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Thursday
January 29, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Portland, OR, Los Angeles, CA, San Diego, CA, and Houston, TX, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

PORTLAND, OR

WHEN: February 17; at 9 am.
WHERE: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.
RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Portland **503–221–2222**
Seattle **206–442–0570**
Tacoma **206–383–5230**

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.
WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.
RESERVATIONS: Call the Los Angeles Federal Information Center, 213–894–3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.
WHERE: Room 2S31, Federal Building, 880 Front Street, San Diego, CA.
RESERVATIONS: Call the San Diego Federal Information Center, 619–293–6030

HOUSTON, TX

WHEN: March 10; at 9 am.
WHERE: Room 4415, Federal Building, 515 Rusk Avenue, Houston, TX.
RESERVATIONS: Call the Houston Federal Information Center on the following local numbers:

Houston **713–229–2552**
Austin **512–472–5495**
San Antonio **512–224–4471**
New Orleans **504–589–6696**

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Presidential Documents

Title 3—

The President

Proclamation 5602 of January 26, 1987

National Day of Excellence, 1987

By the President of the United States of America

A Proclamation

On January 28, 1986, America lost a great flagship, the Space Shuttle Challenger. Our Nation united in grief for the valiant crew and their families and in renewed resolve to move ahead with the peaceful exploration of space.

Our space program, and the scientists, engineers, and astronauts who have made it possible, symbolize the spirit of America: optimism and ingenuity, daring and determination. Their achievements have been an inspiration and a source of national pride. We admire the brilliance, the courage, and the hard work that have contributed to our country's preeminence in space.

Space exploration and the advanced technology that drives it benefit our laboratories, our industries, our farms, our hospitals, and our homes. This great adventure has enlarged our vision. Going outside our world we have come to know our own planet better—yes, and to love it as a tiny oasis of life in the engulfing vastness and silence of space. Our space program has given us a new confidence in what the future holds. We have seen expanded opportunities for scientific study, for industrial and commercial growth, for security, and for discovery.

We owe an immense debt of gratitude to our space pioneers—especially to those who made the ultimate sacrifice. The crew of the Challenger—Michael J. Smith, Francis R. Scobee, Gregory B. Jarvis, Ronald E. McNair, Judith A. Resnik, Ellison S. Onizuka, and S. Christa McAuliffe—set a high standard in education and training, in skill and courage. We can offer them no finer tribute than a pledge from each of us to strive for excellence in whatever we do—to extend our grasp by reaching beyond it. For they have taught us that the sky is not the limit—not for Americans.

The Congress, by Public Law 99-478, has designated January 28, 1987, as a "National Day of Excellence" 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 January 28, 1987, as the National Day of Excellence. I call upon the people of the United States to observe this occasion with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 87-1841
Filed 1-27-87; 2:34 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12580 of January 23, 1987

Superfund Implementation

By the authority vested in me as President of the United States of America by Section 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9615 *et seq.*) ("the Act"), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. *National Contingency Plan.* (a)(1) The National Contingency Plan ("the NCP"), shall provide for a National Response Team ("the NRT") composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and regional response teams as the regional counterpart to the NRT for planning and coordination of regional preparedness and response actions.

(2) The following agencies (in addition to other appropriate agencies) shall provide representatives to the National and Regional Response Teams to carry out their responsibilities under the NCP: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, United States Coast Guard, and the Nuclear Regulatory Commission.

(3) Except for periods of activation because of a response action, the representative of the Environmental Protection Agency ("EPA") shall be the chairman and the representative of the United States Coast Guard shall be the vice chairman of the NRT and these agencies' representatives shall be co-chairs of the Regional Response Teams ("the RRTs"). When the NRT or an RRT is activated for a response action, the chairman shall be the EPA or United States Coast Guard representative, based on whether the release or threatened release occurs in the inland or coastal zone, unless otherwise agreed upon by the EPA and United States Coast Guard representatives.

(4) The RRTs may include representatives from State governments, local governments (as agreed upon by the States), and Indian tribal governments. Subject to the functions and authorities delegated to Executive departments and agencies in other sections of this Order, the NRT shall provide policy and program direction to the RRTs.

(b)(1) The responsibility for the revision of the NCP and all of the other functions vested in the President by Sections 105(a), (b), (c), and (g), 125, and 301(f) of the Act is delegated to the Administrator of the Environmental Protection Agency ("the Administrator").

(2) The function vested in the President by Section 118(p) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499) ("SARA") is delegated to the Administrator.

(c) In accord with Section 107(f)(2)(A) of the Act and Section 311(f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(f)(5)), the following shall be among those designated in the NCP as Federal trustees for natural resources:

(1) Secretary of Defense;

(2) Secretary of the Interior;

(3) Secretary of Agriculture;

(4) Secretary of Commerce;

(5) Secretary of Energy.

(d) Revisions to the NCP shall be made in consultation with members of the NRT prior to publication for notice and comment. Revisions shall also be made in consultation with the Director of the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.

(e) All revisions to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget ("OMB").

