulatory impact analysis is not required. As indicated, the intent of this proposed rule is to encourage State agencies to withhold payments to Medicaid providers under criminal investigation, and to make clear that State agencies will not offer an administrative review if such review would adversely affect investigations or proceedings already initiated. The amount of program payments withheld to providers is not expected to exceed the $100 million threshold in any one fiscal year.

B. Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act of 1980 (Pub. L. 93-354), we prepare and make available for public comment a regulatory flexibility analysis, unless the Secretary certifies that the regulation would not have a "significant impact on a substantial number of small entities." The analysis is intended to explain the effect the rulemaking action by the agency would have on the small businesses and other small entities, and to develop lower cost or burden alternatives. While these proposed regulations could have an adverse impact on some small providers, we believe that the criminal investigation or nature of the suspected fraud, rather than the size of the provider, would be the determining factor in withholding payments. Because of this reason, we believe a regulatory flexibility analysis is not required.

IV. Other Required Information

A. Response to Comments

Because of the large number of comments received with respect to Departmental rulemaking, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to major points raised in the comments in the preamble of that document.

B. List of Subjects in 42 CFR Part 455

Abuse, Administrative practice and procedure, Claim, Conviction, Convicted, Exclusion, Fraud, Grant-in-Aid program-health, Health care, Health facilities, Health professions, Information (Disclosure), Investigations, Medicaid, Medicaid Fraud Control Units, Medicaid personnel, Penalties, Reporting requirements, Suspension.

Title 42—Public Health

42 CFR Part 455, Subpart A would be amended as follows:

PART 455—PROGRAM INTEGRITY: MEDICAID

1. The authority citation for Part 455 continues to read a follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Subpart A would be amended by adding a new § 455.23 as follows:

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

* * * * *

§ 455.23 Withholding of payments in cases of fraud or criminal investigation.

3. In Subpart A, § 455.12 would be revised to read as follows:

§ 455.12 State plan requirement.

A State plan must meet the requirements of §§ 455.13 through 455.23.

4. In Subpart A, a new § 455.23 would be added to read as follows:

§ 455.23 Withholding of payments in cases of fraud or criminal investigation.

(a) *Basis for withholding.* The State Medicaid agency may withhold Medicaid payments, in whole or in part, to a provider immediately upon receipt of reliable evidence that:

(1) The circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation, or

(2) The provider is under criminal investigation for an offense related to participation in the Medicaid program.

The State Medicaid agency may withhold payments without first notifying the provider of its intention to withhold such payments. A provider may request, and must be granted, administrative review where State law so provides.

(b) *Notice of withholding.* The State agency must send notice of the withholding within 5 days of taking such action. The notice need not disclose any specific information concerning its ongoing investigation. The notice must:

(1) State that payments are being withheld in accordance with this provision;

(2) State that the withholding is for a temporary period, as stated in paragraph (c) of this section, and cite the circumstances under which withholding will be terminated;

(3) Specify that withholding is effective for all Medicaid claims; and

(4) Inform the provider of the right to submit written evidence for consideration by the agency.

(c) *Duration of withholding* . All withholding of payment actions under this section will be temporary and will not continue after:

(1) The agency or the prosecuting authorities complete an investigation and determine that there is insufficient evidence of fraud or misrepresentation by the provider; or

(2) Legal proceedings related to the provider's participation in Medicaid are completed.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: August 15, 1986.

R.P. Kusserow,

Inspector General, Department of Health and Human Services.

Approved: October 17, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-27742 Filed 12-9-86; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 86-01; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards.

SUMMARY: This notice is issued in response to a petition filed by Ferrari, S.p.A. (Ferrari) requesting that it be exempted from the generally applicable average fuel economy standard of 26.0 miles per gallon (mpg) for 1985-1988 model year passenger automobiles, and that lower alternative standards be established for Ferrari in each of those model years. This notice proposes to grant the requested exemptions for all three model years, and to establish alternative standards for Ferrari of 16.0 mpg for the 1986 model year, 16.2 mpg for the 1987 model year, and 16.6 mpg for Ferrari in the 1988 model year.

DATES: Comments on this notice must be received by this agency on or before January 26, 1987.

ADDRESS: Comments on this notice must refer to Docket No. LVM 86-01; Notice 1 and should be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4802).

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactures fewer than 10,000 passenger automobles in the model year for which the exemption is sought (the affected model year) and that manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

Selection of the type of alternative standard. The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways; (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

For model years 1986-1988, NHTSA believes it is apropriate to establish a separate standard for Ferrari. NHTSA has only reached a final decision on one petition filed by a low volume manufacturer for the 1986 through 1988 model years, that being Rolls-Royce; *see* 50 FR 32424, August 12, 1985, and 51 FR 12855, April 16, 1986. Accordingly, the agency cannot use the second or third approaches described above.

Background information about Ferrari. Ferrari is a well-known manufacturer of expensive, high-performance sports car. By itself, Ferrari would qualify as a low volume manufacturer under section 502(c) of the Act, since it manufactures fewer than 4,000 passenger cars worldwide in any model year. However, section 503(c) of the Act specifies that any reference to automobiles manufactured by a manufacturer "shall be deemed to include all automobiles manufactured by persons who control . . . such manufacturer." Fiat Motors, which produces many more than 10,000 automobiles in each model year, owns 50 percent of Ferrari. When Ferrari originally applied for a low volume exemption under section 502(c) in 1977, NHTSA found that 50 percent ownership of Ferrari by Fiat was conclusive evidence that Fiat controlled Ferrari for purposes of section 503(c) of the Act. Accordingly, the productions of Fiat and Ferrari were combined for the purposes of Title V of the Act, pursuant to section 503(c). When the combined production of Fiat and Ferrari were considered together, Ferrari was not eligible to apply for a low volume exemption under section 502(c).

This situation was unchanged until Fiat withdrew from the U.S. market at the end of the 1982 model year. Fiat has not exported any of its vehicles to the United States since that date. In response to this changed situation, Ferrari asked NHTSA in November, 1984 to change its previous opinion that Ferrari's production would be combined with Fiat's. This request was based on the language of section 501(9) of the Act. That section reads as follows: "The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import." Ferrari argued that since Fiat did not produce or assemble any vehicles in the customs territory of the United States or import any vehicles into the United States, it did not "manufacture" any vehicles for the purposes of section 503(c). Accordingly, Ferrari urged that it should now be eligible to apply for a low volume exemption under section 502(c) of the Act. NHTSA sent an interpretation to Ferrari in February, 1985, stating that the agency agreed that Ferrari was now eligible to apply for a low volume exemption, for the reasons set forth in Ferrari's letter. Accordingly, Ferrari filed a petition requesting exemption from the 1986-1988 passenger automobile average fuel economy standards.

Timeliness of Ferrari's Petition

49 CFR Part 525 sets forth the required contents of and procedures for processing petitions for exemption from the generally applicable passenger automobile average fuel economy standards. 49 CFR 525.6(b) specifies that each petition for exemption must be filed "not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown; . . ." The stated reasons for including this provision in § 525.6 was to facilitate the low volume manufacturers' planning to comply with the alternative

standards and to ensure that NHTSA's analysis of those manufacturers' maximum feasible average fuel economy would not be simply a "rubber stamping" of the individual manufacturer's planned fuel economy, because of insufficient leadtime to make any changes. *See* 41 FR 53827, at 53828; December 9, 1976.

However, the agency recognized that there would be situations when good cause existed for not filing 24 months before the start of the model year. For instance, a manufacturer that was just incorporated would not have been able to file an exemption petition 24 months in advance, or a low volume manufacturer could find itself in a position where it faced a legitimately unexpected noncompliance, because it was forced to change suppliers, for instance. *See* 44 FR 21051, at 21055, April 9, 1979.

After applying these standards, NHTSA has tentatively concluded that Ferrari has shown good cause for late filing of its petition for the affected model years. Ferrari was not informed by the agency that it was eligible to apply for an exemption from the generally applicable standards, and establishment of alternative standards, until February 1985. Since Ferrari learned of this decision by the agency in February of 1985, it could not have filed its petition for the 1986 and 1987 model years 24 months in advance of those model years. Accordingly, NHTSA is proposing to establish alternative standards for Ferrari in the 1986–1988 model years.

Methodology used to project maximum feasible average fuel economy level for Ferrari in the 1986–1988 model years. To project the level of fuel economy that could be achieved by Ferrari in the 1986–1988 model years, the agency used the Environmental Protection Agency (EPA) test values of the 1986 model year vehicles currently being sold, and for which EPA fuel economy data are available. The agency then considered whether there were any technological or other improvements that would be feasible for the 1986–1988 model year Ferrari vehicles, whether or not the company actually plans to incorporate such improvements in those vehicles. (Since the 1986 model year is essentially over, the issue here and below with respect to that year is more precisely whether the manufacturer was capable of achieving higher average fuel economy in that year than it did.)

NHTSA has interpreted "technological feasibility" as meaning that technology which would be available to Ferrari for use on its model year 1986–1988 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, and mix shifts.

"Economic practicability" has been interpreted as including the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its model year 1986–1988 automobiles and the effects of any shift in the mix of vehicles sold that may result from changes in market demand.

Throughout this analysis, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Ferrari automobiles. Design changes that would make the cars something other than high performance sports cars or remove items traditionally offered on expensive, high-performance sports cars were not examined. Such changes to the basic design or performance might significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to Ferrari.

Baseline fuel economy. The 1986 model year Ferrari vehicles will achieve an average fuel economy of 16.0 mpg, based on recent importation data from Ferrari and the fuel economy test data for those vehicles measured by EPA. No change to the vehicles' specifications or to their emissions certification is planned for the 1987 model year, which means the 1986 fuel economy ratings can be carried be carried forward to the 1987 model year. Ferrari projected that its 1988 average fuel economy would either decrease to 16.1 mpg or increase to 16.6 mpg when adjusted for more recent fuel economy data on the Testarossa. The decrease would result if no changes were made to the existing vehicles, but more vehicles with the larger engine were sold. On the other hand, Ferrari could increase its 1988 fuel economy even if it sells more vehicles with larger engines if it substitutes a more efficient fuel injection system on its vehicles with smaller engines. Table I shows the CAFE values measured by EPA for the 1986 model year and adjusted for subsequent model years, and the vehicle mix Ferrari projected for the 1986–1988 model years:

TABLE I.—COMPOSITION OF FERRARI'S U.S. FLEET

Model Year	Configuration	Engine displacement (cubic inches)	Type transmission	Projected sales	Combined fuel economy (mpg)	CAFE (mpg)
1986	Testarossa	302	M5	297	13.4	
	Mondial, 328	194	M5	755	17.2	16.0
1987	Testarossa	302	M5	250	13.4	
	Mondial, 328	194	M5	850	17.2	16.2
1988	Testarossa	302	M5	300	13.4	
	Mondial, 328	194	M5	850	17.2	16.1
	or, Mondial, 328	194	M5	850	18.0	16.6

Ferrari asked that alternative standards of 15.0 mpg be established for it for the 1986–1988 model years. Although this level is at least 1.2 mpg lower than the fuel economy Ferrari plans to achieve, it asserted that this safety margin was needed to account for unforeseeable changes in the sales mix of its models, changes in vehicle fuel economy due to possible running changes, or emissions test procedure or standards changes. Where substantial uncertainties exist and there is a strong likelihood that those uncertainties will affect the manufacturer's average fuel economy, the agency does take those uncertainties into account when establishing average fuel economy standards. *See e.g.* 51 FR 15335, April 23, 1986 (final rule establishing light truck average fuel economy standards for the 1988 model year). However, NHTSA has not yet found any substantial uncertainties when it is considering petitions for exemptions and alternative standards filed by low volume manufacturers. NHTSA's experience with these low volume manufacturers since 1978 has shown that the sales mix of these specialty vehicles is far less susceptible to changed demand than are the sales mixes of larger manufacturers. Further, Ferrari's projections of its 1987 and 1988 average fuel economy levels already take into account the EPA standards and test procedures applicable to those model years. To now add a "safety margin" would take such changes into account twice. Accordingly, Ferrari's 1986 measured CAFE of 16.0 mpg was used as the baseline and any changes found technologically feasible and economically practicable were added

thereto to arrive at a proposed determination of Ferrari's maximum feasible average fuel economy for model years 1986–1988.

Weight-reduction. In determining whether Ferrari could make weight reductions on its automobiles in the 1986–1988 model years, the agency has considered one option—materials substitution. Downsizing, or reducing the exterior dimensions of the automobile without significantly reducing its interior passenger and luggage volume, was not considered because the Ferrari vehicles are already two-seaters or small 2+2 minicompacts. Further reducing the size of these vehicles does not appear to be technologically feasible or economically practiable.

Materials substitution refers to the substitution of ligher materials, such as aluminum, plastics, and high-strength low-alloy steels, for currently used materials. Although the Ferrari models are heavy compared to economy vehicles of similar interior space, the weight range of these models (3500–4000 lbs.) falls in the middle of the range for similar high-performance vehicles. The Lotus Esprit and Maserati Biturbo are lighter at 3000 lbs.; the Corvette and Nissan 300ZX are similar at 3500 and 3625 lbs., and the Jaguar XJ-S and Aston Martin are heavier at 4250 and 4500 lbs.

Ferrari already uses lightweight materials for many components of its vehicles. Aluminum is used for all castings, such as the engine block and transmission case, and in most of the unstressed body parts. Other materials used for weight reduction include magnesium, fiberglass, and high strength steel. Ferrari's weight-reduction programs for future automobiles will require more leadtime for development and testing than is available for the 1987 and 1988 model years.

Additionally, Ferrari introduced its Testarossa model in the 1985 model year and its 328 and Mondial models in the 1986 model year, It would impose a serious economic burden on Ferrari to undertake major new weight reduction programs for these vehicles before the new tooling has been amortized. For the above reasons, NHTSA has tentatively determined that weight reduction resulting for materials substitution would not be economically practicable for Ferrari in the 1986-1988 model years.

Aerodynamic improvements. Ferrari has made use of wind tunnel testing to reduce the aerodynamic drag of its automibiles. Further reductions in aerodynamic drag are probably possible since the EPA dynamometer settings for the Ferrari models are higher than for some other sports cars, such as the Corvette, Lotus, and Nissan 300ZX. However, significant improvements in aerodynamics would require major alterations to the body contours of the Ferrari models, requiring substantial development and testing as well as expense. Given the leadtime necessary to complete a significant redesign, NHTSA has tentatively concluded that it would not be economically practicable for Ferrari to implement aerodynamic improvements to increase the fuel economy of its automobiles during the 1986–1988 model years.

Engine improvements. This agency has examined the question of whether Ferrari could improve the fuel economy of its 1986–1988 model year automobiles by making engine improvements. All Ferrari engines employ four valves for each cylinder for volumetric efficiency, and use fuel injection for accurate metering. All Ferrari automobiles use three-way catalysts to achieve emission control without large fuel economy penalties. In the future, Ferrari may employ engines that combine electronic fuel injection and spark advance control and also turbocharging. However, such improvements can not be fully developed and certified until after the 1988 model year.

Ferrari will offer several different models and body styles during the 1986–1988 model years, but only two engine configurations for fuel economy calculations: the F105 with 194 cubic inch displacement (offered in the Mondial and 328 models) and the F113A with 302 cubic inch displacement (offered in the Testarossa). Ferrari expects to offer the F105 engine configuration with the Bosch KE/Jetronic fuel injection system, a system currently used on its Testarossa model, during the 1988 model year and projects that such a change would improve the fuel economy of the F105 engine configuration by 0.8 mpg (to a value of 18.0 mpg).

Given the short leadtime available before the 1987 model year and that Ferrari already uses advanced technology in its engines, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Ferrari to improve the projected fuel economy of its 1986 and 1987 model year automobiles by means of engine improvements. However, Ferrari already uses an enhanced fuel injection system on its larger engine cars. NHTSA has tentatively determined that it would be both technologically feasible and economically practicable for Ferrari to offer this improved fuel injection system on its smaller engine models for the 1988 model year. If that improvement is incorporated on those vehicles, Ferrari projected that the fuel economy of those vehicles would be increased by 0.8 mpg (to a value of 18.0 mpg). NHTSA has used this fuel economy level in projecting this tentative determination of Ferrari's maximum feasible average fuel economy for the 1988 model year.

Drive line improvements. The primary drive line improvements to enhance achievable fuel economy are transmission improvements and the use of a lower rear axle ratio. Ferrari already uses a five-speed manual transmission on all models for efficiency, so NHTSA tentatively determines that no transmission improvements are technologically feasible for the 1986–1988 model years.

The overall drive ratios on all Ferrari models during this time period will be very high, to provide the high performance that purchasers of Ferrari automobiles demand. Reductions of these drive ratios would probably enhance fuel economy, but would certainly lower the performance of these cars. Such reductions would very likely reduce the demand for Ferrari automobiles. As explained above, NHTSA has previously stated that it does not consider such changes to be economically practicable. Accordingly, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Ferrari to improve its planned model year 1986–1988 fuel economy by making drive line improvements.

Mix shifts. "Mix shifts" refers to shifting the percentage of vehicles sold in each of a manufacturer's model types for the purpose of increasing average fuel economy. The only mix shift available to Ferrari to improve its projected fuel economy would be to restrict the sales of its larger engine model, the Testarossa. NHTSA has tentatively determined that such a shift would not be economically practicable in view of the likely substantial sales losses that Ferrari would likely experience if it did restrict its product offerings. Accordingly, NHTSA has tentatively determined that it would not be economically practicable for Ferrari to shift customers to its more fuel efficient models.

Impacts of other Federal standards. Ferrari stated in its petition that it does not expect any negative impacts on its 1986–1988 average fuel economy as a result of applicable Federal safety, damageability, emissions, or noise standards. Ferrari noted that the addition of automatic restraint systems would not add enough weight to change the test weight classes of Ferrari

automobiles for fuel economy testing. With respect to the Ferrari petition, NHTSA has tentatively assumed that there is no unaccounted-for negative impact on fuel economy caused by applicable Federal standards.

The need of the Nation to conserve energy. As stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Ferrari to achieve an average fuel economy above a level of 16.0 mpg in the 1986 model year, 16.2 mpg in the 1987 model year, and 16.6 mpg in the 1988 model year. Since Ferrari cannot achieve higher average fuel economy than these levels in the 1986–1988 model years, granting it an exemption and setting alternative standards at those levels for those model years will not result in any additional fuel consumption and will not affect the need of the Nation to conserve energy.

Proposed alternative standards. This agency has tentatively concluded that it would not be technologically feasible or economically practicable for Ferrari to achieve a higher average fuel economy than 16.0 mpg in the 1986 model year, 16.2 mpg in the 1987 model year, or 16.6 mpg for the 1988 model year, that compliance with other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will not be affected by granting the requested exemption and establishing an alternative standard. Consequently, this notice proposes to conclude that the maximum feasible average fuel economy for Ferrari in the 1986 model year is 16.0 mpg, for the 1987 model year is 16.2 mpg, and for the 1988 model year is 16.6 mpg. Therefore, the agency proposes to exempt Ferrari from the generally applicable standard of 26.0 mpg for the 1986–1988 model years and to establish an alternative standard for Ferrari of 16.0 mpg for the 1986 model year, of 16.2 mpg for the 1987 model year, and of 16.6 mpg for the 1988 model year.

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined as "an agency statement of general applicability and future effect." The exemption is not generally applicable, since it applies only to Ferrari. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that Ferrari will not be required to pay civil penalties if it achieves its maximum feasible average fuel economy, and purchasers of those vehicles will not have to bear the burden of those civil penalties in the form of higher prices. NHTSA notes that purchasers of those vehicles will be required to pay a gas guzzler tax on these cars. Since this proposal sets an alternative standard at the level determined to be Ferrari's maximum feasible level, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted as a rule, will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which measure the amounts of emissions per mile traveled. Thus, the quality of the air is not affected by this proposed exemption and alternative standards. Further, since Ferrari's 1986–1988 automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel available.

Since the Regulatory Flexibility Act may apply to a notice exempting a manufacturer from a generally applicable standard or standards, I certify that this proposed exemption would not have a significant economic impact on a substantial number of small entities. This proposal would not impose any additional burdens on Ferrari. It would relieve the company of having to pay civil penalties in the 1986–1988 model years. Small organizations and small governmental jurisdictions are believed not to be purchasers of Ferrari automobiles. In any event, since the prices of Ferrari automobiles would not be affected by this proposed exemption, the purchasers would not be affected.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

PART 531—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended as follows:

1. The authority citation for Part 531 would continue to read as follows:

Authority: 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. A new § 531.5(b)(8) would be added to Part 531, to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) * * *

(8) Ferrari, S.p.A.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
1986	16.0
1987	16.2
1988	16.6

Issued on December 5, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-27752 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 51, No. 237
Wednesday, December 10, 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.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Interpreters in Courts of the United States; Announcement of Spanish/English Certification Examination

AGENCY: Administrative Office of the United States Courts.

ACTION: Notice of Spanish/English Certification Examination for Court Interpreters.

SUMMARY: The Director of the Administrative Office of the United States Courts announces that the agency will conduct the written portion of the certification examination for individuals who desire to be certified to serve as Spanish/English interpreters in courts of the United States in accordance with the Court Interpreters Act, Pub. L. No. 95-539, 92 Stat. 2040 (1978) (28 U.S.C. 1827). To sit for the examination, an individual must file a written application.

DATES: The agency will administer the written portion of the examination March 7, 1987, at 1:00 p.m. The deadline for filing of application is 4:00 p.m. on December 31, 1986. The oral portion will be administered in July/August 1987.

ADDRESSES: Mailed applications along with a $25 money order, cashier's check, or personal check payable to *University of Arizona Federal Court Project* are to be sent to: Federal Court Interpreters Certification Project, Modern Language Building, Room 456, University of Arizona, Tucson, Arizona 85721.

FOR FURTHER INFORMATION CONTACT: Dr. Roseann Gonzales, University of Arizona, telephone (602) 621-3687 (Mountain Time).

SUPPLEMENTARY INFORMATION:

I. Background

The Director of the Administrative Office of the United States Courts (AOUSC) is responsible for the establishment of a program to facilitate the use of interpreters in courts of the United States. He must prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in bilingual proceedings and proceedings involving the hearing impaired (28 U.S.C. 1827(b)). Whenever an interpreter is required for a person in any criminal or civil action initiated by the United States, the presiding judicial officer must utilize the services of a certified interpreter, unless no certified interpreter is reasonably available.

The AOUSC will provide the courts with a roster of certified court interpreters selected on the basis of the successful completion of written and oral examinations in English and a foreign language.

II. This Examination

This examination will be a comprehensive written and oral examination for bilingual proficiency in Spanish and English, developed and administered under contract by the University of Arizona.

The written portion of the examination does not necessarily require the special knowledge of court vocabulary. Each applicant who completes successfully the written portion will be eligible for the oral examination. Successful applicants will receive notice of the time and place of the oral portion of the examination.

The oral portion of the examination will test, in simulated settings, the applicant's ability to: (1) Interpret precisely from Spanish to English, in consecutive simultaneous, and summary modes; (2) interpret from English to Spanish in consecutive, simultaneous, and summary modes; (3) perform sight interpretation. The oral portion of the examination does not necessarily require previous experience in court interpreting.

Testing Sites

Applicants may sit for the written examination at any of the locations identified below. Applicants must identify the city for taking both the written and oral portions. For 1987, oral examination sites are limited to Phoenix, AZ; Los Angeles and San Francisco, CA; Washington, DC; Miami, FL; Atlanta, GA; Chicago, IL; New Orleans, LA; Boston, MA; Albuquerque, NM; New York City, NY; San Juan, PR; Houston and San Antonio, TX.

Written Testing Sites

Alaska: Anchorage
Arizona: Phoenix, Tucson
California: Fresno, Los Angeles, Monterey, Sacramento, San Diego, San Francisco
Colorado: Denver
Connecticut: Hartford
District of Columbia
Florida: Miami, Orlando
Georgia: Atlanta
Hawaii: Honolulu
Illinois: Chicago
Louisiana: New Orleans
Massachusetts: Boston
Missouri: Kansas City
Nevada: Las Vegas, Reno
New Jersey: Newark, Trenton
New Mexico: Albuquerque, Las Cruces, Santa Fe
New York: Manhattan
Ohio: Cincinnati
Puerto Rico: San Juan
Texas: Brownsville, Corpus Christi, Dallas, Houston, Laredo, San Antonio
Utah: Salt Lake City
Washington: Seattle

Filing

Written applications are preferred, but phone applications will be accepted if the fee is sent by December 31, 1986. If you do not have an application form, type or print the following information on 8½ 11 paper:

1. Name
2. Mailing address, incl. zip code
3. Daytime telephone number
4. Evening telephone number
5. City for written examination
6. City for oral examination
7. Date of birth
8. Social Security Number
9. Special arrangements necessary because of physical disability or keeping of the Sabbath (explain)
10. I did/did not take the written and/or oral examination in 1985
11. I.D. number of exam (if known)
12. Enclosed money order/check number

Exam Procedures

You will receive an admission ticket to the exam shortly before the exam date. It will list the exact location of the exam. Present the admission ticket and a photo identification—driver's license, passport, work/student identification, etc.—to be admitted to the exam.

III. Qualifications

There are no formal educational requirements for certification, either in languages or interpreting. However, the difficulty of the examination is at the college degree level of proficiency. Successful completion of the oral portion of the examination normally would require prior training or professional experience in simultaneous, consecutive, and summary interpreting.

IV. Duties

Successful completion of the examination will not necessarily lead to full-time employment. Interpreters satisfy most court needs as independent contractors. However, where full-time interpreters are needed, only certified interpreters will be eligible for appointment.

As the federal courts require full-time salaried interpreters, these interpreters will be chosen from the eligibility lists. The annual salary range is JSP-10 and JSP-11 ($24,011-$34,292) for full-time salaried interpreters. For certified interpreters who provide services as independent contractors, the fee is $175 per day.

Court interpreters perform all or some of the following duties: (1) Interpret verbatim in simultaneous, consecutive, or summary mode a foreign language into English, and vice versa, at arraignments, preliminary hearings, pretrial hearings, trials, and other court proceedings; (2) transcribe from electronic sound recordings; and (3) translate technical, medical, and legal documents and correspondence for introduction as evidence.

L. Ralph Mecham,

Director.

[FR Doc. 86-27704 Filed 12-19-86; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 5, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Building, Washington, D.C. 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Food and Nutrition Service
OMB Circular A-102;
Financial Status Report (SF-269)
SF-269, SF-270
Recordkeeping; Quarterly
State or local governments;
Federal agencies or employees;
985 responses;
1,489 hours;
Not applicable under 3504(h)
Anneva Hackley (703) 756-3166

• Forest Service
Collection and Analysis of Timber Purchaser's Cost and Sales data
Recordkeeping; Annually
Business or other for-profit;
110 responses;
440 hours;
Not applicable under 3504(h)
Jim Pharo (202) 475-3756

Donald D. Hulcher,

Acting Department Clearance Officer.

[FR Doc. 86-27749 Filed 12-9-86; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Inyo National Forest, Intent To Issue a Prospectus for the Selection of a Developer for the Sherwin Bowl Alpine Ski Site

ACTION: The Forest Service is preparing an environmental impact statement, tentatively planned for completion by January, 1988, to determine whether a special use permit will be offered to develop an alpine ski area at the Sherwin Bowl site. Sherwin Bowl is located at Mammoth Lakes, Mono County, California. If a development alternative of that environmental impact statement is adopted, a prospectus will be issued at that time for a 60-day period to select a developer.

SUMMARY: A feasibility study has been prepared by an interested proponent. Copies can be obtained by sending a check or money order in the amount of $18.50 to cover the costs of copying and mailing. It should be made out to USDA Forest Service.

Potential bidders are advised to promptly begin conducting a two-season (snow covered ground and dry ground) field study of the Sherwin Bowl site during the period of time that the environmental impact statement is being prepared. A special use authorization for the study would be required.

The Mammoth Ranger District will meet with potential bidders on request for orientation concerning development opportunities at Sherwin Bowl. Interested parties should contact Bob Wood, Winter Sports Specialist, Mammoth Ranger District, P.O. Box 148, Mammoth Lakes, California, 93546. Phone: (619) 934-2505.

FOR FURTHER INFORMATION CONTACT: Bob Wood at the above address and phone number.

Dated: December 3, 1986.

Dennis W. Martin,

Forest Supervisor.

[FR Doc. 86-27751 Filed 12-9-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

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

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

Agency: Bureau of the Census
Title: 1987 Census of Mineral Industries
Form Number: Agency—MC-1001 thru MC-1471; OMB—N/A
Type of Request: New Collection
Burden: 34,000 respondents; 100,860 reporting hours
Needs and Uses: The 1987 Census of Mineral Industries provides economic statistics on the industrial and geographic structure of the mineral industries. It is an important part of the framework for the national

accounts and serves as a benchmark for key economic indicators
Affected Public: Businesses or other for profit institutions, small businesses or organizations
Frequency: Once each five years
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

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

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

Dated: December 4, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-27701 Filed 12-9-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-508-064]

Fresh Cut Roses From Israel; Final Results of Countervailing Duty Administrative Review and Determination Not to Revoke Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of final results of Countervailing Duty Administrative Review and determination not to revoke countervailing order.

SUMMARY: On October 17, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1981 through September 30, 1984 and ten programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we determine the total bounty or grant to be: 11.03 percent *ad valorem*, for the period October 1, 1981 through September 30, 1982; 12.20 percent *ad valorem*, for the period October 1, 1982 through September 30, 1983; and 23.70 percent *ad valorem*, for the period October 1, 1983 through September 30, 1984.

EFFECTIVE DATE: December 10, 1986.

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

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 37050) the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel (45 FR 58516, September 4, 1980). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Israeli fresh cut roses. Such merchandise is currently classifiable under items 192.1810 and 192.1890 of the Tariff Schedules of the United States Annotated.

The review covers the period October 1, 1981 through September 30, 1984 and ten programs: (1) The ECIL; (2) Government-guaranteed Minimum Price Program; (3) preferential short-term financing; (4) government funding of AGREXCO; (5) cash payments to growers for greenhouses; (6) cash payments to packing houses; (7) cash payments from the Export Promotion Fund; (8) fuel grants to rose growers; (9) long-term loans to AGREXCO; and (10) a capital fund for AGREXCO.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, Roses, Inc., and the Government of Israel, we held a public hearing on November 17, 1986.

Comment 1: Roses argues that the Department should have used effective rather than nominal interest rates in calculating benefits under the Export Production Fund ("EPF"). Since the Department has information on the effective commercial benchmark rates, Roses contends that the Department should use those rates to ensure that the full amount of the bounty or grant conferred by a loan with non-commercial terms is countervailed. Moreover, making comparisons of effective rates is consistent with Department policy.

The Government of Israel, for its part, contends that the EPF annual preferential rate of 42 percent, used by the Department for the entire review period, actually increased to 50 percent in 1983 and 82 percent in 1984, rather than remaining constant as the Department has maintained.

Department's Position: We agree with Roses. We have revised our calculation of benefits from the EPF to reflect interest rate differentials based on a comparison of effective rates. For our commercial benchmark, we derived quarterly effective interest rates from the annual effective interest rates published for each quarter by the Bank of Israel. For our preferential rate, we used as the best information available the nominal rate of 10.5 percent per quarter for 1982 (42 percent per annum) from the final affirmative countervailing duty determination on potassium chloride from Israel (49 FR 36122, September 14, 1984). Since interest on these loans is paid at the end of the term, and we have no evidence of any charges on these loans other than interest, we consider the nominal preferential rate to be the same as the effective preferential rate.

We have received no documentary evidence of changes in the EPF preferential rate for 1983 or 1984. Therefore, we are using the quarterly 10.5 percent preferential rate as the best information available for the entire period of review. *See* also, our position on Comment 2.

Comment 2: The Israeli government contends that the Department, in using the best information available, incorrectly calculated the maximum benefit available from the EPF. The credit available to an exporter is a percentage of the dollar value of his exports, and this amount is converted into shekels and lent to the exporters.

The Department properly used shekel interest rates but without converting the dollar value of available credit into shekels. This results in a benefit calculated in dollars instead of shekels, and because shekel interest rates are higher than dollar interest rates, the Department overstated the benefit from this program.

Department Position: We agree. Eligibility for EPF loans is based on the dollar value of exports, and the total amount available to an exporter is calculated as a percentage of his exports, using the rate-of-credit formula. An exporter draws from this dollar amount but receives shekel-denominated loans. Because we have no information on actual shekel amounts borrowed, we have converted the maximum dollar amount exporters are eligible for into shekels. We treated this amount as being renewed four times

yearly, because the loan terms are for 90 days. To calculate the benefit, we converted the dollar amount to shekels using the exchange rate at the beginning of each quarter. We then multiplied the shekel value by the differential between our benchmark and the preferential rate to determine the benefit from each loan in shekels. Finally, we converted the shekel benefit into dollars using the exchange rate at the end of the quarter because our value of exports was in dollars. In our calculations, we used the quarterly exchange rates certified by the Federal Reserve Bank of New York.

By making this adjustment and the adjustment for effective interest rates discussed in our position on Comment 1, we now find a benefit under the EPF program of 5.91 percent *ad valorem* for the 1981–82 period, 5.89 percent *ad valorem* for the 1982–83 period, and 16.72 percent *ad valorem* of the 1983–84 period.

Comment 3: The Israeli government contends that the Department's method of calculation for the EPF program yields a benefit that exceeds the face value of the loans for the 1983/84 growing year. The Government of Israel argues that this is inconsistent with the Department's policy in that the maximum benefit from a loan cannot exceed the benefit found if the loan were a grant, expensed at face value in the year of receipt.

Department's Position: In applying the methodology discussed in our responses to Comments 1 and 2, we calculated no benefit from a loan in excess of its face value.

Comment 4: The Government of Israel aruges that information available to the Department shows that the EPF now provides dollar loans and that the continued use of a shekel interest rate for duty deposit purposes is not based on the best information available.

Department's Position: We disagree. We have no documentary evidence on the record to calculate a duty deposit rate based on dollar loans. Therefore, we have used the rate calculated for the 1983/84 period as the best information available for cash deposit purposes.

Comment 5: The Israeli government contends that the program of fuel grants to rose growers was terminated after the 1980/81 growing year. Therefore, the Department's assumption that fuel grants existed during the review period is incorrect. The interest savings on low-cost credit, included in the Department's calculation regarding fuel grants, is actually savings received by exporters for the EPF and the Imports-for-Exports Fund. Including these benefits as part of the fuel grants program double-counts the interest savings.

Department's Position: We have no documentary evidence that the program of fuel grants to rose growers was terminated. Therefore, as the best information available, we are using the rate found in the last administrative review.

Comment 6: Roses claims that the Department ignored three programs found to be bounties or grants by the Court of International Trade ("the CIT") in *Agrexco v. United States*, 604 F. Supp. 1238 (CIT, 1985): (1) Government participation in research and development, (2) Government-funded extension services, and (3) Government support of the Ornamental Plant Production and Marketing Board. Roses argues that the Department's failure to collect data or consider these programs constitutes an abuse of administrative discretion.

Department's Position: In our September 4, 1980 countervailing duty order, we found: (1) That research and development conducted at Hebrew University of Jerusalem, Rehevot, and the Volcani Institute of Agricultural Research is not a bounty or grant because the results of the research are available to rose growers worldwide and have been provided to, among others, members of Roses, Inc., the petitioner; (2) that government-funded extension services provided by the Ministry of Agriculture to farmers are not bounties or grants because they are provided to the entire agricultural sector and are not directed exclusively to rose growers or any order industry within the agricultural sector; and (3) that there is no bounty or grant to the Ornamental Plant Production and Marketing Board because it is funded by growers without any budget contribution by the Government of Israel. The CIT remanded all three of these issues for reconsideration because, depending on certain facts, these programs might be bounties or grants.

Our position remains that these three programs are not bounties or grants. On July 3, 1985, the United States moved the CIT to vacate that part of its opinion which remanded the case to the Department. Because the CIT has not yet ruled on this motion, the decision is not yet a final judgment and is not binding.

Comment 7: The Israeli government argues that the countervailing duty order on fresh cut roses from Israel should be revoked. Although this order was issued without an affirmative injury determination after January 1, 1980, because at the time Israel was not a "country under the Agreement," the Trade Agreements Act of 1979 ("the TAA") is silent in the matter of countervailing duty orders issued under section 303 of the Tariff Act on products from a country that becomes a "country under the Agreement" after the issuance of the order. The TAA provides no authority for the imposition of countervailing duties on products from such a country absent an affirmative injury determination. Moreover, the legislative silence does not support an interpretation that Congress intended to perpetuate this countervailing duty order without an injury test.

Department's Position: We disagree. The statutory scheme of the TAA indicates that Congress did not intend automatic revocation of countervailing duty orders issued under section 303 of the Tariff Act. If Congress had intended for such an order to be revoked, it could have explicitly provided for revocation. Instead, Congress granted a "country under the Agreement" the injury test in the limited circumstances specified in sections 102 of the TAA (to investigations in progress at the time a country becomes a "country under the Agreement"), 104(b) of the TAA (to section 303 orders in effect on January 1, 1980, if the request for the injury review were made by December 31, 1982), and section 701 of the Tariff Act (to investigations not yet filed on products from a "country under the Agreement"). Congress did not provide for an injury test in the circumstances of this case, where Israel became a "country under the Agreement" *after* issuance of the order under section 303 of the Tariff Act. To read this failure of Congress to provide for an injury test as a requirement for revocation would produce an absurd result, which we cannot assume Congress intended. If we revoke the order on Israeli roses, we would be according greater rights, *i.e.*, automatic revocation, to later signatories of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code") (which provides "country under the Agreement" status) than to early signatories. Early signatories received the *right* to an injury review that would result in revocation only if the determination of injury were negative.

Comment 8: The Israeli government argues that the Subsidies Code should be treated as law, binding on U.S. administrative agencies, because the TAA specifically approved the Subsidies Code and because, when a U.S. statute is silent on a matter, that statute should not be construed as being in conflict with international treaty obligations. The Subsidies Code and the

GATT require an affirmative injury determination before a countervailing duty can be assessed.

Department's Position: We disagree. The U.S. statute is not silent or ambiguous on whether the section 303 order on Israeli roses can remain in effect. We believe that Congress, in the TAA, clearly provided for revocation in certain situations and explicitly failed to provide for revocation in the situation presented by the order on Israeli roses. *See,* our position on Comment 7.

Comment 9: The Government of Israeli argues that there are important policy reasons why the U.S. should revoke the countervailing duty order on fresh cut roses from Israel. The U.S. policy of encouraging liberalization of trade and adherence to international agreements favors revoking this order rather than maintaining it because maintaining the order violates the international obligations of the United States to grant an injury test. For the reasons set forth in Comments 7 and 8, the Israeli government contends that this order should be revoked prospectively from September 18, 1985, the date Israel became a "country under the Agreement."

Department's Position: We disagree. It was clear that, before signing the Subsidies Code in August 1985, Israel would not be granted an injury test on the countervailing duty order on fresh cut roses. The Report of the Committee on Ways and Means on the United States-Israel Free Trade Area Implementation Act of 1985 confirms this conclusion. The Committee stated that:

> Israel upon its accession to the GATT Agreement will become a "country under the Agreement" under section 701(b) of the Tariff Act of 1930 and thereby receive the material injury test under the U.S. countervailing duty law on dutiable imports; the test already applies to duty-free imports from Israel. The test will be applied prospectively, not to existing countervailing duty orders. (H.R. Rep. No. 99-64, 99th Cong., 1st Sess. 8 (May 6, 1985).)

Israel signed the Subsidies Code after passage of this Act and, we presume, with knowledge of this legislative history.

Final Results of Review

After considering all of the comments received, we determine the total bounty or grant to be 11.03 percent *ad valorem* for the period October 1, 1981 through September 30, 1982; 12.20 percent *ad valorem* for the period October 1, 1982 through September 30, 1983; and 23.70 percent *ad valorem* for the period October 1, 1983 through September 30, 1984.

The Department will instruct the Customs Service to assess countervailing duties of 11.03 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1981 and on or before September 30, 1982, 12.20 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1982 and on or before September 30, 1983, and 23.70 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1983 and on or before September 30, 1984.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 23.70 percent of the f.o.b. invoice price on all shipments of Israeli fresh cut roses entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next 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 § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 86-27726 Filed 12-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-013]

Portland Hydraulic Cement and Cement Clinker From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

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

SUMMARY: On September 29, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on portland hydraulic cement and cement clinker from Mexico. The review covers the period January 1, 1984 through December 31, 1984 and 15 programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the total bounty or grant for the period of review to be zero of *de minimis* for three firms and 3.32 percent *ad valorem* for all other firms.

EFFECTIVE DATE: December 10, 1986.

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

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1986, the Department of Commerce ("the Department") published in the Federal Register (51 FR 34483) the preliminary resuts of administrative review of the countervailing duty order on portland hydraulic cement and cement clinker from Mexico (48 FR 43063, September 21, 1983). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican portland hydraulic cement and cement clinker other than white non-staining. Such merchandise is currently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1984 through December 31, 1984 and 15 programs: (1) FOMEX; (2) Article 94 of the Banking Law; (3) CEPROFI; (4) FONEI; (5) NDP preferential discounts; (6) state tax incentives; (7) FOMIN; (8) FOGAIN; (9) import duty reductions and exemptions; (10) export services offered by IMCE; (11) Bancomext loans; (12) delay of payments on loans; (13) delay of payments to PEMEX of fuel charges; (14) preferential state investment incentives; and (15) CEDI.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from five exporters, Cementos Chihuahua, Cementos Portland Nacional, Cementos Vera Cruz, the Cementos Mexicanos Group of Cementos Mexicanos, Cementos Guadalajara, and Cementos Maya, and the Anahuac Group of Cementos Anahuac and Cementos Anauhuac del Golfo, and from the petitioners, American Cement Trade Alliance, Gifford-Hill Cement Company, and Kaiser Cement Corporation.

Comment 1: The five exporters contends that the Department should revoke this order. Section 303 of the Tariff Act prohibits the Department from assessing countervailing duties on duty-

free products without an affirmative finding of injury if the United States has an international obligation to provide such an injury test. In the "Understanding Between the United States and Mexico Regarding Subsidies and Countervailing Duties" ("the Understanding") signed on April 23, 1985, the United Stated granted Mexico most-favored-nation ("MFN") status. On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Both the MFN status and GATT membership constitute international obligations of the United States, as defined in section 303. The Department cannot continue to impose countervailing duties on Mexican exports of duty-free products without an affirmative injury determination, which is required by both Article VI.6.(a) of the GATT and section 303 of the Tariff Act.

Department's Position: We believe that we lack the authority to revoke this countervailing duty order on the basis of the Understanding. We confirmed with the principal U.S. negotiators that the intent of Article 5 of the Understanding was to exclude from the application of the Understanding, and hence the application of "country under the Agreement" status, order existing before April 23, 1985. *See,* final results of countervailing duty administrative review on certain iron-metal construction castings from Mexico (51 FR 9698, March 20, 1986).

We are currently considering whether Mexico's accession to the GATT affects our authority to assess countervailing duties on Mexican duty-free products without an affirmative injury determination from the International Trade Commission. Since Mexico's accession was effective on August 24, 1986, our decision will not affect entries covered by this review, which extends only through December 31, 1984.

Comment 2: Anahuac del Golfo contends that the Department, by using in its calculations an annual average exchange rate to convert the dollar value of the company's exports to pesos, produced an inaccurate result. Since the company reported its U.S. exports in both dollars and pesos, having calculated the peso value using the exchange rate at the time of each shipment, the Department's calculations were also unnecessary.