Sec. 2. *Response and Related Authorities.* (a) The functions vested in the President by the first sentence of Section 104(b)(1) of the Act relating to "illness, disease, or complaints thereof" are delegated to the Secretary of Health and Human Services who shall, in accord with Section 104(i) of the Act, perform those functions through the Public Health Service.

(b) The functions vested in the President by Sections 104(e)(7)(C), 113(k)(2), 119(c)(7), and 121(f)(1) of the Act, relating to promulgation of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the NRT.

(c)(1) The functions vested in the President by Sections 104(a) and the second sentence of 126(b) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for, are delegated to the Director of the Federal Emergency Management Agency.

(2) Subject to subsection (b) of this Section, the functions vested in the President by Sections 117(a) and (c), and 119 of the Act, to the extent such authority is needed to carry out the functions delegated under paragraph (1) of this subsection, are delegated to the Director of the Federal Emergency Management Agency.

(d) Subject to subsections (a), (b) and (c) of this Section, the functions vested in the President by Sections 104(a), (b) and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretaries of Defense and Energy, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated. These functions must be exercised consistent with the requirements of Section 120 of the Act.

(e)(1) Subject to subsections (a), (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(a), (b), and (c)(4), and 121 of the Act are delegated to the heads of Executive departments and agencies, with respect to remedial actions for releases or threatened releases which are not on the National Priorities List ("the NPL") and removal actions other than emergencies, where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, including vessels bare-boat chartered and operated. The Administrator shall define the term "emergency", solely for the purposes of this subsection, either by regulation or by a memorandum of understanding with the head of an Executive department or agency.

(2) Subject to subsections (b), (c), and (d) of this Section, the functions vested in the President by Sections 104(b)(2), 113(k), 117(a) and (c), and 119 of the Act are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction,

custody or control of those departments and agencies, including vessels bareboat chartered and operated.

(f) Subject to subsections (a), (b), (c), (d), and (e) of this Section, the functions vested in the President by Sections 104(a), (b) and (c)(4), 113(k), 117(a) and (c), 119, and 121 of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating ("the Coast Guard"), with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(g) Subject to subsections (a), (b), (c), (d), (e), and (f) of this Section, the functions vested in the President by Sections 101(24), 104(a), (b), (c)(4) and (c)(9), 113(k), 117(a) and (c), 119, 121, and 126(b) of the Act are delegated to the Administrator. The Administrator's authority under Section 119 of the Act is retroactive to the date of enactment of SARA.

(h) The functions vested in the President by Section 104(c)(3) of the Act are delegated to the Administrator, with respect to providing assurances for Indian tribes, to be exercised in consultation with the Secretary of the Interior.

(i) Subject to subsections (d), (e), (f), (g) and (h) of this Section, the functions vested in the President by Section 104(c) and (d) of the Act are delegated to the Coast Guard, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and the Administrator in order to carry out the functions delegated to them by this Section.

(j)(1) The functions vested in the President by Section 104(e)(5)(A) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases where either the release is on or the sole source of the release is from any facility or vessel under the jurisdiction, custody or control of those departments and agencies, to be exercised with the concurrence of the Attorney General.

(2) Subject to subsection (b) of this Section and paragraph (1) of this subsection, the functions vested in the President by Section 104(e) are delegated to the heads of Executive departments and agencies in order to carry out their functions under this Order or the Act.

(k) The functions vested in the President by Section 104(f), (g), (h), (i)(11), and (j) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Section. The exercise of authority under Section 104(h) of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

Sec. 3. *Cleanup Schedules.* (a) The functions vested in the President by Sections 116(a) and the first two sentences of 105(d) of the Act are delegated to the heads of Executive departments and agencies with respect to facilities under the jurisdiction, custody or control of those departments and agencies.

(b) Subject to subsection (a) of this Section, the functions vested in the President by Sections 116 and 105(d) are delegated to the Administrator.

Sec. 4. *Enforcement.* (a) The functions vested in the President by Sections 109(d) and 122(e)(3)(A) of the Act, relating to development of regulations and guidelines, are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(b)(1) Subject to subsection (a) of this Section, the functions vested in the President by Section 122 (except subsection (b)(1)) are delegated to the heads of Executive departments and agencies, with respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(2) Subject to subsection (a) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 122 of the Act, are delegated to the heads of Executive departments and agencies, with

respect to releases or threatened releases not on the NPL where either the release is on or the sole source of the release is from any facility under the jurisdiction, custody or control of those Executive departments and agencies. These functions may be exercised only with the concurrence of the Attorney General.

(c)(1) Subject to subsection (a) and (b)(1) of this Section, the functions vested in the President by Sections 106(a) and 122 of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(2) Subject to subsection (a) and (b)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Sections 103 (a) and (b), and 122 of the Act, are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(d)(1) Subject to subsections (a), (b)(1), and (c)(1) of this Section, the functions vested in the President by Sections 106 and 122 of the Act are delegated to the Administrator.

(2) Subject to subsections (a), (b)(2), and (c)(2) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Sections 103 and 122 of the Act, are delegated to the Administrator.

(e) Notwithstanding any other provision of this Order, the authority under Sections 104(e)(5)(A) and 106(a) of the Act to seek information, entry, inspection, samples, or response actions from Executive departments and agencies may be exercised only with the concurrence of the Attorney General.

Sec. 5. *Liability.* (a) The function vested in the President by Section 107(c)(1)(C) of the Act is delegated to the Secretary of Transportation.

(b) The functions vested in the President by Section 107(c)(3) of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 107(c)(3) of the Act are delegated to the Administrator.

(d) The functions vested in the President by Section 107(f)(1) of the Act are delegated to each of the Federal trustees for natural resources designated in the NCP for resources under their trusteeship.

(e) The functions vested in the President by Section 107(f)(2)(B) of the Act, to receive notification of the state natural resource trustee designations, are delegated to the Administrator.

Sec. 6. *Litigation.* (a) Notwithstanding any other provision of this Order, any representation pursuant to or under this Order in any judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Act shall be the responsibility of the Attorney General.

(b) Notwithstanding any other provision of this Order, the authority under the Act to require the Attorney General to commence litigation is retained by the President.

(c) The functions vested in the President by Section 113(g) of the Act, to receive notification of a natural resource trustee's intent to file suit, are delegated to the heads of Executive departments and agencies with respect to response actions for which they have been delegated authority under Section 2 of this Order. The Administrator shall promulgate procedural regulations for providing such notification.

(d) The functions vested in the President by Sections 310 (d) and (e) of the Act, relating to promulgation of regulations, are delegated to the Administrator.

Sec. 7. *Financial Responsibility.* (a) The functions vested in the President by Section 107(k)(4)(B) of the Act are delegated to the Secretary of the Treasury.

The Administrator will provide the Secretary with such technical information and assistance as the Administrator may have available.

(b)(1) The functions vested in the President by Section 108(a)(1) of the Act are delegated to the Coast Guard.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(1) of the Act, are delegated to the Coast Guard.

(c)(1) The functions vested in the President by Section 108(b) of the Act are delegated to the Secretary of Transportation with respect to all transportation related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(2) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(a)(3) of the Act, are delegated to the Secretary of Transportation.

(3) Subject to Section 4(a) of this Order, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108(b) of the Act, are delegated to the Secretary of Transportation with respect to all transportation related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.

(d)(1) Subject to subsection (c)(1) of this Section, the functions vested in the President by Section 108 (a)(4) and (b) of the Act are delegated to the Administrator.

(2) Subject to Section 4(a) of this Order and subsection (c)(3) of this Section, the functions vested in the President by Section 109 of the Act, relating to violations of Section 108 (a)(4) and (b) of the Act, are delegated to the Administrator.

Sec. 8. *Employee Protection and Notice to Injured.* (a) The functions vested in the President by Section 110(e) of the Act are delegated to the Adminstrator.

(b) The functions vested in the President by Section 111(g) of the Act are delegated to the Secretaries of Defense and Energy with respect to releases from facilities or vessels under the jurisdiction, custody or control of their departments, respectively, including vessels bare-boat chartered and operated.

(c) Subject to subsection (b) of this Section, the functions vested in the President by Section 111(g) of the Act are delegated to the Administrator.

Sec. 9. *Management of the Hazardous Substance Superfund and Claims.* (a) The functions vested in the President by Section 111(a) of the Act are delegated to the Administrator, subject to the provisions of this Section and other applicable provisions of this Order.

(b) The Administrator shall transfer to other agencies, from the Hazardous Substance Superfund out of sums appropriated, such amounts as the Administrator may determine necessary to carry out the purposes of the Act. These amounts shall be consistent with the President's Budget, within the total approved by the Congress, unless a revised amount is approved by OMB. Funds appropriated specifically for the Agency for Toxic Substances and Disease Registry ("ATSDR"), shall be directly transferred to ATSDR, consistent with fiscally responsible investment of trust fund money.

(c) The Administrator shall chair a budget task force composed of representatives of Executive departments and agencies having responsibilities under this Order or the Act. The Administrator shall also, as part of the budget request for the Environmental Protection Agency, submit to OMB a budget for the Hazardous Substance Superfund which is based on recommended levels developed by the budget task force. The Administrator may prescribe reporting and other forms, procedures, and guidelines to be used by the agencies of the Task Force in preparing the budget request, consistent with budgetary reporting requirements issued by OMB. The Administrator shall prescribe

forms to agency task force members for reporting the expenditure of funds on a site specific basis.

(d) The Administrator and each department and agency head to whom funds are provided pursuant to this Section, with respect to funds provided to them, are authorized in accordance with Section 111(f) of the Act to designate Federal officials who may obligate such funds.

(e) The functions vested in the President by Section 112 of the Act are delegated to the Administrator for all claims presented pursuant to Section 111 of the Act.

(f) The functions vested in the President by Section 111(o) of the Act are delegated to the Administrator.