Department's Position: We agree. We have made no currency conversions in our revised calculation. *See* also, our position on Comment 5.

Comment 3: The Anahuac Group claims that, for purposes of the estimated cash deposit rate, the Department should update the commercial benchmark rates.

Department's Position: We agree and have incorporated the most recent Federal Reserve benchmark rate in our calculation of the estimated cash deposit rate. *See* also, our position on Comment 5.

Comment 4: The Anahuac Group points out that the benefit from the last two FOMEX export loans for Anahuac del Golfo are overstated as a result of incorrect data on the term of the loans.

Department's Position: We agree and have changed our calculations to reflect the corrections. *See* also, our position on Comment 5.

Comment 5: Anahuac del Golfo claims that the Department miscalculated the preferential rate on FOMEX export loans. Because the interest on these loans is prepaid, the effective preferential rate is higher than the nominal rate.

Department's Position: We lack sufficient information to measure an effective dollar benchmark in 1984. The Federal Reserve did not publish data on effective interest rates until 1985. Therefore, we can only compare a nominal interest rate benchmark to a nominal preferential interest rate in 1984. However, we now believe that we have sufficient information to measure benefits using effective interest rates for dollar-denominated loans from 1985 and for peso-denominated loans from 1982.

To determine the effective interest rate benchmark for the estimated duty deposit rate for dollar loans, we used the weighted-average annual effective interest rates published in the Federal Reserve Bulletin in the second quarter of 1986, the most recent information available. These weighted-average effective interest rates are based on data, for fixed rate loans under one million dollars, received from a survey of gross loan extensions made by various banks during one week of each quarter. The effective rates include the various terms of the loans in addition to the interest rate. On FOMEX export (dollar) loans the interest is prepaid. Since we have no evidence of any charges on these loans other than interest, we calculated the effective interest rate by using the nominal rate and taking into account the cost of prepayment of interest.

For peso-denominated loans, the Banco de Mexico ("the Bank") publishes in its *Indicadores Economicos* ("I.E.") both nominal and effective interest rates. Using data received from a sample of Mexican banks, the Bank bases the nominal I.E. rates on the Costo Porcentual Promedio ("CCP"), the average cost of funds to those banks, plus a spread that reflects a risk premium. The effective I.E. interest rates are based on data received from a sample of companies representing a cross-section of the economy.

These effective rates include finance charges, *e.g.,* commissions, fees for opening a line of credit, fees for credit renewal, prepayment of interest, compensating balances, etc., and may also include compounding of interest, since many of the loans included in the Bank's sample have short (2–3 month) terms. Both the nominal and effective I.E. interest rates are weighted averages of the rates reported to the Bank by the banks and companies in the respective samples.

To determine the effective interest rate benchmark for 1984 peso loans, we used the I.E. effective rates published each month and calculated an average annual effective rate. In 1985, the Bank stopped publishing the I.E. rates. Therefore, we calculated the average spread between the CPP rate and the I.E. effective interest rates for the period 1982 through 1984, the only period for which we have I.E. rates. Our effective interest rate benchamrk for purposes of the estimated duty deposit rate was the sum of this average spread and the most recent CPP rate available. For the FOMEX pre-export loans, we found no evidence of finance charges of any kind. Since interest on the these loans is paid at the end of the term, we consider the nominal preferential rate to be the same as the effective preferential interest rate.

By using effective interest rates to the extent possible and making the adjustments noted in Comments 2, 3, and 4, we now find the 1984 benefit FOMEX loans to be 1.83 percent *ad valorem* and the current benefit, for purposes of cash deposits of estimated countervailing duties, to be 1.65 percent *ad valorem.*

Comment 6: the Anahuac Group contends that the Department inappropriately used the Federal Reserve Board weighted-average interest rate as a benchmark in calculating the benefit from the FOMEX export loans. Instead, the Department should use published interbank rates ("aceptaciones bancarias") because the interest rate for preferred borrowers such as Anahuac del Golfo was based in 1984 on these interbank rates.

Department's Position: We disagree. The interest rates published by the Federal Reserve are derived from average rates paid by commerical borrowers. The rates that the Anahuac Group proposes are interbank rates for dollar loans, not average commercial lending rates. Although the interbank rate may be closer to the actual borrowing experience of Anahuac del

Golfo, we are interested in establishing a national average benchmark rate, not a company-specific one.

Comment 7: Cementos de Chihuahua diagrees in part with the Department's conclusion that loans under Article 94 of the Banking Law are countervailable. While the Department was correct in stating that Category 12 applies only to exported products, the terms of such financing should be compared to the generally available terms of Article 94 financing for the other 11 categories. Loans under those categories are generally available. Only the differential, if any, between Category 12 financing and other Article 94 financing should be considered a countervailable benefit. *See, e.g., Softwood Lumber Products from Canada* (51 FR 347453, October 22, 1986) and *Canned Tuna from the Philippines* (48 FR 50133, October 31, 1983).

Department's Position: We disagree. We addressed this issue and the analogy to *Canned Tuna from the Philippines* in our last review.

See, final results of administrative review of countervailing duty order on portland hydraulic cement and cement clinker from Mexico (50 FR 51732, December 19, 1985).

We used the same reasoning described for Philippine tuna in softwood lumber from Canada. In the lumber case, certain tax credits for particular investments were specifically provided while others were not. Since there is no commercial alternative to a tax credit, the alternative to the limited tax credit was the generally available rate for the particular type of investment.

Comment 8: Cementos de Chihuahua contends that Category I and Category II CEPROFI tax certificates are available to all industries located outside Mexico City, and, consequently, the certificates do not bestow countervailable benefits. It is not logical to conclude that a tax credit available to an entire country (except for one city) constitutes a regional subsidy. The Department analyzed a simialr situation with respect to industrial estates that were scattered throughout Malaysia and found the program not countervailable because it was not limited to any "specific regions." *See, Certain Textiles and Textile Mill Products from Malaysia* (50 FR 9852, March 12, 1986). *See* also, *Wire Rod from Saudia Arabia* (51 FR 4206, February 3, 1986).

If the Department continues to determine that those CEPROFI's are countervailable, the bounty or grant should be the difference between the CEPROFI amounts actually received and the CEPROFI amounts that would have been received for the purchase of Mexican-made capital goods. The Department found CEPROFI's granted for the purchase of Mexican-made capital goods not countervailable in *Oil Country Tubular Goods from Mexico* (49 FR 47054, November 30, 1984).

Chihuahua similarly contends that FONEI loans do not constitute countervailable regional subsidies. Such loans are available in all regions except Mexico City.

Department's Position: We disagree. We addressed this issue in the final results of our last reveiw of this case.

Comment 9: The petitioners contend that the Department greatly understated the amount of the plant and equipment CEPROFI benefit by considering only the CEPROFI amounts received during the review period and by allocating those benefits to the same period. Many of the facilities operated by the Mexican cement producers exporting to the United States were newly constructed or greatly expanded between 1979 and 1983. The Government of Mexico subsidized the expansion by providing CEPROFI certificates for those investments in plant and equipment.

Since those CEPROFI tax credits resulted from investment in plant construction or expansion, they should be considered capital grants and allocated over a period of years. Because the benefits from capital asset subsidies are realized in the same way and over the same period whether they are provided in the form of a tax credit or a cash grant, the period during which benefits occur must also be the same. It would be inequitable and contrary to law if the Department did not countervail those capital grants using its standard grant methodology.

Department's Position: We disagree. We addressed this issue in the final results of our last review of this case.

Comments 10: The Anahuac Group reasserts its position set out in the previous review that the Department must calculate company-specific countervailing duty rates in this case. There is nothing in the record to support the view that, in this case, the Department's burden is lessened by calculating a country-wide rate, which is itself derived from a weighted-average rate using the separate company rates. The Anahuac Group also maintains that section 303 of the Tariff Act requires the Department to collect duties that match *ad valorem* benefits actually received by a producer or exporter. The Department's decision in this review is governed by its final determination in this case, in which the Department found the spread of rates to be materially different.

Cementos de Chihauhua, on the other hand, maintains that a country-wide rate is appropriate and consistent with the international obligations of the United States, the countervailing duty statute, current and purposed Commerce regulations, and past practice.

Department's Position: We disagree with Anahuac's views. We addressed this issue at length in the final results of our last review. We have once again found that, other than the one firm with zero benefits and the two firms with *de minimis* benefits, the rates applicable to individual firms are not "significantly different" from the weighted-average rate.

Comment 11: The petitioners reassert that the first-level fuel subsidies provide countervailable benefits. The petitioners ask the Department to reconsider its previous determination on two grounds. First, the first-level fuel subsidy is countervailable as a matter of law. The "general availability" test used by the Department in making its previous determination has been held by the Court of International Trade ("the CIT") to be the wrong test to apply in determining whether the provision of industrial inputs at government-set prices constitutes a countervailable count or grant. *See, Cabot Corp. v. United States* (1985) and *Bethlehem Steel Corp.* v. *United States* (1984).

Second, the petitioners argue that the Department should have but did not consider the following in making its decision: (1) The Mexican government had deliberately targeted the cement industry to receive special benefits from the first-level fuel subsidy; (2) the Mexican government sells heavy fuel oil at lower prices for domestic industrial use than for export or for use as bunker fuel; (3) the first-level fuel subsidy stimulates export sales over domestic sales of cement; and (4) the Mexican government sell heavy fuel oil for domestic industrial use below its cost of production because the value of the crude petroleum used in producing heavy oil is greater than the price charged for refined product.

Department's Position: We disagree. We considered these allegations in our final determination and in the final results of our last review of this case. Contrary to the petitioners' assertion, we did consider the four factors cited above in our previous determinations. Furthermore, the petitioners have submitted no new facts that would cause us to reconsider this issue. Finally, the CIT's rejection of our specificity test in *Bethlehem* was *dicta*, and in the *Results of Reconsideration of Issues Pursuant to Court Remand, Cabot*

Corporation v. United States, Court No. 83-7-01044, CIT (October 10, 1986), we sustained our position on natural gas, for which our arguments were similar to those for fuel oil.

Final Results of Review

After reviewing all comments received and adjusting for changes in methodologly, we determine the total bounty or grant during the period of review to be zero for Cementos Maya, 0.22 percent *ad valorem* for Cementos Mexicanos, 0.06 percent *ad valorem* for Cementors Anahuac, and 3.32 percent *ad valorem* for all other firms. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department will instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from the three firms with zero or *de minimis* rates and to assess countervailing duties of 3.32 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1984, and on or before December 31, 1984.

The Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the three firms with *de minimis* rates during the period of review and to collect cash deposits of estimated countervailing duties of 3.26 percent *ad valorem* for shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This deposit requirement and wavier shall remain in effect until publication of the final results of the next 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 § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-27727 Filed 12-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-015]

Unprocessed Float Glass From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

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

SUMMARY: On October 21, 1986, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on unprocessed float glass from Mexico. The review covers the period February 1, 1984 through December 31, 1985 and 19 programs.

We gave interested parties an opportunity to comment on the preliminary results. After considering all of the comments received, we have determined that Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A., the signatories to the suspension agreement, have complied with the terms of the suspension agreement during the period of review.

EFFECTIVE DATE: December 10, 1986.

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

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 7267) an agreement suspending the countervailing duty investigation on unprocessed float glass from Mexico. On October 2, 1985 and February 28, 1986, the petitioner, PPG Industries, Inc. ("PPG"), requested in accordance with § 355.10 of the Commerce Regulations administrative reviews of the agreement for two separate periods. We published the respective initiations of the administrative reviews on November 27, 1985 (50 FR 48825) and March 14, 1986 (51 FR 8863), and the preliminary results on October 21, 1986 (51 FR 37319). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Mexican unprocessed float glass, a type of flat glass produced by floating molten glass over a bed of molten tin. Such merchandise is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated.

The review covers the period February 1, 1984 through December 31, 1985 and 19 programs: (1) CEPROFI; (2) DIMEX; (3) CEDI/extra-CEDI; (4) FICORCA; (5) FOMEX; (6) Article 94 of the Banking Law; (7) FONEI; (8) NDP preferential discounts; (9) state tax incentives; (10) FOMIN; (11) FOGAIN; (12) import duty reductions and exemptions; (13) export services offered by IMCE; (14) Bancomext loans; (15) delay of payments on loans; (16) delay of payment of PEMEX of fuel charges; (17) preferential state investment incentives; (18) FICORCA II; and (19) accelerated depreciation.

The review covers two exporters, Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A., the two signatories to the suspension agreement ("the signatories").

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of PPG, we held a public hearing on November 5, 1986.

Comment 1: PPG argues that the Department should ascertain the basis on which Vitro, S.A., the parent of the signatories, received CEDI's during the period of review and whether Fomento de Comercio Exterior ("FCE"), an export consortium, received CEDI's on the basis of exports of float glass to the United States. PPG states that Vitro, S.A., is essentially a holding company for members of the Vitro group, providing administrative, managerial and other services without itself producing or exporting merchandise. If the bestowal of CEDI's is based on exporation of products and Vitro, S.A., exports no merchandise, then Vitro, S.A., must have received CEDI's on the basis of exports by other members of the Vitro group. The Department should have investigated whether these CEDI's were based on exports of float glass to the United States. Further, the Department should review the information submitted by PPG that describes the extra-CEDI program, a program that pays CEDI's to export consortia, and information that shows that FCE, in particular, received CEDI's during the review period. The Department should have investigated the extent to which FCE received these benefits and the basis for receipt.

PPG argues that if either Vitro, S.A., or FCE received CEDI's based on exports of float glass to the United States, then those CEDI's are countervailable even though the benefit from them may not have been passed directly or indirectly to the two float glass producers. Finally, if any companies within the Vitro group received CEDI's, for whatever product, then those CEDI's benefited the

financial status of the group as a whole, including Vitro Flotado and Vidrio Plano, in the production and exportation of float glass.

On the other hand, Vitro Flotado and Vidrio Plano assert that the Department's statement in its preliminary results, that Vitro, S.A., received CEDI's during the period of review, is incorrect. As a holding company, Vitro, S.A., does not produce or export any products and therefore is not eligible to receive CEDI certificates.

At verification, the Department examined Vitro, S.A.'s financial reports, which are consolidated financial statements of all companies within the Vitro group. These consolidated statements show the receipt of CEDI's, not by Vitro, S.A., but by the various exporting companies within the Vitro group. The Department verified that neither Vitro Flotado nor Vidrio Plano received CEDI's during the period of review.

Department's Position: Vitro, S.A.'s financial statements, which we examined during verification, are consolidated reports. Vitro, S.A., as a holding company with no exports of its own, was not eligible to receive CEDI's directly, and the CEDI's reported were those received by exporting members of the Vitro group. We verified that Vitro Flotado and Vidrio Plano received no CEDI's during the period of review. Further, we verified that the business relationship between FCE and Vitro Flotado and Vidrio Plano, with respect to exports of float glass to the United States, was terminated in January 1984, prior to the signing of the suspension agreement. Therefore, any possible CEDI's received by FCE could not result from exports of float glass to the United States during the period of review. Finally, because CEDI's are earned on a shipment-by-shipment basis and are not transferable, any benefits received from them can only be used by the exporting company. Benefits received by one member of the Vitro group do not provide countervailable benefits on the exports of another member of the group.

Comment 2: PPG argues that the Department should reevaluate its determination that FICORCA is generally available, based on the general availability test applied in the *Results of Reconsideration of Issues Pursuant to Court Remand, Cabot Corporation v. United States,* Court No. 83-7-01044, Court of International Trade (October 10, 1986) ("the *Cabot* remand") and the methodology used in the preliminary determination on *Certain Softwood Lumber Products from Canada* (51 FR 37453, October 22, 1986). The Department should incorporate these "new" tests in a reexamination of information submitted prior to and during this review. PPG states that the program should be found to be countervailable for the following reasons: (1) The Mexican government pre-selected beneficiaries; (2) the major eligibility requirements for participation in FICORCA serve to limit the availability of the program; and (3) the *de facto* general availability test is not met in this case.

Department's Position: The specificity (general availability) test applied in the *Cabot* remand in no way diverges from that applied in the preliminary results of this review. As stated in our preliminary results, we reviewed the information presented by PPG and continue to uphold our determination that the FICORCA program is not countervailable.

Comment 3: PPG requests that the Department reexamine the issue of whether the sale of natural gas by the Mexican government to Vitro Flotado and Vidrio Plano at government-controlled prices confers a countervailable benefit. PPG cites the *Cabot* remand in claiming that there has been an evolution in the Department's methodology for determining whether a program is generally available. PPG asserts that, with respect to natural gas, the issue of general availability must be reevaluated, and information in this case must be reexamined in light of the *Cabot* remand methodology.

Department's Position: We disagree. We have repeatedly determined numerous Mexican cases (*see e.g., Final Negative Countervailing Duty Determination on Anhydrous and Aqua Ammonia from Mexico* (48 FR 28522, June 22, 1983)) that the provision of natural gas at government-controlled prices does not confer countervailable benefits. Further, the *Cabot* remand results sustained our position on this issue, and therefore a reevaluation is not warranted in this case.

Comment 4: PPG states that, during this review, it provided the Department with information that Vidrio Plano was leasing land from the Mexican government in the Distrito Federal and, in noting the amount paid on that lease, suggested that the terms of the lease were concessionary. Accordingly, PPG requested that the Department investigate this lease to determine whether it was made on commercial terms, but there was no mention of this issue in the preliminary results.

Department's Position: We acknowledge that PPG included in one of its submissions an allegation of possible bounties or grants received by Vidrio Plano through a lease of land. In that submission, PPG noted an amount for what it believed was the annual rent, but in doing so provided no information on how much land may have been involved, the type of lease, or the use to which the land may have been put. PPG simply noted the small amount paid and assumed it indicated a bounty or grant without providing any basis for comparison to suggest that this rent was at a preferential rate. Nonetheless, we will investigate this allegation during the course of the next review.

Comment 5: PPG argues that the Department should terminate the suspension agreement and impose a zero percent duty rate, assuming *arguendo* the correctness of the Department's preliminary determination, because the Department cannot adequately monitor the agreement and because the agreement is not in the public interest. PPG asserts that, since the original investigation, there has been a pattern of providing incomplete information in this case on the part of the Mexican government. PPG refers particularly to the "extra-CEDI" program and what it calls a "very disturbing" series of contradictory statements and data concerning the existence of an "extra-CEDI" program. Further, PPG points out the the Mexican government has been less than forthcoming concerning Vitro, S.A.'s participation in the FICORCA program, noting that participation was denied in the original investigation even though information received during this review confirms the Vitro, S.A., became a participant several months prior to signing the suspension agreement. Finally, PPG notes the allegedly inadvertent receipt and use of CEPROFI's as indicative of inadequate monitoring of its obligations by the Mexican government.

Department's Position: We disagree. We found that the signatories to the suspension agreement complied with the terms of the agreement during the period of review. Since the agreement has resulted in the elimination of all bounties or grants on float glass exports to the United States, it continues to be in the public interest. Therefore, there is no basis for terminating the agreement and issuing a countervailing duty order.

Comment 6: Vitro Flotado and Vidrio Plano claim that the Department is obligated to terminate the suspension agreement because of the international obligation for the United Staes to grant Mexico an injury test prior to the imposition of countervailing duties. Since the Department has already reached a final determination in this case and the International Trade

Commission under its interpretation of the countervailing duty law will not conduct an injury test, there is no legal basis for the imposition of countervailing duties against float glass from Mexico.

Department's Position: We disagree. Since unprocessed float glass from Mexico is dutiable, the issue of an injury determination for this product is governed by the "Understanding Between the United States and Mexico Regarding Subsidies and Countervailing Duties" ("the Understanding"), which entered into force on April 23, 1985. By the terms of the Understanding, an affirmative injury determination is required before countervailing duties may be imposed. Specifically, Article 5 of the Understanding states that the injury requirement shall apply to "investigations in progress" at the time the Understanding entered into force.

In interpreting the phrase "investigation in progress," we look for guidance to section 102 of the Trade Agreements Act of 1979 ("the TAA"), since the Understanding confers the same rights upon Mexico as are conferred upon signatories of the Subsidies Code under the TAA. Section 102 describes the circumstances under which goods covered by a countervailing duty investigation in progress would come under Title VII of the Tariff Act. The term "investigation in progress," as used in that provision, clearly contemplates the period between initiation and the final determination.

In this case, the notice of suspension of investigation was published on February 28, 1984. The investigation was continued and a final determination was published on June 4, 1984. Since the final determination was completed prior to April 23, 1985, a determination of injury is not required. Therefore, we do not believe we have the authority, or are required, to terminate this suspension agreement in the absence of an affirmative injury determination.

Final Results of Review

After consideration of all of the comments received, we determine that Vitro Flotado and Vidrio Plano have complied with the terms of the suspension agreement for the period February 1, 1984 through December 31, 1985. The agreement can remain in force only as long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that Vitro Flotado and Vidrio Plano accounted for all imports into the United States of Mexican float glass during the review period.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-27728 Filed 12-9-86; 8:45 am]

BILLING CODE 3510-DS-M

The University of Michigan; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket Number: 85-015. Applicant: The University of Michigan, Ann Arbor, MI 48109. Instrument: Molecular Beam Epitaxy System, Model V80. Manufacturer: Vacuum Generators Ltd., United Kingdom. Intended Use: See Notice at 49 FR 47283.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (July 18, 1984).

Reasons: The foreign article is capable of substrate heating to 1200°C. This capability is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practicies applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation, it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-27725 Filded 12-9-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 61003-6203]

Proposed Federal Information Processing Standard Publication 29-2; Interpretation Procedures for Federal Information Processing Standards for Software

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal Information Processing Standard Publication (FIPS PUB) 29-2.

SUMMARY: The purpose of this notice is to announce a proposed Federal Information Processing Standards Publication (FIPS PUB) 29-2, entitled "Interpretation Procedures for Federal Information Processing Standards for Software". Proposed FIPS PUB 29-2 is a revision of FIPS PUB 29-1 which will supersede FIPS PUB 29-1 in its entirety.

A proposed revision to FIPS PUB 29-1 was announced in the **Federal Register** (51 FR 7604, dated March 5, 1986). While the comments received expressed support for the proposed procedures, NBS has determined that it would be appropriate to broaden the scope of the procedures to include all Federal Information Processing Standards for software. This action is needed because many new software standards are being

developed and these standards are very complex.

Prior to the submission of this broadened proposed revision to the Secretary of Commerce (Secretary) for review and approval, it is essential to assure that consideration is given to the needs and views of vendors of software, the public, and State and local governments. The purpose of this notice is to solicit such views.

DATE: Comments and proposals must be submitted on or before March 10, 1987.

ADDRESS: Written comments on this proposed revision or any alternative proposals should be submitted to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, Attn: Proposed FIPS PUB 29-2.

Written comments and proposals received in response to this notice will be made part of the public record and will be 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

FOR FURTHER INFORMATION CONTACT: Ms. Mabel V. Vickers, Center for Programming Science and Technology, Institute for Computer Science and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-2431.

Dated: December 3, 1986.

Ernest Ambler,
Director.

Proposed for Federal Information Processing Standards Publication 29-2

(date).

Interpretation Procedures for Federal Information Processing Standards for Software

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to 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 (CFR).

1. Purpose

The purpose of this Federal Information Processing Standards Publication (FIPS PUB) is to establish the procedures for requesting a technical interpretation of any of the Federal Information Processing Standards (FIPS) for software and for providing a solution to the request. This FIPS PUB supersedes FIPS PUB 29-1 in its entirety.

2. Background

The FIPS for software include, but are not limited to, FIPS programming languages, FIPS database languages, FIPS graphics, and FIPS operating systems languages. As the standards are used as the basis for the implementation of software, validation of software, or writing of application programs, questions may arise as to the meaning of certain specifications. It is desirable to provide solutions to these questions that can be used uniformly throughout the Federal Government. In order to achieve this objective, the National Bureau of Standards will provide responses to questions of interpretation for the respective FIPS. To assist NBS in providing these responses, a variety of mechanisms may be used, including:

a. Obtaining a recommended interpretation from a committee of the recognized standards body responsible for the development of the standard that has been adopted as a FIPS.

b. Organization of a Federal Interpretation Committee (FIC) which will be responsible for providing a recommended interpretation for a particular FIPS.

c. Consultation with persons recognized as expert in the particular subject matter of the interpretation request.

3. Approving Authority of Interpretations

Director, National Bureau of Standards.

4. Maintenance Agency

U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

5. Cross Index[1]

The following is a current list of the FIPS for which the National Bureau of Standards will issue interpretations. As new software standards are approved, they may be added to this list. Consult the appropriate FIPS PUB for the standard to which the interpretation request applies for any specific instructions regarding interpretations.

a. FIPS PUB 21, COBOL.
b. FIPS PUB 68, Minimal BASIC.
c. FIPS PUB 69, FORTRAN.
d. FIPS PUB 109, PADCAL.
e. FIPS PUB 120, Graphical Kernel System.
f. FIPS PUB ____, MUMPS.
g. FIPS PUB ____, Database Language NDL.
h. FIPS PUB ____, Database Language SQL.
i. FIPS PUB ____, Data Descriptive File for Information Interchange.
j. FIPS PUB ____, UNIX[2] Operating System Derived Environments.
k. FIPS PUB ____, Information Resource Dictionary System (IRDS).

6. Implementing Schedule

These procedures become effective on (date) __________.

7. Applicability

a. The provisions of this document apply to Federal departments and agencies and to vendors of software that wish to have questions concerning specifications of FIPS for software resolved by the National Bureau of Standards.

b. An interpretation that is developed and approved as a result of employing these procedures applies to software, as specified in each interpretation, that is brought into the Federal inventory after the effective date of the interpretation.

8. Procedures

(In the following procedure, each reference to "Federal Interpretation Committee" (FIC) should be construed to mean the specific interpretation committee responsible for the software to which the request applies.)

a. *Requesting an Interpretation.* (1) Requests may be submitted by a vendor of software intended to conform to a FIPS for software or by any department or agency of the Federal Government.

(2) Requests for an interpretation should be submitted in writing to the National Bureau of Standards. See paragraph 9 for the address.

(3) A request for interpretation should contain the following information:

(a) Name of organization submitting the request.

(b) Name of individual within the submitting organization who may be contacted concerning the request.

(c) Date by which the interpretation is desired.

(d) Appropriate references to FIPS specifications that have a bearing on the problem cited in the request.

(e) A concise explanation of the problem requiring an interpretation.

(f) Any supporting documentation that will assist in understanding or describing the problem.

(g) Any recommendations the requesting organization would like to make concerning a posssible interpretation, along with appropriate justification or comments.

b. *Processing a Request for Interpretation.* (1) Upon receipt, the National Bureau of Standards will determine which of the following

[1] Refers to most recent revision of FIPS PUBS.

[2] UNIX is a registered trademark of AT&T

mechanisms will be used in developing a response to the request for interpretation:

(a) Obtaining a recommended interpretation from a committee of the recognized standards body responsible for the development of the standard that has been adopted as a FIPS.

(b) Organization of a Federal Interpretation Committee (FIC) which will be responsible for providing a recommended interpretation for a particular FIPS.

(c) Consultation with persons recognized as expert in the particular subject matter of the interpretation request.

(d) Any combination of the mechanisms in (a) through (c) above. At least the mechanism in paragraph (a) above will be used in the case of a request for interpretation of a FIPS that adopts a standard developed by a recognized standard body.

(2) If the FIC is utilized:

(a) The request is distributed to the FIC.

(b) Position papers on proposed solutions to a cited problem may be submitted by any FIC member for consideration by the FIC membership.

(c) The requester of an interpretation may be invited to attend the meeting at which the request will be considered and to participate in the discussion of the problem identified by the request.

(3) If either the appropriate standards body or recognized experts is utilized, the request is sent to that body indicating the date by which an interpretation is desired.

(4) Upon completion of the proposed interpretation, the National Bureau of Standards will:

(a) Arrange for publication of the proposed interpretation in the **Federal Register** and forward it to Federal agencies for the purpose of soliciting comments from Federal agencies, vendors, and private industry.

(b) Notify requester of the proposed interpretation.

(5) Comments received as a result of publication and review of the proposed interpretation will then be reviewed by the National Bureau of Standards and, if appropriate, the body specified in paragraph 8.b.(1), and a final interpretation developed.

c. *Dissemination of an Approved Interpretation.* (1) The National Bureau of Standards will be responsible for the dissemination of interpretation of FIPS for software.

(2) The approved interpretation will consist of the following information:

(a) Definition of the problem being resolved.

(b) Discussion of the issues relevant to the problem.

(c) Discussion of the solution to the problem (interpretation).

(d) Any necessary clarification to the particular FIPS to effect the resolution.

(e) Effective date of the interpretation.

(3) The approved interpretation will be disseminated and will include, at a minimum, the following: Publication in the **Federal Register**; letter to the Federal agencies; and letter to the requester.

(4) The National Bureau of Standards will maintain a central register of approved interpretations for reference.

9. Point of Contact

The following address will be used for correspondence pertaining to interpretations of FIPS for software:

Institute for Computer Sciences and Technology, National Bureau of Standards, Attn: Software Interpretations, Gaithersburg, MD 20899

10. Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 29–2 (FIPSPUB29–2), and title. When microfiche is desired, this should be specified. Payment may be made by check, money order, or deposit account.

[FR Doc. 86–27702 Filed 2–9–86; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by the Long Island Lighting Co. From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

On November 20, 1986, the Long Island Lighting Company filed a Notice of Appeal with the Secretary of Commerce under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H. The appeal is taken from an objection by the New York Department of State, which found that it had insufficient information to review Appellant's consistency certification for F–86–297 U.S. Army Crops of Engineers Permit Application No. 86–524–L6 for its proposed maintenance dredging activity and placement of an intake pipe connected to the Shoreham Nuclear Power Facility.

Appellant requested and has been granted a thirty-day extension to file its supporting information. If the appeal is perfected by the filing of this information, public comments will be solicited in the **Federal Register.**

FOR ADDITIONAL INFORMATION CONTACT: Katherine A. Pease, Attorney/Adviser, Office of General Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235 (202) 673–5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: December 4, 1986.

Daniel W. McGovern,

General Counsel.

[FR Doc. 86–27699 Filed 12–9–86; 8:45 am]

BILLING CODE 3510–08–M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on January 6, 1987, in Washington, DC to review the status of major projects undertaken to implement the Cigarette Safety Act of 1984.

DATE: The meeting will be on January 6, 1987, from 9:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be in Room 703–A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terri Buggs, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98–567, 98 Stat. 2925, October 30, 1984) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report to Congress within 30 months concerning the technical and commercial feasibility of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on January 6, 1987, to review the status of major projects undertaken to implement the Cigarette Safety Act.

The meeting will be open to observation by members of the public, but only members of the Technical Study Group may participate in the discussion.

Dated: December 3, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety

[FR Doc. 86-27710 Filed 12-9-86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Notice Inviting Applications for New Awards Under the National Institute on Disability and Rehabilitation Research Program of Research and Demonstration Projects in Research Training for Fiscal Year 1987 (CFDA No. 84.133P)

Purpose: Provides funding through cooperative agreements to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to support advanced training in rehabilitation research according to the specifications in the final funding priority published in this issue of the **Federal Register.**

Deadline for Transmittal of Applications: Feburary 17, 1986.

Applications Available: December 12, 1986.

Available Funds: $600,000.

Estimated Range of Awards: $60,000–$180,000.

Estimated Average Size of Awards: $120,000.

Project Period: Up to 36 months.

Applicable Regulations: (a) Education Department General Administrative Reguations, 34 CFR Parts 74, 77, and 78, (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Parts 350 and 351, and (c) the final funding priorities published in this issue of the **Federal Register.**

For Applications or Information Contact: George Engstrom, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC 20202. Telephone: (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

Program Authority: 29 U.S.C 760-762.

Dated: December 5, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitiative Services.

[FR Doc. 86-27717 Filed 12-9-86; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.133P]

Notice Inviting Applications for New Awards Under the National Institute on Disability and Rehabilitation Research Program of Research and Demonstration Projects in Research Training for Fiscal Year 1987

Purpose: Provides funding through cooperative agreements to public and private, agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to support advanced training in rehabilitation research according to the specifications in the final funding priority published in this issue of the **Federal Register.**

Deadline for Transmittal of Applications: The deadline for submission of applications is

Applications Available:

Available Funds: $360,000

Estimated Range of Awards: $50,000–$120,000

Estimated Average Size of Awards: $120,000

Project Period: Up to 36 months

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Parts 350 and 351, and (c) the final funding priorities published in this issue of the **Federal Register.**

For Applications or Information Contact: George Engstrom, National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC, 20202. Telephone: (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

Program Authority: 29 U.S.C. 760-762.

Dated: December 5, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-27719 Filed 12-9-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP84-654-018 et al.]

Natural Gas Certificate Filings; Algonquin Gas Transmission Company et al.

December 3, 1986.

Take notice that the following filings have been made with the Commission:

1. Algonquin Gas Transmission Company

[Docket No. CP85-654-018]

Take notice that on November 21, 1986, Algonquin Gas Transmission Company (Petitioner), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP84-654-018 a petition to amend the Commission order issued on August 15, 1985, so as to authorize Petitioner to construct approximately 2.8 miles of 30-inch pipeline loop in the Great Swamp National Wildlife Refuge (NWR) in Harding, Morris County, New Jersey, in a location which varies from the original alignment authorized in the August 15, 1985 order, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that due to unavoidable delays in obtaining government authorizations, including certain permits, Petitioner was not able to finish an authorized section of 30-inch pipeline loop in New Jersey. Petitioner explains that part of the uncompleted section of 30-inch pipeline loop includes 2.8 miles of 30-inch pipeline which was to be located adjacent to the existing pipeline within the NWR. Petitioner now proposes to construct such facilities on private properties involving six landowners.

Petitioner alleges that relocation of the facilities from the originally authorized alignment as set forth in its petition to amend should enable Petitioner to obtain its right of way permit from the United States Department of Interior, Fish and Wildlife Service for pipeline construction and operation within the NWR. Petitioner states that such segment of pipeline is located approximately in the middle of the 18.8 miles of previously authorized New Jersey loop facilities. Petitioner avers that completion of the remaining 16.0 miles of 30-inch loop facilities including the proposed relocation would enable Petitioner to render full authorized firm service under its Rate Schedule F-4.

Comment date: December 24, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Great Lakes Gas Transmission Company

[Docket No. CP81-225-002]

Take notice that on November 19, 1986, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP81-225-002 a petition to amend the Commission's order issued May 8, 1981, in Docket No. CP81-225-000, pursuant to section 7(c) of the Natural Gas Act so as to authorize an increase in the quantity of volumes of gas transported and exchanged by Great Lakes for Inter-City Gas Corporation (Inter-City), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Great Lakes states that pursuant to a gas transportation and exchange contract dated October 15, 1980, between Great Lakes and Inter-City (Rate Schedule T-11), Great Lakes currently receives 2,026 Mcf of natural gas per day during the summer period (April 1 through October 31) at a point of interconnection between the facilities of Great Lakes and Inter-City located near Cloquet, Minnesota. Great Lakes states that it redelivers thermally equivalent volumes to ANR Storage Company (ANR Storage) for the account of Inter-City at a point of interconnection between the facilities of Great Lakes and ANR Storage located in Crawford County, Michigan. During the winter period (November 1 through March 31), it is stated, Great Lakes receives up to 8,000 Mcf of natural gas per day from ANR Storage at the Crawford interconnection, for the account of Inter-City, and redelivers by displacement thermally equivalent volumes to Inter-City at the Cloquet interconnection and/or at two additional existing interconnections between the facilities of Great Lakes and Inter-City, located near Grand Rapids and Thief River Falls, Minnesota.

In its petition to amend, Great Lakes proposes to increase the daily contract quantity for transportation during the summer period from 2,026 Mcf of natural gas per day to 3,292 Mcf of natural gas per day and the total transportation quantity from 405,200 Mcf to 658,450 Mcf of natural gas for such period. During the winter period Great Lakes proposes to increase the amount of natural gas exchanged from 8,000 Mcf of natural gas per day to 13,000 Mcf of natural gas per day. No other change in the existing T-11 rate schedule is proposed and no additional facilities would be required, it is stated.

Comment date: December 24, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Pacific Gas Transmission Company

[Docket No. CP87-84-000]

Take notice that on November 18, 1986, Pacific Gas Transmission Company (PGT), 160 Spear Street, San Francisco, California 94105-1570, filed in Docket No. CP87-84-000 an application pursuant to section 7(c) of the Natural Gas Act for a certification of public convenience and necessity authorizing (1) the interruptible transportation of natural gas in interstate commerce; and (2) pregranted abandonment authorization upon termination of the transportation agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the transportation would be accomplished by means of a delivery to PGT at Kingsgate, British Columbia, of up to 200,100 Mcf of natural gas per day for the account of Dome Petroleum Corporation (Dome), and the redelivery of up to 41,700 Mcf of natural gas per day, at a point of interconnection between the pipeline systems of PGT and Northwest Pipeline Corporation at Stanfield, Oregon, and up to 158,400 Mcf of natural gas per day to Pacific Gas and Electric Company at Malin, Oregon. PGT states that the interruptible transportation service would be accomplished through the utilization of existing capacity available on PGT's system. It is also stated that the term of the agreement would be for a primary term of ninety days, not to exceed one year.

PGT further requests pregranted abandonment authorization to terminate service upon termination of the transportation agreement.

Comment date: December 24, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP87-81-000]

Take notice that on November 17, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP87-81-000 an application pursuant to section 7(c) of the Natural Gas Act so as to authorize an interruptible transportation service for Southern Connecticut Gas Company (Southern Connecticut), pursuant to the terms of gas transportation agreement between Applicant and Southern Connecticut dated November 4, 1986 (Agreement), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to the provisions of the Agreement, Applicant has agreed to receive on an interruptible basis, up to 12,500 dekatherm equivalent to natural gas per day from Connecticut Gas Company (CNG) for the account of Southern Connecticut at the New Britain Sales meter station in Hartford County, Connecticut, and to transport and deliver a thermally equivalent quantity (less quantities retained for system use and unaccounted for requirements) to Southern Connecticut at the following points of delivery:

(1) Westport Sales, Fairfield County, Connecticut;
(2) Bridgeport Sales, Fairfield County, Connecticut; and
(3) Trumbull Sales, Fairfield County, Connecticut.

Applicant proposes to charge for this service 5.59 cents per dekatherm delivered at Westport, 5.20 cents per dekatherm delivered at Bridgeport, and 5.06 cents per dekatherm delivered at Trumbull. Applicant would also collect the effective GRI surcharge and retain 0.5% of the quantities received at New Britain for its system use and unaccounted for requirements.

Comment date: December 24, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP87-87-000]

Take notice that on November 19, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP87-87-000 an application pursuant to section 7(c) of the Natural Gas Act so as to authorize an interruptible transportation service for Tenngasco Corporation (Tenngasco) as agent for Boston Edison Company (Boston Edison), pursuant to the terms of gas transportation agreement between Applicant and Tenngasco dated November 1, 1986 (Agreement), with pregranted abandonment authority, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to the provisions of the Agreement, Applicant has agreed to receive on an interruptible basis, up to 100,000 dt equivalent to natural gas per day from various receipt

points and to transport and deliver equivalent quantities (less fuel, lost and unaccounted for gas, and plant thermal reduction due to processing) for the account of Tenngasco at the following delivery points.

(1) The existing points of interconnection between the facilities of Applicant and Boston Gas Company (Boston Gas) at Applicant's Meter No. 2–0135 at TGP Valve No. 270C–323 at the Revere Sales Point, Middlesex, Massachusetts;

(2) The existing point of interconnection between the facilities of Applicant and Algonquin Gas Transportation Company (Algonquin) at Applicant's Meter No. 2–0207 at TGP Main Line Valve No. 328–1 plus 4.22 miles at Mahwah, Bergen County, New Jersey;

(3) The existing point of interconnection between the facilities of Applicant and Algonquin at Applicant's Meter No. 2–0285 at TGP Valve No. 266A–112 at Mendon, Worcester County, Massachusetts; and

(4) The existing point of interconnection between the facilities of Applicant and Texas Eastern Transmissin Corporation (Texas Eastern) at Applicant's Meter No. 2–0375 at MP 823–1 plus 8.21 miles at Fords, Allen Parish Louisiana.

It is stated that where gas is delivered to Algonquin, Algonquin would transport the quantities received from Applicant to Boston Gas for ultimate redelivery to Boston Edison's Mystic Power Plant for use in electric power and steam generation. In those cases where gas is delivered to Boston Gas, Boston Gas would redeliver the quantities received from Applicant to Boston Edison's Mystic Power Plant for use in electric power and steam generation, it is stated. It is further stated that in those cases where gas is delivered to Texas Eastern, Texas Eastern would redeliver the quantities received from Applicant to Algonquin for redelivery to Boston Gas for ultimate delivery to Boston Edison.

Applicant proposes to charge for this transportation service a quantity charge equal to the applicable cost-based rate multiplied by the total quantity of natural gas delivered by Applicant for the account of Tenngasco at each delivery point. Applicant also proposes to retain from the quantities received for transportation a quantity of gas necessary to meet its system fuel and use requirements.

Applicant also requests pregranted abandonment to terminate this service on December 31, 1991.

Comment date: December 24, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Wyoming Interstate Company, Ltd.

[Docket No. CP87–82–000]

Take notice that on November 17, 1986, Wyoming Interstate Company, Ltd. (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP87–82–000 an application pursuant to sections 7 (c) and (b) of the Natural Gas Act for authorization to transport, on a limited-term basis, up to 75,000 Mcf of natural gas per day, on an interruptible basis, for Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and pregranted permission and approval to abandon such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently transporting volumes of natural gas pursuant to Part 284 of the Commission's Regulations and that the authority providing such transportation service would expire in the near term pursuant to § 284.104 of the Commission's Regulations. The purpose of the limited-term certificate is to continue the transportation service Applicant is currently providing Tennessee pursuant to Part 284 which would expire December 11, 1986. Applicant proposes to provide this service under its Rate Schedule GTI, which is effective subject to refund.

It is further stated pregranted abandonment is required in order that the Applicant may terminate the service requested concurrently with the initiation of the service requested by Applicant in Docket No. CP83–63, et al.

Comment date: December 24, 1984, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protests with reference to said filing should on or before the comment date file 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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 395.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or, if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–27738 Filed 12–9–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–106–004]

Arkla Energy Resources, a Division of Arkla, Inc.; Motion for Authorization To Collect Proposed Settlement Rates on an Interim Basis

December 5, 1986.

Take notice that on November 26, 1986, Arkla Energy Resources, a division of Arkla, Inc. (AER) tendered for filing a Motion For Authorization To Collect Proposed Settlement Rates On An Interim Basis. First Revised Sheet Nos. 5, 6, and 7 to its FERC Gas Tariff, Original Volume No. 1–A, which are a restatement of the settlement rates, were included as an attachment. AER moves for authorization to collect proposed settlement rates pending final Commission action on the offer of settlement filed contemporaneously with this motion. AER states that granting such interim rate relief will enable its customers to have in place the transportation arrangements necessary for them to meet their winter heating season requirements. AER agrees that if such authorization is granted, the settlement rates will govern the interim period, even if the Commission requires the institution of different, higher rates prospectively and states that AER will solely be at risk for any undercollection

that may occur as a result of the Commission approving a higher rate.

AER requests that the Commission grant any waivers necessary for the proposed settlement rates to go into effect on November 1, 1986, on an interim basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27730 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-51-000, 001]

Great Lakes Gas Transmission Co.; Proposed Changes in Gas Tariff Under Purchased Gas Adjustment Clause Provisions

December 5, 1987.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on November 28, 1986, tendered for filing Fourth Revised Sheet Nos. 57(i) and 57(ii) and Fifth Revised Sheet Nos. 57(i) and 57(ii) to its FERC Gas Tariff, to be effective December 1, 1986 and January 1, 1987, respectively.