(g) The functions vested in the President by Section 117(e) of the Act are delegated to the Administrator, to be exercised in consultation with the Attorney General.

(h) The functions vested in the President by Section 123 of the Act are delegated to the Administrator.

(i) Funds from the Hazardous Substance Superfund may be used, at the discretion of the Administrator or the Coast Guard, to pay for removal actions for releases or threatened releases from facilities or vessels under the jurisdiction, custody or control of Executive departments and agencies but must be reimbursed to the Hazardous Substance Superfund by such Executive department or agency.

Sec. 10. *Federal Facilities.* (a) When necessary, prior to selection of a remedial action by the Administrator under Section 120(e)(4)(A) of the Act, Executive agencies shall have the opportunity to present their views to the Administrator after using the procedures under Section 1–6 of Executive Order No. 12088 of October 13, 1978, or any other mutually acceptable process. Notwithstanding subsection 1–602 of Executive Order No. 12088, the Director of the Office of Management and Budget shall facilitate resolution of any issues.

(b) Executive Order No. 12088 of October 13, 1978, is amended by renumbering the current Section 1–802 as Section 1–803 and inserting the following new Section 1–802:

"1–802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person."

Sec. 11. *General Provisions.* (a) The function vested in the President by Section 101(37) of the Act is delegated to the Administrator.

(b)(1) The function vested in the President by Section 105(f) of the Act, relating to reporting on minority participation in contracts, is delegated to the Administrator.

(2) Subject to paragraph 1 of this subsection, the functions vested in the President by Section 105(f) of the Act are delegated to the heads of Executive departments and agencies in order to carry out the functions delegated to them by this Order. Each Executive department and agency shall provide to the Administrator any requested information on minority contracting for inclusion in the Section 105(f) annual report.

(c) The functions vested in the President by Section 126(c) of the Act are delegated to the Administrator, to be exercised in consultation with the Secretary of the Interior.

(d) The functions vested in the President by Section 301(c) of the Act are delegated to the Secretary of the Interior.

(e) Each agency shall have authority to issue such regulations as may be necessary to carry out the functions delegated to them by this Order.

(f) The performance of any function under this Order shall be done in consultation with interested Federal departments and agencies represented on the NRT, as well as with any other interested Federal agency.

(g) The following functions vested in the President by the Act which have been delegated or assigned by this Order may be redelegated to the head of any Executive department or agency with his consent: functions set forth in Sections 2 (except subsection (b)), 3, 4(b), 4(c), 4(d), 5(b), 5(c), and 8(c) of this Order.

(h) Executive Order No. 12316 of August 14, 1981, is revoked.

Ronald Reagan

THE WHITE HOUSE,
January 23, 1987.

[FR Doc. 87-1842
Filed 1-27-87; 2:35 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 19
Thursday, January 29, 1987

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 1, 3, 103, 236, 242, and 292

[A.G. Order No. 1174-87]

Aliens and Nationality; Rules of Procedure for Proceedings Before Immigration Judges

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule sets forth procedures to be followed in all matters brought before Immigration Judges, including deportation, exclusion, bond, and rescission proceedings, specifically excluding administrative proceedings involving withdrawal of school approval under 8 CFR 214 and departure-control hearings under 8 CFR Part 215. These regulatory changes are promulgated for the purpose of assisting in the expeditious, fair, and proper resolution of issues arising in such proceedings by providing the parties involved with clear, useful, and readily accessible procedural guidelines. To achieve this purpose, it has been necessary to amend or delete portions of Parts 1, 3, 103, 236, 242, and 292 of Title 8 of the Code of Federal Regulations, as well as add a number of new provisions to several parts of this chapter as discussed below. However, these rules of procedure are not intended to be read in a vacuum. Unless specifically noted to the contrary, each rule of procedure is intended to be construed harmoniously with existing regulations under this chapter.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041, (703) 756-6470.

SUPPLEMENTARY INFORMATION: A Departmental reorganization in January, 1983, created the Executive Office for Immigration Review (EOIR). This reorganization consolidated the Department's Immigration Review Program by placing the Immigration Judge (Special Inquiry Officer) function (formerly within the Immigration and Naturalization Service (INS)) with the Board of Immigration Appeals (BIA) in the newly created organization, thereby streamlining the Department's management of this important function and minimizing mission disparities within the INS. It has been determined that the promulgation of this set of uniform procedural rules would assist in the furtherance of program goals.

The regulatory change constitutes the repositioning of various procedural rules that exist throughout Title 8 of the Code of Federal Regulations, as well as some additional rules, into one section to create a set of easily accessible uniform rules. In order to maximize ease of access to the public, these rules of procedure (incorporating 27 new subsections) are promulgated as an entire new subpart C to Part 3 of this chapter, beginning with § 3.12.

These regulatory revisions were offered for public review in a notice of proposed rulemaking, A.G. Order No. 1113-85, published at 50 FR 51693 (December 19, 1985). The notice invited written public comments by January 21, 1986. Public response to the proposed regulation was diverse and extensive. All comments were considered and several changes were made based upon them. In addition, certain minor typographical word changes were made. Comments included requests for clarifications, specific word changes, requests for expansion and restriction of the parties' rights, as well as other modifications. What follows is a section-by-section analysis of the regulatory provisions as to their purpose and a discussion of comments concerning the sections.