Fourth Revised Sheet Nos. 57(i) and 57(ii) reflects changes in the gas cost applicable to Michigan Consolidated Gas Company ("Mich Con") which result from renegotations between Mich Con and TransCanada PipeLines Limited which Mich Con has asked Great Lakes to implement in accordance with an agreement dated November 25, 1986. Under the new agreement, deliveries up to 62.5% of contract quantity will be $1.9633 per MMBtu and deliveries in excess of 62.5% and up to 100% of contract quantity will be priced at $1.8242 per MMBtu.

Also included on Fourth Revised Sheet Nos. 57(i) and 57(ii) are changes in the gas purchased price for Inter-City Gas Corporation from $1.74 per MMBtu to $1.903 per MMBtu resulting from the pricing index mechanism previously approved by the Commission.

Fifth Revised Nos. 57(i) and 57(ii) are required to reflect the Federal Energy Regulatory Commission's Opinion No. 252 in Docket No. RP86-117-000, Opinion and Order Amending and Approving Gas Research Institute's 1987 Research and Development Program, issued on September 29, 1986. These tariff sheets provide for an adjustment to the appropriate sales rate schedules of 15.2 mills ($.0152) per Mcf in accordance with Ordering Paragraph (B) of Opinion No. 252.

Great Lakes is requesting an effective date of December 1, 1986 for Fourth Revised Sheet Nos. 57(i) and 57(ii). In aid thereof, Great Lakes requests waiver of the 30-day notice requirement of the provisions of § 154.38(d)(4)(iv)(a) of the Commission's Regulations so as to permit this out-of-period PGA filing to implement the changes in purchased gas cost as soon as possible.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27731 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-22-000]

High Island Offshore System; Proposed Changes in Gas Tariff

December 5, 1986.

Take notice that on December 1, 1986, High Island Offshore System ("HIOS") tendered for filing pursuant to Section 4 of the Natural Gas Act, tariff sheets to its FERC Gas Tariff, Original Volume No. 1 as follows:

Sixteenth Revised Sheet No. 4
First Revised Sheet No. 2
Original Sheet No. 2a

Sixteenth Revised Sheet No. 4 would increase revenues from jurisdictional transportation services by approximately $3.2 million based on the 12-month period ending August 31, 1986, as adjusted, compared with the revenues generated through the presently effective rates. The proposed change in rates is necessary to reflect:

(a) Increased levels of operation and maintenance expenses, including increased costs from U-T Offshore System and ANR Pipeline Company for Cameron Meadows and Grand Chenier facilities, respectively;

(b) Increased depreciation expense associated with additional facilities;

(c) The costs of capital which result in an overall rate of return of 11.67%, which is required to afford HIOS the opportunity to earn a fair and reasonable rate of return; and

(d) Declining levels of transportation volumes.

First Revised Sheet No. 2 and Original Sheet No. 2a are being filed to set forth, in tariff form, the policies of HIOS with respect to the allocation of its pipeline capacity.

HIOS requests that Sixteenth Revised Sheet No. 4 and supporting data also be considered to satisfy the two year compliance filing requirements, pursuant to the FERC order dated December 6, 1977, at Docket No. CP75-104, *et al.*, as well as a rate increase filed pursuant to section 4 of the Natural Gas Act. In accordance with the provisions of the aforesaid Commission Order, HIOS requests that the Sixteenth Revised Sheet No. 4 be made effective, subject to refund, on January 1, 1987. HIOS requests that First Revised Sheet No. 2 and Original Sheet No. 2a be made effective without suspension. HIOS states that it has served copies of this filing upon all of its Shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27732 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-11-001]

Pacific Offshore Pipeline Co.; Compliance Filing

December 5, 1986.

Take notice that on November 26, 1986, Pacific Offshore Pipeline Company (POPCO) tendered for filing certain revised tariff sheets and a schedule of the amortization of Account No. 191 in compliance with the Commission order in this proceeding that issued on November 14, 1986. According to §381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 2, 1986.

POPCO states that the schedule reflects the rate impact of its election to accept the condition (C) that the remaining Account No. 191 balance will be amortized over twenty-four equal monthly installments, but will include carrying costs "as if the balance were fully amortized over a twelve-month period."

Copies of this filing have been served on the official service list in this proceeding. POPCO requests that the Commission grant any waivers necessary for acceptance of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27733 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-116-006]

Panhandle Eastern Pipe Line Co.; Compliance Filing

December 4, 1986.

Take notice that on November 24, 1986, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Original Sheet No. 32-AF and First Substitute Original Sheet No. 32-Y to its FERC Gas Tariff, Original Volume No. 1. Panhandle states that this filing is made in compliance with the Commission's October 15, 1986 order and completes the filing initially made on November 7, 1986. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27736 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-29-000, 001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

December 5, 1986.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on December 1, 1986 tendered for filing to be effective January 1, 1987 certain revised traiff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, Original Volume No. 2 and Second Revised Volume No. 1. Transco states that the purpose of this filing is to reflect an increase of 0.17¢ per dt in the Gas Research Institute (GRI) Adjustment Charge applicable to sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI and to ultimate consumers.

Transco states that on September 29, 1986, the Commission issued Opinion No. 252 in Docket No. RP86-117-000. The Opinion provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect in advance of payments to GRI, 1.52¢ per Mcf (which on Transco's system equates to 1.47¢ per dt) on sales and transportation deliveries. This charge will replace the currently effective charge of 1.30¢ per dt. All amounts collected under the provision will be remitted to GRI, less any applicable taxes.

Transco further states that copies of filing have been mailed to each of its customers and State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385. 211 and 385.214). All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27734 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

Trunkline Gas Co.; Compliance Filing

[Docket No. RP86-115-004]

December 4, 1986.

Take notice that on November 24, 1986, Trunkline Gas Company (Trunkline) tendered for filing Original Sheet No. 9-BT and First Substitute Original Sheet No. 9-BJ to its FERC Gas Tariff, Original Volume No. 1. Trunkline states that this filing is made in compliance with the Commission's October 15, 1986 order and completes the filing initially made on November 7, 1986. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1986. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27737 Filed 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-49-000, 001]

Williston Basin Interstate Pipeline Co.; Gas Research Institute Funding Unit Adjustment Filing

December 5, 1976.

Take notice that on November 28, 1986, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets:

First Revised Volume No. 1

Second Revised Sheet No. 10

Origninal Volume No. 1-A

First Revised Sheet No. 11
Second Revised Sheet No. 12

Original Volume No. 2

Fifth Revised Sheet No. 10
Fifth Revised Sheet No. 11

The proposed effective date of the tariff sheets is January 1, 1987. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 3, 1986.

Williston Basin states that the filing reflects the new Gas Research Institute funding unit of 1.52 cents per Mcf (1.448 cents per dkt on the Williston Basin system), authorized by the Commission in its Opinion No. 252 issued in Docket No. RP86-117-000, and the deletion of the charge from the X-3 rate, service to K N Energy, Inc., which is itself a GRI member.

Any person desiring to be heard or to protest said filing should filed a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of practice and Procedure. All such motions or protests should be filed on or before December 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-27735 File;d 12-9-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3125-8; FIFRA Docket No. 59]

Pesticide Products Containing Dinoseb

AGENCY: Environmental Protection Agency.

ACTION: Notice of objections and request for hearing—Dinoseb.

Notice is hereby given, pursuant to §164.8 of the Rules of Practice [40 CFR 164.8] issued pursuant to authority under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., for hearings arising under section 6 of the Act, that objections and requests for hearings were filed for registrants and users of pesticide products containing dinoseb (2-sec-butyl-4,6 dinitrophenol) or any of its salts. The notice of intent to cancel was published on October 14, 1986 (51 FR 36650). These matters have been consolidated for hearing.

Information relating to the issues and other details of these proceedings may be obtained from the dockets on file with the hearing clerk, Environmental Protection Agency, Mail Code A-110, Room 3708, Waterside Mall, 401 M Street, SW., Washington, DC 20460 (202/382-4865).

Dated: November 21, 1986, Washington, DC.

[FR Doc. 86-27709 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180709; FRL-3124-4]

Receipt of Application for an Emergency Exemption From USDA, APHIS To Use Naled; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a quarantine exemption request from the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture (hereafter referred to as "Applicant") to use lure baits containing naled (CAS 300-76-5) and methyl eugenol (CAS 93-15-2) for an eradication treatment for the oriental fruit fly (*Dacus dorsalis* Hendel) in California. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemption.

DATE: Comments must be received on or before December 26, 1986.

ADDRESS: Three copies of written commments, bearing the identification notation "OPP-180709" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a Federal agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a quarantine exemption for the use of lure baits to eradicate the oriental fruit fly from California.

Information in accordance with 40 CFR Part 166 was sub mitted as part of this request. Naled is a non-systemic, insecticide-acaricide registered for use on field, vegetable, and orchard crops; livestock and poultry; and agricultural, domestic, medical, and commercial establishments. Methyl eugenol is used as an attractant in the lure bait.

The oriental fruit rly is an exotic insect which is widely distributed in Southeast Asia and the Pacific Islands. This fly is a serious pest of a variety of fruits and vegetables. Damage occurs when adult female flies lay eggs in the fruit. These eggs hatch into larvae or maggots which tunnel through the flesh of the fruit making it unfit for consumption.

The oriental fruit fly has been eradicated from California on several occasions the most recent being San Beradino and Los Angeles Counties in September 1986. Hawaii is currently infested and may be the source of the present infestations.

The Applicant has requested the use of two different naled baits to be applied to inanimate objects. The baits will contain 1.75 ounces of naled with either 11.7 ounces or 12.7 ounces of methyl eugenol. The mixture of naled and methyl eugenol will be added to Min-U-Gel to obtain the desired consistency. Baits will be applied by hand equipment to such surfaces as trunks of host trees, telephone poles, etc.

All lure baits will be placed out of normal reach of children and pets. Treatments will consist of a minimum of 600 bait spots per square mile around each fly-find. Treatments will be made on a biweekly to monthly basis. The total quantity of naled required for each treatment is approximately 2 gallons of technical material.

The Applicant claims that there is currently no pesticide registered or available for use against this pest in California.

The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a emergency exemption proposing use of a new chemical, i.e., an active ingredient not contained in any currently registered pesticide. Methyl eugenol is not currently contained in a registered product. The regulations also provide for the opportunity for public comment on the application.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this quarantine exemption.

Dated: November 24, 1986.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-27338 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240072; FRL-3123-9]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 29 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen F. Beeder, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC

Office location and telephone number: Rm. 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7893).

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in July and August of 1986. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arkansas

EPA SLN No. AR 86 0007. Ciba-Geigy Corp. Registration is for Ridomil 2E to be used on spinach for soil application at seeding to control white rust and damp-off. August 6, 1986.

EPA SLN No. AR 86 0008. PBI/Gordon Corp. Registration is for Pestroy 8 EC to be used on trees to control southern pine beetles. September 5, 1986.

California

EPA SLN No. CA 86 0024. Dow Chemical. Registration is for Telone II Soil Fumigant to be used on carrots to control nematodes. May 13, 1986.

EPA SLN No. CA 86 0032. Monterey County Agricultural Commissioner. Registration is for Folpet 50 WP to be used on lettuce to control downy mildew. May 10, 1986.

EPA SLN No. CA 86 0033. Imperial County Agricultural Commissioner. Registration is for Chem Hoe to be used on Bermudagrass grown for seed to control rye, canary grass, volunteer grains, and wild oats. May 13, 1986.

EPA SLN No. CA 86 0034. Kings County Agricultural Commissioner. Registration is for Commensal Rodent Bait—Bromadiolone Treated Grain for use against Norway rats, roof rats, and house mice in and around the periphery of homes and industrial, commercial, and public buildings. May 22, 1986.

EPA SLN No. CA 86 0038. Vertac Chemical Corp. Registration is for General Weed Killer to be used on flowers grown for seed to control preharvest desiccation. June 5, 1986.

EPA SLN No. CA 86 0039. Santa Barbara County Agricultural Commissioner. Registration is for Telone II Soil Fumigant to be used on parsley grown for processing and the fresh market to control soil nematodes. June 11, 1986.

EPA SLN No. CA 86 0040. Monterey County Agricultural Commissioner. Registration is for Telone II Soil Fumigant to be used on Chinese cabbage to control soil nematodes. June 11, 1986.

EPA SLN No. CA 86 0041. Santa Cruz County Agricultural Commissioner's Office. Registration is for Pounce 3.2 EC to be used on greenhouse-grown seed potatoes or transplants to control potato tubeworms, potato leafhoppers, and beet armyworms. June 23, 1986.

EPA SLN No. CA 86 0042. Santa Cruz County Agricultural Commissioner. Registration is for Botran 75W to be used on greenhouse-grown seed potatoes or transplants to control botrytis blight and white mold. June 23, 1986.

EPA SLN No. CA 86 0043. Santa Barbara County Agricultural Commissioner. Registration is for Dacthal W-75 to be used on column stock to control pigweeds. June 23, 1986.

EPA SLN No. CA 86 0044. Santa Cruz County Agricultural Commissioner. Registration is for Dithane M-45 to be used on seed potatoes for control of early and late blight. July 23, 1986.

EPA SLN No. CA 86 0045. Kern County Agricultural Commissioner. Registration is for Lindane Borer Spray to be used on cypress trees to control cypress bark beetles. August 5, 1986.

EPA SLN No. CA 86 0046. Santa Cruz County Agricultural Commissioner. Registration is for Furloe Chloro IPC-4EC to be used on irises to control *Malva* sp. August 29, 1986.

EPA SLN No. CA 86 0048. Clyde R. Churchill, Agricultural Commissioner, Visalia, California. Registration is for CMR Special Supreme Oil to be used on quince to control San Jose scale. July 30, 1986.

EPA SLN No. CA 86 0054. Chevron Chemical Co. Registration is for Orthocide 50 W to be used on lettuce to control downy mildew. August 19, 1986.

Connecticut

EPA SLN No. CT 86 0001. Mobay Corp. Registration is for Mesurol 75% WP to be used on blueberries to control flies and birds. June 4, 1986.

Florida

EPA SLN No. FL 86 0010. FMC Corp. Registration is for Ammo 2.5 EC+Ethion 4 Miscible Miticide to be used on pecans to control aphids, pecan weevils, pecan nut casebearers, and hickory shuckworms. July 3, 1986.

Georgia

EPA SLN No. GA 86 0004. Chevron Chemical Co. Registration is for Monitor 4 Spray to be used on eggplants and tomatoes to control western flower thrips. August 19, 1986.

Idaho

EPA SLN No. ID 86 0013. FMC Corp. Registration is for Thiodan 3 EC to be used on seed alfalfa to control spotted alfalfa aphids. June 20, 1986.

EPA SLN No. ID 86 0014. Mobay Corp. Registration is for Mesurol 75% WP to be used on cherries to control flies and birds. June 20, 1986.

EPA SLN No. ID 86 0015. Rohm & Haas Co. Registration is for Goal 1.6 E to be used on dormant cottonwood plantings to control weeds. July 24, 1986.

EPA SLN No. ID 86 0016. Drexel Chemical Co. Registration is for Drexel Dimethoate 2.67 to be used on lentils to control lygus bugs. July 24, 1986.

EPA SLN No. ID 86 0017. Dow Chemical Co. Registration is for Dursban 4E to be used on trees to control spruce beetle larvae and adults and other bark beetles in forests. July 24, 1986.

EPA SLN No. ID 86 0018. Hopkins Agricultural Chemical Co.

Registration is for Ramik Brown Rodenticide to be used on small grains to control meadow voles. July 24, 1986.

EPA SLN No. ID 86 0019. Ciba-Geigy Corp. Registration is for Apron T 69 SD to be used on seed peas to control seed rot and damping off and downy mildew in seed peas for export only. August 1, 1986.

EPA SLN No. ID 86 0020. Drexel Chemical Co. Registration is for Dynamyte 5 to be used for preharvest desiccation of alfalfa and clover grown for seed only. August 1, 1986.

Illinois

EPA SLN No. IL 86 0001. Clarke Outdoor Spraying Co. Registration is for Abate 2-CG and Abate 5-CG to be used to control mosquitos in water spots and basins. June 24, 1986.

Louisiana

EPA SLN No. LA 86 0004. Mobay Corp. Registration is for Guthion 2L to be used on sweet sorghum to control sugarcane borers. May 30, 1986.

EPA SLN No. LA 86 0005. Pennwalt Corp. Registration is for Penncap-E to be used on sorghum to control greenbugs. June 27, 1986.

EPA SLN No. LA 86 0006. Union Carbide Agricultural Products. Registration is for Larvin 3.2 Thiodicarb to be used on sweet corn to control armyworms, corn earworms, and European corn borers. July 11, 1986.

EPA SLN No. LA 86 0007. NOR-AM Chemical Co. Registration is for Ficam ULV Solution to be used to control adult mosquitos. September 3, 1986.

EPA SLN No. LA 86 0008. PBI/Gordon Corp. Registration is for Pestroy 8EC to be used on pine trees to control southern pine beetles. September 8, 1986.

Mississippi

EPA SLN No. MS 86 0005. Ciba-Geigy Corp. Registration is for Galecron 4E to be used on cotton to control bollworms and tobacco budworms. August 4, 1986.

EPA SLN No. MS 86 0006. NOR-AM Chemical Co. Registration is for Fundal 4EC to be used on cotton to control bollworms and tobacco budworms. August 4, 1986.

EPA SLN No. MS 86 0007. PBI/Gordon Corp. Registration is for Pestroy 8 EC to be used on trees to control southern pine beetles. August 8, 1986.

Montana

EPA SLN No. MT 86 0006. Mobay Chemical Co. Registration is for Furadan 4F to be used on small grains to control grasshoppers. July 19, 1986.

Nebraska

EPA SLN No. NE 86 0009. FMC Corp. Registration is for Furadan 4F to be used on small grains to control grasshoppers. July 21, 1986.

EPA SLN No. NE 86 0010. Hoechst-Roussel Agri-Vet Co. Registration is for Hoelon 3EC to be used on wheat to control certain bromes. July 21, 1986.

Nevada

EPA SLN No. NV 86 0007. Wilbur-Ellis Co. Registration is for Dino-5 to be used for preharvest desiccation for alfalfa, trefoil, and clover grown for seed only. August 11, 1986.

New Hampshire

EPA SLN No. NH 86 0001. Mobay Corp. Registration is for Mesurol 75% WP to be used on blueberries to control flies and birds. June 12, 1986.

New Jersey

EPA SLN No. NJ 86 0008. FMC Corp. Registration is for Furadan 4F to be used on alfalfa to control alfalfa blotch leafminers, potato leafhoppers, and clover root curculios and nematodes. May 27, 1986.

EPA SLN No. NJ 86 0009. FMC Corp. Registration is for Furadan 4F to be used on strawberries to control root weevils. May 29, 1986.

EPA SLN No. NJ 86 0010. Mobay Corp. Registration is for Mesurol 75% WP to be used on blueberries to control flies and birds. June 2, 1986.

EPA SLN No. NJ 86 0011. Union Carbide Agricultural Products. Registration is for Larvin Brand 3.2 Thiodicarb to be used on sweet corn to control armyworms, corn earworms, and European corn borers. September 10, 1986.

EPA SLN No. NJ 86 0013. E.I. DuPont de Nemours. Registration is for DuPont Benlate to be used on peaches for protection against valsa canker. September 19, 1986.

New Mexico

EPA SLN No. NM 86 0002. FMC Corp. Registration is for Ammo 2.5 EC to be

used on pecans to control stink bugs. May 27, 1986.

EPA SLN No. NM 86 0003. Pennwalt Corp. Registration is for Decco 240 Liquid Chlorine to be used in fruits and vegetables to control organisms causing decay. July 15, 1986.

EPA SLN No. NM 86 0004. Ciba-Geigy Corp. Registration is for Dual 8E to be used on cotton to control various weeds. July 9, 1986.

New York

EPA SLN No. NY 86 0002. Union Carbide Agricultural Products. Registration is for Larvin 3.2 Thiodicarb to be used on sweet corn to control armyworms, corn earworms, and European corn borers. August 1, 1986.

North Carolina

EPA SLN No. NC 86 0005. Mobay Chemical Corp. Registration is for Di-Syston 8E to be used on asparagus to control asparagus aphids. August 11, 1986.

EPA SLN No. NC 86 0006. Mobay Chemical Corp. Registration is for Sencor DF 75% to be used on soybeans to control weeds. August 11, 1986.

EPA SLN No. NC 86 0007. Mobay Chemical Corp. Registration is for Sencor 4F to be used on soybeans to control weeds. August 11, 1986.

North Dakota

EPA SLN No. ND 86 0002. FMC Corp. Registration is for Furadan 4F to be used on small grains to control grasshoppers. June 10, 1986.

Oklahoma

EPA SLN No. OK 86 0002. Ciba-Geigy Corp. Registration is for Ridomil PC-llG to be used on peanuts at planting to control seeds and seedling rots caused by *Pythium* and *Rhizoctonia*. July 21, 1986.

Oregon

EPA SLN No. OR 86 0008. Hopkins Agricultural Chemical Co. Registration is for Hopkins Basamid Granular to be used as soil treatment to control weed seeds in various crops. August 14, 1986.

Pennsylvania

EPA SLN No. PA 86 0004. Mobay Corp. Registration is for Mesurol 75% WP to be used on blueberries and cherries to control birds. May 16, 1986.

Puerto Rico

EPA SLN No. PR 86 0001. Esso Standard Oil Co. Regis tration is for Exxon Orhcex 796 to be used on bananas to control yellow sigatoka fungus. August 4, 1986.

EPA SLN No. PR 86 0002. Hemisphere Oil Co. Registration is for Exel Ortalex to be used on bananas to control yellow sigatoka fungus. August 4, 1986.

South Carolina

EPA SLN No. SC 86 0003. Chevron Chemical Co. Registration is for Orthene 75 SP to be used on turfgrass and lawns to control mole crickets. July 9, 1986.

EPA SLN No. SC 86 0004. Ciba-Geigy Corp. Registration is for Galecron 4E to be used on cotton to control bollworms and tobacco budworms. August 12, 1986.

EPA SLN No. SC 86 0006. American Cyanamid Co. Registration is for Cythion RTU to be used on cotton to control bollworms and tobacco budworms. September 15, 1986.

South Dakota

EPA SLN No. SD 86 0002. FMC Corp. Registration is for Furadan 4F to be used on small grains to control grasshoppers. June 27, 1986.

EPA SLN No. SD 86 0003. Dow Chemical. Registration is for Tordon 2K Pellets to be used to control broadleaf weeds in rangeland and permanent grass pastures. June 30, 1986.

EPA SLN No. SD 86 0004. Dow Chemical. Registration is for Tordon 22K to be used to control broadleaf weeds in rangelands, spring barley and oats, and spring and winter wheat. June 30, 1986.

Texas

EPA SLN No. TX 86 0006. Velsicol Chemical Corp. Registration is for Banvel to be used to control annual and perennial broadleaf weeds such as field bindweeds in between cropping applications to wheat. May 30, 1986.

EPA SLN No. TX 86 0007. Mobay Corp. Registration is for Di-Syston 8 to be used on cotton to control aphids. July 21, 1986.

Utah

EPA SLN No. UT 86 0006. Drexel Chemical Co. Registration is for Dynamyte 5 to be used on alfalfa, trefoil, and clover grown for seed only to control weeds. August 19, 1986.

EPA SLN No. UT 86 0007. Wilbur-Ellis Co. Registration is for Dino-5 to be used on alfalfa, trefoil, and clover grown for seed only to control weeds (preharvest spraying to facilitate harvest). August 19, 1986.

Virginia

EPA SLN No. VA 86 0002. B.F. Goodrich Co. Registration is for Promac Systems 2000 PB to be used to control mine acid formations on active mine sites. August 7, 1986.

EPA SLN No. VA 86 0003. B.F. Goodrich Co. Registration is for Promac Systems 2000 PN to be used to control mine acid formations on active mine sites. August 7, 1986.

EPA SLN No. VA 86 0004. B.F. Goodrich Co. Registration is for Promac Systems 2000 PY to be used to control mine acid formations on active mine sites. August 7, 1986.

EPA SLN No. VA 86 0005. B.F. Goodrich Co. Registration is for Promac Systems 2000 SB to be used to control mine acid formations on active mine sites. August 7, 1986.

EPA SLN No. VA 86 0006. Union Carbide. Registration is for Temik 15G to be used on potatoes to control aphids, Colorado potato beetles, and leafhoppers. September 3, 1986.

Washington

EPA SLN No. WA 86 0026. NOR-AM Chemical Co. Registration is for Botran 75W to be used on potatoes to control botrytis blight and white mold. July 3, 1986.

EPA SLN No. WA 86 0027. PureGro Co. Registration is for PureGro Dinoseb 5 to be used for preharvest desiccation of alfalfa, trefoil, and clover grown for seed only. July 28, 1986.

EPA SLN No. WA 86 0028. Ciba-Geigy Corp. Registration is for Apron T 69 SD to be used on seed peas as a treatment to control seed rot and damping off, downy mildew, and the *Aschochyta* complex in seed peas for export only. July 30, 1986.

EPA SLN No. WA 86 0029. Wilbur-Ellis Co. Registration is for Dino-5 to be used for preharvest desiccation of alfalfa trefoil and clover grown for seed only. August 15, 1986.

EPA SLN No. WA 86 0032. J.T. Eaton & Co. Registration is for Eaton's Answer for pocket Gophers to be used for control of pocket gophers in rangelands, croplands, forests, and non-crop areas. September 12, 1986.

Wisconsin

EPA SLN No. WI 86 0002. Hopkins Agricultural Chemical Co. Registration is for Snail and Slug Pellets to be used on ginseng to control snails and slugs. June 20, 1986.

(Sec. 24 as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: November 25, 1986.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 86-27243 Filed 12-09-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50664; FRL-3125-5]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Mountfort, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: Rm. 237, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

8340-EUP-10. Extension. American Hoechst Corporation, Route 202-206 North, Somerville, NJ 08876. This experimental use permit allows the use of 715 pounds of the herbicide monoammonium 2-amino-4-(hydroxymethylphosphinyl)butanoate on soybeans, tree and vineyard crops, and non-crop areas to evaluate the control of weeds. A total of 444 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Tennessee, Virginia, and Washington. The experimental use permit is effective from October 2, 1986, to January 1, 1988. A temporary tolerance for residues of the active ingredient in or on citrus, grapes, pome fruit, soybean seed, and stone fruit has been established.

33688-EUP-1. Issuance. Compagnie Francaise de Produits Industriels, c/o Dr. Lamar Dale, Scientific and Regulatory Assistance, 8125 Carrick Lane, Springfield, VA 22151. This experimental use permit allows the use of 315 pounds of the herbicide butralin on tobacco to evaluate its use as a tobacco sucker control agent. A total of 140 acres are involved; the program is authorized only in the States of Kentucky, North Carolina, Tennessee, and Virginia. The experimental use permit is effective from October 31, 1986, to October 31, 1989.

464-EUP-78. Extention. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 5.5 pounds of the herbicide methyl 2-(4-((3-chloro-5-(trifluoromethyl)-2-pyridinyl)oxy)phenoxy)propanoate on soybeans to evaluate the control of annual and perennial grasses. A total of 22 acres are involved; the program is authorized only in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Nebraska, Tennessee, and Wisconsin. The experimental use permit is effective from April 17, 1987, to April 17, 1988. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only.

707-EUP-110. Extension. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 650 pounds of the herbicide oxyfluorfen on alfalfa to evaluate the control of various weeds. A total of 1,300 acres are involved; the program is authorized only in the States of Arizona, California, Idaho, Oregon, and Washington. The experimental use permit is effective from November 1, 1986, to October 31, 1987. A temporary tolerance for residues of the active ingredient in or on alfalfa has been established.

54555-EUP-3. Issuance. SKW Trostberg AG, c/o Siemer & Associates, Inc., 4672 West Jennifer, Suite 103, Fresno, CA 93711. This experimental use permit allows the use of 700 pounds of the herbicide dicyandiamide on corn, cotton, potatoes, rice, and wheat to evaluate its ability to inhibit conversion of ammonia to nitrate by the bacteria *Nitrosomonas*. A total of 40 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Illinois, Maryland, Minnesota, and Wisconsin. The experimental use permit is effective from October 9, 1986, to October 9, 1987. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only.

Persons wishing to review these experimental use permits are referred to the designated product manager. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: November 25, 1986.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-27657 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3263/T533; FRL-3125-1]

Oxyfluorfen; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the herbicide oxyfluorfen and its metabolites in or on the raw agricultural commodity alfalfa.

DATE: This temporary tolerance expires October 31, 1987.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of November 20, 1985 (50 FR 47838), stating that a temporary tolerance had been established for the combined residues of the herbicide oxyfluorfen, 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodity alfalfa at 0.1 part per million (ppm). This tolerance was issued in response to pesticide petition PP 5G32263, submitted by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 707-EUP-110, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the

condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires October 31, 1987. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: November 24, 1986.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-27658 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-6-FRL-3118-6]

Approval of Arkansas' NPDES Program

AGENCY: Environmental Protection Agency.

ACTION: Approval of Arkansas' application to administer the National Pollutant Discharge Elimination System (NPDES) program.

SUMMARY: On November 1, 1986, the Regional Administrator for the Environmental Protection Agency (EPA), Region 6, approved the Arkansas Department of Pollution Control & Ecology's (ADPC&E) request to administer the National Pollutant Discharge Elimination System (NPDES) program within the State.

FOR FURTHER INFORMATION CONTACT: Jayne Watson, Chief, Permits Issuance Section (6W-PS), (214) 767-9823, at EPA, Region 6, Renaissance Tower, 1201 Elm Street, Dallas, Texas 75270.

SUPPLEMENTARY INFORMATION: The Clean Water Act (33 U.S.C. 1251 *et. seq.*) established the National Pollutant Discharge Elimination System (NPDES) program under which permits are issued for the discharge of pollutants from point sources into the waters of the United States. Initially, the Environmental Protection Agency (EPA) issues these permits. States may be authorized to administer the NPDES program for discharges into navigable waters within their jurisdiction if EPA discharges into navigable waters within their jurisdiction if EPA determines that the State program satisfies the requirements of section 402(b) of the Clean Water Act. Since the passage of the 1977 amendments to the Clean Water Act. Since the passage of the 1977 amendments to the Clean Water Act, State NPDES programs are required to include a pretreatment program and the authority to regulate discharges from federal facilities. In addition, States may request, as a part of their NPDES program, the authority to issue general NPDES permits to cover certain classes of discharges.

Arkansas submitted an application for NPDES authority in April, 1986, which EPA determined to be incomplete, and another submission in June, 1986, which was also determined to be incomplete. In response to comments provided by EPA, the State submitted a revised application on July 24, 1986. EPA determined that the State's application was complete on August 12, 1986. On August 20, 1986, EPA published notice of Arkansas' request to administer the NPDES progam in **Federal Register** (Vol. 51 FR No. 161). A public hearing was held on September 23, 1986, in Little Rock, Arkansas, to solicit comments on the proposed authorization of the ADPC&E's program. Seven comment letters were received during the comment period. The following are responses to the major comments:

1. *Issue:* The State does not have adequate manpower and resources to effectively administer the program.

Response: After reviewing the Arkansas' submission, EPA feels that the State does indeed have adequate resources to effectively administer the NPDES program. The State has provided in their Program Description (pages 105 thru 116) a detailed summary of the funding and costs anticipated in operating the NPDES program. The State of Arkansas in 1983 under authority of Act 817 instituted a fee system to help defray costs associated with the administration of the NPDES program. In addition, ADPC&E has also outlined pricing factors used in their workload analysis which appear adequate for operation of the NPDES program.

2. *Issue:* The State has not adopted regulations governing the protection of groundwater or for monitoring groundwater quality.

Response: This comment is not directly related to the NPDES program but rather to implementation of the Safe Drinking Water Act (SDWA) and the Resource Conservation and Recovery Act (RCRA) and therefore is not germane to the issue of approval of the NPDES program to the State of Arkansas. The NPDES regulations do not require States to regulate discharges to groundwater, but rather only require control of surface water discharges. The NPDES regulations only impact upon groundwater by requiring States to regulate the disposal of pollutants into wells, the federal requirements are satisfied by States having an approved Underground Injection Control (UIC) program under SDWA (*see* 40 CFR 123.28). Arkansas has developed a UIC program which EPA approved; therefore this requirement has been met.

3. *Issue.* The State has not adopted regulations to deal with the threat of land applied sludge.

Response: The Agency also believes this comment is not applicable to the issue of approving the State of Arkansas' NPDES program. The application of sludge is governed under Subtitles C and D of RCRA and is not directly associated with the NPDES program, except that the State must have authority to include sludge requirements in permits (see 40 CFR 122.44(o)). The State has this authority through its incorporation of federal requirements.

4. *Issue:* A comment was received questioning ADPC&E's jurisdictional authority to regulate Class II wells utilized for fluid injection and salt water disposal purposes.

Response: The Agency has reviewed the State's legal authority and concurs that the ADPC&E has adequate jurisdiction under statutory authority provided by Act 472 of 1949, as amended, codified at Ark. Stat. Ann. §§ 82-1901 et seq. to regulate and permit any discharges from Class II wells to waters of the United States. The State Independant Counsel's statement addresses this authority at page 8b. In addition, the State's authority to regulate the disposal of pollutants into wells meets federal requirements by virtue of Arkansas having been approved to administer the UIC program (*see* 40 CFR 123.28).

5. *Issue: One commenter had concerns that State politics would interfere with and influence the State's administration of the NPDES program.*

Response: The Agency is confident that through its establishment of detaled overview procedures as outlined in the State's Program Description and in the Memorandum of Agreement (MOA) between ADPC&E and EPA, that the State will administer the NPDES program consistent with the Clean Water Act, the State Program Plan, and all applicable Federal regulations, guidelines and policies. Both the Program Description and the MOA provide for extensive overview procedures. EPA, in accordance with the program package, may consider as part of its assessment comments from permittees, the public and Federal and local agencies concerning the State's administration of the NPDES program. EPA also retains authority to deny any permit and has established procedures for the review of permits prior to issuance. Also, EPA still retains independent enforcement authority in the event that the State is not taking appropriate actions to address a violation. In addition, at least annually, and at the discretion of EPA, the EPA shall prepare and send to Public Notice a status report on the performance of the State's NPDES program. The Agency therefore believes that through these established overview procedures, the State's administration of the NPDES program can be assured.

In support of its application for NPDES program approval, ADPC&E has submitted to EPA copies of the relevant statutes and regulations. The State has also submitted a statement by the State's Independent Counsel certifying, with appropriate citations to the statutes and regulations, that the State has adequate legal authority to administer the State NPDES program as required by 40 CFR Parts 123 and 403. EPA has concluded, upon reviewing all of these submitted materials, that the State has adequate legal authority to (1) administer the NPDES permitting program, including the authority to issue general permits, regulate discharges from federal facilities, and to carry out the program described in the program description in accordance with the requirements of 40 CFR Part 123 and (2) administer the pretreatment program, including the authority to perform each of the activities set forth in 40 CFR 403.10(f)(1) (i)-(vii).

The State of Arkansas has also submitted to EPA a program description which sets forth a description of the scope, structure, coverage and procedures of the State program, permit revision schedules, compliance tracking and enforcement procedures; a description of the organization and structure of the Arkansas Department of Pollution Control and Ecology (ADPC&E) and a description of the personnel and resources to be dedicated to the program. Based upon this information, EPA had concluded that the State's program description meets the requirements of 40 CFR 123.22, including the necessary staffing and resources required by 40 CFR 123.22(b) (1)-(3) and 403.10(f)(3) to administer the NPDES and pretreatment programs.

In addition, as demonstrated by ADP&CE's regulations and program description, EPA has concluded that the State has the necessary procedures for administration of the pretreatment program consistent with 40 CFR 403.10(f)(2).

The State of Arkansas has also submitted to EPA a Memorandum of Agreement (MOA) which sets forth provisions for the transfer of information between EPA and the State, the modification of the MOA, information and responsibilities for permit review and issuance, pretreatment, compliance monitoring and inspection, enforcement, and confidentiality of information. Based upon its review, EPA has concluded that the MOA meets the requirements of 40 CFR 123.24.

Today's **Federal Register** notice is to announce the approval of Arkansas' NPDES program, including its pretreatment program and authority to issue general permits and regulate discharges from federal facilities located in the State. Arkansas' approved program is based upon the following statutory and regulatory authorities: Ark. Stat. Ann. 82-1901 to 82-1909, 5-701 to 703, and 70-1001; Rule 7.1, Arkansas Rules of Criminal Procedure; Rule 24, Arkansas Rules of Civil Procedure; Arkansas Underground Injection Code; General Regulations: Arkansas Oil and Gas Commission and the following ADPC&E Regulations; Regulation No. 1: Prevention of Pollution by Saltwater; Regulation No. 2: Arkansas Water Quality Standards; Regulation No. 3: Wastewater Treatment Plant Operator Licensing; Regulation No. 4: Subdivisions in Proximity to Lakes and Streams and Streams; Regulation No. 6: Regulations for State Administration of the National Pollutant Discharge Elimination System; Regulation No. 7: Civil Penalties; Regulation No. 8: Administrative Procedures; Regulation No. 9: Permit Fees.

Federal Register Notice of Approval or Modification of State NPDES Programs

Under the NPDES Permit Regulations (See 40 CFR 123.61) EPA will provide **Federal Register** notice of actions by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

STATE NPDES PROGRAM STATUS

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Arkansas	11/01/86	11/01/86	11/01/86
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		06/03/81
Delaware	04/01/74		
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	08/12/83
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	06/03/81
Kansas	06/28/74	08/28/85	
Kentucky	09/30/83	09/30/83	09/30/83
Maryland	09/05/74		09/30/83
Michigan	10/17/73	12/09/78	06/07/83
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74	01/28/83	05/13/82
Missouri	10/30/74	06/26/79	06/03/81
Montana	06/10/74	06/23/81	
Nebraska	06/12/74	11/02/79	09/07/84
Nevada	09/19/75	08/31/78	
New Jersey	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	
North Carolina	10/19/75	09/28/84	06/14/82
North Dakota	06/13/75		
Ohio	03/11/74	01/28/83	07/27/83
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
Rhode Island	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77		08/10/83
Vermont	03/11/74		03/16/82
Virgin Island	06/30/76		
Virginia	03/31/75	02/09/82	
Washington	11/14/73		09/30/86
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/18/81	

Review under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory

Flexibility Analysis for all rules which may have significant impact on a substantial number of small entities. The approval of the Arkansas Department of Pollution Control & Ecology's NPDES permit program merely transfers responsibility for administration of the NPDES program from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not affect a significant number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: November 1, 1986.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 86 27711 Filed 12-9-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

December 2, 1986.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0233
Title: Part 67, Separations
Action: Extension
Respondents: Telephone companies
Estimated Annual Burden: 1,540 Responses; 1,500 Recordkeepers; 1,256,300 Hours

OMB Number: 3060-0226
Title: Section 90.135(c)(2) and (c)(3), Modification of License
Action: Extension
Respondents: Licensees in authorized stations
Estimated Annual Burden: 1,656 Responses; 276 Hours

OMB Number: 3060-0262
Title: Section 90.179, Shared use of radio stations
Action: Extension
Respondents: Licensees of radio stations
Estimated Annual Burden: 1,650 Recordkeepers; 1,238 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-27675 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

December 2, 1986.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington DC 20037, telephone (202) 857-3800. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4818. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB Number: 3060-0065
Title: Application for New or Modified Radio Station Authorization Under Part 5 of FCC Rules—Experimental Radio Service (Other than Broadcast)
Form No.: FCC 442
Action: Revision
Estimated Annual Burden: 700 Responses; 2,800 Hours

OMB Number: 3060-0072
Title: Application for Individual Airborne Mobile Radio Telephone License in the Public Mobile Radio Service
Form No.: FCC 409
Action: Revision
Estimated Annual Burden: 3,000 Responses; 252 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-27676 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

[FCC 86-450]

Petitions of MCI Telecommunications and GTE Sprint Communications Corporation Regarding the Validity of Connecticut Statute and Decisions of the Connecticut Department of Public Utility Control Relating to Unauthorized Intrastate Traffic

This is a summary of the Commission's Memorandum Opinion and Order, FCC 86-450, adopted October 16, 1986, and released October 27, 1986.

The full texts of commission decisions are available for inspection and copying during normal business hours in the FCC dockets branch (room 230), 1919 M street, northwest, Washington, DC the complete text of this decision may also be purchased from the commission's copy contractor, international transcription service, (202) 857-3800, 2100 M street, northwest, suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order:

1. In this Memorandum Opinion and Order, the Federal Communications Commission (FCC) denies requests by GTE Sprint Communications and MCI Telecommunications Corporation that the FCC preempt the compensation and advertising requirements imposed by the state of Connecticut on interstate carriers which carry intrastate communications within that state in contravention of Connecticut's prohibition on intrastate competition. The FCC also orders Southern New England Telephone Company (SNET) to show cause within thirty days of release of the Order why it should not complete its equal access conversion within a one year schedule.

2. GTE Sprint and MCI filed petitions asking the FCC to issue a ruling delcaring that certain portions of a Connecticut statute, as well as the implementing decisions and regulations of the Connecticut Department of Public Utility Control are void and unenforceable because they conflict with FCC rules and policies and with the FCC's exclusive jurisdiction over interstate communications. The challenged statutory and regulatory provisions implement a state prohibition on competition in intrastate services by requiring interexchange carriers (IXCs) providing interstate service in Connecticut to compensate local exchange carriers (LECs) in Connecticut for the unauthorized intrastate calls completed over the IXC networks. Petitioners also challenged certain advertising and notification

requirements imposed as part of the Connecticut plan that obligate IXCs providing interstate services in Connecticut to inform their customers that they are not authorized to provide intrastate services.

3. In this Order, the FCC finds that there has been no violation of Commission rules or policies warranting federal preemption at this time and therefore denies the petitions. However, the FCC also finds that certain decisions by SNET concerning the pace at which it is implementing equal access in Connecticut have substantially exacerbated the problems underlying this dispute and are not fully consistent with the equal access obligations the Commission has established for independent telephone companies like SNET. Accordingly, in this Order, the FCC directs SNET to show cause why it should not be required to accelerate its equal access implementation schedule. Finally, the Commission finds that the plan's advertising requirements raise some serious concerns that, although not yet ripe for resolution, may require Commission action in the future if they are interpreted in such a manner as to intrude on federal rules or policies.

Ordering Clauses

4. Accordingly, It Is Ordered, pursuant to sections 1, 4(i), 4(j) and 208 of the Act, 47 U.S.C. 151, 154(i), 154(j), and 208, and section 1.2 of the Commission's rules, 47 CFR 1.2, that the petitions for declaratory ruling filed by GTE Sprint and MCI are Hereby Denied.

5. It Is Further Ordered, pursuant to sections 4(i) and 403 of the Act, 47 U.S.C. 154(i) and 403, and Sections 1.1. and 1.701 of our Rules, 47 CFR 1.1 and 1.701 that SNET SHALL FILE an answer to this order to show cause, as described above, within 30 days of the release of this Order.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-27679 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Bayamon Christian Network, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Bayamon Christian Network, Inc.; Bayamon, PR.	BPCT-860508KG	86-439
B. Raul Salib and Rosidalia Vallafane, d.b.a. Tele Bayamon Broadcasting; Bayamon, PR.	BPCT-860624KH	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 86-27680 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Christopher Gault, et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city, and State	File No.	MM Docket No.
A. Christopher Gault; Charlottesville, Va.	BPCT-860220KF	86-440
B. Evangel Communications, Inc.; Charlottesville, Va.	BPCT-860410KN	
C. Commonwealth Broadcasting Corp.; Charlottesville, Va.	BPCT-860410KO	
D. Achernar Broadcasting Co.; Charlottesville, Va.	BPCT-860410KP	
E. Lindsay Television, Inc.; Charlottesville, Va.	BPCT-860410KQ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Site availability, A
Misrepresentation, A
Multiple ownership, C
Air hazard, A, B, C, D, E
Minimum separations, A, B, C, E
Comparative, A, B, C, D, E
Ultimate, A, B, C, D, E
(See Appendix), D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

Appendix D.