8 CFR 3.12 briefly sets out the scope of the rules of procedure and is self-explanatory.

8 CFR 3.13 is the definition section for the rules contained in subpart C. "Administrative control" is a term of art intended to clarify jurisdictional issues and to ease the filing and handling of documents. "Charging document" is included to summarize all initiating documents to allow for one set of rules for all proceedings. The terms "filing" and "service" are defined to eliminate ambiguity. A commentator suggested that filing locations be expanded to include more locations. This would create serious administrative and logistical problems that render the suggestion unworkable. It was also suggested that filing upon receipt is too restrictive. After careful consideration, it has been decided that filing upon actual receipt will be maintained to create certainty as to the date of filing of documents. Time periods for filing are adequate. Many methods of express delivery are available to minimize difficulties in timely filings. It was also pointed out in the comments that § 3.11, although referenced, was not included in the rules. It will be separately promulgated as a final rule.

New sections 8 CFR 3.14 through 3.38 cover the 25 rules of procedure which will be applicable (except where specifically stated to the contrary) to all proceedings before Immigration Judges.

8 CFR 3.14 states when jurisdiction vests and proceedings commence before Immigration Judges. In order for EOIR to effectively manage its resources, it must have full control over the docketing of cases on its heavy calendars. Under 8 CFR 3.14(a), as revised, jurisdiction vests and proceedings commence when a charging document is filed with the Office of the Immigration Judge. 8 CFR 242.1 and 242.2 are amended to conform to this new rule. 8 CFR 242.7(a) is amended to limit the Service's ability to cancel an Order to Show Cause to the period prior to its filing with the Office of the Immigration Judge. Similarly, 8 CFR 242.7(b) regarding Service motions to dismiss is amended to become applicable to the Service after an Order to Show Cause is filed with the Office of the Immigration Judge. Adoption of these regulation changes will provide EOIR with the ability to utilize its resources efficiently by ensuring optimal scheduling of matters on its hearing calendars.

8 CFR 3.14(b) simply restates, for the sake of thoroughness and ease of reference, the rule found in 8 CFR 208.1(b) regarding an Immigration Judge's exclusive jurisdiction over asylum applications filed in conjunction

with pending matters. A commentator suggested that § 3.14 was not detailed enough to cover all situations. In our view, it is a simple, direct statement of jurisdiction. However, upon re-examination, a change was made separating out bond proceedings from these jurisdiction requirements, since bond proceedings often occur telephonically or in remote locations before charging documents arrive. To retain maximum flexibility and allow bond redetermination hearings to proceed in a timely manner they will be addressed separately in §§ 242.2(b) and 3.18. It was also suggested that service of the charging document should be included as a requirement before jurisdiction vests with the Immigration Judge. This is already the case since § 3.30 requires service of all documents on the other party before they can be considered by the Immigration Judge. There is no need to restate this in § 3.14. It was suggested that the old jurisdictional rule should be retained. This was considered and rejected, since EOIR requires the certainty of a filed document to control its docket. Strict time limits were suggested for the filing of Orders to Show Cause. This is not workable due to administrative difficulties inherent in the apprehension and processing of aliens. Other suggestions dealing with shortening the proceedings, such as allowing agreed terminations without Immigration Judge approval, does not permit the Immigration Judge the necessary control of the cases on the docket.

8 CFR 3.15 largely codifies the current practice of recognizing party representatives where retained in matters brought before Immigration Judges. The new rule does not conflict with certain specialized provisions for mandatory representation by Service attorneys because those provisions relate solely to the manner in which the Service is required to handle certain types of cases. One commentator requested more specificity with this revision. This has been rejected as the regulation is clear and workable as written.

8 CFR 3.16 deals with appearances by representatives. The new rule tightens current practice by allowing withdrawal or substitution of a representative during proceedings only in the discretion of the Immigration Judge and only upon written or oral motion (submitted without fee). 8 CFR 292.4 is also amended to conform to these revisions. This new rule change ensures maximum effective utilization of the Immigration Judge's time. Under current practice, considerable court time is lost through both non-appearances and last minute withdrawals by representatives. The new rule would give the Immigration Judges and the Board greater ability to control the proceedings without affecting the respondent/applicant's current ability to change his or her attorney or representative in subsequent proceedings. Commentators indicated that this is an undue intrusion on attorneys and their clients. It is a necessary control, however, for the proper functioning of the system and is standard practice in many other adjudication settings. Commentators raise the concern that pro bono programs would be adversely affected by the stricter appearance rules. However, since the Immigration Judge has the discretionary power to allow withdrawals and substitutions, adequate flexibility remains to accommodate pro bono representation. There were alternate suggestions made concerning limitations on attorney appearances. After careful consideration, to allow the Immigration Judge maximum flexibility and control, withdrawals and substitutions will be permitted only at the Immigration Judge's discretion.

A clarification was made in § 292.4, recognizing that in Immigration Judge and Board proceedings withdrawal and/or substitution is governed by §§ 3.16 and 3.36 respectively. The change was necessary because it appeared in the proposed language that § 3.16 also applied to cases before the Service.

8 CFR 3.17 deals with the scheduling of cases. As noted in the discussion regarding 8 CFR 3.13, the ability of Immigration Judges to control their calendars is critical to their ability to effectively deal with the caseload. This rule will significantly assist Immigration Judges in caseload management. This rule change requires a regulation change in 8 CFR 242.1 regarding notice of hearing. It was suggested that there be a set period of time for notice of hearing—30 days for example. This is unworkable as it is too inflexible, especially for detainees.

8 CFR 3.18 deals with the authority of Immigration Judges to redetermine custody and bond decisions made by the INS. Although the rule largely restates existing procedures for such hearings, some minor regulatory changes have been included to improve efficiency. In restructuring the availability of Immigration Judges for custody and bond cases, the rule reflects the separation of the Immigration Judges and creates a rational system for dealing with bond hearings. 8 CFR 242.2 has been amended to conform to the rules. Within the new organizational structure, it is anticipated that this rule will maximize the prompt availability of Immigration Judges for respondents applying for custody/bond redeterminations while at the same time causing an equitable distribution of the caseload among Immigration Judges.

In a further effort to improve administrative efficiency and increase productivity, the rule modifies the provision in 8 CFR 242.2 requiring the Immigration Judge in all custody/bond redeterminations to state the reasons for his/her decision in a written memorandum. Under the new rule, the Immigration Judge, subsequent to entering his/her decision on the appropriate EOIR form, would have the discretion to explain his/her decision to the parties involved either orally or in writing. In the final rule, after careful consideration of the public comments, it was decided to add a provision in § 242.2 requiring a written memorandum in any decision appealed to the Board. Also included is a word change in the first sentence of § 242.2(a) making issuance of the Order to Show Cause the starting time for arrest pursuant to the warrant, since warrants of arrest are not issued until issuance of an Order to Show Cause. Also, modified in the final rule is the sequence of locations which will entertain requests for bond redetermination. Step 3 in both §§ 3.18 and 242.2(b) has been modified to allow the Chief Immigration Judge's Office to direct which Immigration Judge's Office will be selected for handling a bond redetermination after the first two steps have been exhausted. This will allow for greater control, a more orderly procedure, and more equitable distribution of workload. Commentators suggested various clarifications and additions which were deemed undesirable, such as mandatory telephonic hearings. The rule as promulgated in final form maintains maximum flexibility while being responsive to due process concerns.

8 CFR 3.19 establishes a procedure for change of venue on motion by one of the parties, or on the Immigration Judge's own authority. Under this rule, such a motion could be granted by the Immigration Judge in his or her discretion provided good cause is shown. Although, no regulatory provisions currently exist providing for change of venue, such authority has been routinely exercised by Immigration Judges in the past pursuant to their authority under 8 CFR 236.1 (exclusion cases) and 242.8(a) (deportation cases) to take such actions as are necessary and appropriate (and not inconsistent with any other provisions of the Act) for

the disposition of cases. The Board has upheld the Immigration Judge's limited authority to change venue in *Matter of Wadas*, 17 I&N Dec. 346, 348 (BIA 1980) (exclusion cases) and *Matter of Seren*, 15 I&N Dec. 590, 591 (BIA 1976) (deportation cases). This rule makes uniform the Immigration Judge's authority to change venue in all proceedings. It is anticipated that this rule will significantly improve EOIR's ability to control its caseload and to improve overall efficiency in the hearing process. One commentator suggested that venue be set initially at the Office of the Immigration Judge where the charging documents are filed. This suggestion was well taken and included in the final rule. Also in the final rule, bond proceedings were excluded from this venue provision. Sections 3.18 and 242.2(b) were cited as the governing sections. This was done to maximize flexibility over bond proceedings which are not necessarily held at the place of venue of the underlying deportation case. Other commentators requested specific grounds for venue change. These were rejected as unworkable and inflexible. Immigration Judge discretion has been and will be adequate. It should be noted that this venue rule will be uniform and that Immigration Judges will have authority to change venue in both detained and nondetained exclusion and deportation cases.

8 CFR 3.20 will codify current practice and provide for prehearing conferences to be held in the discretion of the Immigration Judge for the purpose of narrowing issues, attaining stipulations between the parties, voluntarily exchanging information, or for any other purpose which might simplify, organize, and expedite the proceeding. Comments were diverse on this section ranging from the position that pre-hearing conferences are unnecessary and cause delay to the opposite extreme that they be mandatory. It has been determined that the pre-hearing conference section as written serves a useful limited purpose and will remain as drafted.