To determine whether there is a reasonable possibility that operation by Achernar Broadcasting Company as proposed would result in objectionable interference to the conduct of radio astronomy activities by the National Radio Astronomy Observatory in the West Virginia "Quiet Zone."

[FR Doc. 86-27681 Filed 12-9-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal

Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–008900–036.

Title: The "8900" Lines Agreement.

Parties: The National Shipping Company of Saudi Arabia, United Arab Shipping Company (S.A.G.), Sea-Land Service, Inc., A.P. Moller-Maersk Line, Waterman Steamship Corporation.

Synopsis: The proposed amendment would specify that the financial guarantees of the individual members pertain also to their respective obligations under service contracts, time-volume, time-revenue or volume incentive programs. It would also modify the independent action provisions of the agreement to comply with the Commission's regulations.

Agreement No.: 224–011039.

Title: Seattle Terminal Agreement.

Parties: Port of Seattle (Port), Stevedoring Services of America (SSA).

Synopsis: The proposed agreement would permit the Port to lease container handling equipment to SSA to be used at the Port's Terminals 37 and 42.

Agreement No.: 224–011040.

Title: Seattle Terminal Agreement.

Parties: Port of Seattle (Port), Stevedoring Services of America (SSA).

Synopsis: The proposed agreement would permit the Port to lease container maintenance and repair facilities to SSA at the Port's Terminal 37 for five years.

Dated: December 4, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86–27665 Filed 12–9–86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0579]

Automated Clearing House Float Recovery

AGENCY: Board of Governors of the Federál Reserve System.

ACTION: Proposed Automated Clearing House Float Recovery questions and answers.

SUMMARY: On September 17, 1986 (51 FR 33802; September 23, 1986, the Board requested public comment on proposals regarding recovery of the costs of automated clearing house ("ACH") float (Docket No. R–0579). This request set forth a proposed method of recovering the costs of float generated by ACH transactions processed during the night cycle and a corresponding reduction in the current per item questions have been received regarding this proposal. To aid the public in its comments on the proposal, the Board's staff has drawn up the attached list of commonly asked questions and their answers.

DATE: Comments must be received by December 22, 1986.

ADDRESS: Comments, which should refer to Docket No. R–0579, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding the Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Earl G. Hamilton, Assistant Director (202/452–3879), Florence M. Young, Advisor (202/452–3955), or Julius F. Oreska, Manager (202/452–3878), Division of Federal Reserve Bank Operations; or Telecommunications Device for the Deaf ("TDD") users, Earnestine Hill or Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Boards's staff has drawn up the following list of questions and answers in response to the many questions that have arisens out of the Board's recent ACH float recovery proposal.

Q. 1. What is the Federal Reserve's objective in proposing the float factor approach?

A. The Federal Reserve's objective in proposing the float factor approach to recovering ACH float is to create a more equitable method of recovering ACH float costs. A Federal Reserve study found that the ACH night cycle surcharge was a barrier to small time-critical payments, such as POS transactions, that had to rely on the ACH night cycle for processing. The current ACH night cycle surcharge assumes that float is created equally by small and large dollar value ACH transactions. The study found, however, that most of the float was caused by a relatively few large dollar transactions. The float factor proposal is designed to recover the cost of ACH float on the basis of the dollar value of the transaction. The larger the size of the transaction the greater the amount of float that will be created if it is delayed in processing, therefore, the greater the share of float costs it should be assessed. An additional benefit of the proposal is that it encourage the use of the ACH for many small dollar applications.

Q. 2. How is the float factor to be calculated?

A The float factor would be based on Federal Reserve annual estimates of ACH net debit float and the debit dollars to be processed at night. The float factor would be the ratio of ACH net debit float to debit dollars to be processed at night. This ratio would be applied to the total dollar value of each originating institution's night cycle debits to determine its ACH float charge. The total float recovery charge would be included in the monthly billing statement. Based on the cost of ACH debit float and the value of debit transactions processed at night during 1986, the float factor would have been $.008 per thousand dollars of debit transactions originated. For an originator of $1 million in night cycle debit transactions the float charge would be $.80. (This is based on data for the first seven months of 1986.)

Q. 3. What is the difference between the night cycle surcharge and the float factor?

A. The current night cycle surcharge is 6 cents and was designed to recover two types of costs—the additional cost of processing ACH transactions at night and float costs. The Federal Reserve's proposal would recover these two costs separately. The increased cost of night processing would be recovered through a substantially *lowered* night surcharge of approximately 1.5 cents. Float costs would then be recovered through the float factor. Night cycle ACH credits which create no debit float, would be assessed the surcharge of 1.5 cents, but would not be assessed any float costs. They would be assessed the night processing surcharge of 1.5 cents to recover the higher costs of processing at night.

Q. 4. Why does float exist in the ACH mechanism?

A. Although very low relative to dollars processed, ACH float exists because the resource used to process ACH transactions are not fail-safe. Computer hardware and software occasionally fail and human beings, no matter how well trained, occasionally make mistakes. The Federal Reserve has tried to create a processing environment that strikes a balance between

processing reliability and costs. The evironment is characterized by relatively stable processing costs and ACH float that is already low and declining further.

Q. 5. What is the Federal Reserve doing to reduce ACH float so that the float factor is not unduly burdensome?

A. The Reserve Banks try to accommodate one another when processing delays occur. The Federal Reserve System will be looking at this issue carefully to determine what can be done to maximize late deposit times at all offices. In addition, the Reserve Banks have made other efforts to reduce float on the ACH including improving processing speed through improvements in the ACH software and devoting a high level of management attention to ACH float at all Fed offices. The results of these efforts have been that float cost has been reduced by 35 percent from the 1985 level, despite an increase in night cycle debit dollars of almost 40 percent during the same period. ACH float cost should be reduced even further in 1987.

Q. 6. What types of ACH items will be assessed the float factor?

A. The float factor will be assessed *only to originators of night cycle* debits. *No* float factor would be associated with day cycle ACH items or night cycle credit items. The Federal Reserve Banks will *not* charge insitutions who deposit day cycle items or night cycle credits for delayed file float.

Q. 7. In the objective of the float factor proposal to drive away large-dollar transactions?

A. The Federal Reserve recognizes that some cash concentration debit business may move to wire transfer or check, however, the intent is not to drive this business out of the ACH. Rather, it is to ensure that this business pays its fair share of the float cost that it may cause.

Q. 8. Will the reduction in night surcharges cause a large surge in night cycle volume? Is the Federal Reserve capable of handling significant increases in night volumes without operating problems and increased float?

A. It is prossible that some day cycle items may migrate to the night cycle and some two-day credits may switch to the day cycle. However, the Federal Reserve does not expect a dramatic shift in volumes to the night cycle and does not anticipate difficulty accommodating new volumes during the night operations.

Q. 9. How is the float factor proposal linked to the Board's policy to reduce payments system risk?

A. The proposal was not designed to address the question of payments system risk on the ACH. ACH risk is being addressed in a separate proposal.

Q. 10. Will the float factor be applied to government debit float as well as commercial?

A. No, the Reserve Banks will charge the fully allocated cost of processing, including float, to the government. The float associated with the processing of government ACH items would be excluded from the float factor calculations.

Board of Governors of the Federal Reserve System, December 3, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-27568 Filed 12-9-86; 8:45 am]

BILLING CODE 6210-01-M

Skandinaviska Endkilda Banken et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 30, 1986.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Skandinaviska Endkilda Banken*, Stockholm, Sweden; to engage *de novo* through its subsidiary, Skandifond Fiduciary Aktiebolag, Stockholm, Sweden, in acting as an investment adviser to an investment company registered under the Investment Company Act of 1940 pursuant to § 225.25(b)(4)(ii) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Credit and Commerce American Holdings, N.V.*, Curacao, Netherlands Antilles; Credit and Commerce American Investment, B.V., Amsterdam, Netherlands; First American Corporation, Washington, DC; and First American Bankshares, Inc., Washington, DC; to engage *de novo* through their subsidiary, Potomac Insurance Company, Phoenix, Arizona, in underwriting as reinsurer credit life and credit accident and health insurance that is directly related to extensions of credit by subsidiary banks pursuant to § 225.25(b)(8) of the Board's Regulation Y.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Mid-Illinois Bancshares, Inc.*, Mattoon, Illinois; to engage *de novo* through its subsidiary Mid-Illinois Data Services, Mattoon, Illinois, in data processing services pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in the State of Illinois. Comments on this application must be received by December 23, 1986.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Lloyds Government Securities Corporation*, New York, New York, and Lloyds First Western Corporation, New York, New York; to engage *de novo* in underwriting, dealing in and engaging in repurchase transactions with respect to (i) obligations of the United States of America, (ii) general obligations of the States of the United States and their political subdivisions and (iii) other obligations which state member banks

are authorized to underwrite and deal in under 12 U.S.C. 335, pursuant to § 225.25(b)(15) of the Board's Regulation Y

Board of Governors of the Federal Reserve System, December 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27686 Filed 12-9-86; 8:45 am]

BILLING CODE 6210-01-M

Bankers' Financial Services Corp. et. al, Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3 (c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are indispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications mut be received not later than December 30, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bankers' Financial Services Corporation*, Schuylkill Haven, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of the Schuykill Haven Trust Company, Schuylkill Haven, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Montgomery County Bankshares, Inc.*, Ailey, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Montgomery County Bank, Ailey, Georgia.

2. *Putnam-Green Financial Corporation*, Eatonton, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of the Farmers Bank, Union Point, Georgia.

3. *SunTrust Banks, Inc.*, Atlanta, Georgia, and Third National Corporation, Nashville, Tennessee; to acquire 100 percent of the voting shares of Peoples Bancshares, Inc., Lebanon, Tennessee.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Pacific National Bancshares, Inc.*, Chesterfield, Missouri; to become a bank holding company of acquiring at least 99.44 percent of the voting shares of Commerce Bank of Pacific, N.A., Pacific, Missouri.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to acquire 10 percent of the voting shares of Fort Sill National Bank, Fort Sill, Oklahoma. Comments on this application must be received by December 23, 1986.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Sequoia Bancorp*, San Francisco, California; to become a bank holding company through conversion of its existing subsidiary, Sequoia Savings Bank, FSB, San Francisco, California, to a national bank under the name of Sequoia National Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, December 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27684 Filed 12-9-86; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Banks or Bank Holding Companies

The notificants listed below have applied 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices 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 notice or to the offices of the Board of Governors. Comments must be received not later than December 24, 1986.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kenneth Holm*, Clement J. and Louisa C. Zimmer, Lauren V. and Dorothy L. Mason, James D. and Joan M. Zimmer, Bennie R. and Carolyn Ostrand, Neil R. and Julie A. Ostrand, Charles H. and Judy A. Zimmer, Melpha M. Thompson, Phillip and Donna Zimmer, Robert and Sarah Ann Holm, Richard S. and Lucia H. Martin, Robert Orvin and Joan Cox, all of Mason City, Nebraska, Kent R. Helm and Clara Kokes, both of Ord, Nebraska, Richard R. Kokes, Hemet, California, and John R. Sullivan, Chula Vista, California; to acquire 85.89 percent of the voting shares of Mason State Company, Mason City, Nebraska, and thereby indirectly acquire Mason State Bank, Mason City, Nebraska. Comments on this application must be recived by December 19, 1986.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Dr. Curtis J. Torno*, Steven C. Torno, and George D. Hodgins, all of Buffalo, Texas; to acquire 84 percent of the voting shares of First Fairfield Bankshares, Inc., Fairfield, Texas, and thereby indirectly acquire First National Bank, Fairfield, Texas.

Board of Governors of the Federal Reserve System, December 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-27685 Filed 12-9-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-056-GNC]

Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance During Fiscal Year 1987

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

ACTION: General notice with comment period.

SUMMARY: This notice describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries and carries in the administration of the Medicare program for the fiscal year beginning October 1, 1986. The results of these evaluations are considered whenever we enter into, renew, or terminate an intermediary or carrier agreement or take other contract actions; assign or reassign providers of services to an intermediary; or designate regional or national intermediaries.

This notice is published in accordance with sections 1816(f) and 1842(b)(2) of the Social Security Act, which requires us to publish for public comment in the Federal Register those criteria and standards against which we evaluate intermediaries and carriers.

DATES: The criteria and standards are effective October 1, 1986. We will consider revising the criteria and standards based on public comments. To assure consideration, comments must be sent to the appropriate address and received by February 9, 1987.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-056-GNC, P.O. Box 26676, Baltimore, Maryland 21207.

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

In commenting, please refer to file code BPO-56-GNC.

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

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. We will, however, accept the timely comments, consider them, and publish the comments and our responses to them in a subsequent Federal Register if we modify the FY 1987 criteria and standards as announced.

FOR FURTHER INFORMATION CONTACT: Newton H. Dikoff, (301) 594-8191.

SUPPLEMENTARY INFORMATION:

A. Background

Under section 1816 of the Social Security Act, public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with the Secretary of Health and Human Services. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the reimbursable amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

Under section 1816(f) of the Act, we are required to develop standards, criteria, and procedures to evaluate an intermediary's performance of its functions under its agreement with us. We evaluate intermediary performance through the Contractor Performance Evaluation Program (CPEP). Our regulations at 42 CFR 421.120 provide for publication of Federal Register notices to announce standards and criteria applicable during each fiscal year.

Section 1842(b)(2) of the Act allows us to evaluate the performance of Medicare carriers. Since 1981, we have evaluated carrier performance under CPEP using criteria and standards similar to those used for intermediaries. When a fiscal intermediary exercises functions which are Part B functions, technically it does so as a Part B carrier under section 1842 of the Act. Under section 1842(a) of the Act, the Secretary is authorized to enter into contracts with carriers, including carriers with which agreements under section 1816 are in effect, to perform some or all of the Medicare Part B functions.

As a result of section 2326(c) of Pub. L. 98-369, the Deficit Reduction Act of 1984, we publish in the Federal Register the criteria and standards used to evaluate both intermediaries and carriers in order to allow the public an opportunity to comment before implementing them. This notice announces the FY 1987 criteria and standards to be used to measure the effectiveness and efficiency of both intermediaries and carriers.

B. Fiscal Year 1987 Criteria and Standards—General

For FY 1987 we are measuring unit cost as in FY 1986. In addition, we are implementing on a test basis a more refined method of evaluating contractors' unit cost than previously used. Instead of establishing a total unit cost standard for bills or claims processing, which in the past incorporated bills or claims processing, inquiries, and review and hearings functions, we will establish a unit cost for each of the separate bill or claims processing functions.

The standards for bill or claims processing have been revised to reflect a change in the measurement of the timeliness of contractor bills or claims processing. The measurement will now reflect the claims processing time of contractors in combination with the payment cycle time. A 30-day cycle has been defined as the standard for bills or claims that have no defect or impropriety or particular circumstance requiring special treatment that prevent timely payment from being made.

The CPEP program for FY 1987 has been especially modified to give special emphasis to the participating physician program. Three unique standards have been developed to focus specifically on the participating physician program.

For both intermediaries and carriers, we have combined various standards measuring timeliness and accuracy. We have also strengthened various payment safeguards and focused on beneficiary and provider services. The nomenclature for the functional responsibilities under each criteria has been changed from a combination of elements and standards as in previous notices to only performance standards. This change does not imply any substantive modification to the evaluation process.

Action Based on Performance Evaluations

We may, as in previous years, initiate administrative actions as a resulty of the evaluation of intermediary and carrier performance based on these performance standards. Under sections 1816 and 1842 of the Social Security Act, we consider the results of the evaluation in our determinations on:

1. Entering into, renewing, or terminating agreements with contractors; and

2. Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:

a. Relative overall performance compared to other contractors;

b. Number of standards in which superior or deficient performance occurs;

c. Extent of each failure; and

d. Relative significance of the standards for which superior or deficient performance occurs within the overall CPEP.

In addition, we consider the results of intermediary evaluation in determinations we make concerning assignment or reassignment of providers and designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the efficient administration of the Medicare program.

Replacement of Contractors Through Competitive Bidding

Section 2326(a) of Pub. L. 98-369 allows HCFA to use competitive bidding to replace a contractor whose performance over a period of time has been in the lowest 20th percentile as measured by these performance criteria and standards. In FY 1985 and FY 1986, section 2326(a) authorizes HCFA to enter into two intermediary agreements and two carrier contracts based on competitive bidding, without regard to provider nomination rights, in order to replace low ranking intermediaries and carriers. The authority to replace poor performers under provisions of section 2326(a) was extended through the end of FY 1989 by section 9321(b) of Pub. L. 99-509.

On May 12, 1986, HCFA competitively selected the first two replacement Medicare Contractors under section 2326(a). Blue Cross and Blue Shield of Oregon has been selected to administer the Part A program in Idaho; Aetna Life Insurance Company has been selected to administer the Part B program in New Mexico. The new contractors will begin processing operations on October 1, 1986 and are scheduled to continue operations through September 30, 1988.

C. Scoring System

For both intermediaries and carriers, each performance criterion is comprised of a number of review standards. Each standard is scored on a scale of 0-10 and has a method of evaluation that is used to calculate a rating based on a contractor's performance in that standard.

A contractor's performance is evaluated against each applicable standard. In general, if a contractor exactly meets the requirements for a standard, it achieves a rating of 7, to which we refer as the threshold score. Based on the performance level established for each standard, a rating below the threshold (i.e., 6 or lower) constitutes a deficiency requiring correction or improvement.

Each standard is assigned a weight of 1, 3, or 5 according to its relative significance within the evaluation program, with critical standards receiving a weight of 5. In addition, for FY 1987 we are testing the value of certain performance standards for future measurement. We have assigned a weight of 0 to these standards. The final score for each standard is determined by multiplying the rating by the weight. For each performance criterion, the sum of the final scores achieved for all standards in the criterion is compared to the total points available to the contractor for the criterion. If a contractor does not perform a particular function or a standard measuring a particular function is not reviewed for some other reason, the total points available to the contractor in that criterion will be reduced appropriately. A contractor must achieve 70 percent of the available points for a performance criterion as well as equal or exceed the threshold score for each of the designated critical standards in order to pass the criterion.

Certain standards have been designated as "critical," with a weight of 5. A critical standard is one which addresses a contractor function of such significance to the program that deficient performance cannot be tolerated. Therefore, a rating below the threshold (i.e., 6 or less) constitutes a failure not only of that standard, but of the criterion in which it is included and of the CPEP. In FY 1987, there are 35 critical standards for intermediaries and 24 critical standards for carriers. Critical standards are annotated with an asterisk in the lists of standards.

D. Criteria and Standards for Intermediaries

We will use seven criteria to evaluate the overall quality of an intermediary's performance during FY 1987. They are: (1) Bill processing; (2) beneficiary and provider services; (3) productivity investments; (4) payment safeguards-bill processing; (5) payment safeguards-provide reimbursement; (6) payment safeguards-medical review; and (7) fiscal contract management. The seven criteria contain a total of 73 standards. There are 20 standards for bill processing, four for beneficiary and provider services, one for productivity investments, ten for payment safeguards-bill processing, 19 for payment safeguards-provider reimbursement, seven for payment safeguards-medical review, and 13 for fiscal and contract management.

1. Bill Processing Criterion

An intermediary must properly control and process bills from providers, transmit accurate bill information to HCFA, and achieve an acceptable unit cost. An intermediary must process and pay 95 percent of all bills in 60 days, and 99 percent in 90 days. The intermediary is required to meet the following standards:

- Pay clean inpatient bills within 30 days (Standard 1 Weight=5.0)*.
- Pay clean outpatient bills within 30 days (Standard 2 Weight=5.0)*.
- Pay clean Skilled Nursing Facilities (SNF) bills within 30 days (standard 3 Weight=5.0)*.
- Pay clean Home Health Agency (HHA) bills within 30 days (Standard 4 Weight=5.0)*.
- Pay clean Comprehensive Outpatient Rehabilitation Facility (CORF) bills within 30 days (Standard Weight=5.0)*.
- Pay clean End-Stage Renal Disease (ESRD) bills within 30 days (Standard 6 Weight = 5.0)*.
- Pay clean Laboratory bills within 30 days (Standard 7 Weight = 5.0)*.
- Pay all other clean bills within 30 days (Standard 8 Weight = 5.0)*.
- Pay all inpatient hospital bills within 60 and 90 day standard (Standard 9 Weight = 5.0)*.
- Pay all outpatient hospital bills within 60 and 90 day standard (Standard 10 Weight = 5.0)*.
- Pay all SNF bills within 60 and 90 day standard (Standard 11 Weight = 5.0)*.
- Pay all HHA bills within 60 and 90 day standard (Standard 12 Weight = 5.0)*.
- Pay all CORF bills within 60 and 90 day standard (Standard 13 Weight = 5.0)*.
- Pay all ESRD bills within 60 and 90 day standard (Standard 14 Weight = 5.0)*.
- Pay all Laboratory bills within 60 and 90 day standard (Standard 15 Weight = 5.0)*.
- Pay all other bills within 60 and 90 day standard (Standard 16 Weight = 5.0)*.

• Control payment of interest on clean claims (Standard 17 Weight = 3.0)*.

• Process bills at an acceptable unit cost (Standard 18 Weight = 5.0)*.

• Process Part A appeals at an acceptable unit cost (Standard 19 Weight = 0.0).

• Process Part B appeals at an acceptable unit cost (Standard 20 Weight = 0.0).

2. Beneficiary and Provider Services Criterion

An intermediary must ensure that, in Medicare matters, beneficiaries and providers are treated accoring to law, regulations, and general instructions covering such areas as responding to inquiries, providing reconsiderations of claims, and furnishing appropriate notices of decisions. We will use the standards below to evaluate beneficiary and provider services for FY 1987. The intermediary is required to:

• Respond accurately to beneficiary and provider inquiries (Standard 1 Weight = 3.0).

• Respond to beneficiary and provider inquires timely (Standard 2 Weight = 1.0).

• Prepare accurate reconsideration determinations (Standard 3 Weight = 1.0)

• Provide appropriate notices of reconsideration decisions and furnish copies to appropriate parties (Standard 4 Weight = 1.0).

3. Productivity Investments Criterion

An intermediary must take programmatic, administrative, and systems initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce burden on the public, and improve beneficiary understanding of the program. We will use the standard below to evaluate this criterion in FY 1987. The intermediary is required to:

• Meet targeted volume of electronic media claims (Standard 1 Weight = 5.0)*.

4. Payment Safeguards—Bill Processing Criterion

An intermediary must administer the Medicare program in a manner which achieves maximum savings and cost avoidance to the Medicare trust funds. We will use the following standards to evaluate this criterion in FY 1987. The intermediary is required to:

• Achieve targeted Medicare secondary payer goals (Standard 1 Weight = 5.0)*.

• Assure that hospital inpatient, outpatient, and SNF bills pass HCFA utilization edits (Standard 2 Weight = 1.0).

• Assure that providers perform all requirements for receiving Periodic Interim Payment (PIP) (Standard 3 Weight = 3.0).

• Properly process bills in accordance with beneficiary status regarding HMO enrollment (Standard 4 Weight = 3.0).

• Assure that Part A denial data are transmitted timely to the carrier (Standard 5 Weight=3.0).

• Identify and dispose of all fraud and abuse cases properly (Standard 6 Weight=5.0)*.

• Properly apply blended payment rate under PPS (Standard 7 Weight=5.0)*.

• Provide consistent error free UNIBILL data to Peer Review Organizations (PROs) within agreed upon timeframe and assure complete hospital discharge data (Standard 8 Weight=5.0)*.

• Process adjustment records timely and return the adjusted record to the PRO (Standard 9 Weight=5.0)*.

• Make payment for dialysis to ESRD providers based on a determined composite rate or the approved exception rate and assure that duplicate payments do not occur (Standard 10 Weight=3.0).

5. Payment Safeguards-Provider Reimbursement Criterion

An intermediary must administer the program in a manner that achieves maximum savings and cost avoidance for the Medicare trust funds. We will use the standards below to evaluate the criterion in FY 1987. The intermediary is required to:

• Administer a cost effective provider audit program (Standard 1 Weight=5.0)*.

• Take appropriate action when providers fail to file cost reports by the due date (Standard 2 Weight=3.0).

• Confine the incidence of hospital, SNF, and HHA overpayments to acceptable levels (Standard 3 Weight=5.0)*.

• Recover overpayments to providers (Standard 4 Weight=5.0)*.

• Identify and dispose of fraud and abuse cases involving audited cost reports properly (Standard 5 Weight=5.0)*.

• Settle hospital and SNF cost reports timely (Standard 6 Weight=3.0).

• Ensure that no payments are made to excluded, terminated or suspended providers or physicians (Standard 7 Weight=3.0).

• Submit accurate and timely provider overpayment data (Standard 8 Weight=3.0).

• Properly finalize PPS hospital cost reports (Standard 9 Weight=5.0)*.

• Properly perform TEFRA cost report audits and target amount computations (Standard 10 Weight=3.0).

• Establish interim payments for hospitals to approximate Medicare reimbursement costs (Standard 11 Weight=5.0)*.

• Properly compute, review and adjust interim rates under PPS (Standard 12 Weight=3.0).

• Submit accurate and timely cost report data for the Hospital Cost Report Information System (HCRIS) (Standard 13 Weight=3.0).

• Properly finalize SNF cost reports (Standard 14 Weight=3.0).

• Establish interim payments for SNFs to approximate Medicare reimbursement costs (Standard 15 Weight=3.0).

• Properly finalize HHA cost reports (Standard 16 Weight=3.0).

• Establish interim payments for HHAs to approximate Medicare reimbursement costs (Standard 17 Weight=3.0).

• Settle HHA cost reports timely (Standard 18 Weight=3.0).

• Submit accurate and timely ESRD Cost Reports and Worksheets (Standard 19 Weight=1.0).

6. Payment Safeguards-Medical Review Criterion

An intermediary must perform necessary medical review activities as required by HCFA instructions in a timely, accurate, and cost-effective manner.

We will use the standards below to evaluate the criterion in FY 1987. The intermediary is required to:

• Administer a cost effective Medical Review program (Standard 1 Weight=5.0)*.

• Submit accurate and timely Reports of Benefit Savings (Standard 2 Weight=3.0).

• Submit hospital based SNF bills to the appropriate level of medical review and assure that correct medical review determinations were made (Standard 3 Weight=5.0)*.

• Subject free standing SNF bills to the appropriate level of medical review and assure that correct medical review determinations were made (Standard 4 Weight=5.0)*.

• Subject HHA bills to the appropriate level of medical review and assure that correct medical review determinations were made (Standard 5 Weight=5.0)*.

• Properly rank HHAs for coverage compliance reviews (Standard 6 Weight=3.0).

• Subject outpatient bills to the appropriate level of medical review and

assure that correct medical review determinations were made (Standard 7 Weight=5.0)*.

7. Fiscal and Contract Management Criterion

An intermediary must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both benefit payments and cost of administration in accordance with its agreement with the Secretary, the Federal Acquisition Regulations (Title 48, Chapter 1), the HHS Acquisition Regulations (Title 48, Chapter 3), and HCFA instructions. We will use the standards below to evaluate the criterion in FY 1987. The intermediary is required to:

- Implement Priority I critical tasks timely and accurately (Standard 1 Weight = 5.0)*.
- Accurately and timely implement program instructions and manual transmittals issued by HCFA (Standard 2 Weight = 3.0).
- Ensure proper expenditure of Payment Safeguard Funds (Standard 3 Weight = 3.0).
- Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Standard 4 Weight = 3.0).
- Control actual expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the incurrence of such expenditures (Standard 5 Weight = 3.0).
- Control administrative funds drawn to the quarterly limit on the Notice of Budget Approval (NOBA) and in line with actual expenditures (Standard 6 Weight = 3.0).
- Submit an accurate budget request (Standard 7 Weight = 3.0).
- Submit the budget request timely (Standard 8 Weight = 1.0).
- Submit accurate and timely Plan of Expenditure Reports (POERs) and Interim Expenditure Reports (IERs) (Standard 9 Weight = 3.0).
- Submit accurate and timely Variance Reports (Standard 10 Weight = 3.0).
- Submit an accurate and timely Final Administrative Cost Proposal (FACP) (Standard 11 Weight = 3.0).
- Submit Intermediary Workload Report (HCFA–1566) and Quarterly Supplement (HCFA–1566A) timely (Standard 12 Weight = 3.0).

E. Criteria and Standards for Carriers

We will use six criteria to evaluate the overall quality of carrier performance during FY 1987. They are: (1) Claims processing; (2) beneficiary services; (3) productivity investments; (4) payment safeguards—claims processing; (5) payment safeguards—medical review; and (6) fiscal and contract management. The six criteria contain a total of 78 standards. There are 23 standards for claims processing, 15 for beneficiary services, three for productivity investments, 17 for payment safeguards—claims processing, eight for payment safeguards—medical review, and 12 for fiscal and contract management.

1. Claims Processing Criterion

A carrier must process Part B Medicare claims to determine allowance or disallowance in accordance with general instructions. A carrier must process and pay 95 percent of all claims in 60 days, and 99 percent in 90 days. A carrier must also accurately determine the amount of program payments allowed for covered services. For FY 1987 we will use the following 23 standards to assess carriers' claim processing performance. The carrier is required to:

- Pay clean assigned physicians claims within 30 days (Standard 1 Weight = 5.0)*.
- Pay clean assigned Durable Medical Equipment (DME) claims within 30 days (Standard 2 Weight = 5.0)*.
- Pay clean assigned Laboratory claims within 30 days (Standard 3 Weight = 5.0)*.
- Pay clean assigned Ambulance claims within 30 days (Standard 4 Weight = 5.0)*.
- Pay other clean, assigned, non-physician claims within 30 days (Standard 5 Weight = 5.0)*.
- Pay clean non-assigned claims within 30 days (Standard 6 Weight = 5.0)*.
- Pay all assigned physician claims within 60 and 90 standard (Standard 7 Weight = 5.0)*.
- Pay all assigned DME claims within 60 and 90 day standard (Standard 8 Weight = 5.0)*.
- Pay all assigned Laboratory claims within 60 and 90 day standard (Standard 9 Weight = 5.0)*.
- Pay all assigned ambulances claims within 60 and 90 day standard (Standard 10 Weight = 5.0)*.
- Pay all other assigned non-physician claims within 60 and 90 standard (Standard 11 Weight = 5.0)*.
- Pay all non-assigned claims within 60 and 90 day standard (Standard 12 Weight=5.0)*.
- Control payment of interest on clean claims (Standard 13 Weight=3.0).
- Process claims at an acceptable unit cost (Standard 14 Weight=5.0)*.
- Process reviews, reopenings and inquiries at an acceptable unit cost (Standard 15 Weight=0.0).
- Process fair hearings at an acceptable unit cost (Standard 16 Weight=0.0).
- Establish customary charge screens in accordance with HCFA instructions (Standard 17 Weight=3.0).
- Establish Locality Prevailing Charges (LPC) in accordance with HCFA requirements (Standard 18 Weight=3.0).
- Update new reasonable charge screens timely (Standard 19 Weight = 3.0).
- Submit initial Part B Medicare (BMAD) files timely (Standard 20 Weight = 3.0).
- Resubmit returned BMAD files timely (Standard 21 Weight = 3.0).
- Properly compute ESRD physician monthly capitation rate and assure that duplicate payments are not made under this program (Standard 22 Weight = 3.0).
- Properly integrate the ESRD beneficiary selection from HCFA–382 annual listing and monthly update into the claims processing system (Standard 23 Weight = 1.0).

2. Beneficiary Services Criterion

A carrier must ensure that, in Medicare matters, beneficiaries are treated according to law, regulations, and general instructions covering areas such as responding to inquiries, issuing notices of determinations, and providing impartial reviews. The carrier is required to meet the following standards:

- Respond timely to beneficiary inquiries (Standard 1 Weight = 1.0).
- Respond accurately to beneficiary inquires (Standard 2 Weight = 5.0)*.
- Provide a readable response to beneficiary inquiries (Standard 3 Weight = 3.0).
- Maintain proper level of service for incoming telephone calls (Standard 4 Weight = 3.0).
- Respond accurately to all telephone inquiries (Standard 5 Weight = 3.0).
- Respnod timely to all telephone inquiries (Standard 6 Weight = 1.0).
- Respond accurately to physician and supplier inquiries (Standard 7 Weight = 3.0).

• Respond timely to physician and supplier inquiries (Standard 8 Weight = 1.0).

• Properly generate explanation of Medicare benefits (EOMBs) and denial notices (Standard 9 Weight = 3.0).

• Ensure that special messages developed by the carrier for the EOMB were approved by the HCFA regional office (Standard 10 Weight = 1.0).

• Prepare the Medicare Participating Physician/Supplier Directory (MEDPARD) timely (Standard 11 Weight = 3.0).

• Complete reviews accurately (Standard 12 Weight = 5.0)*.

• Complete reviews timely (Standard 13 Weight = 1.0).

• Furnish readable notice to beneficiary review determinations (Standard 14 Weight = 3.0).

• Accurately and timely send out the letter to physicians and suppliers offering then the opportunity to become a Medicare participant. (Standard 15 Weight = 1.0).

3. Productivity Investments Criterion

A carrier must take programmatic, administrative, and systems initiatives designed to improve the cost effectiveness and/or efficiency of Medicare claims operations, reduce the burdens on the public, and improve beneficiary understanding of the program. We will use three standards to assess performance of this activity. The carrier must:

• Meet targeted volume of electronic media claims (Standard 1 Weight = 5.0)*.

• Implement the HCFA Common Procedure Coding System (HCPCS) annual update timely (Standard 2 Weight = 5.0)*.

• Notify HCFA Regional Office (RO) promptly of all local code assignments (Standard 3 Weight = 3.0).

4. Payment Safeguards—Claims Processing Criterion

A carrier must administer the Medicare program in a manner which achieves maximum savings and cost avoidance to the Medicare trust funds. We will use 17 standards to assess performance in this area. The carrier is required to meet the following standards:

• Maintain an acceptable overpayment deductible error rate (Standard 1 Weight = 5.0)*.

• Maintain an acceptable underpayment deductible error rate (Standard 2 Weight = 5.0)*.

• Achieve targeted Medicare Secondary Payer goals (Standard 3 Weight = 5.0)*.

• Adjudicate claims for non-physician medical services accurately (Standard 4 Weight = 3.0).

• Conduct postpayment reviews to identify and develop claims for non-physician services furnished to hospital inpatients (Standard 5 Weight = 3.0).

• Follow HCFA instructions regarding the determination that charges are inherently reasonable (Standard 6 Weight = 3.0).

• Determine liability and properly dispose of beneficiary overpayment cases (Standard 7 Weight = 3.0).

• Ensure that no payments are made to excluded, terminated or suspended providers, physicians or suppliers (Standard 8 Weight = 3.0).

• Properly process claims in accordance with beneficiary status regarding HMO enrollment (Standard 9 Weight = 3.0).

• Identify and dispose of all fraud and abuse cases properly (Standard 10 Weight = 5.0)*.

• Submit accurante Quality Assurance Program (QAP) reports timely (Standard 11 Weight = 3.0).

• Submit accurate and timely physician/supplier overpayment data quarterly (Standard 12 Weight = 3.0).

• Monitor fee freeze and participation violations (Standard 13 Weight = 3.0).

• Establish toll-free lines for electronic receipt of claims from participating physicians and suppliers (Standard 14 Weight = 3.0).

• Correctly determine reimbursement of laboratory services (Standard 15 Weight = 3.0).

• Furnish fee schedules for Clinical Diagnostic Laboratory (CDL) services to appropriate Medicare intermediary in a timely manner (Standard 16 Weight = 3.0).

• Correctly determine reimbursement of DME (Standard 17 Weight = 3.0).

5. Payment Safeguards—Medical Review Criterion

A carrier must perform necessary medical review activities in accordance with HCFA instructions accurately, timely, and in a cost-effective manner. We will use eight standards to assess performance in this area. The carrier is required to:

• Administer a cost effective MR program (Standard 1 Weight = 5.0)*.

• Make accurate medical review determinations (Standard 2 Weight = 5.0)*.

• Implement and maintain mandated prepayment medical review screens with parameters (Standard 3 Weight = 3.0).

• Implement HCFA protocols for medical review (Standard 4 Weight = 3.0).

• Review physician services for Part A denials referred to Part B for review (Standard 5 Weight = 3.0).

• Conduct an effective postpayment program (Standard 6 Weight = 3.0).

• Submit accurate and timely Quarterly Medical Review Reports (Standard 7 Weight = 3.0).

• Submit an accurate and timely Annual Medical Review Report (Standard 8 Weight = 3.0).

6. Fiscal and Contract Management Criterion

A carrier must take measures to protect the Medicare program and the public interest. It must manage Federal funds for both benefit payments and the cost of administration in accordance with its agreement with the Secretary, the Federal Acquisition Regulations (Title 48, Chapter 1), the HHS Acquisition Regulation (Title 48, Chapter 3), and HCFA instructions. We will use 12 standards to measure performance of carriers' fiscal and contract management of the Medicare program. The carrier is required to:

• Implement Priority I critical tasks timely and accurately (Standard 1 Weight = 5.0)*.

• Accurately and timely implement program instructions and transmittals issued by HCFA (Standard 2 Weight = 3.0).

• Ensure proper expeditures of Payment Safeguard Funds (Standard 3 Weight = 3.0).

• Ensure that cost allocations are consistent (provide reasonable assurance that comparable transactions are treated alike) and chargeable to a particular cost objective in accordance with the relative benefits received or other equitable relationship (Standard 4 Weight = 3.0).

• Control actual expenditures to the latest approved budget and have the ability to identify potential expenditures in excess of the approved budget in advance of the incurrence of such expenditures (Standard 5 Weight = 3.0).

• Control administrative funds drawn to the quarterly limit on the Notice of Budget Approval (NOBA) and in line with actual expenditures (Standard 6 Weight = 3.0).

• Submit an accurate budget request (Standard 7 Weight = 3.0).

• Submit the budget request timely (Standard 8 Weight = 3.0).

• Submit accurate and timely Plan of Expenditure Reports (POERs) and Interim Expenditure Reports (IERs) (Standard 9 Weight = 3.0).

• Submit accurate and timely Variance Reports (Standard 10 Weight = 3.0).

• Submit an accurate and timely Final Administrative Cost Proposal (FACP) (Standard 11 Weight = 3.0).

• Submit Carrier Performance Reports (HCFA-1565) and Quarterly Supplements (HCFA-1565A and HCFA-1565C) timely (Standard 12 Weight = 3.0).

F. Regulatory Impact Statement

1. Executive Order 12291

Executive Order 12291 (E. O. 12291) requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is defined as a rulemaking document, including a notice such as this one, that would result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal State, or local government agencies, or any geographical regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We do not expect this notice to meet any of these criteria. Its primary direct effect is on our operations and the operations of our contractors. We expect the incremental costs of administering these criteria and standards to be more than offset by resulting improvements in efficiency and effectiveness. We estimate that our costs will increase only minimally. Further, we expect the effects on both competition and productivity to be favorable, not adverse, and the effects, if any, on employment, investment, and innovation to be negligible. For these reasons, we have determined that this notice is not a major rule. Therefore, a regulatory impact analysis has not been prepared.

2. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act (RFA) (5 U. S.C. 601 through 612), we prepare and publish a regulatory flexibility analysis for any regulations unless the Secretary certifies that the regulations will not have a significant impact on a substantial number of small entities.

Under the RFA, a small entity is defined as a small business, an independently owned and operated nonprofit enterprise that is not dominant in its field, or an agency or governmental entity of a jurisdiction with a population of less than 50,000. We consider all providers and suppliers to be small entities. We do not consider intermediaries and carriers to be small entities since they are our agents. Rather, we consider the providers, physicians and suppliers with which they deal on our behalf to be the entities for which we assess impacts subject to the REA.

The direct effect of this notice is on our contractors. Since they are not small entities, even though we expect this notice to have an effect on contractor operations, an analysis of that impact is not required. However, it is clear that many standards, such as those governing bill processing, beneficiary services, and provides services, will have indirect effects on a substantial number of providers and suppliers. Therefore, in order to verify that a regulatory flexibility analysis is not required, we assessed whether the indirect impact on those small entities will be significant.

Generally, the operations to which the standards of the intermediary and carrier performance criteria refer are required by law, other regulations, contract, or other program instructions. These criteria provide an evaluation process and do not in themselves require the performance of the operations they evaluate. The most important indirect effect on providers and suppliers is to ensure that they are paid timely and accurately. We do not expect these criteria and standards to have any indirect adverse effects on them. Therefore, we have determined that the evaulation process in itself will not have a significant impact on providers and suppliers, and the Secretary certifies that this notice will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis has not been prepared.

3. Paperwork Reduction Act

This notice contains no information collection requirements subject to EOMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

(Sec. 1102, 1816 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395 hh)) (Catalog of Federal Domestic Assistance Program No. 13. 773, Medicare-Hospital Insurance)

Dated: November 21 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-27698 Filed 12-9-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-070-07-4212-13; C-40278]

Reality Action; Exchange of Lands in Grand and Pitkin Counties, CO

The following-described lands have been determined to be preliminarily suitable for exchange under sections 205, 206, 302(b), and 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Selected Public Land

Tyler Mountain Parcel—775.06 acres—Grand County, Colorado

Sixth Principal Meridian, Colorado

T. 3 N., R. 81 W.,
Sec. 10: NE¼NW¼;
Sec. 18: Lots 3 and 4.
T. 3 N., R. 82 W.,
Sec. 1: Lots 5, 6, 7, 8 and 9;
Sec. 12: Lots 1, 2, 3, 4 and 5;
Sec. 13: Tract 41, Lots 1, 2, 3 and 4;
Sec. 24: Lots 1 and 2.

Granby Parcel—200 acres—Grand County, Colorado

Sixth Principal Meridian, Colorado

T. 2 N., R. 76 W.,
Sec. 25: SW¼SE¼, NW¼SW¼, SW¼SW¼;
Sec. 26: NE¼SE¼, SE¼SE¼.

Offered Private Land

Parcel A.—700 Acres—Pitkin County, Colorado

Sixth Principal Meridian, Colorado

T. 8 S., 87 W.,
Sec. 20: E½;
Sec. 28: W½NW¼;
Sec. 29: Lots 3, 4, NE¼ and that portion of N½SE¼ north of the county road.

Summary: These 975.06 acres of public land under the jurisdiction of the Bureau of Land Management have been identified as preliminarily suitable for exchange. The determination has been made in response to a Bureau-benefiting exchange proposal developed cooperatively between the Bureau and Shepard & Associates.

In the proposal, approximately 700 acres of offered private land with public values, would be exchanged for 975.06 acres of public land which have been identified for disposal. The exchange proposal has been made to facilitate the consolidation of public land holdings. The consolidation would increase managerial efficiency and provide public access to natural resources on public lands being managed by the Bureau.

The values of the lands to be exchanged have been determined to be approximately equal. Upon completion

of the final appraisal of the lands, the acreages will be adjusted or money will be used to equalize the exchange values.

Terms and Conditions: The following reservations would be made in a patent issued for public land:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation to the United States of all mineral deposits in the land.

3. A reservation of Oil and Gas lease C-40481.

4. A reservation of Rights-of-Way for powerlines C-8482 and C-2687.

6. A reservation for Grand County Road No. 60.

7. A reservation for all existing and valid land uses, including grazing leases unless waived.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant.

Further Information and Public Comment: Additional information concerning this exchange proposal, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, Glenwood Springs, Colorado or the Kremmling Resource Area Office at 116 Park Avenue, Kremmling, Colorado.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506 or to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this Notice if Realty Action will become the final determination of the Department of the Interior.

Dated: November 25, 1986.

Dick Freel,

District Manager Grand Junction District.

[FR Doc 86-27743 Filed 12-9-86; 8:45 am]

BILLING CODE 4310-JB-M

National Park Service

National Register of Historic Places, Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 29, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 26, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Yuma County

Roll, *Mohawk Valley School*, 5151 South Ave., 39 East

ARKANSAS

Phillips County

Helena, *Cherry Street Historic District*, Along Cherry St. Between Porter and Elm St.

CALIFORNIA

Los Angeles County

Los Angeles, *Jardinette Apartments*, 5128 Marathon St.

San Francisco County

San Francisco, *Pacific Gas and Electric Company Substation J*, 565 Commercial St. and 568 Sacramento St.

Ventura County

Ventura, *Ventura Theatre*, 26 S. Chestnut

CONNECTICUT

New London County

Norwich, *Little Plain Historic District (Boundary Increase)*, 120-156 Broadway and 10-88 Union St.

GEORGIA

Cobb County

Powder Springs, *Midway Presbyterian Church and Cemetery*, 4635 Dallas Hwy. (GA 120), S.W.

ILLINOIS

Jersey County

Jerseyville, *Jerseyville Downtown Historic District*, Roughly bounded by Exchange, Lafayette, Prairie and Jefferson Sts.

KANSAS

Doniphan County

Bendena vicinity, *Albers, Albert, Barn (Byre and Bluff Barns of Doniphan County TR)*, S of Bendena

Bendena vicinity, *Symns, J.A., Barn (Byre and Bluff Barns of Doniphan County TR)*, KS 7

Bendena vicinity, *White, T.L., Barn (Byre and Bluff Barns of Doniphan County (TR)*,KS 7

Bendena vicinity, *Williams, M.D.L., Barn (Byre and Bluff Barns of Doniphan County TR)*, 3 mi. S of KS 20

Denton vicinity, *Eylar, Mathew, Barn No. 1 (Byre and Bluff Barns of Doniphan County TR)*, S of Denton off KS 20

Denton vicinity, *Eylar, Mathew, Barn No. 2 (Byre and Bluff Barns of Doniphan County TR)*, SE of Denton off KS 20

Highland vicinity, *Hale, John R. (Byre and Bluff Barns of Doniphan County (TR)* KS 120

Highland vicinity, *Mission—Herring Barn (Byre and Bluff Barns of Doniphan County TR)*, US 36

Leona vicinity, *Hanson, George, Barn (Byre and Bluff Barns of Doniphan County TR)*, S of Leona

Leona vicinity, *Streib, John, Barn (Byre and Bluff Barns of Doniphan County TR)*, N of Leona

Sparkes vicinity, *Nuzum, Godfrey, Barn (Byre and Bluff Barns of Doniphan County TR)*, KS 7

Troy vicinity, *Bohr, Nicholas Barn (Byre and Bluff Barns of Doniphan County TR)*, SE of Troy

Troy, *Kinkhead, George, Barn (Byre and Bluff Barns of Doniphan County TR)*, Off US 36

Wathena vicinity, *Chrystal, Herman, Barn (Byre and Bluffs Barns of Doniphan County TR)*, W of Wathena

Wathena vicinity, *Kienhoff, Fred W., Barn (Byre and Bluff Barns of Doniphan County TR)*, W of Wathena

Wathena vicinity, *Silvers, John, Barn (Byre and Bluff Barns of Doniphan County TR)*, N of Wathena

Leavenworth County

Leavenworth vicinity, *Zacharias Site (14LV380)*,

Reno County

Hutchinson, *Reno County Courthouse*, 206 W. First

MAINE

Cumberland County

Portland, *Dyer, Nathaniel, House*, 168 York St.

Franklin County

Kingfield, *Hutchins, Frank, House*, High St.

Knox County

Camden, *Camden Opera House Block*, Off US 1

Rockland, *Rockland Residential Historic District*, Roughly bounded by Granite, Union, Masonic, Broad,

Limerock, and Broadway Sts.

Lincoln County

Damariscotta, *Coffin, Stephen, House*, Main St.

Dresden, *Bridge Academy*, ME 127 and ME 197

Sagadahoc County

Phippsburg, *Ingrahan, Charles H., Cottage*, Off ME 209

MARYLAND

Frederick County

New Market, *Drummine Farm,* 6901 Green Valley Rd.

MISSISSIPPI

Hinds County

Jackson, *Green, Garner Wynn, House (Proposed Move),* 640–656 N. State St.

NEBRASKA

Lancaster County

Lincoln, *Terminal Building,* 947 O St.

NEW HAMPSHIRE

Rockingham County

Exeter, *Exeter Waterfront Commercial Historic (District Boundary Increase),* Chesnut St.

NORTH CAROLINA

Wake County

Knightdale, *Beaver Dam,* SR 2049 at SR 2233

OHIO

Hamilton County

Cincinnati, *B & O Freight Terminal,* 700 Pete Rose Way

SOUTH CAROLINA

Chester County

Landsford Township *Landsford Plantation House,* CR 595, ½ mi. E of US 21

WISCONSIN

Fond du Lac County

Fond du Lac, *First Baptist Church of Fond du Lac,* 90 South Macy St.

Grant County

Boscobel, *Boscobel High School,* 207 Buchanan St.

Richland County

Muscoda vicinity, *Fiedler, Henry, House,* Putnam and Washington Sts.

[FR Doc. 86–27700 Filed 12–9–86; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–233, U.S. Global Competitiveness: Optical Fibers, Technology and Equipment instituted under the authority of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332).

Summary of Proposals

(1) Number of forms submitted: Three.

(2) Title of forms: U.S. Global Competitiveness: Optical Fibers, Technology and Equipment: Questionnaires for U.S. Producers, Importers, and Purchasers of Optical Fiber, Optical Fiber Cable and/or Optical Fiber Put Up In Other Multiple Fiber Forms.

(3) Type of Request: New.

(4) Frequency of use: Nonrecurring.

(5) Description of respondents: Firms which produce, import, or purchase optical fibers, optical fiber cable, and optical fiber put up in other multiple fiber forms.

(6) Estimated number of respondents: 200.

(7) Estimated total number of hours to complete the forms: 5,000.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed form and supporting documents may be obtained from Christopher Johnson (USITC) tel. no. 202–724–1730) or Linda Linkins (tel. no. 202–724–1745). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire or study plan is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

Submission of comments: Comments should be submitted to OMB within two weeks of the date this notice appears in the **Federal Register.** If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal. Ms. Picoult's telephone number is 202–395–7231. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Issued: November 28, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–27757 Filed 12–9–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–249]

Certain Aircraft Carbon Disc Brakes and Replacement Carbon Discs; Commission Decision Not To Review an Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) terminating the above-captioned investigation as to all respondents on the basis of a settlement and licensing agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an ID terminating the above-captioned investigation with respect to respondents Dunlop Company Ltd. and British Tire & Rubber Company, plc (collectively referred to as Dunlop) on the basis of a settlement and licensing agreement.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53). Notice of the ID was published in the **Federal Register** of October 30, 1986 (51 FR 39717).

On October 16, 1986, complainant Goodyear Aerospace Corp. (Goodyear) and the Dunlop respondents filed a joint motion (Motion No. 249–3) to terminate the investigation based on a settlement and licensing agreement. The presiding administrative law judge issued an ID (Order No. 5) granting the joint motion for termination of the investigation with respect to all of the respondents on October 24, 1986.

No petitions for review of the ID were received, nor were any comments received from government agencies or the public.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW.,

Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission
Issued: November 24, 1986.

Kenneth R. Mason,
Secretary.

[FR Doc. 86-27768 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-244]

Certain Insulated Security Chests; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: EP Industrial Co., Ltd. (EP).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on December 2, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: December 2, 1986.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 86-27763 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-244]

Certain Insulated Security Chests; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Saga International, Inc. (Saga), and Saga Pacific Trading Co., Ltd. (SPT).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on December 2, 1986 .

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT. Ruby J. Dionne, Office of the Secretary. U.S. International Trade Commission, telephone 202-523-0176.

Issued: December 2, 1986.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 86-27764 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

Certain Luggage Products; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determination terminating the investigation as to respondent on the basis of a consent order.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (ID) (Order No. 57) granting a joint motion to terminate the above-captioned investigation as to respondent Weltyle Plastic Products Co., Ltd. (Weltyle) on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0261.

SUPPLEMENTARY INFORMATION: On February 12, 1986, Lenox, Incorporated (Lenox), through its Division Hartmann

Luggage Company (Hartmann), filed a section 337 complaint with the Commission under section 337 of the Tariff Act of 1930 (19 U.S.C 1337) alleging unfair methods of competition and unfair acts in the importation and sale of certain luggage products. The Commission's notice of investigation divided Lenox's allegations into the following alleged unfair acts: (1) Violation of section 43(a) of the Lanham Act; (2) common-law trademark infringement; (3) trademark dilution; (4) trade dress misappropriation; (5) passing off; and (6) unfair competition. 51 FR 10580. (March 27, 1986). The notice of investigation listed twelve respondents which were alleged to be in violation of section 337.

On October 2, 1986, complainant Lenox, through Hartmann, and respondent Weltyle filed a joint motion (Motion No. 243-31) to terminate the investigation as to Weltyle on the basis of a proposed consent order. On October 10, 1986, complainant filed a motion (Motion No. 243-33) to substitute revised agreements for the consent order agreement and settlement agreement attached to Motion No. 243-31. Motion No. 243-33 was granted by Order No. 56 issued on October 21, 1986.

On October 24, 1986, the presiding administrative law judge (ALJ) issued an ID (Order No. 57) granting Motion No. 243-31, as modified by Motion No. 243-33, and terminating the investigation as to Weltyle on the basis of a consent order. No petitions for review or comments from the public or Government agencies concerning the IDs were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington DC 20436 telephone 202-523-1626. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: November 25, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27766 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-243]

Certain Luggage Products; Commission Decision Not To Review Initial Determinations Terminating Three Respondents

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determinations terminating the investigation as to three respondents.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (IDs) granting joint motions to terminate the investigation as to respondents Montgomery Ward & Co., Inc. (Montgomery Ward) and Dimensions Unlimited (Dimensions) on the basis of consent orders. Notice is also given that the Commission has determined not to review an ID granting a joint motion to terminate the investigation as to respondent Winn International Corporation (Winn) on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0261.

SUPPLEMENTARY INFORMATION: On February 12, 1986, Lenox, Incorporated (Lenox), through its Division Hartmann Luggage Company (Hartmann), filed a section 337 complaint with the Commission alleging unfair methods of competition and unfair acts in the importation and sale of certain luggage products. The Commission's notice of investigation divided Lenox's allegations into the following alleged unfair acts: (1) Violation of section 43(a) of the Lanham Act; (2) common-law trademark infringement; (3) trademark dilution; (4) trade dress misappropriation; (5) passing off; and (6) unfair competition. 51 FR 10580 (March 27, 1986). The notice of investigation listed twelve respondents which were alleged to be in violation of section 337.

On October 2, 1986, complainant Lenox, through Hartmann, filed joint motions with respondents Montgomery Ward (Motion No. 243-29) and Dimensions (Motion No. 243-28) to terminate the investigation as those respondents on the basis of proposed consent orders. On October 16, 1986, complainant Lenox, through Hartmann, and respondent Winn filed a joint motion to terminate the investigation as to Winn on the basis of a settlement agreement.

On October 28, 1986, the presiding administrative law judge (ALJ) issued two IDs (Orders Nos. 58 and 59) granting the joint motions to terminate the investigation as to Montgomery Ward and Dimensions, respectively, on the basis of consent orders. On October 28, 1986, the ALJ also issued an ID (Order No. 60) granting the joint motion to terminate the investigation as to Winn on the basis of a settlement agreement. No petitions for review were filed nor were any government agency or public comments received with regard to the IDs.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53).

Copies of the public versions of the IDs and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-1626. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: November 25, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27765 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-248]

Plastic Fasteners and Processes for the Manufacture Thereof; Commission Determination Not To Review an Initial Determination Declaring the Investigation More Complicated

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determination declaring the investigation "more complicated" and extending the deadline for completion of the investigation by 2 months.

SUMMARY: The Commission has determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) declaring the above-captioned investigation "more complicated" pursuant to section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and extending the deadline for completion of the investigation by 2 months, i.e., from June 18, 1987, to August 18, 1987.

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General

Counsel, U.S. International Trade Commission, telephone 202-523-1641.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.59 of the Commission's Rules of Practice and Procedure (19 CFR 210.59).

The investigation is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 in the importation or sale of certain plastic fasteners. The proceedings were instituted on the basis of a complaint filed by Dennison Manufacturing Co. (Dennison) alleging infringement of patents owned by Dennison.

On October 24, 1986, respondents Ben Clements & Sons, Inc. (Clements), and Dai Won Chemical (Dai Won) moved to declare the investigation "more complicated." The presiding ALJ issued his ID granting the motion of Clements and Dai Won on November 3, 1986.

The Commission has determined that this investigation should be designated "more complicated" because of the difficulty encountered in obtaining information.

Notice of this investigation was published in the **Federal Register** on June 18, 1986 (51 FR 22144).

All nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-747-0002.

Issued: November 25, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27767 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-237]

Certain Miniature Hacksaws; Commission Decision To Review Portions of an Initial Determination; Schedule for the Filing of Written Submissions on Review Issues and on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review portions of the administrative law judge's initial determination (ID) that there is a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues under review as indicated below and on remedy, the public interest, and bonding. Comments from other interested persons will also be accepted on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.53-.56).

FOR FURTHER INFORMATION CONTACT: E. Clark Lutz, Esq., Office of the General Counsel , U.S. International Trade Commission, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION: On October 15, 1986, the presiding administrative law judge (ALJ) issued an ID that there is a violation of section 337 in the importation and sale of certain miniature hacksaws. Respondents Alltrade, Inc., Menard, Inc., Borsumij Wehry (U.S.A.), Inc., and M&S Krasnow, Inc. petitioned for review of certain parts of the initial determination pursuant to § 210.54 of the Commission's rules. Complainant The Stanley Works (complainant) and the Commission investigative attorney (IA) filed responses. No comments were received from other Government agencies.

After examining the petition for review and the responses thereto, the Commission has concluded that the following issues warrant review:

1. Whether U.S. Letters Patent 3,756,298 is invalid as obvious pursuant to 35 U.S.C. 103; and

2. Whether U.S. Letters Patent Des. 288,225 is invalid as obvious pursuant to 35 U.S.C. 103.

The Commission is particularly interested in receiving from each party citations to the evidence of record that supports its position on the issues under review.

The Commission's review will be limited to the above issues. No other issues will be considered.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders that could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of relief, if any, that should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates that some form of relief is appropriate, it must consider the effect that such relief would have upon: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles that are like or directly competitive with those that are the subject of the investigation and (4) U.S. consumers. The Commission is, therefore, interested in receiving written submissions concerning the effect, if any that granting a remedy would have on the enumerated public interest factors.

If the Commission finds that a violation of section 337 has occurred and orders relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is, therefore, interested in receiving written submissions concerning the amount of the bond that should be imposed.

Written submissions: The parties to the investigation and interested Government agencies are requested to file written submissions addressing the two issues under review specified above and addressing the issues of remedy, the public interest, and bonding. Complainant and the Commission IA are also requested to submit a proposed exclusion order and/or cease and desist order for the Commission's consideration. Written submissions on the review issues and on remedy, the public interest, and bonding must be filed not later than the close of business on December 10, 1986. Reply submissions on the review issues and on remedy, the public interest, and bonding must be filed not later than the close of business on December 15, 1986. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Such submissions must be filed not later than the close of business on December 15, 1986. No further submissions will be permitted.

Commission hearing: The Commission does not plan to hold a public hearing in connection with the final disposition of this investigation.

Additional information: Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the ALJ. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

Notice of this investigation was published in the **Federal Register** of January 14, 1986 (51 F.R. 1860).

Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. INternational Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: December 2, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27760 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-234]

Certain Upper Body Protector Apparatus for Use in Motorsports; Commission Decision To Affirm Initial Determination Terminating Investigation as to Last Respondent Based on Settlement Agreement; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Affirmance of an initial determination terminating the above-captioned investigation as to respondent Stilmotor on the basis of a settlement agreement; termination of investigation.

SUMMARY: The Commission has determined to affirm the initial determination (ID) (Order No. 24) of the presiding administrative law judge (ALJ) terminating the investigation as to respondent Stilmotor on the basis of a settlement agreement. Termination of the investigation as to respondent Stilmotor terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION: On July 2, 1986, complainants J.T. Racing, Inc. and John R. Gregory filed a motion (Motion No. 234-12) to terminate the investigation as to respondent Stilmotor and another respondent on the basis of settlement agreements. The presiding administrative law judge issued an ID granting the motion on July 24, 1986 (Order No. 24). On August 26, 1986, the Commission determined not to review the ID as to the other respondent but to review the ID as to Stilmotor because the motion as to Stilmotor did not contained a statement concerning the nonexistence of other agreements between the parties as required by § 210.51(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.51(b)). On November 13, 1986, Stilmotor and complainants jointly filed such a statement.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: December 4, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27762 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-354 (Preliminary)]

Stainless Steel Pipes and Tubes From Sweden

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that industries in the United States are materially injured by reason of imports from Sweden of stainless steel pipes, tubes, hollow bars, and blanks therefor, all the foregoing of circular cross-section, whether welded or seamless, provided for in items 610.37, 610.51, and 610.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On October 20, 1986, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of the Specialty Tubing Group,[3] alleging that imports of stainless steel pipes and tubes from Sweden are being sold in the United States at LTFV and that an industry in the United States is materially injured and threatened with material injury by reason of such imports. Accordingly, effective October 20, 1986, the Commission instituted antidumping duty investigation No. 731-TA-354 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 29, 1986 (51 FR 39594). The conference was held in Washington, DC, on November 13, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 4, 1986. The views of the Commission are contained in USITC Publication 1919 (December 1986), entitled "Stainless Steel Pipes and Tubes from Sweden: Determination of the Commission in Investigation No. 731-TA-354 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Stern determines that there is a reasonable indication that industries in the United States are materially injured or threatened with material injury by reason of the subject imports from Sweden.

[3] The Specialty Tubing Group consists of the following firms: AL Tech Specialty Steel Corp., Allegheny Ludlum Steel Corp., ARMCO-Specialty Steel Division, Carpenter Technology Corp., Damascus Tubular Products, and Trent Tube Division, Crucible Materials Corp.

Issued: December 5, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-27759 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

Investigations Nos. 701-TA-282 and 731-TA-351 through 353 (Preliminary)

Certain Forged Steel Crankshafts From Brazil, the Federal Republic of Germany, Japan, and the United Kingdom

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain forged steel crankshafts [3] [4] which are alleged to be subsidized by the Government of Brazil. The Commission also determines, pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Federal Republic of Germany, Japan, and the United Kingdom of certain forged steel crankshafts [3] which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 9, 1986, petitions were filed with the Commission and the Department of Commerce by Wyman-Gordon Company, Worchester, MA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of certain forged steel crankshafts from Brazil and by reason of LTFV imports of certain forged steel crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom. Accordingly, effective October 9, 1986, the Commission instituted preliminary countervailing duty investigation No. 701-TA-282 (Preliminary) and preliminary antidumping investigations Nos. 731-TA-351 through 353 (Preliminary).[5]

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 16, 1986 (51 FR 36871). The conference was held in Washington, DC, on October 31, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 24, 1986. The views of the Commission are contained in USITC Publication 1917 (November 1986), entitled "Certain Forged Steel Crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom: Determinations of the Commission in Investigations Nos. 701-TA-282 and 731-TA-351 through 353 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: November 25, 1986.

Kenneth R. Mason,

Secretary

[FR Doc. 86-27761 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler dissenting.

[3] The crankshafts subject to these investigations are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. They are provided for in items 660.67 and whether machined or unmachined. They are provided for in items 660.67 and 660.71 of the Tariff Schedules of the United States.

[4] Commissioner Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of certain forged steel crankshafts from Brazil and by reason of allegedly LTFV imports of certain forged steel crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom.

[5] Wyman-Gordon also filed an antidumping petition on imports of the subject crankshafts from Brazil, and the Commission instituted antidumping investigation No. 731-TA-350 (Preliminary) on such products effective Oct. 9, 1986 (51 FR 36871, Oct. 16, 1986). On Oct. 30, 1986, however, Wyman-Gordon withdrew the antidumping petition on Brazil and, accordingly, the Commission terminated inv. No. 731-TA-350 (Preliminary) (51 FR 41163, Nov. 13, 1986).

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30923]

Florida Central Railroad Co., Exemption and Acquisition and Operation; Seaboard System Railroad, Inc.

The Florida Central Railroad Company (FCR) a non-carrier, has filed a notice of exemption to acquire and operate approximately 60 miles of rail lines of CSX Transportation, Inc. (CSX) in the state of Florida. The lines involved are as follows:

(1) From Milepost ASD-821.69, near Tavares to Milepost ASD-818.15 near Eustis, a total of 3.54 miles;

(2) From Milepost ATA-786.39, near Tavares to Milepost ATA-797.40 near Sorrento, a total of 11.01 miles.

(3) From Milepost ST-806.3, near Toronto to Milepost ST-783.0 near Tavares, a total of 23.3 miles;

(4) From Milepost AT-799.43, near Winter Garden to Milepost AT-785.0, near Forest City, a total of 14.43 miles;

(5) From Milepost AT-799.3, near Winter Garden to Milepost AT-797.2 near "Diamond R" Spur, a total of 2.1 miles; and

(6) From Milepost ASD-818.15, near Eustis to Milepost ASD-815.66, near Umatilla and from Milepost ASC-819.05, near Umatilla to ASC-815.82, near Eustis, a total of 5.72 miles.

Comments must be filed with the Commission and served on Robert L. Calhoun, Sullivan & Worcester, 1025 Connecticut Avenue, NW., Suite 806, Washington, DC 20036. (202) 775-8190 and David W. Hemphill, Assistant Vice-President, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

The matter which is the subject of this notice is related to a notice of exemption filed pursuant to 49 CFR 1180.2(d) in Finance Docket No. 30922 for continuance in control of FCR by the Pinsly Railroad Company. The transaction also involves the issuance of securities by the FCR. The issuance of these securities is an exempt transaction under 49 CFR 1175.1.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

Decided: December 3, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27716 Filed 12-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30922]

Pinsly Railroad Co.; Exemption and Control, Florida Central Railroad Co.

On November 10, 1986, Pinsly Railroad Company (PRC) filed a notice of exemption, under 49 CFR 1180.2(d)(2),

to continue in control of the Florida Central Railroad (FCR), upon the commencement of rail operations by FCR. Pinsly presently controls three Class III railroads: Claremont and Concord Railway Company, Inc. (CCRC); Greenville and Northern Railway Company (GNRC); and Pioneer Valley Railroad Company (PVRC).

This transaction is related to Finance Docket No. 30923 wherein the FCR has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate certain line segments from CSX Transportation Co., Inc. in the State of Florida.

As a condition to the use of this exemption, any employees affected by the continuance in control shall be protected pursuant to *New York Dock Ry-Control-Brooklyn Eastern District*, 360 I.C.C. 60 (1979).

The lines of FCR, CCRC, GNRC and PVRC do not connect, and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction involves no Class I carriers. The acquisition of control of FCR by PRC comes within the class transactions exempted from prior approval under 49 CFR 1180.2(d)(2).

Decided: December 4, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27715 Filed 12-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30912 [1]]

Venango River Corp., Exemption From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval, under 49 U.S.C. 11343, common control by Venango River Corporation of Chicago South Shore and South Bend Railroad, and Chicago, Missouri & Western Railway Company, subject to standard labor conditions.

DATES: The exemption is effective December 15, 1986. Petitions to reopen must be filed by December 26, 1986. Petitions for stay must by filed by December 8, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30912 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) John F. DePodesta, 1777 F Street, NW., Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

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

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons concurred with a separate expression. Commissioner Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27714 Filed 12-9-86; 8:45 am]

BILLING CODE 7035-01-M

[1] The decision also denies a petition to revoke or reject a notice of exemption filed in Finance Docket No. 30911, *Chicago, Missouri & Western Railway Company—Exemption Acquisition and Operation Illinois Central Gulf Railroad Company*, and dismisses a petition to exempt issuance of securities in Finance Docket No. 30913, *Chicago, Missouri & Western Railway Company—Exemption from 49 U.S.C. 11301.*

[Docket No. AB-10 (Sub-No. 39)]

Norfolk and Western Railway Co.; Abandonment of Rail Service Between Sardinia and Hillsboro in Brown and Highland Counties, OH; Findings

The Commission has found that the public convenience and necessity permit the Norfolk and Western Railway Company to abandon approximately 18.77 miles of its Scioto Division, known as the Hillsboro Branch, between Sardinia (milepost S-0.04) and Hillsboro, OH (milepost S-18.77), subject to labor and environmental conditions.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

Decided: December 5, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27833 Filed 12-9-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-No. 43X) and AB-33 (Sub-No. 2X)]

Union Pacific Railroad Co. Exemption Discontinuance of Operations in Adams County, NE; and St. Joseph and Grand Island Railway Co.,—Exemption and Abandonment in Adams County, NE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinance of operations by Union Pacific Railroad Company over, and the abandonment by St. Joseph and Grand Island Railway Company of, a 5.6-mile line of railroad, from the end of the line at milepost 574.7 near Muriel to milepost 580.3 near Hastings, in Adams County, NE, subject to stand employee protective conditions.

DATES: This exemption is effective on January 9, 1987. Petitions to stay must be filed by December 22, 1986, and petitions for reconsideration must be filed by December 30, 1986.

ADDRESSES: Send pleadings referring to Docket Nos. AB-33 (Sub-No. 43X) and AB-34 (Sub-No. 2X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: Joseph D. Anthofer, Jeanna L. Regier, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is continued 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: December 3, 1986.

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

Noreta R. McGee,

Secretary.

[FR Doc. 86-27713 Filed 12-9-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Research Program Plan for Fiscal Year 1987

AGENCY: Department of Justice.

SUBAGENCY: National Institute of Justice.

ACTION: Notice of availability.

SUMMARY: The National Institute of Justice announces the publication of its "Research Program Plan, Fiscal Year 1987." It outlines the Institute's criminal justice research agenda for which funds will be awarded, and provides application instructions and forms.

[Justice Assistance of 1984 (Pub. L. 98-473).]

For a copy of "Research Program Plan, Fiscal Year 1987" write: National Institute of Justice/NCJRS, Box 6000, Rockville, Maryland 20850, ATTN: Program Plan.

FOR FURTHER INFORMATION CONTACT: (800) 851-3420. In Maryland or Metropolitan D.C., (301) 251-5500.

James K. Stewart,

Director, National Institute of Justice.

[FR Doc. 86-27668 Filed 12-9-86; 8:45 am]

BILLING CODE 4410-18-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Mainstem Passage Advisory Committee Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee of the Mainstem Passage Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Discussion of mainstem passage model development.
- Discussion of transport benefit ratios.
- Work group report on FISHPASS model sensitivity analysis final results.
- Section 400 draft amendment document measures.
- Other.
- Public comment.

DATE: December 9, 1986. 1:30 p.m.

ADDRESS: The meeting will be held in the Council's Meeting Room, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Jim Ruff, 503-222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 86-27696 Filed 12-9-86; 8:45 am]

BILLING CODE 0000-00-M

OFFICE OF PERSONNEL MANAGEMENT

Revised Information Collection Submitted to OMB For Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a revision to an information collection from the public. SF 2802 (OPM Form 1425-Temp.), Application for Refund of Retirement Deductions, and RI 36-7, Marital Information Required of Refund Applicants, are used to apply for a lump-sum refund of retirement deductions and any other monies creditable to the eligible individual from the Civil Service Retirement and Disability Fund, plus any interest provided by law. For copies of this proposal call Joseph P. Reid, Acting Agency Clearance Officer, on (202) 632-7714.

DATE: Comments on this proposal should be received on or before December 22, 1986.

ADDRESSES: Send or deliver comments to:

Joseph P. Reid, Acting Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Timothy J. Sprehe, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW. Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director

[FR Doc. 86-27723 Filed 12-9-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-8972]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; Countrywide Mortgage Investments, Inc.

December 4, 1986.

Countrywide Mortgage Investments, Inc. ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the common stock, par value $.01, from listing and registration on the American Stock Exchange, Inc. ("Amex"). The Company's common stock was recently listed on the New York Stock Exchange ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before December 26, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-27741 Filed 12-9-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA-(4910-22)]

Environmental Impact Statement; Lake County; IN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Lake County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Threlkeld, District Engineer, Room 254, Federal Highway Administration, Federal Office Building, 575 North Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, (317) 269-7494.

SUPPLEMENTARY INFORMATION: The proposed action of this project involves upgrading approximately 5.97 miles of existing State Road 912; a 4 lane, divided, controlled access, highway in Lake County, Indiana. Beginning just south of I-80/I-94 and terminating just north of U.S. 12, this improvement will upgrade the sub-standard roadway to a 6 lane (three in each direction) facility with a median in compliance with American Association of State Highway Transportation Officials (AASHTO) design criteria. State Road 912 is a major north-south urban, high density route serving the transportation needs of the highly industrialized Calumet Area.

Alternatives for upgrading this facility are limited by the urban nature of the existing corridor. Current traffic exceeds design standard levels are requires the upgrade to bring the facility into compliance. Several areas along the corridor are considered environmentally sensitive. In order to minimize impacts, alignment shifts will be analyzed as information from ongoing studies becomes available.

In conjunction with this study, early coordination meetings have and will be held to involve local government agencies and provide citizens the opportunity to become involved in this project. Information provided in the early coordination letter responses has been enhanced through these early coordination meetings, thus, it is believed that no further relevant information would result from a formal scoping meeting. Therefore, no formal scoping meeting will be held.

(Catalog of Federal Domestic Assistance Program No. 20.205 (Highway Research, Planning and Construction). The provisions of Executive Order 12372 regarding State and local inter-governmental review of Federal and Federally assisted programs and projects apply to this program)

Issued on: November 26, 1986.

James E. Threlkeld,

District Engineer.

[FR Doc. 86-27669 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Centre County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Centre County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: George J. Catselis, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086. Telephone (717) 782-3411 or James Bathurst, Design Services Engineer, Pennsylvania Department of Transportation, 1924-30 Daisy Street, Clearfield, Pennsylvania 16830, Telephone (814) 765-0437.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement on a proposal to accommodate interstate bound truck traffic between the end of the 4-land US 322, 1.1 mile south of Potters Mills to the terminal of the Traffic Route 26 Bypass of Bellefonte at its intersection with Traffic Route 64 northeast of Pleasant Gap.

The alternatives will include bypasses of Centre Hall, Pleasant Gap and Potters Mills with transportation systems management alternatives between the bypasses. Also the No-build alternative will be investigated. For each of the alternatives under study, the following areas will be investigated: traffic, preliminary design and cost, air quality, noise, energy, water quality and aquatic biota, groundwater, and hydrogeology, vegetation and wildlife, floodplains and flood hazard areas, endangered species, hazardous waste facilities, wetlands, soils and erosion, farmlands, visual quality, socio-economics and land use, construction impacts, and archaeological and historic resources. Section 4(f) Evaluations will be performed as necessary in conjunction with the project.

Public involvement and interagency coordination will be maintained throughout the development of the Environmental Impact Statement. A Plan of Study and an invitation to scoping meetings will be distributed to interested agencies. A public hearing will be held if required to obtain formal public input on the findings of the environmental and engineering studies.

To ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the Environmental Impact Statement should be directed to the FHWA or PennDOT at the addresses listed above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program)

Issued on: December 3, 1986.

Manuel A. Marks,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 86-27667 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-22-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 January 15, 1987.

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	Regulations(s) affected	Nature of exemption thereof
9696-N	Fluoroware, Inc., Chaska, MN	49 CFR Part 173, Subparts D, F	To manufacture, mark and sell a 100 liter rotationally molded teflon fiberglass wrapped portable container for shipment of those commodities authorized in DOT Specification 34, and DOT Specification 6D/2S or 2SL containers and nitric acid up to 71% classed as an oxidizer. (modes 1, 2)
9697-N	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.31(c)	To authorize a one time shipment of waste antimony pentachloride a corrosive liquid classed as a corrosive material in DOT Specification 105A300W and 105A500W tank cars overdue for hydrostatic retest. (mode 2)
9698-N	Michelin Tire Corporation, Greenville, SC	49 CFR 173.119(a)(3), (4)	To authorize shipment of a mixture of 80-90% heptane and 20-10% rubber and other non-hazardous materials, flammable liquids, n.o.s., classed a flammable liquid in a non-DOT dissolution tank assembly container inside a cage assembly. (mode 1)
9699-N	Aviex Jet, Inc., Houston, TX	49 CFR 172.101, 172.204(d)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for air shipment. (mode 4)
9700-N	The Dow Chemical Company, Midland, MI	49 CFR 173.315(i)(3)	To authorize use of a DOT Specification 51 portable tank with a spring loaded safety relief valve setting of less than 100 psig but not less than 75 psig for methacrylonitrite, a flammable liquid, poisonous, n.o.s., classed as flammable liquid. (modes 1, 3)
9701-N	Trimeg Holdings Ltd., Calgary, Alberta, Canada	49 CFR Part 173, Subparts E, F	To manufacture, mark and sell flexible, woven polypropylene fabric bulk container with polyethylene liners with either top closure skirt, top filling spout and/or a bottom discharge spout for flammable and corrosive solids, and oxidizers, classed as flammable solid, corrosive material and oxidizer (modes 1, 2, 3)
9702-N	Chase Bag Company, Oak Brook, IL	49 CFR 173.154(a)	To manufacture, mark and sell a non-DOT specification multiwall kraft pinch/seal bag for calcium nitrite, an oxidizer, n.o.s., classed as oxidizer. (modes 1, 2)
9703-N	Moli Energy Limited, Burnaby, B.C., Canada	49 CFR Parts 100-199	To authorize shipment of lithium batteries comprised of no more than 4 cells and an aggregate quantity of no more than 3.4 grams of lithium as essentially nonregulated. (modes 1, 2, 3, 4, 5)
9704-N	Dresser Industries, Inc., Houston, TX	49 CFR 173.107(a)	To authorize shipment of small arms primers, Class C explosive, in DOT Specification 23F fiberboard boxes. (modes 1, 3, 4, 5)
9705-N	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.139	To authorize shipment of propylenimine, inhibited, classed as a flammable liquid in DOT Specification 51 portable tank. (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 December 5, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardours Materials Transportation.

[FR Doc. 86-27748 Filed 12-9-86; 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 an public notice. Because the section 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 December 31, 1986.

ADDRESS: 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	Hercules, Inc., Wilmington, DE	2709
2709-X	U.S. Department of Defense, Falls Church, VA	2709
2709-X	Trojan Corp., Salt Lake City, UT	2709
3095-X	Dow Chemical Co., Midland, MI	3095
3498-X	U.S. Department of Defense, Falls Church, VA	3498
4242-X	U.S. Department of Defense, Falls Church, VA	4242
4698-X	United Technologies Automotive Group, Howe, IN	4698
5022-X	U.S. Department of Defense, Falls Church, VA	5022
5022-X	Boeing Aerospace Co., Seattle, WA	5022
5022-X	Aerojet General Corp., Sacramento, CA	5022
6443-X	Montana Sulphur & Chemical Co., Billings, MT	6443
6626-X	Airco, The BOC Group, Inc., Murray Hill, NJ	6626
6686-X	Chilton Metal Products Division, Chilton, WI	6686
6762-X	Taylor Chemicals, Inc., Sparks, MD (See Footnote 1)	6762
6773-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE	6773

Application No.	Applicant	Renewal of exemption
7601-X	Atlantic Research Corp., Gainesville, VA	7601
7625-X	Hydrite Chemical Co., Milwaukee, WI	7625
7657-X	Welker Engineering Co., Sugar Land, TX (See Footnote 2)	7657
7765-X	Moog, Inc., Tampa, FL	7765
7774-X	Pipe Recovery Systems, Inc., Houston, TX	7774
7834-X	U.S. Department of Defense, Falls Church, VA	7834
8086-X	Boeing Aerospace Co., Seattle, WA	8086
8086-X	U.S. Department of Defense, Falls Church, VA	8086
8127-X	Israel Military Industries, Washington, DC	8127
8451-X	Martin Electronics, Inc., Perry, FL	8451
8494-X	Fruehauf Corp., Omaha, NE	8494
8498-X	Hunter Drums Ltd., Bramalea Ontario, Canada	8498
8526-X	The Cleveland, Columbus & Cincinnati Highway, Inc. Cleveland, OH	8526
8561-X	HTL Industries, Inc., Duarte, CA	8561
8585-X	Bergen Barrel and Drum Co., Kearny, NJ (See Footnote 3)	8585
8877-X	American Hoechst Corp., Somerville, NJ	8877
8877-X	SCM Specialty Chemicals, Gaineville, FL	8877
8877-X	Union Carbide Corp., Danbury, CT	8877
8877-X	KTI Chemicals, Inc., Danbury, CT	8877
9052-X	Chemical Handling Equipment Co., Inc. Southfield, MI (See Footnote 4)	9052
9108-X	The Ensign-Bickford Company Simsbury, CT (See Footnote 5)	9108
9168-X	All-Pak, Inc. Buffalo, NY (See Footnote 6)	9168
9295-X	Applied Companies San Fernando, CA	9295
9317-X	Dow Chemical Co. Freeport, TX	9317
9318-X	SternAir, Inc. Dallas, TX	9318
9327-X	Precision Measurement, Inc. Tulsa, OK	9327
9354-X	Companhia Nitro Quimica Brasileira Sao Paulo, Sp Brazil	9354
9374-X	Poly Processing Company, Inc. Monroe LA (See Footnote 7)	9374
9648-X	Morton Thiokol, Inc. Elkton, MD (See Footnote 8)	9648
9668-X	Morton Thiokol, Inc. Brigham City, UT	9668

[1] To renew and to authorize an ORM-A, and ORM-B material and additional flammable liquids.
[2] To authorize natural gas (methane) and crude oil (petroleum) as additional commodities.
[3] To modify certain design criteria of the non-DOT specification polyethylene containers for the shipment of certain corrosive, flammable and poison B liquids and an oxidizer.
[4] To authorize an additional type hardwood-overpack to contain a polyethylene portable tank for shipment of certain corrosive or flammable liquids or an oxidizer.
[5] To authorize reuse of DOT Specification 12H65 fiberboard box and to authorize use of common carriers for shipment of an initiating explosive.
[6] To increase quantity limitations for poison and flammable solids to 6¼ pounds.
[7] To authorize an alternate metalwork design frame to contain a polyethylene portable tank for shipment of certain corrosive or flammable liquds or an oxidizer.
[8] To authorize cargo aircraft and water as additional modes of transportation.