8 CFR 3.21 deals with interpreters. The rule will streamline current practice by authorizing federal employees (other than those employed by INS) to serve as interpreters without oath. To adopt this administrative improvement will necessitate a minor regulatory change in 8 CFR 242.12 which required all non-INS employed interpreters to be sworn before serving in deportation proceedings. It is anticipated that the rule will improve efficiency in Immigration Judge proceedings. Commentators suggested that all interpreters should be sworn in each case. This requirement is time consuming and unnecessary. Interpreters are generally screened for competence. Their competence has not been a major problem. If question arises, the Immigration Judge is free to administer an oath or allow questioning regarding the interpreters' competency. Any questions regarding interpreters' competence or veracity may be raised by the parties. The significant timesaving outweighs the requirement that an oath be taken in each case.

8 CFR 3.22 establishes a procedure for the submission of motions both prior to the rendering of a final order by the Immigration Judge as well as thereafter in the form of motions for reopening or reconsideration. The only novel aspect of the rule is the requirement that motions to reopen for the purpose of seeking some form of specific relief must be accompanied by the appropriate application and supporting documentation. This latter requirement, while previously nonmandatory, has been routinely followed in many Immigration Judge Offices with salutary results. It is anticipated that this rule will improve overall efficiency and fairness in the hearing process. Comments on this section range from the suggestion that motions be eliminated to the suggestions that they be expanded and made more specific. There was also the comment that the deadlines not be so stringently set. After considering the comments, it is our view that the rule as written provides both adequate due process safeguards and the flexibility to allow the Immigration Judges to properly control the making of motions. No changes have been made, therefore, in the final rule.

8 CFR 3.23 deals with the waiver of fees in Immigration Judge proceedings. The new rule codifies the Board's decision in *Matter of Chicas*, I.D. 2970 (BIA 1984), authorizing the use of an unsworn declaration (made pursuant to 28 U.S.C. 1746) in lieu of a sworn affidavit for the purpose of applying for a fee waiver on the basis of inability to pay. In an effort to avoid frivolous or undocumented waiver applications, the new rule uses more stringent language than its predecessor in 8 CFR 103.7(c) by requiring the respondent/applicant to substantiate his or her indigency in the affidavit or properly executed unsworn declaration. To conform to this change, minor changes are also made to §§ 3.3(b) and 103.7(c). Commentators point out that under the regulation an individual denied a fee waiver may lose the ability to file a timely appeal. This is a possibility, but it should be stressed that under the current system that situation exists and has not been a significant problem. Further, to allow a time period for payment after denial of fee waiver leaves open a substantial area for serious abuse. Respondents could routinely apply for fee waivers and litigate this issue separately. They could, thereby, gain a substantial amount of time before being forced to file an appeal with a payment of fee. Balancing the potential serious abuse that could result against the remote possibility of an individual unjustifiably losing appeal rights, the decision was made not to change the regulatory language.

8 CFR 3.24 provides the Immigration Judge with discretion for good cause to waive the presence of a respondent/applicant at a hearing where the alien is a minor child whose parent or parents are present. The new rule also authorizes the Immigration Judge to conduct hearings *in absentia* pursuant to section 242(b) of the Act with or without representation. It is anticipated that the rule will improve the efficiency of the hearing process without adversely affecting due process considerations. Most comments regarding this section centered on the *in absentia* hearing. Commentators wanted strict guidelines for use of *in absentia* hearings; others wanted mandatory *in absentia* hearings. It was decided that the statutory provisions provide the necessary guidelines for *in absentia* hearings, and that further regulatory guidelines would not be helpful. In the final analysis whether or not to proceed *in absentia* should be left to the sound discretion of the Immigration Judge.

8 CFR 3.25 combines and restates the contents of 8 CFR 236.2(a) and 242.16(a) regarding public access to hearings. The rule specifies that all hearings except exclusion hearings would be open to the public subject to the Immigration Judge's discretion to limit attendance based on space availability (with priority given to the press over the general public). The rule further provides that the Immigration Judge may limit attendance or hold a closed hearing to protect the parties, witnesses, or the public interest Commentators suggested more detailed guidelines concerning when hearings should be closed. The regulation as drafted provides maximum flexibility and allows the Immigration Judge to close hearings in situations deemed appropriate. This should be adequate to protect individuals, yet allow the basic hearing process to remain an open one.

8 CFR 3.26 deals with recording equipment permitted in Immigration Judge proceedings. The rule prohibits the use of any photographic, video,

electronic, or similar recording devices during proceedings other than the equipment used by the Immigration Judge to create the official record. Commentators cited the need for separate recording equipment for a number of reasons, such as immediate access to testimony to aid the attorney in further hearing preparation. This regulation is a codification of current general practice and is consistent with the rule in many courts. Attorneys may currently listen to the official tapes of the proceedings and may review the record of proceeding file. Transcripts are provided on appeal. It is also desirable that there be a single recording of the proceeding without other unofficial tapes or recordings characterized as "Records of Proceedings" that may or may not be complete. For these reasons the regulation barring other recordings will be retained.