Application	Applicant	Parties to exemption
4453-P	Wood Explosives Inc., Styostown, PA.	4453
4453-P	Buckley Powder Co., Englewood, Co.	4453
7052-P	Maxwell Corp. of America, Mooachie, NJ.	7052
7052-P	Hughes Electronics Products Corp., Livonia, MI.	7052
8126-P	Compagnie Des Containers Reservoirs, Paris, France.	8126
8445-P	Special Waste Systems Inc., Detroit, MI.	8445
8526-P	Motor Express Inc. of Indiana, Chicago, IL.	8526
8526-P	BE-Mac Transport Co., Inc., St. Louis, MO.	8526
8693-P	Sunohio Co., Canton, OH	8693
9023-P	Chemical Industries of Northern Greece SA, Thessaloniki, Greece.	9023
9222-P	First Piedmont Corp., Chatham, VA.	9222
9275-P	Max Factor & Co. & Halston Fragrances, Oxford, NC.	9275
9277-P	Rhone-Poulenc Inc., Monmouth Junction, NJ.	9277
9281-P	A-Z International Tool Co., Houston, TX.	9281
9480-P	Messer Griesheim Industries Inc., Valley Forge, PA.	9480
9491-P	Messer Griesheim Industries Inc., Valley Forge, PA.	9491
9549-P	Jet Research Center, Inc., Arlington, TX.	9549
9626-P	NL McCullough/NL Industries, Inc., Houston, TX.	9626

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 December 5, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-27747 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

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 of the exemption granted in October 1986. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
3330-X	DOT-E 3330	Babcock and Wilcox Co., Lynchburg, VA	49 CFR 173.214(b), 173.214(d)	To authorize use of non-DOT specification insulated containers overpacked in DOT specification 17C, 17H, or 37A metal drums, for transportation of certain flammable solid materials. (Modes 1, 2.)
3330-X	DOT-E 3330	Western Zirconium, Inc., Ogden, UT	49 CFR 173.214(b), 173.214(d)	To authorize use of non-DOT specification insulated containers overpacked in DOT specification 1CC, 17H, or 37A metal drums, for transportation of certain flammable solid materials. (Modes 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
3768-X	DOT-E 3768	Vanchem, Inc., Lockport, NY	49 CFR 173.119, 173.245, 173.288	To renew and clarify the provisions of paragraphs 3a and 3b pertaining to commodity description. (Mode 1.)
4453-P	DOT-E 4453	Douglas Explosives, Inc., Philipsburg, PA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3.)
4453-P	DOT-E 4453	Laverty Supply, Inc., Indianola, IA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3.)
4844-X	DOT-E 4844	The Walter Kidde Company Limited, Avon, England.	173.301(i), 173.301(j), 173.302, 173.304	To authorize use of non-DOT specification foreign made steel cylinders, for shipment of certain nonflammable gases. (Modes 1, 4.)
4884-X	DOT-E 4884	Union Carbide Corporation, Danbury, CT	49 CFR 173.302(a)(1), 175.3, 178.61	To authorize certain liquefied compressed gases as additional commodities in steel cylinders fabricated from 316 stainless steel in addition to the approved 304 stainless steel. (Modes 1, 2, 3, 4, 5.)
5206-P	DOT-E 5206	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
5206-P	DOT-E 5206	Nitrochem Energy Corp., Biwabik, MN	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
5206-P	DOT-E 5206	Laverty Supply, Inc., Indianola, IN	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
6299-X	DOT-E 6299	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.315(a)(1)	To authorize an additional model portable tank for shipment of certain nonflammable gases. (Modes 1, 3.)
6874-X	DOT-E 6874	Harrisons and Crosfield (Pacific), Inc., Emerville, CA.	49 CFR 172.101, 173.-370(a)(13)	To authorize transport of sodium and potassium cyanides in non-DOT specification wooden boxes. (Modes 1, 2, 3.)
7052-P	DOT-E 7052	Clifton Precision Systems Division, Springfield, PA.	49 CFR 172.101, 172.420, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	DURACELL Inc., Bethel, CT	49 CFR 172.101, 172.420, 175.3	To authorize shipment of discharged lithium/sulfur dioxide cells and batteries with an open circuit voltage of at least 2 volts per cell. (Modes 1, 2, 3, 4.)
7285-X	DOT-E 7285	Parlefer S. A. R. L., Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, 3.)
7862-X	DOT-E 7862	General Electric Co., Milwaukee, WI	49 CFR 173.302, 175.3	To authorize an additional xenon detector design. (Modes 1, 4, 5.)
8008-X	DOT-E 8008	Wheaton Aerosols Co., Mays Landing, NJ	49 CFR 173.1200, 173.305, 173.306(a), 175.3.	To authorize manufacture, marking and sale of non-DOT specification aerosol container consisting of a glass bottle externally coated with plastic, for shipment of compressed gases. (Modes 1, 2, 3, 4.)
8451-X	DOT-E 8451	Stresau Laboratory, Inc., Spooner, WI	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams of high explosives and pyrotechnics in 4 or 6 inch diameter piper overpacked in cushioned DOT specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, 4.)
8451-X	DOT-E 8451	Boeing Aerospace Co., Seattle, WA	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams of high explosives and pyrotechnics in 4 or 6 inch diameter piper overpacked in cushioned DOT specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, 4.)
8453-P	DOT-E 8453	J. H. Van Amburgh Explosives, Inc., Dallas, TX.	49 CFR 173.114a	To become a party to Exemption 8453. (Mode 1.)
8549-X	DOT-E 8549	United Pumping Service, Inc., City of Industry, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of certain non-DOT specification cargo tanks complying with DOT specification MC-307/MC-312 except for bottom outlet valve variations, for transportation of liquid and semi-solid waste materials. (Mode 1.)
8723-P	DOT-E 8723	W. A. Murphy, Inc., El Monte, CA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 8732. (Modes 1, 3.)
8735-X	DOT-E 8735	Letica Corporation, Rochester, MI	49 CFR 178.19, Part 173, Subpart D, F	To increase specific gravity of commodities from 1.2 to 1.3 (Modes 1, 2, 3.)
8873-X	DOT-E 8873	Stauffer Chemical Company, Westport, CT.	49 CFR 173.121	To authorize use of DOT specification MC-312 cargo tanks, for transportation of carbon disulfide or carbon bisulfide. (Mode) 1.)
8913-X	DOT-E 8913	Eurotainer, S.A., Paris, France	49 CFR 173.119(a)(25)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for shipment of flammable liquids. (Modes 1, 2, 3.)
8931-X	DOT-E 8931	C-I-L Inc., North York, Ontario	49 CFR 173.272, 179.201-1	To authorize shipment of sulfuric acid, in DOT specification 111A100W2 tank cars equipped with bottom outlets. (Mode 2.)
8944-X	DOT-E 8944	Union Carbide Corporation, Danbury, CT	49 CFR 173.302(c)(2), 173.302(c)(3), 173.302(c)(4), 173.34(e)(1), 173.34(e)(3), 173.34(e)(4), 173.34(e)(6), PART 107, APPENDIX B.	To authorize retesting, under existing terms of the exemption, of DOT-3AAX and 3T specification cylinders other than those owned or leased by Union Carbide. (Modes 1, 3.)
8965-X	DOT-E 8965	Pressed Steel Tank Company, Inc., Milwaukee, WI.	49 CFR 173.302(a), 175.3	To increase water capacity of FRP hoop wrapped cylinders from 300 to 350 pounds for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4, 5.)
9212-X	DOT-E 9212	Gibson Cryogenics, Inc., Ogden, UT	49 CFR 173.315	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks, for shipment of carbon dioxide, refrigerated liquid. (Modes 1, 3.)
9266-X	DOT-E 9266	ANF-Industrie, Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for shipment of liquefied compressed gases. (Modes 1, 2, 3.)
9287-X	DOT-E 9287	Shell Pipe Line Corporation, Houston, TX	49 CFR 173.119, 173.304, 173.315	To renew and authorize pipes on meter prover to range in size from 2.375 inches to 14 inches outside diameter with an internal volume varying from 10 to 240 gallons. (Mode 1.)
9302-X	DOT-E 9302	Las Vegas Airlines, Inc., Las Vegas, NV	49 CFR 175.702(b)(1), 175.702(b)(2)(ii), 175.702(b)(2)(iii), 175.703(b)(2)(i), 175.75(a)(3)(ii).	To authorize air transport of radioactive material without transport index and separation distance controls provided operations are in accordance with safety instructions provided by DOE or DOE contractor radiological safety personnel. (Mode 4.)
9449-X	DOT-E 9449	Union Carbide Corporation, Danbury, CT	DOT-E 172.101, 173.21, 173.315(i)(3), 173.346, 173.3a, 178.245.	To decrease commodity weight of portable tanks from 51,097 to 50,197 and to increase tare weight from 16,100 to 17,000 for shipment of a pesticide. (Modes 1, 3.)
9603-X	DOT-E 9603	Tennessee Eastman Company, Kingsport, TN.	49 CFR 171.2, 173.119, 173.125, 179.201-1.	To authorize use of a non-DOT specification tank car which conforms to DOT specification 111A100W1 except for a thinner shell thickness in certain areas and for deviations in length of welds used in attaching bar pads. (Mode 2.)
9617-P	DOT-E 9617	Explosives, Inc., Clarksburg, WV	49 CFR 177.848(f)	To become a party to Exemption 9617. (Mode 1.)
9617-P	DOT-E 9617	Piedmont Explosives, Inc., Statesville, NC	49 CFR 177.848(f)	To become a party to Exemption 9617. (Mode 1.)

New Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9569-N	DOT-E 9569	Copps Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive liquids in an unlined tin can overpacked in a 29-gauge non-DOT removable lug, cover, unlined steel pail of three and one-half gallon capacity, also containing a non-hazardous resin mix. (modes 1, 2, 3, 4.)
9570-N	DOT-E 9570	Hoke Incorporated, Cresskill, NJ	49 CFR 175.3, Part 173, Subpart D, E, F, G.	To authorize manufacture, marking and sale of cylinders made in accordance with DOT 3E1800, except that it is made of monel metal, for transportation of certain hazardous materials. (Modes 1, 2, 3, 4.)
9580-N	DOT-E 9580	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 173.120(b)	To authorize transport of internal combustion engines with flammable liquids in their fuel tanks, as part of non-self propelled apparatus, as essentially not subject to the requirements of 49 CFR Parts 100-199. (Mode 1.)
9611-N	DOT-E 9611	Buco Budenbender GMbh & Co., Niederndorf, West Germany.	49 CFR 178.116	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness (19 gauge), to be used in place of 20/18 gauge, 55-gallon capacity DOT-17E drums. (Modes 1, 2, 3.)
9623-N	DOT-E 9623	Atlas Powder Company, Dallas, TX	49 CFR 177.835(c)(3)	To authorize transport of a blasting agent or an oxidizer in a DOT specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9628-N	DOT-E 9628	Degussa Corporation, Teterboro, NJ	49 CFR 173.245(b)	To authorize use of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of 1,000 kilos (approximately 2200 pounds) each, and top and botton oulets, for shipment of a corrosive solid. (Modes 1, 2, 3, 4.)
9629-N	DOT-E 9629	Pennwalt Corporation, King of Prussia, PA.	49 CFR 173.304(b)	To authorize transport of vinylidene fluoride in DOT specification cylinders at filling densities which will result in the cylinders being liquid full below 130 degrees Fahrenheit. (Mode 1.)
9634-N	DOT-E 9634	Luxfer USA Limited, Riverside, CA	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiberinforced plastic, full composite cylinders for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4.)
9637-N	DOT-E 9637	Connelly Containers, Inc. Bala Cynwyd, PA.	49 CFR 173.154, 173.245b, 173.365	To authorize manufacture, marking and sale of non-reusable, fiberboard bulk boxes made of triple-wall corrugated fiberboard having an inside lining of 0.006-inch minimum thickness polyethylene film (Mode 1.)
9646-N	DOT-E 9646	U.S. Department of Defense, Falls Church, VA.	49 CFR 174.81	To authorize transport by rail of freight shipping containers loaded with combinations of packages of Class A, B and C explosive and a corrosive liquid, not authorized in 49 CFR 174.81. (Mode 2.)
9649-N	DOT-E 9649	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.421(b) and (d)	To authorize radiation levels slightly higher than normally allowed for limited quantity radioactive materials and relief from certain marking requirements for the depleted uranium component of the packages. (Modes 1, 2, 3.)

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 7052-N	DOT-E 7052	ENDECO, Incorporated Marion, MA	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as a flammable solids. (Modes 1, 2, 3, 4.)
EE 9668-N	DOT-E 9668	Morton Thiokol, Inc., Brigham City, UT	49 CFR 173.92, 173.94	To authorize transport of very large segments of a space shuttle without packaging over a short section of public highway. (Mode 1.)
EE 9678-N	DOT-E 9678	Rossbourgh Manufacturing Co., Avon Lake, OH.	49 CFR 173.154	To authorize use of dry bulk tank semi-trailers for shipment of magnesium and calcium salt mixtures. (Mode 1.)
EE 9679-X	DOT-E 9679	Michlin Diazo Products Corporation, Dearborn, MI.	49 CFR 173.245(a)(21)	To authorize shipment of ammonium hydroxide, classed as a corrosive material, in a six gallon capacity, DOT specification 2U polyethylene containers, overpacked in a DOT Specification 12P fiberboard box. (Mode 1.)
EE 9680-N	DOT-E 9680	Airco Industrial Gases, Riverton, NJ	49 CFR 173.328, 173.34(d)(3)	To authorize a one time shipment of a 80% silane, 20% phosphine mixture, classed as a poison A, in five DOT specification 3AA2265 steel cylinders equipped with brass valves and safety relief devices. (Mode 1.)
EE 9681-N	DOT-E 9681	Space Ordnance Systems, Caanyo Country, CA.	49 CFR 173.65	To authorize special packaging for limited quantities of Class A, Type 4 explosives, to be placed in special packaging not prescribed in 49 CFR. (Modes 1, 4.)
EE 9682-N	DOT-E 9682	National Institute of Health, Bethesda, MD.	49 CFR 173.320, 175.30, 175.85	To authorize 500 cc's of nitrogen, refrigerated liquid, classed as a nonflammable gas, contained in a metal flask, to be carried in the cabin of a passenger carrying aircraft. (Mode 5.)

Withdrawals

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-P	Cincinnati Milacron Co., Worcester, MA	49 CFR 172.101, 172.420, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7987-P	Chase Bag Company, Oak Brook, IL	49 CFR 173.343, 173.377	To become a party to Exemption 7987. (Modes 1, 2.)
8352-P	Chase Bag Company, Oak Brook, IL	49 CFR 173.154	To become a party to Exemption 8352. (Modes 1, 2, 3.)
9015-P	Chase Bag Company, Oak Brook, IL	49 CFR 173.217	To become a party to Exemption 9015. (Modes 1, 2, 3.)
9110-P	Chase Bag Company, Oak Brook, IL	49 CFR 173.163	To become a party to Exemption 9110. (Modes 1, 2, 3.)
9498-P	Chase Bag Company, Oak Brook, IL	49 CFR 173.370	To become a party to Exemption 9498. (Modes 1, 2.)

Denials

9636-N Request by CRC Wireline, Inc., Grand Prairie, TX to authorize shipment of specially designed charged well jet perforating guns, Class A and C explosives equipped with detonators denied October 14, 1986.

9647-N Request by U.S. Department of Defense, Falls Church, VA to authorize shipment of detonators, Class A explosive, in military specification packagings denied October 31, 1986.

Issued in Washington, DC, on December 3, 1986.

J. Suzanne Hedgepeth, Chief

Exemptions Branch, Office of Hazardous Materials Transportation

[FR Doc. 86-27750 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Availability of UMTA Circular 7010.1; Capital Cost of Contracting

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of the availability of UMTA Circular 7010.1; Capital Cost of Contracting.

SUMMARY: By this Notice, the Urban Mass Transportation Administration (UMTA) announces that UMTA Circular 7010.1, "Capital Cost of Contracting," is available to the public. This Circular provides guidance to UMTA grant recipients on the use of UMTA capital assistance to pay for privately owned capital consumed in transit services obtained through competitive procurement action.

EFFECTIVE DATE: The Circular is effective December 5, 1986.

FOR FURTHER INFORMATION CONTACT: Douglas Birnie, Office of Private Sector Initiatives, Room 9300, Telephone (202) 366-1666, UMTA, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Circular applies to grant funds made available under sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (the UMT Act). It may also apply to grant funds made available under other sections of the UMT Act on a case-by case-basis.

The policy set forth in the Circular permits UMTA grant recipients the option to use capital assistance rather than operating assistance to fund the cost of privately owned capital components of transit services obtained through competitive procurement action.

The capital cost of contracting Circular is one element of UMTA's private sector initiative which seeks to ensure maximum feasible participation by private enterprise in the provision of needed mass transportation in keeping with the statutory requirements of the UMT Act. By separating the capital and operating components of transit service contracts and allowing reimbursement of the capital portion at the capital rate, the Circular permits a grantee to apply a higher Federal share to these activities than was previously permitted. This allows more even-handed consideration of public and private alternatives with regard to expenditure of Federal capital assistance. Grantees will find it easier to take advantage of the private sector resources available to them via competitive procurement of services and to comply with the requirements of sections 3(e) and 8(e) of the UMT Act.

The Circular describes the specific expense items eligible under it, and explains how costs are to be allocated. It also discusses how Federal laws such as Buy America, Davis Bacon, and UMT Act requirements are to be met by those availing themselves of the Circular.

The Circular is effective December 5, 1986. UMTA is sending a copy of the Circular to all of its recipients of capital or operating assistance grants.

Any interested member of the public can obtain a copy by contacting: Inga Reeder, Office of Administration, UMTA, Room 6421, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-2494.

Issued on: December 5, 1986.

Ralph L. Stanley,

Administrator.

[FR Doc. 86-27756 Filed 12-9-86; 8:45 am]

BILLING CODE 4910-57-M

Availability of UMTA Circular 7005.1; Documentation of Private Enterprise Participation Required for Sections 3 and 9 Programs

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of the availability of UMTA Circular 7005.1; Documentation of private enterprise participation required for sections 3 and 9.

SUMMARY: By this Notice, the Urban Mass Transportation Administration (UMTA) announces that UMTA Circular 7005.1, "Documentation of Private Enterprise Participation Required for Sections 3 and 9 Programs," is available to the public. This Circular provides guidance to UMTA grant applicants and recipients of UMTA funds for the development and documentation of a local process for considering the capability of private providers to perform mass transportation and related support services. This documentation will allow UMTA to make the findings required under sections 3(e) and 8(c) of the Urban Mass Transportation Act of 1964, as amended (UMT Act), and to determine compliance with sections 8(e) and 9(f) of the UMTA Act.

EFFECTIVE DATE: The Circular is effective December 5, 1986.

FOR FURTHER INFORMATION CONTACT: Douglas Birnie, Office of Private Sector Initiatives, Room 9300, Telephone (202) 366-1666, UMTA, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The joint UMTA/FHWA planning regulation (48 FR 30332, June 20, 1983) requires that the local planning process be consistent with sections 3(e) and 8(e) of the UMT Act concerning the involvement of private transportation providers. On October 22, 1984, UMTA published "Private Enterprise Participation in the Urban Mass Transportation Program" in the **Federal Register** (49 FR 41310). (The Policy Statement.) On January 24, 1986, UMTA published "Guidance on Documentation of Private Enterprise Participation in Urban Mass Transportation Programs; Notice" in the **Federal Register** (51 FR 3306). (The Guidance.) These documents strengthening UMTA's implementation of the private sector participation provisions of the UMT Act, were intended to provide a greater competitive environment and increase the opportunities for private sector participation in mass transportation operations.

The Policy Statement was designed as a general statement of policy and continues in effect. The Guidance provided that it was effective for Fiscal Year 1986 and would be followed by a Circular establishing guidance for future years. The Circular announced in this Notice, 7005.1, supersedes the Guidance.

A recent action of Congress directly relates to UMTA's involvement in private sector initiatives, and Circular 7005.1 reflects that action. Specifically, the Department of Transportation and Related Agencies Appropriations Bill, 1987 (H.R. 5205), as amended by the Committee on Conference (H.R. Rep. 99-976), contains a provision, section 327, relating to private sector involvement in UMTA programs. The provision imposes limitations on UMTA but also recognzies UMTA's ongoing statutory responsibilities under sections 3(e), 8(e) and 9(f) of the UMT Act. After reviewing the provision and its legislative history, UMTA interprets section 327 to mean that UMTA may not:

a. Condition a section 9 grant on a specific level of private sector involvement;

b. Establish quotas for private sector involvement; or

c. Mandate the local decision regarding private sector involvment.

The Circular imposes no such requirements.

However, for UMTA to continue to exercise its statutory responsibilities, as section 327 recognizes it must, UMTA requires that grantees use a locally developed process for the consideration of private enterpise.

Thus, Circular 7005.1 provides that each UMTA grantee must develop or adopt a process for the consideration of private enterpise participation and the private operation of mass transportation and other support services to the maximum extent feasible to provide a basis for UMTA to make the section 3(e) and 8(c) findings and to ensure compliance with sections 8(e) and 9(f).

The Circular also addresses the role of their metropolitan planning organization in the local process, and provides a process for the handling of complaints.

The Circular is effective December 5, 1986. UMTA is sending a copy of the Circular to all of its recipients of capital or operating assistance grants.

Any interested member of the public can obtain a copy by contacting: Inga Reeder, Office of Administration, UMTA, Room 6421, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2494.

Issued on: December 5, 1986.

Ralph L. Stanley,

Administrator.

[FR Doc. 86–27755 Filed 12–9–86; 8:45 am]

BILLING CODE 4910-57-M

UMTA Fiscal Year 1987 Sections 9 and 18 Formula Grant Apportionments

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: Pub. L. 99–500 signed into law by President Reagan on October 18, 1986, provides Fiscal Year 1987 appropriations for the formula grant program under sections 9 and 18 of the Urban Mass Transportation Act of 1984, as amended (the UMT Act). This Notice provides the apportionment of section 9 funds to each urbanized area over 200,000 in population, the apportionment of section 9 funds to State Governors for urbanized areas under 200,000 in population and the apportionment of section 18 funds to State Governors for nonurbanized areas. This Notice also includes limitations on the use of section 9 funds for operating assistance in urbanized areas. In addition, this Notice contains important information about the section 16 (b) (2) elderly and handicapped program.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Chief, Resource Management Division (202) 366–2053, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: A program of Federal assistance to urban mass transportation systems by means of formula grants for capital and operating assistance was enacted January 6, 1983, under the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424). Funds for Fiscal Year 1987 were appropriated by the Department of Transportation and Related Agencies Appropriations Act, 1987, Pub. L. 99–500.

This Notice provides the Fiscal Year 1987 apportionment of sections 9 and 18 funds for urbanized and nonurbanized areas, based on the most recent U.S. census data. Section 9 apportionments for urbanized areas over 200,000 in population are also based on operating and financial data submitted for the 1985 section 15 Annual Report.

Formula Program Appropriations

A total of $2,000,000,000 has been appropriated for Fiscal Year 1987 for the sections 9 and 18 programs. The Appropriations Act directs that, before apportionment of these funds, $16,900,000 shall be made available to the section 18 program. Of the remaining amount, 97.07 percent ($1,924,995,170) is being made available to the section 9 program and 2.93 percent ($58,104,830) is being made available to the section 18 program.

Construction Management Oversight Set Aside

The Fiscal Year 1987 Appropriations Act allows the Secretary of Transportation to use not more than one-half of one percent of the funds made available for Fiscal Year 1987 under sections 3, 9, and 18, and the National Capital Transportation Act of 1969 ("Stark-Harris") to contract with any person to oversee the construction of any major project under such programs. Therefore, one-half of one percent of the funds appropriated for Fiscal Year 1987 under the sections 9 and 18 formula programs, or $10,000,000, has been reserved for this purpose ($9,624,976 under section 9 and $375,024 under section 18). The remaining amount of $1,990,000,000 of Fiscal Year 1987 funds is apportioned in this Notice. If the $10,000,000 reserved for construction management oversight is not fully required for this function in Fiscal Year 1987 the balance remaining, plus any deobligated Fiscal Year 1986 funds reserved for this purpose, will be apportioned in Fiscal Year 1988.

Section 9 Additional Funding

This apportionment includes more than Fiscal Year 1987 appropriated funds. It also includes Fiscal Year 1983 section 5 funds and Fiscal Year 1982 section 5 funds for urbanized areas under 200,000 in population that were never obligated and thus have become available for reapportionment. In addition, it includes Fiscal Year 1975 to Fiscal Year 1983 section 5 funds that were deobligated in Fiscal Year 1986 and thus also have become available for reapportionment. All of these section 5 funds, totaling $19,369,861, are being apportioned under and become part of the Fiscal Year 1987 section 9 program as provided for in the Surface Transportation Assistance Act of 1982. Also, $7,416,319 of reserved construction management oversight Fiscal Year 1986 funds that were not required for this function in Fiscal Year 1986 are included. Thus, the total amount being apportioned for section 9 is $1,942,156,374.

Section 9 Fiscal Year 1986 Data Corrections

Corrections have been made to the data from certain areas that were used to compute the Fiscal Year 1986 formula grant apportionments published in the **Federal Register** of March 20, 1986 (51 FR 9754). Differences between corrected apportionments and previously published apportionments have been resolved and necessary adjustments have been made by adding to our subtracting from, as appropriate, the apportionments for Fiscal Year 1987. The dollar amounts published in this Notice contain these corrections. The affected urbanized areas have been advised of these corrections.

Section 9 Fiscal Year 1987 Apportionments to the Governors

For all urbanized areas under 200,000 in population within each state, one figure is provided for the Governor's apportionment. In accordance with section 9 of the UMT Act, these apportionments are not made to individual urbanized areas but are made to the Governors for use within all urbanized areas between 50,000 and 200,000 in population as needed. UMTA has administrated the section 9 program in this fashion from its inception, and it

parallels UMTA's procedures under the section 5 program. For technical assistance purposes, this Notice also contains the amount attributable to the most recent U.S. census data for each urbanized area within the State.

Section 9 Operating Assistance Limitations

In addition to the Fiscal Year 1987 apportionments, included in this Notice is a listing of the Fiscal Year 1987 operating assistance limitations. The Fiscal Year 1987 Appropriations Act provides a nationwide maximum of $847,044,097 in operating assistance availability. The Appropriations Act further specifies that the maximum available for operating assistance in urbanized areas over 1,000,000 in population is $563,505,567, a reduction in the level of operating assistance available under section 9 of the UMT Act. The operating assistance limitation for areas under 1,000,000 is $281,789,349, based on the limitations contained in section 9 of the UMT Act and the actual Fiscal Year 1987 apportionment levels. Thus, based upon the UMT Act, the Fiscal Year 1987 Appropriations Act, and the Fiscal Year 1987 apportionment levels, the Fiscal Year 1987 nationwide operating assistance limitation is $845,294,916. This limitation amount is slightly below the maximum level specified for this purpose in the Fiscal Year 1987 Appropriations Act.

For all urbanized areas under 200,000 in population within each State, one limitation for operating assistance is provided to the State Governor. However, for technical assistance purposes, this Notice also contains the limitation attributable to the data for each urbanized area within the State.

Section 18 Program

In addition to the appropriated Fiscal Year 1987 formula funds, the section 18 Fiscal Year 1987 apportionment also includes $11,062 in prior year deobligated funds which had lapsed to the States to which they were originally apportioned, and $301,431 in unused Fiscal Year 1986 funds which had been set aside for construction management oversight. Thus the total amount apportioned for section 18 is $74,942,299.

UMTA has amended the Disadvantaged Business Enterprise (DBE) and Women's Business Enterprise (WBE) reporting requirements for the section 18 program. This change will reduce the frequency of this reporting by the State agency from quarterly to semiannual. Under the law new reporting requirements, the State agency will provide semiannual reports to UMTA on DBE/WBE contracting activity from the section 18 primary recipient and all subrecipients that meet or exceed the Department's $250,000 threshold. Contracting activity of those section 18 subrecipients below this threshold must be reported annually. UMTA reserves the right to require quarterly reports from section 18 recipients or subrecipients that fail to achieve approved goals or from recipients or subrecipients implementing major construction projects. In this regard, UMTA will continue to require quarterly reporting from States and subrecipients that receive over $500,000 exclusive of transit vehicle purchase. This change is effective as of the date of this Notice.

Other Information

Unfortunately, no Fiscal Year 1987 funds can be made available at this time for the section 16(b)(2) program of capital assistance for transportation of elderly and handicapped persons. By law, funds for the section 16(b)(2) program are derived from the Mass Transit Account of the Highway Trust Fund. As of this date new contract authority has not been authorized by Congress for Fiscal Year 1987 for programs funded from the Mass Transit Account. Grantees are encouraged to utilize sections 9 and 18 funds, to the extent permissible by law, for transportation programs for elderly and handicapped persons. Interested parties are advised that a similar situation prevails for Fiscal Year 1987 funds for programs funded from the Mass Transit Account of the Highway Trust Fund, specifically section 8 planning assistance and section 3 discretionary capital assistance.

Period of Availability of Funds

The funds apportioned to urbanized areas under section 9 in this Notice will remain available to be obligated by UMTA to recipients for three (3) fiscal years following Fiscal Year 1987. Any apportioned funds unobligated at close of business on September 30, 1990, will be added to the amounts available for apportionment for the succeeding fiscal year under section 9. Funds apportioned to nonurbanized areas under section 18 will remain available for two (2) years following Fiscal Year 1987. Any such funds remaining unobligated at the close of business on September 30, 1989, will be reapportioned among the States in the succeeding fiscal year.

Application Procedures

Applications for section 9 funds should be submitted to the appropriate UMTA Regional Office in conformance with UMTA Circular 9030.1, published June 27, 1983. Applications for section 18 funds should be submitted to the appropriate UMTA Regional Office in conformance with UMTA Circular 9040.1A, published May 23, 1985.

Financial Capability

This year, applicants should bear in mind that in its review of grant applications, UMTA will put particular emphasis on the financial capability of applicants to both procure equipment and facilities and to operate and maintain them over their useful lives. Additional guidance on this issue will be forthcoming shortly.

Issued on: December 4, 1986.

Ralph L. Stanley,

Administrator.

BILLING CODE 4150-04-M

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO URBANIZED AREAS 1,000,000 IN POPULATION AND 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	APPORTIONMENT	URBANIZED AREA	APPORTIONMENT
Atlanta, Georgia	$ 24,192,896	Milwaukee, Wisconsin	$14,067,581
Baltimore, Maryland	21,715,422	Minneapolis-St. Paul, Minnesota	18,155,697
Boston, Massachusetts	55,529,243	New Orleans, Louisiana	12,960,207
Buffalo, New York	9,282,561	New York, N.Y.-Northeastern New Jersey	481,991,589
Chicago, Illinois-Northwestern Indiana	156,876,814	Philadelphia, Pennsylvania-New Jersey	84,593,431
Cincinnati, Ohio-Kentucky	10,588,796	Phoenix, Arizona	9,583,781
Cleveland, Ohio	20,554,656	Pittsburgh, Pennsylvania	28,091,465
Dallas-Fort Worth, Texas	19,631,571	Portland, Oregon-Washington	13,161,450
Denver, Colorado	15,281,208	St. Louis, Missouri-Illinois	16,179,675
Detroit, Michigan	34,383,494	San Diego, California	20,672,663
Fort Lauderdale-Hollywood, Florida	7,967,622	San Francisco-Oakland, California	81,045,527
Houston, Texas	23,578,895	San Jose, California	17,148,439
Kansas City, Missouri-Kansas	6,830,354	San Juan, Puerto Rico	11,787,511
Los Angeles-Long Beach, California	121,854,171	Seattle-Everett, Washington	24,882,710
Miami, Florida	20,469,216	Washington, D.C.-Maryland-Virginia	56,884,486

TOTAL $ 1,439,943,131

URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	APPORTIONMENT	URBANIZED AREA	APPORTIONMENT
Akron, Ohio	$ 3,909,198	Jackson, Mississippi	$ 1,490,034
Albany-Schenectady-Troy, New York	4,976,996	Jacksonville, Florida	6,120,696
Albuquerque, New Mexico	1,790,082	Knoxville, Tennessee	1,779,734
Allentown-Bethlehem-Easton, Pa.-N.J.	2,744,712	Lansing, Michigan	2,087,517
Ann Arbor, Michigan	2,199,073	Las Vegas, Nevada	2,638,861
Augusta, Georgia-South Carolina	1,332,138	Lawrence-Haverhill, Mass.-New Hampshire	2,397,811
Austin, Texas	3,647,456	Little Rock-North Little Rock, Arkansas	2,023,462
Bakersfield, California	1,991,864	Lorain-Elyria, Ohio	846,201
Baton Rouge, Louisiana	2,402,107	Louisville, Kentucky-Indiana	7,786,152
Birmingham, Alabama	3,844,906	Madison, Wisconsin	3,360,291
Bridgeport, Connecticut	4,767,812	Melbourne-Cocoa, Florida	935,879
Canton, Ohio	1,553,651	Memphis, Tennessee-Arkansas-Mississippi	6,702,453
Charleston, South Carolina	2,046,956	Mobile, Alabama	1,732,623
Charlotte, North Carolina	2,862,637	Nashville-Davidson, Tennessee	3,921,659
Chattanooga, Tennessee-Georgia	1,852,129	New Haven, Connecticut	5,053,788
Colorado Springs, Colorado	2,232,739	Newport News-Hampton, Virginia	2,252,519
Columbia, South Carolina	1,115,144	Norfolk-Portsmouth, Virginia	7,596,886
Columbus, Georgia-Alabama	1,607,913	Ogden, Utah	1,866,856
Columbus, Ohio	8,954,913	Oklahoma City, Oklahoma	3,622,415
Corpus Christi, Texas	1,399,104	Omaha, Nebraska-Iowa	4,808,209
Davenport-Rock Island-Moline, Iowa-Illinois	2,326,566	Orlando, Florida	4,163,497
Dayton, Ohio	10,311,185	Oxnard-Ventura-Thousand Oaks, California	2,187,934
Des Moines, Iowa	2,072,345	Pensacola, Florida	1,175,693
El Paso, Texas	3,829,680	Peoria, Illinois	1,872,963
Fayetteville, North Carolina	1,014,198	Providence-Pawtucket-Warwick, R.I.-Mass.	11,835,705
Flint, Michigan	2,297,388	Raleigh, North Carolina	1,536,161
Fort Wayne, Indiana	1,672,514	Richmond, Virginia	4,791,637
Fresno, California	3,322,050	Rochester, New York	6,102,073
Grand Rapids, Michigan	3,071,091	Rockford, Illinois	1,505,839
Greenville, South Carolina	1,493,365	Sacramento, California	7,628,808
Harrisburg, Pennsylvania	1,881,906	St. Petersburg, Florida	6,750,735
Hartford, Connecticut	5,951,797	Salt Lake City, Utah	7,061,807
Honolulu, Hawaii	15,349,846	San Antonio, Texas	12,262,772
Indianapolis, Indiana	6,247,867	San Bernardino-Riverside, California	5,386,002

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO URBANIZED AREAS 1,000,000 IN POPULATION AND 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION—(Continued)

URBANIZED AREA	*APPORTIONMENT*
Sarasota-Bradenton, Florida	$ 1,938,814
Scranton-Wilkes-Barre, Pennsylvania	3,063,670
Shreveport, Louisiana	2,031,160
South Bend, Indiana-Michigan	2,032,496
Spokane, Washington	3,523,493
Springfield-Chicopee-Holyoke, Mass.-Conn.	4,196,135
Syracuse, New York	4,383,750
Tacoma, Washington	5,361,835
Tampa, Florida	5,368,979
Toledo, Ohio-Michigan	$ 4,901,885
Trenton, New Jersey-Pennsylvania	3,091,871
Tucson, Arizona	5,516,407
Tulsa, Oklahoma	2,986,042
West Palm Beach, Florida	3,152,972
Wichita, Kansas	2,266,619
Wilmington, Delaware-New Jersey-Maryland	3,023,732
Worcester, Massachusetts	2,234,819
Youngstown-Warren, Ohio	2,124,922
TOTAL	$ 322,558,601

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATE GOVERNORS FOR AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	APPORTIONMENT
ALABAMA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***$ 4,708,571***
Anniston	408,810
Auburn-Opelika	254,156
Decatur	297,722
Dothan	260,930
Florence	399,846
Gadsden	376,792
Huntsville	840,792
Montgomery	1,254,358
Tuscaloosa	615,165
ALASKA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***954,763***
Anchorage	954,763
ARIZONA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***411,200***
Yuma, Ariz.-Calif.	411,200
ARKANSAS:	
Governor's apportionment for areas 50,000 to 200,00 in population	***1,387,459***
Fayetteville-Springdale	330,054
Fort Smith, Ark.-Okla.	493,511
Pine Bluff	452,523
Texarkana, Tex.-Ark.	111,371
CALIFORNIA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***14,525,877***
Antioch-Pittsburg	790,789
Chico	366,219
Fairfield	498,669
Hemet	381,439
Lancaster	319,299
Merced	440,927
Modesto	1,498,192
Napa	522,010
Palm Springs	354,475
Redding	292,843
Salinas	968,675
Santa Barbara	1,377,203
Santa Cruz	784,000
Santa Maria	443,380
Santa Rosa	1,095,003
Seaside-Monterey	1,016,209
Simi Valley	682,327
Stockton	1,789,577
Visalia	443,730
Yuba City	459,091
Yuma, Ariz.-Calif.	1,820
COLORADO:	
Governor's apportionment for areas 50,000 to 200,000 in population	***$ 3,112,863***
Boulder	771,634
Fort Collins	573,303
Grand Junction	372,418
Greeley	548,081
Pueblo	847,427
CONNECTICUT:	
Governor's apportionment for areas 50,000 to 200,000 in population	***13,646,446***
Bristol	542,707
* Danbury, Conn.-N.Y.	2,232,479
Meriden	441,882
New Britain	1,091,785
New London-Norwich	895,397
* Norwalk	2,485,952
* Stamford	3,071,097
* Waterbury	2,885,147

* An appropriate amount for commuter rail from UZA's above 200,000 has been included.

STATE/URBANIZED AREA	APPORTIONMENT
DELAWARE:	
FLORIDA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***6,507,734***
Daytona Beach	1,075,170
Fort Myers	853,962
Fort Pierce	402,783
Fort Walton Beach	504,698
Gainesville	717,897
Lakeland	693,016
Naples	288,212
Ocala	287,279
Panama City	461,482
Tallahassee	772,312
Winter Haven	450,923
GEORGIA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***3,624,602***
Albany	522,861
Athens	386,324
Macon	930,682
Rome	294,539
Savannah	1,125,446
Warner Robins	364,750
HAWAII:	
Governor's apportionment for areas 50,000 to 200,000 in population	***928,976***
Kailua-Kaneohe	928,976

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATE GOVERNORS FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	APPORTIONMENT
IDAHO:	
Governor's apportionment for areas 50,000 to 200,000 in population	*$ 1,348,106*
Boise City	973,461
Pocatello	374,645
ILLINOIS:	
Governor's apportionment for areas 50,000 to 200,000 in population	*8,942,159*
Alton	588,779
Aurora	1,181,337
Beloit, Wis.-Ill.	42,175
Bloomington-Normal	768,931
Champaign-Urbana	1,106,057
Danville	385,564
Decatur	791,710
Dubuque, Iowa-Ill.	16,087
Elgin	882,288
Joliet	1,270,319
Kankakee	521,130
Round Lake Beach	410,901
Springfield	976,881
INDIANA:	
Governor's apportionment for areas 50,000 to 200,000 in population	*5,508,009*
Anderson	500,880
Bloomington	565,288
Elkhart-Goshen	568,036
Evansville, Ind.-Ky.	1,276,015
Kokomo	518,073
Lafayette-West Lafayette	809,476
Muncie	727,838
Terre Haute	542,403
IOWA:	
Governor's apportionment for areas 50,000 to 200,000 in population	*3,072,269*
Cedar Rapids	960,703
Dubuque, Iowa-Ill.	515,828
Iowa City	408,327
Sioux City, Iowa-Nebr.-S.Dak.	510,589
Waterloo	676,822
KANSAS:	
Governor's apportionment for areas 50,000 to 200,000 in population	*1,320,670*
Lawrence	434,811
St. Joseph, Mo.-Kans.	7,195
Topeka	878,664
KENTUCKY:	
Governor's apportionment for areas 50,000 to 200,000 in population	*$ 2,794,038*
Clarksville, Tenn.-Ky.	154,987
Evansville, Ind.-Ky.	167,119
Huntington-Ashland, W.Va.-Ky.-Ohio	394,321
Lexington-Fayette	1,524,709
Owensboro	552,902
LOUISIANA:	
Governor's apportionment for areas 50,000 to 200,000 in population	*3,263,489*
Alexandria	579,771
Houma	377,077
Lafayette	861,250
Lake Charles	744,520
Monroe	700,871
MAINE:	
Governor's apportionment for areas 50,000 to 200,000 in population	*1,408,802*
Bangor	299,111
Lewiston-Auburn	354,429
Portland	687,692
Portsmouth-Dover-Rochester, N.H.-Maine	67,570
MARYLAND:	
Governor's apportionment for areas 50,000 to 200,000 in population	*1,236,711*
Annapolis	447,811
Cumberland, Md.-W.Va.	358,725
Hagerstown, Md.-Pa.	430,175
MASSACHUSETTS:	
Governor's apportionment for areas 50,000 to 200,000 in population	*6,163,496*
Brockton	1,463,485
Fall River, Mass.-R.I.	1,164,259
Fitchburg-Leominster	430,001
Lowell, Mass.-N.H.	1,250,718
New Bedford	1,260,282
Pittsfield	328,859
Taunton	265,892
MICHIGAN:	
Governor's apportionment for areas 50,000 to 200,000 in population	*5,484,618*
Battle Creek	493,610
Bay City	566,495
Benton Harbor	415,444
Jackson	588,611
Kalamazoo	1,069,922
Muskegon-Muskegon Heights	705,433
Port Huron	426,080
Saginaw	1,219,023

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATE GOVERNORS FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	APPORTIONMENT
MINNESOTA:	
Governor's apportionment for areas 50,000 to 200,000 in population	$ 1,863,124
Duluth-Superior, Minn.-Wis.	555,753
Fargo-Moorhead, N.Dak.-Minn.	263,391
Grand Forks, N.Dak.-Minn.	62,493
La Crosse, Wis.-Minn.	26,717
Rochester	508,164
St. Cloud	446,606
MISSISSIPPI:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,767,119
Biloxi-Gulfport	1,071,070
Hattiesburg	326,496
Pascagoula-Moss Point	369,553
MISSOURI:	
Governor's apportionment for areas 50,000 to 200,000 in population	2,177,962
Columbia	396,310
Joplin	310,956
St. Joseph, Mo.-Kans.	511,183
Springfield	959,513
MONTANA:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,576,016
Billings	623,491
Great Falls	543,516
Missoula	409,009
NEBRASKA:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,483,329
Lincoln	1,409,392
Sioux City, Iowa-Nebr.-S.Dak.	73,937
NEVADA:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,193,070
Reno	1,193,070
NEW HAMPSHIRE:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,783,782
Lowell, Mass.-N.H.	4,350
Manchester	789,759
Nashua	540,544
Portsmouth-Dover-Rochester, N.H.-Maine	449,129

STATE/URBANIZED AREA	APPORTIONMENT
NEW JERSEY:	
Governor's apportionment for areas 50,000 to 200,000 in population	$ 1,398,490
Atlantic City	979,888
Vineland-Millville	418,602
NEW MEXICO:	
Governor's apportionment for areas 50,000 to 200,000 in population	676,292
Las Cruces	360,745
Santa Fe	315,547
NEW YORK:	
Governor's apportionment for areas 50,000 to 200,000 in population	4,458,751
Binghamton	1,247,687
Danbury, Conn.-N.Y.	14,258
Elmira	543,983
Glens Falls	321,815
Newburgh	399,088
Poughkeepsie	878,540
Utica-Rome	1,053,380
NORTH CAROLINA:	
Governor's apportionment for areas 50,000 to 200,000 in population	7,641,324
Asheville	577,366
Burlington	410,517
Concord	409,433
Durham	1,130,163
Gastonia	630,297
Goldsboro	319,641
Greensboro	1,267,169
Hickory	340,858
High Point	600,818
Jacksonville	401,557
Wilmington	488,399
Winston-Salem	1,065,106
NORTH DAKOTA:	
Governor's apportionment for areas 50,000 to 200,000 in population	1,339,722
Bismarck-Mandan	426,950
Fargo-Moorhead, N.Dak.-Minn.	518,387
Grand Forks, N.Dak.-Minn.	394,385
OHIO:	
Governor's apportionment for areas 50,000 to 200,000 in population	4,339,502
Hamilton	786,227
Huntington-Ashland, W.Va.-Ky.-Ohio	227,905

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATE GOVERNORS FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	APPORTIONMENT
OHIO—*Continued*:	
Lima	$ 500,072
Mansfield	495,130
Middletown	558,806
Newark	336,347
Parkersburg, W.Va.-Ohio	55,545
Sharon, Pa.-Ohio	33,351
Springfield	777,425
Steubenville-Weirton, Ohio-W.Va.-Pa.	306,536
Wheeling, W.Va.-Ohio	262,158
OKLAHOMA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***945,016***
Enid	303,325
Fort Smith, Ark.-Okla.	11,488
Lawton	630,203
OREGON:	
Governor's apportionment for areas 50,000 to 200,000 in population	***3,019,901***
Eugene	1,552,844
Longview, Wash.-Oreg.	7,951
Medford	379,741
Salem	1,079,365
PENNSYLVANIA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***8,647,220***
Altoona	667,347
Erie	1,704,396
Hagerstown, Md.-Pa.	5,526
Johnstown	701,871
Lancaster	1,191,671
Monessen	412,755
Reading	1,590,380
Sharon, Pa.-Ohio	366,157
State College	498,618
Steubenville-Weirton, Ohio-W.Va.-Pa.	1,526
Williamsport	460,334
York	1,046,639
PUERTO RICO:	
Governor's apportionment for areas 50,000 to 200,000 in population	***6,041,760***
Aguadilla	483,398
Arecibo	553,667
Caguas	1,296,700
Mayaguez	908,071
Ponce	2,134,202
Vega Baja-Manati	665,722
RHODE ISLAND:	
Governor's apportionment for areas 50,000 to 200,000 in population	***480,745***
Fall River, Mass.-R.I.	104,736
Newport	376,009
SOUTH CAROLINA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***$ 1,510,446***
Anderson	310,428
Florence	327,020
Rock Hill	292,666
Spartanburg	580,332
SOUTH DAKOTA:	
Governor's apportionment for areas 50,000 to 200,000 in population	***959,465***
Rapid City	348,683
Sioux City, Iowa-Nebr.-S.Dak.	10,038
Sioux Falls	600,744
TENNESSEE:	
Governor's apportionment for areas 50,000 to 200,000 in population	***1,643,653***
Bristol, Tenn.-Bristol, Va.	159,425
Clarksville, Tenn.-Ky.	301,847
Jackson	291,517
Johnson City	449,312
Kingsport, Tenn.-Va.	441,552
TEXAS:	
Governor's apportionment for areas 50,000 to 200,000 in population	***15,118,767***
Abilene	562,163
Amarillo	999,578
Beaumont	758,728
Brownsville	781,361
Bryan-College Station	537,366
Galveston	437,133
Harlingen-San Benito	420,120
Killeen	640,608
Laredo	1,027,023
Longview	402,922
Lubbock	1,175,990
McAllen-Pharr-Edinburg	1,222,099
Midland	494,549
Odessa	746,665
Port Arthur	673,870
San Angelo	505,821
Sherman-Denison	312,735
Temple	288,652
Texarkana, Tex.-Ark.	276,050
Texas City-La Marque	556,242
Tyler	508,204
Victoria	396,939
Waco	760,791
Wichita Falls	633,158

FISCAL YEAR 1987 UMTA SECTION 9 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATE GOVERNORS FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	APPORTIONMENT
UTAH:	
Governor's apportionment for areas 50,000 to 200,000 in population	*$ 1,225,334*
Provo-Orem	1,225,334
VERMONT:	
Governor's apportionment for areas 50,000 to 200,000 in population	*477,767*
Burlington	477,767
VIRGINIA:	
Governor's apportionment for areas 50,000 to 200,000 in population	*3,424,489*
Bristol, Tenn.-Bristol, Va.	124,090
Charlottesville	508,415
Danville	358,233
Kingsport, Tenn.-Va.	23,989
Lynchburg	501,320
Petersburg-Colonial Heights	687,774
Roanoke	1,220,668
WASHINGTON:	
Governor's apportionment for areas 50,000 to 200,000 in population	*2,886,062*
Bellingham	350,177
Bremerton	430,001
Longview, Wash.-Oreg.	342,829
Olympia	432,982
Richland-Kennewick	706,317
Yakima	623,756
WEST VIRGINIA:	
Governor's apportionment for areas 50,000 to 200,000 in population	*$ 3,153,578*
Charleston	1,148,440
Cumberland, Md.-W.Va.	17,063
Huntington-Ashland, W.Va.-Ky.-Ohio	743,394
Parkersburg, W.Va.-Ohio	489,065
Steubenville-Weirton, Ohio-W.Va.-Pa.	193,935
Wheeling, W.Va.-Ohio	561,681
WISCONSIN:	
Governor's apportionment for areas 50,000 to 200,000 in population	*7,170,607*
Appleton	1,199,530
Beloit, Wis.-Ill.	312,668
Duluth-Superior, Minn.-Wis.	140,585
Eau Claire	467,026
Green Bay	907,000
Janesville	378,880
Kenosha	866,973
La Crosse, Wis.-Minn.	502,970
Oshkosh	450,529
Racine	1,103,794
Sheboygan	470,314
Wausau	370,338
WYOMING:	
Governor's apportionment for areas 50,000 to 200,000 in population	*900,491*
Casper	479,774
Cheyenne	420,717
TOTAL	$ 179,654,642

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS LIMITATION FOR AREAS OVER 1,000,000 IN POPULATION AND 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Atlanta, Georgia	$ 6,851,599
Baltimore, Maryland	10,966,540
Boston, Massachusetts	20,589,621
Buffalo, New York	6,758,289
Chicago, Illinois-Northwestern Indiana	57,024,380
Cincinnati, Ohio-Kentucky	5,940,292
Cleveland, Ohio	10,868,764
Dallas-Fort Worth, Texas	9,746,507
Denver, Colorado	6,653,867
Detroit, Michigan	24,129,299
Fort Lauderdale-Hollywood, Florida	4,273,834
Houston, Texas	10,241,530
Kansas City, Missouri-Kansas	5,033,340
Los Angeles-Long Beach, California	64,357,377
Miami, Florida	9,453,285
Milwaukee, Wisconsin	$ 6,159,267
Minneapolis-St. Paul, Minnesota	8,212,451
New Orleans, Louisiana	7,449,874
New York, N.Y.-Northeastern New Jersey	149,047,178
Philadelphia, Pennsylvania-New Jersey	35,879,619
Phoenix, Arizona	5,306,194
Pittsburgh, Pennsylvania	10,710,018
Portland, Oregon-Washington	4,962,513
St. Louis, Missouri-Illinois	10,812,021
San Diego, California	8,235,818
San Francisco-Oakland, California	21,928,832
San Jose, California	7,450,399
San Juan, Puerto Rico	8,467,949
Seattle-Everett, Washington	6,958,564
Washington, D.C.-Maryland-Virginia	19,036,346
TOTAL	$ 563,505,567

URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Akron, Ohio	$ 2,692,007
Albany-Schenectady-Troy, New York	2,610,952
Albuquerque, New Mexico	1,790,082
Allentown-Bethlehem-Easton, Pa.-N.J.	2,729,837
Ann Arbor, Michigan	1,144,632
Augusta, Georgia-South Carolina	911,819
Austin, Texas	1,717,118
Bakersfield, California	1,119,620
Baton Rouge, Louisiana	1,496,151
Birmingham, Alabama	2,748,320
Bridgeport, Connecticut	2,386,048
Canton, Ohio	1,318,302
Charleston, South Carolina	1,249,884
Charlotte, North Carolina	1,506,759
Chattanooga, Tennessee-Georgia	1,135,888
Colorado Springs, Colorado	1,127,606
Columbia, South Carolina	1,115,144
Columbus, Georgia-Alabama	956,065
Columbus, Ohio	5,079,716
Corpus Christi, Texas	1,003,339
Davenport-Rock Island-Moline, Iowa-Illinois	1,305,500
Dayton, Ohio	3,380,153
Des Moines, Iowa	1,271,485
El Paso, Texas	2,079,633
Fayetteville, North Carolina	859,907
Flint, Michigan	1,768,688
Fort Wayne, Indiana	1,261,166
Fresno, California	1,697,198
Grand Rapids, Michigan	1,793,870
Greenville, South Carolina	867,067
Harrisburg, Pennsylvania	1,309,496
Hartford, Connecticut	2,657,413
Honolulu, Hawaii	3,291,147
Indianapolis, Indiana	4,422,085
Jackson, Mississippi	$ 1,045,369
Jacksonville, Florida	2,343,015
Knoxville, Tennessee	1,042,104
Lansing, Michigan	1,345,228
Las Vegas, Nevada	1,596,872
Lawrence-Haverhill, Mass.-New Hampshire	988,526
Little Rock-North Little Rock, Arkansas	1,199,049
Lorain-Elyria, Ohio	846,201
Louisville, Kentucky-Indiana	4,516,304
Madison, Wisconsin	1,153,677
Melbourne-Cocoa, Florida	814,894
Memphis, Tennessee-Arkansas-Mississippi	4,185,661
Mobile, Alabama	1,166,393
Nashville-Davidson, Tennessee	1,940,639
New Haven, Connecticut	2,152,714
Newport News-Hampton, Virginia	1,319,189
Norfolk-Portsmouth, Virginia	3,584,913
Ogden, Utah	810,374
Oklahoma City, Oklahoma	2,685,937
Omaha, Nebraska-Iowa	2,754,609
Orlando, Florida	2,026,902
Oxnard-Ventura-Thousand Oaks, California	1,571,941
Pensacola, Florida	878,476
Peoria, Illinois	1,223,987
Providence-Pawtucket-Warwick, R.I.-Mass.	5,502,377
Raleigh, North Carolina	846,500
Richmond, Virginia	2,242,130
Rochester, New York	3,594,191
Rockford, Illinois	1,126,361
Sacramento, California	4,065,131
St. Petersburg, Florida	3,866,183
Salt Lake City, Utah	2,842,728
San Antonio, Texas	5,348,988
San Bernardino-Riverside, California	2,939,376

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS LIMITATION FOR AREAS OVER 1,000,000 IN POPULATION AND 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION—(Continued)

URBANIZED AREA	LIMITATION
Sarasota-Bradenton, Florida	$ 1,467,446
Scranton-Wilkes-Barre, Pennsylvania	2,016,660
Shreveport, Louisiana	1,222,201
South Bend, Indiana-Michigan	1,335,143
Spokane, Washington	1,295,567
Springfield-Chicopee-Holyoke, Mass.-Conn.	2,353,818
Syracuse, New York	2,206,727
Tacoma, Washington	1,803,764
Tampa, Florida	2,234,419
Toledo, Ohio-Michigan	$ 2,606,026
Trenton, New Jersey-Pennsylvania	2,300,920
Tucson, Arizona	1,927,823
Tulsa, Oklahoma	1,825,292
West Palm Beach, Florida	1,921,145
Wichita, Kansas	1,579,092
Wilmington, Delaware-New Jersey-Maryland	2,335,465
Worcester, Massachusetts	1,348,079
Youngstown-Warren, Ohio	2,076,779
TOTAL	$ 173,227,402

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS STATE LIMITATION FOR AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	LIMITATION
ALABAMA:	
State limitation for areas 50,000 to 200,000 in population	***$ 3,070,066***
Anniston	285,625
Auburn-Opelika	101,662
Decatur	119,089
Dothan	104,372
Florence	289,345
Gadsden	286,951
Huntsville	621,759
Montgomery	830,093
Tuscaloosa	431,170
ALASKA:	
State limitation for areas 50,000 to 200,000 in population	***623,089***
Anchorage	623,089
ARIZONA:	
State limitation for areas 50,000 to 200,000 in population	***164,480***
Yuma, Ariz.-Calif.	164,480
ARKANSAS:	
State limitation for areas 50,000 to 200,00 in population	***908,113***
Fayetteville-Springdale	132,022
Fort Smith, Ark.-Okla.	338,902
Pine Bluff	331,742
Texarkana, Tex.-Ark.	105,447
CALIFORNIA:	
State limitation for areas 50,000 to 200,000 in population	***7,544,690***
Antioch-Pittsburg	425,564
Chico	146,488
Fairfield	199,468
Hemet	152,576
Lancaster	127,720
Merced	176,371
Modesto	802,892
Napa	208,804
Palm Springs	141,790
Redding	117,137
Salinas	521,053
Santa Barbara	862,024
Santa Cruz	463,819
Santa Maria	177,320
Santa Rosa	552,911
Seaside-Monterey	642,568
Simi Valley	377,289
Stockton	1,087,040
Visalia	177,492
Yuba City	183,636
Yuma, Ariz.-Calif.	728
COLORADO:	
State limitation for areas 50,000 to 200,000 in population	***$ 1,706,408***
Boulder	507,899
Fort Collins	229,321
Grand Junction	148,967
Greeley	219,232
Pueblo	600,989
CONNECTICUT:	
State limitation for areas 50,000 to 200,000 in population	***5,963,730***
Bristol	366,656
Danbury, Conn.-N.Y.	606,145
Meriden	369,637
New Britain	770,896
New London-Norwich	657,408
Norwalk	832,893
Stamford	1,251,254
Waterbury	1,108,841
DELAWARE:	
FLORIDA:	
State limitation for areas 50,000 to 200,000 in population	***3,397,678***
Daytona Beach	634,056
Fort Myers	461,875
Fort Pierce	161,113
Fort Walton Beach	201,879
Gainesville	433,210
Lakeland	425,447
Naples	115,285
Ocala	114,912
Panama City	184,593
Tallahassee	484,939
Winter Haven	180,369
GEORGIA:	
State limitation for areas 50,000 to 200,000 in population	***2,325,237***
Albany	389,234
Athens	154,530
Macon	668,318
Rome	117,816
Savannah	849,439
Warner Robins	145,900
HAWAII:	
State limitation for areas 50,000 to 200,000 in population	***371,590***
Kailua-Kaneohe	371,590

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS STATE LIMITATION FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	LIMITATION
IDAHO:	
State limitation for areas 50,000 to 200,000 in population	***$ 728,417***
Boise City	578,559
Pocatello	149,858
ILLINOIS:	
State limitation for areas 50,000 to 200,000 in population	***6,358,347***
Alton	458,990
Aurora	890,763
Beloit, Wis.-Ill.	16,870
Bloomington-Normal	471,130
Champaign-Urbana	759,387
Danville	154,226
Decatur	550,098
Dubuque, Iowa-Ill.	10,792
Elgin	784,048
Joliet	1,174,090
Kankakee	208,452
Round Lake Beach	164,360
Springfield	715,141
INDIANA:	
State limitation for areas 50,000 to 200,000 in population	***3,396,606***
Anderson	373,417
Bloomington	226,115
Elkhart-Goshen	227,214
Evansville, Ind.-Ky.	876,875
Kokomo	207,229
Lafayette-West Lafayette	540,537
Muncie	536,316
Terre Haute	408,903
IOWA:	
State limitation for areas 50,000 to 200,000 in population	***2,097,014***
Cedar Rapids	668,045
Dubuque, Iowa-Ill.	372,692
Iowa City	163,331
Sioux City, Iowa-Nebr.-S.Dak.	383,641
Waterloo	509,305
KANSAS:	
State limitation for areas 50,000 to 200,000 in population	***841,650***
Lawrence	173,924
St. Joseph, Mo.-Kans.	4,761
Topeka	662,965
KENTUCKY:	
State limitation for areas 50,000 to 200,000 in population	***$ 1,831,324***
Clarksville, Tenn.-Ky.	89,948
Evansville, Ind.-Ky.	55,474
Huntington-Ashland, W.Va.-Ky.-Ohio	268,960
Lexington-Fayette	1,048,786
Owensboro	368,156
LOUISIANA:	
State limitation for areas 50,000 to 200,000 in population	***2,074,894***
Alexandria	401,559
Houma	150,831
Lafayette	528,191
Lake Charles	509,723
Monroe	484,590
MAINE:	
State limitation for areas 50,000 to 200,000 in population	***916,547***
Bangor	119,644
Lewiston-Auburn	265,497
Portland	504,378
Portsmouth-Dover-Rochester, N.H.-Maine	27,028
MARYLAND:	
State limitation for areas 50,000 to 200,000 in population	***494,684***
Annapolis	179,124
Cumberland, Md.-W.Va.	143,490
Hagerstown, Md.-Pa.	172,070
MASSACHUSETTS:	
State limitation for areas 50,000 to 200,000 in population	***4,743,740***
Brockton	1,190,253
Fall River, Mass.-R.I.	774,419
Fitchburg-Leominster	326,996
Lowell, Mass.-N.H.	1,227,765
New Bedford	856,941
Pittsfield	261,009
Taunton	106,357
MICHIGAN:	
State limitation for areas 50,000 to 200,000 in population	***3,682,525***
Battle Creek	386,389
Bay City	423,421
Benton Harbor	166,178
Jackson	403,382
Kalamazoo	756,115
Muskegon-Muskegon Heights	510,595
Port Huron	170,432
Saginaw	866,013

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS STATE LIMITATION FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	LIMITATION
MINNESOTA:	
State limitation for areas 50,000 to 200,000 in population	***$ 1,321,988***
Duluth-Superior, Minn.-Wis.	441,326
Fargo-Moorhead, N.Dak.-Minn.	187,524
Grand Forks, N.Dak.-Minn.	24,997
La Crosse, Wis.-Minn.	15,335
Rochester	353,593
St. Cloud	299,213
MISSISSIPPI:	
State limitation for areas 50,000 to 200,000 in population	***958,274***
Biloxi-Gulfport	679,855
Hattiesburg	130,598
Pascagoula-Moss Point	147,821
MISSOURI:	
State limitation for areas 50,000 to 200,000 in population	***1,413,043***
Columbia	273,919
Joplin	124,382
St. Joseph, Mo.-Kans.	383,772
Springfield	630,970
MONTANA:	
State limitation for areas 50,000 to 200,000 in population	***972,898***
Billings	409,826
Great Falls	399,468
Missoula	163,604
NEBRASKA:	
State limitation for areas 50,000 to 200,000 in population	***964,814***
Lincoln	919,882
Sioux City, Iowa-Nebr.-S.Dak.	44,932
NEVADA:	
State limitation for areas 50,000 to 200,000 in population	***682,521***
Reno	682,521
NEW HAMPSHIRE:	
State limitation for areas 50,000 to 200,000 in population	***1,038,363***
Lowell, Mass.-N.H.	1,399
Manchester	523,931
Nashua	333,381
Portsmouth-Dover-Rochester, N.H.-Maine	179,652
NEW JERSEY:	
State limitation for areas 50,000 to 200,000 in population	***$ 1,398,490***
Atlantic City	1,092,225
Vineland-Millville	306,265
NEW MEXICO:	
State limitation for areas 50,000 to 200,000 in population	***270,517***
Las Cruces	144,298
Santa Fe	126,219
NEW YORK:	
State limitation for areas 50,000 to 200,000 in population	***3,253,514***
Binghamton	928,315
Danbury, Conn.-N.Y.	5,202
Elmira	404,432
Glens Falls	128,726
Newburgh	159,635
Poughkeepsie	776,423
Utica-Rome	850,781
NORTH CAROLINA:	
State limitation for areas 50,000 to 200,000 in population	***4,716,650***
Asheville	386,290
Burlington	293,729
Concord	163,773
Durham	653,537
Gastonia	446,982
Goldsboro	127,856
Greensboro	845,288
Hickory	136,343
High Point	439,896
Jacksonville	160,623
Wilmington	320,018
Winston-Salem	742,315
NORTH DAKOTA:	
State limitation for areas 50,000 to 200,000 in population	***679,933***
Bismarck-Mandan	170,780
Fargo-Moorhead, N.Dak.-Minn.	351,399
Grand Forks, N.Dak.-Minn.	157,754
OHIO:	
State limitation for areas 50,000 to 200,000 in population	***2,804,316***
Hamilton	509,527
Huntington-Ashland, W.Va.-Ky.-Ohio	151,734

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS STATE LIMITATION FOR AREAS 50,000 TO 200,000 IN POPULATION—(*Continued*)

STATE/URBANIZED AREA	LIMITATION
OHIO—*Continued*:	
Lima	$ 365,384
Mansfield	365,809
Middletown	223,522
Newark	134,539
Parkersburg, W.Va.-Ohio	38,368
Sharon, Pa.-Ohio	13,340
Springfield	558,529
Steubenville-Weirton, Ohio-W.Va.-Pa.	239,056
Wheeling, W.Va.-Ohio	204,508
OKLAHOMA:	
State limitation for areas 50,000 to 200,000 in population	***597,103***
Enid	121,330
Fort Smith, Ark.-Okla.	8,193
Lawton	467,580
OREGON:	
State limitation for areas 50,000 to 200,000 in population	***1,663,576***
Eugene	893,448
Longview, Wash.-Oreg.	3,180
Medford	151,896
Salem	615,052
PENNSYLVANIA:	
State limitation for areas 50,000 to 200,000 in population	***5,882,312***
Altoona	502,411
Erie	1,144,137
Hagerstown, Md.-Pa.	2,210
Johnstown	538,309
Lancaster	748,201
Monessen	165,102
Reading	1,364,838
Sharon, Pa.-Ohio	146,463
State College	199,447
Steubenville-Weirton, Ohio-W.Va.-Pa.	839
Williamsport	342,055
York	728,300
PUERTO RICO:	
State limitation for areas 50,000 to 200,000 in population	***3,298,355***
Aguadilla	193,359
Arecibo	221,467
Caguas	758,158
Mayaguez	558,712
Ponce	1,300,370
Vega Baja-Manati	266,289
RHODE ISLAND:	
State limitation for areas 50,000 to 200,000 in population	***217,112***
Fall River, Mass.-R.I.	66,708
Newport	150,404
SOUTH CAROLINA:	
State limitation for areas 50,000 to 200,000 in population	***$ 766,039***
Anderson	124,171
Florence	130,808
Rock Hill	117,066
Spartanburg	393,994
SOUTH DAKOTA:	
State limitation for areas 50,000 to 200,000 in population	***564,919***
Rapid City	139,473
Sioux City, Iowa-Nebr.-S.Dak.	5,195
Sioux Falls	420,251
TENNESSEE:	
State limitation for areas 50,000 to 200,000 in population	***877,440***
Bristol, Tenn.-Bristol, Va.	63,770
Clarksville, Tenn.-Ky.	205,943
Jackson	116,607
Johnson City	179,725
Kingsport, Tenn.-Va.	311,395
TEXAS:	
State limitation for areas 50,000 to 200,000 in population	***9,563,679***
Abilene	396,676
Amarillo	669,998
Beaumont	537,977
Brownsville	422,826
Bryan-College Station	306,343
Galveston	324,502
Harlingen-San Benito	263,167
Killeen	397,220
Laredo	541,845
Longview	161,169
Lubbock	781,526
McAllen-Pharr-Edinburg	670,355
Midland	318,342
Odessa	502,449
Port Arthur	514,933
San Angelo	331,446
Sherman-Denison	242,971
Temple	115,461
Texarkana, Tex.-Ark.	175,894
Texas City-La Marque	380,236
Tyler	335,282
Victoria	158,776
Waco	537,073
Wichita Falls	477,212

FISCAL YEAR 1987 UMTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS
STATE LIMITATION FOR AREAS 50,000 TO 200,000 IN POPULATION—(Continued)

STATE/URBANIZED AREA	LIMITATION
UTAH:	
State limitation for areas 50,000 to 200,000 in population	*$ 659,776*
Provo-Orem	659,776
VERMONT:	
State limitation for areas 50,000 to 200,000 in population	*191,107*
Burlington	191,107
VIRGINIA:	
State limitation for areas 50,000 to 200,000 in population	*2,121,585*
Bristol, Tenn.-Bristol, Va.	49,636
Charlottesville	203,366
Danville	143,293
Kingsport, Tenn.-Va.	19,219
Lynchburg	357,605
Petersburg-Colonial Heights	509,833
Roanoke	838,633
WASHINGTON:	
State limitation for areas 50,000 to 200,000 in population	*1,424,956*
Bellingham	140,071
Bremerton	172,000
Longview, Wash.-Oreg.	137,132
Olympia	173,193
Richland-Kennewick	404,957
Yakima	397,603
WEST VIRGINIA:	
State limitation for areas 50,000 to 200,000 in population	*$ 2,221,197*
Charleston	822,918
Cumberland, Md.-W.Va.	6,825
Huntington-Ashland, W.Va.-Ky.-Ohio	535,549
Parkersburg, W.Va.-Ohio	339,021
Steubenville-Weirton, Ohio-W.Va.-Pa.	158,174
Wheeling, W.Va.-Ohio	358,710
WISCONSIN:	
State limitation for areas 50,000 to 200,000 in population	*4,436,444*
Appleton	807,339
Beloit, Wis.-Ill.	125,067
Duluth-Superior, Minn.-Wis.	116,608
Eau Claire	186,810
Green Bay	623,292
Janesville	151,552
Kenosha	595,233
La Crosse, Wis.-Minn.	340,004
Oshkosh	347,904
Racine	765,670
Sheboygan	188,126
Wausau	188,839
WYOMING:	
State limitation for areas 50,000 to 200,000 in population	*360,197*
Casper	191,910
Cheyenne	168,287
TOTAL	$ 108,561,947

FISCAL YEAR 1987 UMTA SECTION 18 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO STATES FOR NONURBANIZED AREAS

STATE	APPORTIONMENT	STATE	APPORTIONMENT
ALABAMA	$ 1,791,024	MONTANA	$ 486,434
ALASKA	194,890	NEBRASKA	787,350
AMERICAN SAMOA	27,177	NEVADA	172,783
ARIZONA	677,078	NEW HAMPSHIRE	528,063
ARKANSAS	1,449,939	NEW JERSEY	903,093
CALIFORNIA	3,241,861	NEW MEXICO	654,311
COLORADO	734,527	NEW YORK	3,168,750
CONNECTICUT	667,087	NORTH CAROLINA	3,264,716
DELAWARE	190,827	NORTH DAKOTA	400,437
FLORIDA	1,950,401	NORTHERN MARIANA ISLANDS	14,120
GEORGIA	2,406,508	OHIO	3,584,211
GUAM	89,179	OKLAHOMA	1,479,680
HAWAII	232,682	OREGON	1,148,515
IDAHO	635,893	PENNSYLVANIA	3,951,281
ILLINOIS	2,636,047	PUERTO RICO	1,242,873
INDIANA	2,431,082	RHODE ISLAND	131,561
IOWA	1,667,769	SOUTH CAROLINA	1,625,857
KANSAS	1,269,896	SOUTH DAKOTA	464,546
KENTUCKY	2,043,188	TENNESSEE	2,107,587
LOUISIANA	1,686,523	TEXAS	4,292,238
MAINE	736,706	UTAH	346,178
MARYLAND	905,098	VERMONT	365,982
MASSACHUSETTS	1,087,477	VIRGINIA	1,937,377
MICHIGAN	2,928,611	VIRGIN ISLANDS	81,261
MINNESOTA	1,701,494	WASHINGTON	1,271,218
MISSISSIPPI	1,625,641	WEST VIRGINIA	1,301,149
MISSOURI	1,932,510	WISCONSIN	1,993,547
		WYOMING	296,066
Total			$74,942,299

[FR Doc. 86-27742 Filed 12-9-86; 8:45 am]

BILLING CODE 4150-04-C

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: December 2, 1986.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) 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: 1545-0099
Form Number: IRS Form 1065
Type of Review: Resubmission
Title: U.S. Partnership Return of Income, Capital Gains and Losses Partner's Share of Income, Credits, Deductions, Etc., Partner's Share of Income, Credits, Deductions, Etc.
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (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. 86-27692 Filed 12-9-86; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: December 2, 1986.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the resubmission(s) 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.

Financial Management Service

OMB Number: 1510-0043
Form Number: TFS 133 and TFS 135
Type of Review: Reinstatement
Title: Notice of Reclamation Electronic Funds Transfer, Federal Recurring Payments; Request for Debit, Electronic Funds Transfer, Federal Recurring Payments
Clearance Officer: Douglas C. Lewis, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782
OMB Reviewer: Milo Sunderhauf (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. 86-27691 Filed 12-9-86; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Advisory Commission on Public Diplomacy Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street SW. on December 17 from 10:00 AM to 12:00 P.M.

The meeting will be closed to the public because it will involve a discussion of classified information relating to the Voice of America's modernization program. (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 522b(c)(9)(B))

Please call Gloria Kalamets, (202) 485-2468 for futher information.

Charles Z. Wick,
Director.
[FR Doc. 86-27770 Filed 12-9-86; 8:45 am]
BILLING CODE 8230-01-M

Meeting of Advisory Board for Radio Broadcasting to Cuba

This Advisory Board for Radio Broadcasting to Cuba will conduct a meeting on December 12, 1986, in Room 3557, 400 Sixth Street, SW., Washington, DC. Below is the intended agenda.

Friday, December 12, 1986.

Part One—Closed to the Public.

1:00 p.m. 1. Discussion of Audience Research Task Force Findings.
2:00 p.m. 2. Discussion of Radio Marti internal personnel rules and practices.

Part Two—Open to the Public.

3:30 p.m. 3. Overview of FY 87 and proposed FY 88 Budgets
4:30 p.m. 4. Public Testimony period

Items 1 and 2, which will be discussed from 1:00 p.m. to 3:30 p.m., will be closed to the public. Item 1 involves discussion of classified information. Closing such deliberations to the public is justified under 5 U.S.C. 552b(c)(1). Item 2 relates solely to internal personnel rules and practices. Authority for closing such deliberations is provided by 5 U.S.C. 552b(c)(2).

Members of the public interested in attending the meeting should contact Mr. Stuart Sweet on (202) 485-6312 to make prior arrangements, as access to the building is controlled.

Dated: December 8, 1986.

Charles Z. Wick,
Director.
[FR Doc. 86-27890 Filed 12-9-86; 10:29 am]
BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination; Amendment

On April 2, 1985, notice was published at page 13112 of the **Federal Register** (50 FR 13112) by the United States Information Agency pursuant to Pub. L. 89-259 relating to the exhibit "The Age of Sultan Suleyman the Magnificent." I hereby determine that fifty-six additional works of art to be included in the exhibit (see list [1]) and imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. I also determine that the temporary exhibition of these works of art as part of the exhibit at The National Gallery of Art, Washington, DC, on or about January 25, 1987, to on or about May 17, 1987; The Art Institute of Chicago, Chicago, Illinois, beginning on or about June 14, 1987, to on or about September 7, 1978; and The Metropolitan Museum of Art, New York, New York, beginning on or about October 4, 1987, to on or about January 17, 1988, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

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[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

Dated: December 8, 1986.

Joseph A. Morris,

General Counsel.

[FR Doc. 86-27891 Filed 12-9-86; 10:48 am]

BILLING CODE 8230-01-M

UNITED STATES INSTITUTE OF PEACE

Changes in Grant Application Review and Voting

The Institute of Peace announces several changes in its procedures for review and voting upon applications for support under its Grants Program. These changes were made by the Institute's Board of Directors on November 6, 1986, to assure fair competition among applications under Board review and to ease the paperwork burden on the Board and staff of the Institute.

Under the new Board review and voting procedures, applications with attachments will be reviewed only in committee. A Board member not on the committee to which the application has been assigned may request a copy of the full application. All Board members will continue to receive copies of the completed application form (USIP Form 10A) for each applicant. All applications that have not been unanimously rejected in committee will be subjected to review by the full Board. A unanimously rejected application will be considered rejected by the full Board, unless Board review is requested by any director.

The changes referred to herein will come into effect thirty (30) days after the publication of this notice in the **Federal Register.** Questions and comments may be addressed to Kenneth M. Jensen, Director of Grant Programs, United States Institute of Peace, 730 Jackson Place, NW., Washington, DC 20503, (202) 789-5700.

The following replaces the section entitled "Grant Program Procedures" on page 5 of the Institute's *Interim Procedures for Grant Applications, published in the* **Federal Register** on July 14, 1986 (p. 25785).

Grant program procedures

Grant Proposal

Every proposal for a grant from the Institute must be made on an Application Form (USIP Form 10A) and may include attachments as needed. *It is particularly important that the six pages of the Application Form be filled out completely and with care.* Some members of the Institute's Board of Directors may see no more of the application than the Application Form. Applicants must, therefore, report the basic elements of their proposals clearly and succinctly therein.

Every proposal must be submitted in four legible copies. The Application Form may be obtained from the Institute at the address given below. In addition to the information required in the Application Form, a proposal may be as detailed as the applicant desires.

Review Process

The Institute's staff will examine every proposal for eligibility and completeness. Questions on either will be referred back to the applicant. Staff responses on eligibility and completeness will not be considered part of the formal review process, but the Institute's President will inform the Board of Directors of any applicant determined by the Institute's staff not to qualify on grounds of ineligibility and of any proposal that is incomplete and has not within a reasonable period of time been made complete. After staff examination, the President will send all eligible and complete applications to the Board of Directors for review.

Each member of the Board of Directors will receive a copy of the applicant's six-page Application Form. In addition, each application will be assigned to a committee of the Board for initial review, and each member of that committee will receive copies of the Application Form and attachments submitted by the applicant. Any Board member not on the committee to which the application has been assigned may request to receive a full application (i.e., Form 10A plus attachments) at any time.

Board consideration of each complete and eligible grant application will be undertaken in two steps: (1) Review by a committee of the Board and (2) final action by the Board as a whole. A Board committee will conduct the initial review of applications and report its recommendations to the Board as a whole. All applications that have not been unanimously rejected in Board committee will be reviewed and voted upon by the full Board. Any Board member may request full Board review of and voting on any application unanimously rejected in committee. Should no Board member make this request, such applications will be regarded as unanimously rejected by the Board of Directors as a whole. At any point in the review process, the Institute may seek the advice of one or more outside reviewers to aid it in making evaluations.

In evaluating grant applications, central concerns will include: (1) The significance of the projected to the Institute's mandate and the subject areas of special interest identified by the Board of Directors and listed above; (2) evidence that the project will not simply duplicate existing knowledge or programs; (3) the likelihood that the project will make a significant contribution to the field in scholarship and knowledge; and (4) the usefulness of the proposed product in fulfilling the Institute's mandate. The Institute is particularly interested in proposals which envision a specific product of enduring value.

Dated: November 28, 1986.

Robert F. Turner,

President, United States Institute of Peace.

[FR Doc. 86-27697 Filed 12-9-86; 8:45 am]

BILLING CODE 3155-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 237
Wednesday, December 10, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 51, No. 235, Federal Register 44177, Monday, December 8, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, December 15, 1986.

CHANGE IN THE MEETING: The following item has been added to the open portion of the meeting: "Proposed Resolution on Investigations."

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Dated: December 8, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued December 8, 1986.

[FR Doc. 86–27857 Filed 12–8–86; 3:59 pm]

BILLING CODE 6750–06–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Publication Dated December 8, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, December 15, 1986.

CHANGE IN THE MEETING: The following item has been added to the closed portion of the meeting: "Proposed Contract for Expert Services In Connection With a Court Case."

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Dated: December 5, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued December 5, 1986.

[FR Doc. 86–27753 Filed 12–5–86; 4:16 pm]

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 2:37 p.m. on Thursday, December 4, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the liability to pay deposits made in Hays State Bank, Hays, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, December 4, 1986; (2) accept the bid for the transaction submitted by Farmers State Bank and Trust Company, Hays, Kansas; (3) approve the application of Farmers State Bank and Trust Company, Hays, Kansas, for consent to purchase certain assets of and assume the liability to pay deposits made in Hays State Bank, Hays, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(2)), as was necessary to facilitate the purchase and assumption transaction.

At that same meeting, the Board of Directors also: (1) Accepted the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for a purchase and assumption transaction, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accepted the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, made funds available for the payment of the insured deposits of the closed bank, with respect to each of the following: (a) Panhandle Bank & Trust Company, Borger, Texas, an insured State nonmember bank scheduled for closing later in the day by the Acting Banking Commissioner for the State of Texas, and (b) First National Bank of Stewartville, Stewartville, Minnesota, an insured bank scheduled for closing later in the day by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency.

In calling the meeting, the Board determined, on motion of C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 5, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86–27824 Filed 12–8–86; 12:06 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 12:00 Noon, Monday, December 15, 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: December 8, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–27823 Filed 12–8–86; 12:06 pm]

BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, December 10, 1986 at 10:00 a.m.

PLACE: Room 331, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes

3. Ratifications
4. Petitions and Complaints:
 Certain feathered furcoats and pelts (Docket Number 1365).
5. Inv. 731-TA-288 (F) (EPROM's from Japan)—briefing and vote.
6. Inv. 731-TA-356/363 (P) (Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela)—briefing and vote.
7. Inv. 701-TA-283 and 701-TA-364 (P) (Certain Acetylsalicyclic Acid (Aspirin) from Turkey)—briefing and vote.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,

Secretary.

November 26, 1986.

[FR Doc. 86-27769 Filed 12-5-86; 4:32 pm]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 8, 15, 22, and 29, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 8

Wednesday, December 10

2:00 p.m.
 Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, December 11

10:00 a.m.
 Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
 Affirmation Meeting (Public Meeting) (if needed)

Week of December 15—Tentative

Tuesday, December 16

9:30 a.m.
 Briefing on Status of TVA (Open/Portion Closed—Ex. 5 & 7)

Wednesday, December 17

10:00 a.m.
 Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

2:00 p.m.
 Briefing on Source Term and Severe Accident Matters (Public Meeting)

Thursday, December 18

10:00 a.m.
 Discussion/Possible Vote on Full Power License for Shearon Harris (Public Meeting)

2:00 p.m.
 Briefing on Status of Palisades (Public Meeting)

3:30 p.m.
 Affirmation/Discussion and Vote (Public Meeting)
 a. Final Rulemaking on Revisions to Operator Licensing—10 CFR 55 and Conforming Amendments (Tentative)
 b. Proposed Order on Shearon Harris (Tentative)

Week of December 22—Tentative

No Commission Meetings

Week of December 29—Tentative

No Commission Meetings

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

December 4, 1986.

[FR Doc. 86-27772 Filed 12-5-86; 5:03 pm]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

TIME AND DATE: 9:30 a.m. on December 11, 1986.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To discuss the Postal Service Motion to dismiss the Complaint of the American Newspaper Publishers Association, known as Docket No. C84-1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

[FR Doc. 86-27822 Filed 12-8-86; 12:06 pm]

BILLING CODE 7715-01-M

RAILROAD RETIREMENT BOARD

PUBLIC MEETING

Notice is hereby given that the Railroad Retirement Board will hold a meeting on December 16, 1986, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 Rush Street, Chicago, Illinois, 60611. The agenda for the meeting follows:

(1) Final Rule Regulation on Primary Insurance Amount Determinations
(2) Proposed Legislation Regarding Administrative Fund Appropriations
(3) Proposed Amendments to Parts 320 and 340 of the Board's Regulations
(4) Appeal of Alexander Zelinsky of the Service and Compensation Credited Under the Railroad Retirement and Railroad Unemployment Insurance Acts
(5) Board Order 75-3

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 387-4920.

Dated: December 5, 1986.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 86-27821 Filed 12-8-86; 12:06 pm]

BILLING CODE 7905-01-M

Corrections

Federal Register
Vol. 51, No. 237
Wednesday, December 10, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 85-1-84JD]

Final Determination of the Distribution of the 1984 Jukebox Royalty Fund

Correction

In notice document 86-27003 beginning on page 43455 in the issue of Tuesday, December 2, 1986, make the following corrections:

1. On page 43457, in the second column, in the third complete paragraph, in the third line, "have stated" should read "have not stated"; and in the fourth line, "how any" should read "how many".

2. On page 43459, in the third column, in the fourth complete paragraph, in the fourth line, "that" should read "about".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51649; FRL-3114-8]

Certain Chemicals Premanufacture Notices

Correction

In notice document 86-26079 beginning on page 41829 in the issue of Wednesday, November 19, 1986, make the following corrections:

1. On page 41829, in the third column, under **DATES**, in the last line, "4" should read "3"

2. On the same page, in the same column, under the same heading, after the last line and just before the heading **ADDRESS**, add "P 87-190, 87-191, 87-192 and 87-193—January 4, 1987.".

3. On page 41831, in the third column, under **P 87-172**, in the second line, "(S)" should "(G)".

4. On page 41832, in the first column, under **P 87-178**, in the seventh line, "Skin" should read "Eye".

5. On the same page, in the second column, the heading **P 87-1182** should read **P 87-182**.

6. On the same page, in the third column, under **P 87-187**, in the second and third lines, "polymide" should read "polyamide".

7. On page 41833, in the first column, under **P 87-192**, in the first line, insert "Company" after "Chemical".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 84P-0387]

The American Society for Artificial Internal Organs; Petition To Amend Investigational Device Exemption Regulations; Reopening of Comment Period

Correction

In proposed rule document 86-22515 appearing on page 35531 in the issue of Monday, October 6, 1986, make the following correction:

On page 35531, in the third column, in the second complete paragraph, in the eighth line, "comment period" should read "comments".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0388]

Barnes-Hind, Inc.; Premarket Approval of SOFT MATE® Peroxide System

Correction

In notice document 86-22512 beginning on page 35566 in the issue of Monday, October 6, 1986, make the following corrections:

1. On page 35566, in the third column, under **DATE**, in the second line, "November 3, 1986" should read "November 5, 1986".

2. On page 35567, in the first column, under **Opportunity for Administrative Review**, in the second paragraph, in the second line, "November 3, 1986" should read "November 5, 1986".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0343]

Pacesetter® Systems, Inc.; Premarket Approval of Model 674 Pulse Generator and Model 600 AV Programmer

Correction

In a correction to notice document 86-20112 appearing on page 35568 in the issue of Monday, October 6, 1986, the symbol for registered trademark following "Pacesetter" was omitted. The heading should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0389]

Thomson-CGR Medical Corp.; Premarket Approval of Magniscan 5000 (Nuclear Magnetic Resonance Device)

Correction

In notice document 86-22513 beginning on page 35567 in the issue of Monday, October 6, 1986, make the following corrections:

1. The docket number should read as set forth above.

2. The heading should read as set forth above.

3. On page 35567, in the second column, under **DATE**, in the second line, "November 3, 1986" should read "November 5, 1986".

4. On the same page, in the third column, under the heading **Opportunity for Administrative Review**, in the second paragraph, in the last line, "November 3, 1986" should read "November 5, 1986".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-21104]

Idaho; Realty Action, Sale of Public Land in Power County

Correction

In notice document 86-24263 appearing on page 39427 in the issue of Tuesday, October 28, 1986, make the following correction:

On page 39427, in the second column, in the first table, in the second line of the legal description, "Ne¼SE¼," should read "NE¼SE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-940-87-4220-10; C-44666]

Proposed Withdrawal; Opportunity for Public Hearing; Colorado

Correction

In notice document 86-25891 appearing on page 41541 in the issue of Monday, November 17, 1986, make the following corrections:

1. On page 41541, in the second column, in the 12th line from the bottom, "application" should read "publication".

2. On the same page, in the third column, in the 11th line, "application" should read "publication".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-262-82]

Income Tax; Definition of S Corporation

Correction

In proposed rule document 86-22703 beginning on page 35659 in the issue of Tuesday, October 7, 1986, make the following corrections:

§ 1.1361-1A [Corrected]

On page 35665, in § 1.1361-1A(j) Example (4)(ii), in the second column, in the sixth line, "(C)" should read "(b)"; and in the same column, in § 1.1361-1A(j) Example (6), in the tenth line, the second "(A)" should read "(iv)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-34-82]

Definition of Property for Purposes of the Windfall Profit Tax

Correction

In proposed rule document 86-21440 beginning on page 34095 in the issue of Thursday, September 25, 1986, make the following corrections:

§ 51.4996-4 [Corrected]

1. On page 34096, in the third column, in § 51.4996-4(a), in the third line, "§ 51.4989-1" should read "§ 51.4988-2".

2. On page 34100, in the first column, in § 51.4996-4(f), in Example (3), in the ninth line, after "lease." insert "E drilled a well and began producing crude oil in 1974.". In the same column, in Example (4), in the second to the last line, "H's" should read "L's". In the second column in Example (6), in the fourth line, "this" should read "his", and in the third column, in Example (10), in the fourth line, "this" should read "his".

3. On page 34101, in the first column, in § 51.4996-4(f) Example (12), in the last line, "the" should read "that", and in the same column, in Example (13), in the seventh line, remove "on" and insert "as one".

BILLING CODE 1505-01-D

federal register

Wednesday
December 10, 1986

Part II

Department of Energy

10 CFR Part 810

Assistance to Foreign Atomic Energy Activities; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 810

Assistance to Foreign Atomic Energy Activities

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is revising its regulations 10 CFR Part 810 concerning unclassified assistance to foreign atomic energy activities. The primary aims of the revision are to clarify, simplify, and reduce uncertainties about which activities are generally authorized and which require specific authorization. The previous regulations are substantially altered in language and structure but much of the content is retained. For generally authorized activities, the new regulations first describe activities generally authorized for all countries and then activities generally authorized except for certain designated countries. The previous list of countries to which certain general authorizations do not apply has been updated. The general authorization for helping to prevent or correct a radiological emergency, which had been limited to a radiological emergency in an operating nuclear power plant, has been expanded. The general authorization for participating in international meetings becomes a general authorization for participating in "open meetings sponsored by educational, scientific, or technical organizations or institutions" and the term "open meetings" is defined. Other significant new features include a definition of "public information," reporting requirements on specifically authorized activities, and notice that DOE may make public a grant of specific authorization unless the applicant shows that disclosure will cause substantial harm to its competitive position. When the revision was published as a Proposed Rule in the **Federal Register** May 28, 1986, DOE set 45 days for public comment. Following consideration of submitted views, DOE now publishes a revised Part 810 Final Rule.

EFFECTIVE DATE: These regulations are effective on December 10, 1986.

FOR FURTHER INFORMATION CONTACT:

Mr. John M. Rooney, Chief, Operations Branch, Office of International Security Affairs, DP-332.1, U.S. Department of Energy. Telephone (202) 252-2129

Mr. Robert Newton or Mr. Charles Oleszycki, Attorneys, Office of the General Counsel, GC-31, U.S. Department of Energy. Telephone (202) 252-6975.

SUPPLEMENTARY INFORMATION:

1. Background

10 CFR Part 810 implements section 57b(2) of the Atomic Energy Act of 1954, as amended by Section 302 of the Nuclear Non-Proliferation Act of 1978 (NNPA) (42 U.S.C. 2156). These sections require that U.S. persons who engage directly or indirectly in production of special nuclear material outside the United States be authorized to do so by the Secretary of Energy. The Secretary has granted general authorizations for certain activities, but other activities require specific authorization. All requests to the Secretary for specific authorization are treated in accordance with the procedures required by section 302 of the NNPA and agreed to by the Departments of Energy, State, Commerce and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission. These implementing procedures were published in the Federal Register May 16, 1984, under the title "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (49 FR 20780).

2. Regulatory Changes

The major changes to Part 810 are summarized below:

A. *Title:* The title is changed from "Unclassified Activities in Foreign Atomic Energy Programs" to "Assistance to Foreign Atomic Energy Activities."

B. *Section 810.2. Scope:* Examples of persons, locations, and activities to which the regulations apply are explained in greater detail.

C. *Section 810.3 Definitions:* Definitions are deleted for "commission," "department," "nuclear material," "retransfer," and "Secretary." Definitions are added for "general authorization," "open meeting," "public information," "production reactor," "special nuclear material," and "specific authorization." Minor and nonsubstantive changes in wording are made in the definitions of "Act," "classified information," "nuclear reactor," "person," "sensitive nuclear technology," and "source material."

D. *Section 810.5 Interpretations:* DOE clarifies the previous procedure by which members of the public may request an opinion from the Department and transfers this subject from § 810.11 (Additional information) of the previous regulations to this section in the new regulations.

E. *Section 810.7 Generally authorized activities:* The previous regulations combined both generally authorized and specifically authorized activities in one section. The new regulations separate them into two different sections: Section 810.7 on generally authorized activities and § 810.8 on specifically authorized activities.

In § 810.7, the general authorization to assist in emergencies at operating nuclear power plants is expanded to cover any current or imminent radiological emergency posing a significant danger to public health or safety, provided the Department of Energy is notified in advance and does not object. The general authorization for participating in exchange programs approved by the Department of State is conditioned upon Department of State consultation with the Department of Energy. The general authorization for participation in international meetings is narrowed by limiting these to "open meetings sponsored by educational, scientific, or technical organizations or institutions" and by defining "open meetings." The list of countries for which certain general authorizations do not apply (contained in the new Section 810.8) is updated. Participation approved by a U.S. Government agency in programs of the International Atomic Energy Agency (IAEA) and activities by IAEA employees whose employment was approved by the U.S. Government are explicitly stated to be generally authorized.

F. *Section 810.8 Activities requiring specific authorization:* This section requires specific authorization for engaging directly or indirectly in the production of special nuclear material for the listed countries. For unlisted countries, specific authorization is required only for certain kinds of activities.

G. *Section 810.9 Restrictions on general and specific authorizations:* A provision is added explicitly barring assistance under either authorization when a person knows or has reason to know that the activity is intended to assist in a nuclear explosives program.

H. *Section 810.10 Grant of specific authorization:* This section provides notice that a decision granting specific authorization may be publicly disclosed unless the recipient shows that disclosure will cause substantial harm to its competitive position.

I. *Section 810.12 Information required in an application for specific authorization:* The applicant is now required to designate any "proprietary information" in an application.

J. *Section 810.13 Reports:* Reporting requirements are added for some activities and eliminated for others.

Reports are required on all specifically authorized activities. Instead of listing generally authorized activities which require reports and those which do not, the revision lists only those which do.

3. Statutory Requirements

Pursuant to Section 57b. of the Atomic Energy Act as amended by the NNPA, with the concurrence of the Department of State and after consultations with the Departments of Commerce and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, the Secretary of Energy has determined that granting the general authorizations in this revision of 10 CFR Part 810 will not be inimical to the interest of the United States.

4. Savings Clause

Except for actions which may be taken by DOE pursuant to § 810.11, this revision does not affect specific authorizations granted under the previous regulations. Persons engaging in activities generally authorized under the previous regulations but requiring specific authorization under the new regulations must request such specific authorization within 90 days of the effective date of these regulations; however, persons who have requested such authorization may continue their activities until DOE acts on their request.

5. Rulemaking Requirements

Section 501(a)(1) of the DOE Organization Act (Pub. L. 95-91) provides that the provisions of Subchapter II of Chapter 5 of Title 5, United States Code (commonly known as the Administrative Procedure Act or APA) shall apply in accordance with their terms to any rule or regulation issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary of Energy. Section 553(a)(1) of Title 5 U.S.C. provides an exemption to the normal notice and comment procedures for rules involving a foreign affairs function of the United States.

Because Part 810 deals with nuclear-related exports and activities that assist in the production of special nuclear material abroad, this revision involves the foreign affairs functions of the United States. Therefore, the exemption of Section 553(a)(1) applies and notice and comment were not required. Nevertheless, DOE provided interested persons 45 days in which to submit comments on the Proposed Rule. These comments are addressed in Section 7 of the Supplementary Information.

Because notice and comment were not required for this rule, this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. as provided in Section 601(2). This rule is also not subject to the requirements of Executive Order 12291 [46 FR 13193, February 19, 1981], because it relates to a foreign affairs function of the United States. See Section 1(a)(2).

6. Paperwork Reduction Act

The Office of Management and Budget (OMP) has reviewed and approved the information collections in this Final Rule.

7. Review of Comments

DOE published a Proposed Rule version of these regulations in the **Federal Register** May 28, 1986 (51 FR 19218). Written comments were received from ten parties. These comments have been available for public inspection in the DOE Reading Room during consideration of this Final Rule.

As a result of comments received, the following changes in the Proposed Rule were either made or considered and rejected:

A. Section 810.1 Purpose

Two commenters suggested an additional purpose of the regulations should be to indicate activities which lie outside the scope of Part 810 and thus require neither general nor specific authorization. This suggestion was not accepted for reasons explained immediately below.

B. Section 810.2 Scope

The comments cited above proposed that this section include specific examples of activities outside the scope of Part 810. DOE believes that this is not practical because the range and variety of possible activities outside the scope is so great. Moreover, any examples cited would be so clearly outside the scope as to be self-evident (e.g., uranium exploration) and therefore not helpful. When the applicability of Part 810 to a proposed activity is not clear, DOE remains ready to advise whether the activity falls within the scope or not.

Several comments expressed concern over the term "assistance" as being too broad and proposed it be defined and limited. Instead, DOE has substituted the term "activities" as being less vague. At the same time, DOE believes it would be unwise to specify that Part 810 applies only to "technical" activities or assistance because, while "technical" activities are the focus of the overwhelming majority of proposals, there may also be "non-technical" activities that could require authorization.

Several comments objected to the wording "may reasonably be expected to assist" as unduly vague and possibly conducive to unintentional violation of the regulations. This language has been deleted.

Several comments expressed concern over persons under U.S. jurisdiction being held responsible for independent activities of foreign licensees, contractors or subsidiaries. This concern has been addressed in the definition of "person" in Section 810.3 which now recognizes that the activities of a foreign entity may not be under the control of the person subject to U.S. jurisdiction.

Several comments urged that DOE make clear that exports under licensing authority of the Nuclear Regulatory Commission (10 CFR Part 110) are not subject to Part 810. This has always been the case, but DOE has now explicitly stated it in the regulations.

C. Section 810.3 Definitions

Several comments pointed out that the definition of "production reactor" could be construed as applying to power or breeder reactors. This was not the intent and DOE has clarified the definition.

Many valuable comments were received on the definition of "public information." The definition has been revised to take account of concerns over distribution of non-proprietary information by many firms, information available to a "community of persons interested in a subject matter" rather than to the public at large, information presented at open meetings, and information made available to the public simultaneous with its transmission to a foreign recipient, for example in U.S. technical journals that are distributed abroad. It also now makes clear that public information may include technical embellishment, enhancement, explanation and interpretation, but only if these themselves constitute public information.

To ensure that the general authorization for public information presented at open meetings is properly utilized, DOE has added a definition of the term "open meetings" to this section.

As for a suggestion that "public information" should include information which "may be made available" under the Freedom of Information (FOI) Act, rather than information which "has been made available," DOE believes the former would call for prophecy rather than the deliberate review required for an FOI determination and hence is not feasible.

Several comments called for more precise definition of "sensitive nuclear technology" (SNT). DOE has used the

definition of the Nuclear Non-Proliferation Act and believes that Congress drafted the definition in full knowledge that making SNT determinations called for technical expertise, experience and judgment applied on a case-by-case basis. In making SNT determinations, DOE considers many factors, such as the activity's relationship to the actual process of producing SNM, the activity's effect on the success of a project, and the technical capability of the recipient country in the fuel cycle area of concern.

D. Section 810.5 Interpretations

For reasons of DOE policy, the Division of Politico-Military Security Affairs (PMSA) is not empowered to issue binding interpretations of these regulations, as some comments proposed. As a matter of practice, however, PMSA will continue to provide advice, both oral and written, on primarily technical questions, obtaining the guidance of the Office of the General Counsel when appropriate. DOE recognizes that both advice and binding interpretations should be provided in a timely manner. It should be noted, however, that these may involve complex and sensitive issues which, if dealt with hastily, could produce decisions ultimately inimical to U.S. interests. For this reason DOE believes it would be unwise to set a rigid time limit for responding to requests, as urged in some comments. However, DOE has revised this section to require that when advice is requested from PMSA or a binding, written interpretation is requested from the General Counsel, a response normally will be made within 30 days and, if this is not feasible, an interim response will explain the delay.

E. Section 810.7 Generally authorized activities

Some comments suggested there should be separate categories of general authorization for exports subject to Part 810 which are also subject to license by other agencies, such as the NRC or the Departments of State or Commerce. As noted earlier, these regulations do not apply to exports licensed by the NRC. As for granting general authorizations for exports subject to State or Commerce licensing, DOE believes this would be contrary to the intent of Section 57b of the Atomic Energy Act, which places on the Secretary the responsibility to determine whether authorizing an export covered by these regulations will not be inimical to the interest of the United States.

Another comment proposed a general authorization for providing "financial assistance" when an investor or lender does not excercise control over the foreign activity being financed. As made clear in the new definition of "person," these regulations apply only to the extent that persons under U.S. jurisdiction have control over the activities being conducted abroad.

One comment urged that § 810.7(a) on the general authorization for furnishing public information be modified to place this under tighter control, allowing only "previously published documents" to be disseminated under the authorization and requiring that "new documents" be submitted to DOE for specific authorization before being sent to a restricted country. DOE believes that the definition of public information makes this unnecessary; if a "new document" does not qualify as public information as defined in § 810.3, then it may not be exported as generally authorized public information.

A suggestion that the term "international meetings" in § 810.7(f) was ambiguous and should be changed to "open meetings" was accepted, especially because the Final Rule adds a definition for "open meeting." By adding this definition DOE also was able to respond to criticism of the Proposed Rule's § 810.7(f) which generally authorized participation only if it did not assist in enrichment, reprocessing, plutonium fuel fabrication or heavy water production. A scientific organization said this confronted meeting hosts with the question "Must we now choose between excluding foreigners from our meetings and eschewing discussion of enrichment, reprocessing or plutonium fuel fabrication at such meetings?" On reconsideration, DOE was unwilling to place either constraint on free discussion among scientists, engineers, educators and other professionals. In addition, DOE believes presentations at such meetings would qualify as generally authorized public information, inasmuch as papers presented without remuneration are hardly likely to go beyond what will be published in scholarly journals.

Several comments suggested § 810.7(g) left unclear whether there might be additional activities, other than those cited, which are generally authorized or require specific authorization; they proposed that use of statutory language in § 810.7(g) would help resolve the question. DOE has now adopted the statutory language and believes it makes clear that there are no activities within the scope of the regulations which are not either generally authorized or require specific authorization.

F. Section 810.8 Activities requiring specific authorization

One comment proposed this section be simplified by stating that *all* activities not explicitly subject to general authorization require specific authorization. DOE has not accepted this proposal because it believes it is helpful to users of Part 810 to list activities subject to specific authorization and to explain them in some detail; indeed, this is a main purpose in revising the regulations.

One comment suggested the list of "restricted countries" to which certain general authorizations do not apply should conform with the NRC's comparable list (10 CFR Part 110.29). As the commenter surmised, the disparity exists because DOE's list reflects nonproliferation, foreign policy and national security concerns, while the NRC list reflects primarily nonproliferation concerns.

DOE has not accepted proposals that the People's Republic of China be omitted from the list because of the recent U.S.-PRC Agreement for Cooperation, and notes that the list includes several other countries with whom the United States has nuclear cooperation agreements.

One comment criticized the requirement of specific authorization for training foreign nationals in certain nuclear activities as placing a new and "impossible burden" on the U.S. academic and nuclear business communities. In fact, the requirement constitutes no change. The commenter said that § 810.7(a)(2)(iv) of the previous rule required no specific authorization for training taking place in the United States or for training U.S. citizens anywhere. DOE agrees that no authorization at all, general or specific, was required for training U.S. citizens anywhere and this continues to be the case. But the previous rule did require authorization, either general or specific, for training foreign nationals either within or outside the United States. Thus, the burden imposed by these regulations is neither new nor "impossible," but a continuation of practices accepted for many years. DOE believes, however, that the criticism of the training provision may stem from a misunderstanding. University or college education in academic nuclear science and engineering subjects is not considered "training" for purposes of these regulations; rather, the content of such courses is "public information" as defined in § 810.3 and thus is generally authorized for all persons. Training, on the other hand, is generally instruction

given outside academic institutions, the content is generally more specific and practical, it is given with an eye toward commercial application, and it is usually provided in specialized institutes or schools operated by nuclear industrial firms. Some kinds of training are outside the scope of Part 810. Other kinds of training are generally authorized for nationals of countries not on the "restricted list." DOE has always required specific authorization for training of foreign nationals from countries on the "restricted list" in any activities within the scope of Part 810, as well as training of any foreign nationals in the sensitive technologies.

Two commenters asked whether nuclear waste treatment such as vitrification was included in § 810.8(c)(1) through (5). Because of the often close relationship between nuclear waste and reprocessing, DOE must make such judgments on a case-by-case basis.

One comment proposed that the regulations should "prohibit" specific authorizations for transfers of sensitive technologies to "countries of high proliferation risk" and said this should apply to all countries on the restricted list. DOE disagrees. Some countries are on the "restricted list" not because they pose proliferation concerns but for foreign policy or national security reasons. Therefore, some flexibility is essential in making Part 810 determinations. U.S. nonproliferation policy precludes the transfer of sensitive nuclear technology to potential proliferants and DOE follows that policy in applying the Part 810 regulations. To ensure adherence to the policy the revised regulations make explicit the requirement for specific authorization for providing sensitive nuclear technology to any country, including countries not on the "restricted list."

Several commenters urged that specific authorization be required for designing, constructing, fabricating, operating or maintaining major critical components of production reactors or facilities for enrichment, reprocessing, plutonium fuel fabrication or heavy water production even when the components were not specially designed, modified or adapted for these purposes. After carefully considering this proposal, DOE agreed in regard to reactors and "production-scale" facilities (§ 810.8(c)(4)). In the past, DOE has required specific authorization for certain major critical components even when not specially designed, modified or adapted, when these constituted significant assistance to the facility. This provision only marginally expands the requirement for specific authorization. As for the term "production-scale," DOE means commercial or pilot facilities but not small research facilities. For example, major critical components not specially designed, modified or adapted would require specific authorization if destined for a commercial or pilot-scale reprocessing facility in any country; but the same components would not require specific authorization if destined for reprocessing research in a country not on the "restricted list."

G. Section 810.10 Grant of specific authorization

DOE has not accepted a suggestion that § 810.10(b)(3) should specify that this factor is considered only for non-nuclear-weapon states. As a practical matter, DOE considers the nuclear weapons status of recipient countries as a factor in making Part 810 determinations. However, it is U.S. policy to encourage nuclear-weapon states to make all their peaceful nuclear activities eligible for IAEA safeguards. By considering this factor even when the recipient country is a nuclear-weapon state, DOE reflects that policy.

DOE also has not accepted a proposal that the list of factors taken into account in making a Part 810 determination should be replaced by rigid criteria such as those applied by the NRC and that among these should be two "minimum standards": that the recipient country have both a nuclear cooperation agreement with the United States and comprehensive safeguards. There is a significant difference between the exports licensed by the NRC and the numerous and varied activities authorized by DOE. While the NRC controls only complete facilities, materials, and specially designed components, DOE controls nuclear-related services, technology, certain equipment and other assistance. Activities subject to Part 810 vary in significance from a nuclear proliferation standpoint and may be of less proliferation significance than NRC-controlled exports. DOE believes it would be inappropriate and possibly adverse to U.S. nonproliferation policy and objectives to impose rigid criteria regardless of the significance of the activity. When a Part 810-authorized activity is of comparable proliferation significance to an NRC-licensed export, the Secretary of Energy is able to impose any necessary conditions, such as requiring a peaceful use assurance or prior consent rights over retransfer.

One commenter urged that specific authorizations be published in the **Federal Register** instead of being made available on request after 30 days unless the applicant shows this will harm its competitive position. DOE believes making them available on request is the most efficient way to inform interested persons and intends to place copies of the authorizations routinely in the DOE Reading Room, where they will be freely accessible to all interested persons; this will be done approximately 30 days after an authorization is granted so an applicant will have an opportunity to request protection of proprietary information.

Another comment proposed eliminating the 30 day waiting period before disclosing specific authorizations. DOE has retained the waiting period so that any proprietary claims by applicants may be submitted and reviewed.

As for a proposal that approved specific authorizations should be periodically reported to Congress, DOE notes that as a matter of policy and practice it fully cooperates with any congressional interest in its actions under Part 810.

H. Section 810.11 Revocation, suspension modification of authorization

One comment said the term "material false statement" in § 810.11(a) had become the subject of dispute in NRC practice and proposed DOE provide its own definition or use other language. DOE believes the term, whose meaning has not been disputed during its many years of use in the Part 810 regulations, remains appropriate and needs no definition in these regulations at this time.

I. Section 810.13 Reports

DOE did not accept a suggestion that all new reporting requirements be eliminated as "largely unnecessary." On the basis of experience, DOE believes these requirements are desirable to keep DOE abreast of the activities of U.S. persons engaged in foreign nuclear activities; this will assist in meeting DOE's statutory responsibilities, its commitments to U.S. nonproliferation policy and foreign policy and national security interests, and its obligations to respond to congressional concerns. DOE also did not accept suggestions that reporting be eliminated for financial assistance and for exports licensed by other agencies. As noted previously, exports licensed by the NRC are not subject to Part 810; and, contrary to the understanding of one commenter, exports subject to Part 810 as well as licensing by the Departments of State and Commerce were subject to the

reporting provisions of the previous Part 810 regulations. As for financial assistance, this revision makes it subject to reporting only to the extent that persons under U.S. jurisdiction have control over the activities being conducted abroad.

In the interests of clarity, however, DOE has accepted a suggestion that activities generally authorized under § 810.7 (a), (c), (d), (e) and (f) be expressly excluded from reporting requirements.

DOE also has accepted proposals that a recipient of a specific authorization report: (1) When the activity is completed; (2) when the activity is terminated prior to its completion; or (3) when it is known that the proposed activity will not be undertaken and the granted authorization will not be used. DOE has added these reporting requirements because it believes the information will enable DOE to better satisfy the responsibilities, commitments and obligations cited earlier. However, a proposal to require periodic status reports was not accepted because DOE believes these would impose a paperwork burden to little purpose; for if the status of an activity in progress came into question, DOE would necessarily have to establish the current status and not the status at the time of a periodic report that was, for example, six months old.

J. Section 810.16 Effective date

One comment urged that the savings provision in this section be changed to include extensions of existing contracts, orders or licenses, at least where such extensions were expressly contemplated by documents executed before these regulations became final, and so long as such extensions did not expand the scope of the authorized activities. DOE has not accepted this suggestion because to do so might in effect confer perpetuity on some authorizations. On the contrary, DOE notes that when the last revision of these regulations on September 17, 1982 "grandfathered" existing arrangements, it was done in the expectation that these would be completed within a reasonable period. DOE believes the four years since were an ample transition period. Moreover, reports were required on such activities and none of the reports received indicate a need for a prolonged transition. Therefore this revision eliminates the savings clause for generally authorized activities "grandfathered" by the previous regulations. As noted earlier, any affected person is required to apply for specific authorization within 90 days but may continue the activities until DOE acts on the application.

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Part 810 of Title 10 of the Code of Federal Regulations is revised as set forth below.

Issued at Washington, DC, December 1, 1986.

S.R. Foley, Jr.,

Assistant Secretary for Defense Programs.

PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

Sec.
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Authority: Secs. 57, 127, 128, 129, 161, and 223, Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, 68 Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93-438; Sec. 301, Department of Energy Organization Act, Pub. L. 95-91.

§ 810.1 Purpose.

These regulations implement section 57b of the Atomic Energy Act which empowers the Secretary of Energy to authorize U.S. persons to engage directly or indirectly in the production of special nuclear material outside the United States. Their purpose is to:

(a) Indicate activities which have been generally authorized by the Secretary of Energy and thus require no further authorization;

(b) Indicate activities which require specific authorization by the Secretary and explain how to request authorization; and

(c) Explain reporting requirements for various activities.

§ 810.2 Scope.

10 CFR Part 810:

(a) Applies to all persons subject to the jurisdiction of the United States who engage directly or indirectly in the production of special nuclear material outside the United States.

(b) Applies to activities conducted either in the United States or abroad by such persons or by licensees, contractors or subsidiaries under their direction, supervision, responsibility or control.

(c) Applies, but is not limited to, activities involving nuclear reactors and other nuclear fuel cycle facilities for the following: fluoride or nitrate conversion; isotope separation (enrichment); the chemical, physical or metallurgical processing, fabricating, or alloying of special nuclear material; production of heavy water, zirconium (hafnium-free or low-hafnium), nuclear-grade graphite, or reactor-grade beryllium; production of reactor-grade uranium dioxide from yellowcake; and certain uranium milling activities.

(d) Does not apply to exports licensed by the Nuclear Regulatory Commission.

§ 810.3. Definitions.

As used in Part 810:

"Agreement for cooperation" means an agreement with another nation or group of nations concluded under Sections 123 or 124 of the Atomic Energy Act.

"Atomic Energy Act" means the Atomic Energy Act of 1954, as amended.

"Classified information" means National Security Information classified under Executive Order 12356 or any superseding order, or Restricted Data classified under the Atomic Energy Act.

"General authorization" means an authorization granted by the Secretary of Energy under section 57b(2) of the Atomic Energy Act to provide certain assistance to foreign atomic energy activities and which is effective without a specific request to the Secretary or the issuance of an authorization to a particular person.

"IAEA" means the International Atomic Energy Agency.

"NNPA" means the Nuclear Non-Proliferation Act of 1978.

"NPT" means the Treaty on the Non-Proliferation of Nuclear Weapons.

"Nuclear reactor" means an apparatus, other than a nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

"Open meeting" means a conference, seminar, trade show or other gathering that all technically qualified members of the public may attend and at which they may make written or other personal record of the proceedings.

notwithstanding that (1) a reasonable registration fee may be charged, or (2) a reasonable numerical limit exists on actual attendance.

"Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department of Energy, any State or political entity within a State; and (2) any legal successor, representative, agent or agency of the foregoing. Persons under U.S. jurisdiction are responsible for their foreign licensees, contractors or subsidiaries to the extent that the former have control over the activities of the latter.

"Production reactor" means a nuclear reactor specially designed or used primarily for the production of plutonium or uranium-233.

"Public information" means: (1) Information available in periodicals, books or other print or electronic media for distribution to any member of the public, or to a community of persons such as those in a scientific, engineering, or educational discipline or in a particular commercial activity who are interested in a subject matter; (2) Information available in public libraries, public reading rooms, public document rooms, public archives, or public data banks, or in university courses; (3) Information that has been presented at an open meeting (see definition of "open meeting"); (4) Information that has been made available internationally without restriction on its further dissemination; or (5) Information contained in an application which has been filed with the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 184 or which has been made available under 5 U.S.C. 552, the Freedom of Information Act. Public information must be available to the public prior to or at the same time as it is transmitted to a foreign recipient. It does not include any technical embellishment, enhancement, explanation or interpretation which in itself is not public information, or information subject to Sections 147 and 148 of the Atomic Energy Act.

"Restricted Data" means all data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act.

"Sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public [see definition of "public information"] which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to Chapter 12 of the Atomic Energy Act. The information may take a tangible form such as a model, prototype, blueprint, or operation manual or an intangible form such as technical services.

"Source Material" means: (1) Uranium or thorium, other than special nuclear material or (2) ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

"Special nuclear material" means (1) plutonium, (2) uranium-233, or (3) uranium enriched above 0.711 percent by weight in the isotope uranium-235.

"Specific authorization" means an authorization granted by the Secretary of Energy under section 57b(2) of the Atomic Energy Act to a person to provide specified assistance to a foreign atomic energy activity in response to an application filed under 10 CFR Part 810.

"United States", when used in a geographical sense, includes all territories and possessions of the United States.

§ 810.4 Communications.

All communications concerning these regulations should be addressed to: U.S. Department of Energy, Washington, DC 20585. Attention: Director, Division of Politico-Military Security Affairs, DP-332, Office of International Security Affairs, Telephone: (202) 252-2112.

Communications also may be delivered to the Department's headquarters at 1000 Independence Avenue, SW., Washington, DC. All clearly marked proprietary information will be given the maximum protection allowed by law.

§ 810.5 Interpretations.

A person may request the advice of the Division of Politico-Military Security Affairs (PMSA) on whether a proposed activity falls outside the scope of Part 810, is generally authorized under § 810.7, or requires specific authorization under § 810.8; however, unless authorized by the Secretary of Energy in writing, no interpretation of these regulations other than a written interpretation by the General Counsel is binding upon the Department. When advice is requested from PMSA or a binding, written determination is requested from the General Counsel, a response normally will be made within 30 days and, if this is not feasible, an interim response will explain the delay.

§ 810.6 Authorization requirement.

Section 57b of the Atomic Energy Act in pertinent part provides that:

> It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense.

§ 810.7 Generally authorized activities.

In accordance with section 57b(2) of the Atomic Energy Act, the Secretary of Energy has determined that the following activities are generally authorized, provided no sensitive nuclear technology is transferred:

(a) Furnishing public information as defined in § 810.3;

(b) Furnishing information or assistance to prevent or correct a current or imminent radiological emergency posing a significant danger to public health and safety, provided the Department of Energy is notified in advance and does not object;

(c) Implementing the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States;

(d) Participation in exchange programs approved by the Department of State in consultation with the Department of Energy;

(e) Participation approved by a U.S. Government agency in IAEA programs, and activities of IAEA employees whose employment was approved by the U.S. Government;

(f) Participation in open meetings as defined in § 810.3 that are sponsored by educational, scientific, or technical organizations or institutions;

(g) Otherwise engaging directly or indirectly in the production of special nuclear material outside the United States in ways that (1) do not involve any of the countries listed in § 810.8(a) and (2) do not involve production reactors, enrichment, reprocessing, fabrication of nuclear fuel containing plutonium, or production of heavy

water, as described in § 810.8(c) (1) through (5).

§ 810.8 Activities requiring specific authorization.

Unless generally authorized by § 810.7, a person requires specific authorization by the Secretary of Energy before:

(a) Engaging directly or indirectly in the production of special nuclear material in any of the countries listed below:

Afghanistan
Albania
Algeria
Andorra
Angola
Argentina
Bahrain
Brazil
Bulgaria
Burma
Chile
China, People's Republic of
Comoros
Cuba
Czechoslovakia
Djibouti
Estonia
German Democratic Republic (and East Berlin)
Guyana
Hungary
India
Iran
Iraq
Israel
Kampuchea
Korea, People's Democratic Republic of
Kuwait
Laos
Latvia
Libya
Lithuania
Mauritania
Monaco
Mongolian People's Democratic Republic
Mozambique
Niger
Oman
Pakistan
Poland
Qatar
Romania
Saudi Arabia
South Africa
Soviet Union
Syria
Tanzania
United Arab Emirates
Vanuatu
Vietnam
Yemen, People's Democratic Republic of
Zambia
Zimbabwe

Countries may be removed from or added to this list by amendments published in the **Federal Register**;

(b) Providing sensitive nuclear technology for an activity in any foreign country;

(c) Engaging in or providing assistance in any of the following activities with respect to any foreign country:

(1) Designing production reactors or facilities for the separation of isotopes of source or special nuclear material (enrichment), chemical processing of irradiated special nuclear material (reprocessing), fabrication of nuclear fuel containing plutonium, or the production of heavy water;

(2) Constructing, fabricating, operating, or maintaining such reactors or facilities;

(3) Designing, constructing, fabricating, operating or maintaining components specially designed, modified or adapted for use in such reactors or facilities;

(4) Designing, constructing, fabricating, operating or maintaining major critical components for use in such reactors or production-scale facilities; or

(5) Training in the activities of paragraphs (c) (1) to (4) of this section.

§ 810.9 Restrictions on general and specific authorization.

A general or specific authorization granted by the Secretary of Energy under these regulations:

(a) Is limited to activities involving only unclassified information and does not permit furnishing Restricted Data or other classified information.

(b) Does not relieve a person from complying with relevant laws or the regulations of other Government agencies applicable to exports;

(c) Does not authorize a person to engage in any activity when the person knows or has reason to know that the activity is intended to provide assistance in designing, developing, fabricating or testing a nuclear explosive device.

§ 810.10 Grant of specific authorization.

(a) Any person proposing to provide assistance for which §810.8 indicates specific authorization is required may apply for the authorization to the U.S. Department of Energy, Washington, DC 20585, Attention: Director, Division of Politico-Military Security Affairs, DP-332, Office of International Security Affairs.

(b) The Secretary of Energy will approve an application for specific authorization if he determines, with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, that the activity will not be inimical to the interest of the United States. In making this determination, the Secretary will take into account:

(1) Whether the United States has an agreement for nuclear cooperation with the nation or group of nations involved;

(2) Whether the country involved is a party to the NPT, or a country for which the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) is in force;

(3) Whether the country involved has entered into an agreement with the IAEA for the application of safeguards on all its peaceful nuclear activities;

(4) Whether the country involved, if it has not entered into such an agreement, has agreed to accept IAEA safeguards when applicable to the proposed activity;

(5) Other nonproliferation controls or conditions applicable to the proposed activity;

(6) The relative significance of the proposed activity;

(7) The availability of comparable assistance from other sources;

(8) Any other factors that may bear upon the political, economic, or security interests of the United States, including U.S. obligations under international agreements or treaties.

(c) If the proposed assistance involves the export of "sensitive nuclear technology" as defined in § 810.3, the requirements of sections 127 and 128 of the Atomic Energy Act and of any applicable U.S. international commitments must also be met.

(d) Approximately 30 days after the Secretary's grant of a specific authorization, a copy of the Secretary's determination may be provided to any person requesting it at the Department's Public Reading Room, unless the applicant submits information showing that public disclosure will cause substantial harm to its competitive position. This provision does not affect any other authority provided by law for the Department not to disclose information.

§ 810.11 Revocation, suspension, or modification of authorization.

The Secretary may revoke, suspend, or modify a general or specific authorization:

(a) For any material false statement in an application for specific authorization or in any additional information submitted in its support;

(b) For failing to provide a report or for any material false statement in a report submitted pursuant to § 810.13;

(c) If any authorized assistance is subsequently determined to be inimical to the interest of the United States or otherwise no longer meets the legal criteria for approval; or

(d) Pursuant to Section 129 of the Atomic Energy Act.

§ 810.12 Information required in an application for specific authorization.

Each application shall contain:

(a) The name, address, and citizenship of the applicant, and complete disclosure of all real parties in interest; if the applicant is a corporation or other legal entity, where it is incorporated or organized, the location of its principal office, and the degree of any control or ownership by any foreign person or entity;

(b) A complete description of the proposed activity, including its approximate monetary value, the name and location of any facility or project involved, the name and address of the person or legal entity for which the activity is to be performed, and a

detailed description of any specific project to which the activity relates;

(c) Any information the applicant may wish to provide concerning the factors listed in § 810.10(b); and

(d) Designation of any information considered proprietary whose public disclosure would cause substantial harm to the competitive position of the applicant.

§ 810.13 Reports.

(a) Any person who has received a specific authorization shall within 30 days after beginning the authorized activity provide to the Department of Energy a report containing the following information:

(1) The name, address, and citizenship of the person submitting the report;

(2) The name, address, and citizenship of the person or entity for which the activity is being performed;

(3) A description of the activity, the date it began, its location, status, and anticipated date of completion; and

(4) A copy of the Department of Energy's letter authorizing the activity.

(b) Any person carrying out a specifically authorized activity shall inform DOE when the activity is completed or if it is terminated before completion.

(c) Any person granted a specific authorization shall inform DOE when it is known that the proposed activity will not be undertaken and the granted authorization will not be used.

(d) Any person, within 30 days after beginning any generally authorized activity under § 810.7(b) or (g), shall provide to the Department of Energy:

(1) The name, address, and citizenship of the person submitting the report;

(2) The name, address, and citizenship of the person or entity for which the activity is being performed; and

(3) A description of the activity, the date it began, its location, status, and anticipated date of completion.

(e) Persons engaging in generally authorized activities as employees of persons required to report are not themselves required to report.

(f) Persons engaging in activities generally authorized under § 810.7 (a), (c), (d), (e), and (f) are not subject to reporting requirements.

(g) All reports should be sent to: U.S. Department of Energy, Washington, DC 20585, Attention: Director, Division of Politico-Military Security Affairs, DP-332, Office of International Security Affairs.

§ 810.14 Additional information.

The Department of Energy may at any time require a person engaging in any generally or specifically authorized activity to submit additional information.

§ 810.15 Violations.

(a) The Atomic Energy Act provides that:

(1) Permanent or temporary injunctions or restraining orders may be granted to prevent any person from violating any provision of the Atomic Energy Act or its implementing regulations.

(2) Any person convicted of violating or conspiring or attempting to violate any provision of section 57 of the Atomic Energy Act may be fined up to $10,000 or imprisoned up to 10 years, or both. If the offense is committed with intent to injure the United States or to aid any foreign nation, the penalty could be up to life imprisonment and a $20,000 fine.

(b) Title 18 of the United States Code, section 1001, provides that persons convicted of willfully falsifying, concealing, or covering up a material fact or making false, fictitious or fraudulent statements or representations may be fined up to $10,000 or imprisoned up to five years, or both.

§ 810.16 Effective date.

These regulations are effective upon publication as a final rule. Except for actions which may be taken by DOE pursuant to § 810.11, this revision does not affect the validity or terms of any specific authorization granted under the previous regulations. Persons engaging in activities that were generally authorized under the previous regulations but are no longer generally authorized under these regulations must apply for specific authorization within 90 days but may continue their activities until their application is acted upon.

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Wednesday
December 10, 1986

Part III

Department of Education

Grants for Handicapped Research and Demonstration Projects; Funding Priority for Fiscal Year 1987; Notice of Final Funding

DEPARTMENT OF EDUCATION

Grants for Handicapped Research and Demonstration Projects; Funding Priority for Fiscal Year 1987

AGENCY: Department of Education.

ACTION: Notice of final funding priority for research and demonstration projects in research training for fiscal year 1987.

SUMMARY: The Secretary of Education announces a funding priority for rehabilitation research training to be supported by the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal year 1987. NIDRR is required under the Rehabilitation Act of 1973, as amended, to develop a long range research plan identifying rehabilitation research needs and determining funding priorities to facilitate the support of these activities within available resources. This final priority is derived from the NIDRR Long-Range Plan.

EFFECTIVE DATE: This priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3070), Washington, DC 20202. Telephone (202) 732-1139; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

SUPPLEMENTARY INFORMATION: Authority for this research training activity is contained in section 204(a) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and by Pub. L. 98-221 (29 USC 762(a)).

The Secretary plans to make awards under section 204(a) of the Rehabilitation Act to public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to develop, conduct, and evaluate programs of advanced training in rehabilitation research.

The purpose of these programs is to produce highly qualified researchers in rehabilitation disciplines. Selected individuals will be provided with research training and with opportunities to conduct rehabilitation research, to participate in individual programs of academic and professional development in rehabilitation, and to collaborate with recognized experts in rehabilitation research. This activity is intended to prepare future leaders in the field of rehabilitation research.

In Fiscal Year 1986, NIDRR announced a priority for training in rehabilitation research and initiated several projects in this area. The Secretary believes there is a need to continue to build capacity in the field through support for additional projects to train clinicians and applied scientists to conduct rehabilitation research.

NIDRR is authorized to support research and related activities in a variety of areas and through several program authorities. The priority announced in this notice is for training in rehabilitation research, to be supported under the Research and Demonstration Program. Under this program, NIDRR may support research, demonstrations, development, or related activities in areas related to rehabilitation of disabled individuals. NIDRR is announcing a priority for one or more projects to train qualified individuals in selected areas of rehabilitation research.

NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities.

This final funding priority represents only one area in which NIDRR intends to support research, training and related activities through grants or cooperative agreements. NIDRR anticipates that this research training priority will be supported through the mechanism of a cooperative agreement.

The publication of this final priority does not bind the Department to fund projects in this or any other area. Funding of particular projects depends on the availability of funds and other Departmental considerations.

Priority for Rehabilitation Research Training

NIDRR is the lead Federal agency responsible for addressing national needs in rehabilitation research by fostering opportunities for the pursuit of scientific inquiry and development of knowledge relevant to the problems of disability. As such NIDRR is concerned with developing a cadre of scientists trained in research related to rehabilitation. The reports of the House and Senate Committees on Appropriations accompanying the NIDRR fiscal year 1985 appropriation recommended that NIDRR establish a rehabilitation research training program.

There is a particular need to increase the number of qualified researchers in medicine and allied health fields. Terminal degrees awarded in medicine, and in some related health professions, are basically clinical degrees, and generally do not include the intensive research training necessary to support excellent scientific investigation. The Association of American medical Colleges, on the basis of a 1984 survey of recent graduates, reported that 56 percent of respondents believed they had been inadequately prepared in research techniques.

There are many medical specialties which bear directly on the rehabilitation of disabled individuals, including neurology, orthopedics, psychiatry, internal medicine, cardiology, physical medicine and rehabilitation, and others. Related fields such as physical, speech, and occupational therapy, nursing psychology, and engineering are also involved in clinical rehabilitation services. In many areas of medicine, there is ongoing basic research which may not directly advance the application of medical science to rehabilitation. Moreover, there are relatively few physicians or other clinicians engaged in applied research related to rehabilitation. There is a need to build capacity by attracting additional individuals to rehabilitation research as well as by enhancing the research credentials of those already interested or active in the field.

The purpose of this funding priority is to prepare individuals with advanced clinical training for research careers in fields related to rehabilitation. The intent of the program is to expand capability in the field of rehabilitation research by providing advanced research training to individuals with advanced clinical and applied science training. The program is intended to support qualified individuals as trainees, and also to provide for the costs of scientific mentorship and research supervision, direct costs of research, and costs of participation in professional conferences or other activities of collaboration with scientists in the field of rehabilitation research. A Research and Demonstration Project, to be called the Rehabilitation Research Career Development Project, is announced to:

- Establish individualized programs to provide, within a suitable environment, advanced training in rehabilitation research to individuals with advanced degrees in medicine, allied health professions, engineering, or other fields with a potential to contribute solutions to problems of disability and rehabilitation; these programs are encouraged to include didactic instruction, exposure to new developments and outstanding

researchers and practitioners, scientific research, experience, scientific mentorship, collegial and collaborative investigations, participation in meetings and conferences directly related to appropriate rehabilitation research topics;

• Establish such training programs utilizing available facilities, staff, and other resources of existing programs which are demonstrated to be adequate and suitable environments for the conduct of advanced training in rehabilitation research;

• Develop and conduct recruitment programs, including provisions for opportunities for handicapped individuals, minorities, women, and other traditionally underrepresented groups, to identify, recruit, and train individuals not currently employed in or qualified for positions in advanced or independent research;

• Provide individual support to one or more trainees who are qualified clinicians from among the following eligible categories: individuals licensed to practice medicine, including osteopathic medicine and podiatry, in one or more States; individuals with advanced degrees in clinical health-related fields (e.g., nursing, physical therapy, or other allied health professions); engineers, and others whose overall combination of training, experience, and achievement demonstrates a potential to attain leadership roles in rehabilitation research;

• Provide a research training program which significantly involves the trainees in clinical research at the doctoral or postdoctoral level in an area of interest to the rehabilitation field, and to which the trainee commits at least three-quarters of his or her time;

• Provide a career development program of up to three years of training and direct experience in clinical rehabilitation research, preferably including activities which contribute to meeting the requirements of advanced degrees and credentials in relevant academic fields, ensuring that this program is of sufficient duration and intensity as to assure that trainees leave from the program with the skills and knowledge to conceptualize, design, conduct, analyze, and interpret research on an independent basis; and

• Assess the research training program through careful documentation of the process, including recruitment, training, and research experiences, as well as a thorough evaluation of the outcomes.

Summary of Comments and Responses

NIDRR received nine letters of comment, representing thirteen separate organizations or individuals, about the proposed priority. Most of these supported the proposed priority and offered only general comments. Several of the commenters made a number of suggestions for modifications to the priority, and their comments are summarized and answered below.

Comment: Several commenters suggested that NIDRR should adopt specific criteria for the evaluation of research training grants, separate and discrete from the criteria which NIDRR uses to evaluate the Research and Demonstration program and most other programs.

Response: No change has been made. NIDRR is considering revising its selection criteria, and will take these suggestions into account when the proposed revisions to the criteria are published for public comment. However, no change in the evaluation criteria can be made as part of this priority.

Comment: Several commenters suggested that the intended trainees in the program should include students as well as credentialled clinicians.

Response: No change has been made. The intent of the priority is to provide training in rehabilitation research to advanced clinicians who have not received research training as part of their education in a clinical or related specialty.

Comment: One commenter suggested that trainees should be "an integral part of an ongoing educational process."

Response: No change has been made. The emphasis of this priority is to provide research training for those who did not receive that training as part of the pursuit of a terminal degree in their clinical specialty, or whose research training did not include rehabilitation research.

Comment: Some commenters stated that the priority should not be restricted to engineering, medicine, and health-related fields, but should be open to other fields related to rehabilitation, or to unrelated fields.

Response: A change has been made. The priority has been broadened to provide advanced rehabilitation research training to individuals with advanced degrees in any field which has the potential for contributing to solutions to problems related to disability and rehabilitation.

Comment: Two commenters suggested that training activities should not focus on meeting the requirements of an advanced degree.

Response: No change has been made. The priority gives a preference to, but does not require that, projects provide training which meets some of the qualifications of an advanced degree. NIDRR is concerned that the projects funded under this priority provide intensive and extensive, rigorous, and systematic training in research which leads to an individual being qualified to conduct independent research. NIDRR wishes to avoid a diluted or unfocused training program. The Secretary believes that research training which meets some of the requirements for an advanced degree, whether or not the individual actually receives such a degree, is most likely to meet these standards.

Comment: One respondent suggested that individuals trained under this program be required to devote one year to rehabilitation research activities for each year of training under this program.

Response: No change has been made. While the Secretary believes that such a commitment is important, NIDRR's current regulations do not impose a service requirement.

Comment: One commenter requested that the reference to "physical medicine" in the priority be changed to read "physical medicine and rehabilitation".

Response: A change has been made. The term "physical medicine and rehabilitation" has been substituted for the original term. This is the nonmenclature which is in use in the profession.

Comment: Several commenters suggested that the priority should specify that physicians who participate as trainees in the career development program should be those who have completed their residency training.

Response: No change has been made. NIDRR believes that the focus of the priority on practicing or credentialled clinicians implies that physicians will have completed, or be near the end of, residency training. Since the career development program requires a commitment of three-fourths of the trainee's time, participation in the program would clearly be incompatible with fulfilling the substantial other requirements of a medical residency.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute on Disability and Rehabilitation Research)

(29 U.S.C. 760–762)

Dated: November 19, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–27718 Filed 12–9–86; 8:45 am]

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