8 CFR 3.27 deals with continuances. The rule codifies current procedures and restates in simpler terms the discretionary authority of Immigration Judges to grant continuances for good cause shown found in 8 CFR 242.13. The simplified language of the rule is not intended to conflict with or expand the discretionary limitations delineated in 8 CFR 242.13.

8 CFR 3.28 provides for the lodging of additional charges during deportation proceedings. In more simplified language, the rule restates the contents of 8 CFR 242.16(d) which deals with the same topic. This rule does not substantially change current practice. Commentators suggested an automatic continuance for a lodged charge so that time for a proper defense could be obtained. Often lodged charges can be answered immediately with little or no preparation. In these cases, it is not necessary to have a set, automatic continuance. Generally, if there is any need for a continuance after a lodged charge, such as for further research or preparation, the Immigration Judge will grant it. There was also the comment made that charges should be brought at one time, unless facts concealed by the alien are later uncovered. This appears to be an overly restrictive proposal. Since these proceedings require a flexible, somewhat informal approach, presumably with the granting of continuances for lodged charges in appropriate cases, there will be no deprivation of due process rights to mount a defense after a lodged charge.

8 CFR 3.29 deals with the filing of documents and applications. The rule provides the Immigration Judge with discretionary authority to set and extend limits for the filing of documents as well as any related responses thereto. Applications or documents not filed within the time limits set by the Immigration Judge are deemed waived. All documents and applications are required to be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding. Such applications or documents will not be considered filed until the required fee (if any) has been paid or a fee waiver pursuant to 8 CFR 3.23 has been obtained. This is a new rule that creates standardized filing procedures, particularly when read in conjunction with 8 CFR 3.11 (creation of administrative control offices) and 8 CFR 3.23 (fee waivers). It is anticipated that this rule will both clarify the document filing process and improve overall efficiency in Immigration Judge proceedings. Comments ranged from liberalizing the filing rule to restricting it further. It was suggested that there be a provision for untimely filing in certain circumstances. It was also suggested that filing locations should be expanded. The rule as drafted contains the necessary flexibility for the Immigration Judge to extend filing deadlines in appropriate cases. Presumably the Immigration Judges, through the exercise of sound discretion, will allow extensions in appropriate cases to eliminate the concerns of the commentators that individuals will be unjustly cut off from filing applications. As for expansion of filing locations, this would be unworkable administratively given EOIR's limited clerical resources.

8 CFR 3.30 establishes standards for service and size of documents. Section 3.30(a) (establishing specific requirements for service on the opposing party or parties) bolsters the concept of fundamental fairness and, in large measure, codifies existing practice in many Immigration Judge Offices. Section 3.30(b) (dealing with standardization of document size and manner of presentation) would ease handling and review of written materials during actual proceedings and reduce file storage problems after proceedings are completed. Commentators point out that many documents, especially foreign documents, are oversized. Also, other evidence such as photos come in various sizes. The rule does provide flexibility to allow for odd sized documents. Another commentator mentioned that indexing, pagination, and other organization of document requirements were onerous. This is simply good basic legal practice. It saves time and assists the Immigration Judge in evaluating evidence.

8 CFR 3.31 deals with translation of documents. The rule extends some translation requirements found in 8 CFR 103.2(b) to all Immigration Judge proceedings.

8 CFR 3.32 codifies current procedure and extends the requirement found in 8 CFR 242.14(d) that testimony of witnesses in deportation proceedings be under oath (or affirmation) to all proceedings before Immigration Judges. One commentator suggested that certain individuals, such as Immigration Judges or other officers, be designated as those who could administer an oath. It was contemplated in this rule that under normal circumstances the Immigration Judge will administer the oath. However, in certain circumstances such as telephonic hearings, the flexibility is left to allow for others to administer the oath.

8 CFR 3.33 establishes a uniform procedure for the taking of depositions in all Immigration Judge proceedings. The rule will significantly simplify, without fundamentally altering, the more detailed procedure prescribed in 8 CFR 242.24(e) for the taking of depositions in deportation cases. To conform to the new rule, § 242.14(e) is deleted and replaced with a condensed regulation authorizing the taking of depositions in accordance with new rule 8 CFR 3.33. This rule will provide adequate guidelines to the parties and preserve fundamental fairness in the hearing process without the complexity of its predecessor. Commentators suggested that in connection with depositions, discovery is desirable in these proceedings to narrow issues and gather evidence. In our view, this is unnecessary for proper consideration of the issues, and would unduly complicate these proceedings and open up a possible area of abuse and delay. Commentators suggested that the number of individuals designated to preside at the depositions be expanded to include other than officers. This is a useful modification and in the final rule the term "official" is substituted for "officer," thereby substantially broadening the possible designees.

8 CFR 3.34 deals with the essential function of creation and maintenance of Immigration Judge hearing records. This new rule requires that the Office of the Immigration Judge create and then control the Record of Proceeding. This rule is a corollary to 8 CFR 3.11 which designates some EOIR Immigration Judge field offices as administrative control offices. Comments stressed that access to the Record of Proceeding was important. They suggested more detailed guidelines and requirements for the

handling of the Record of Proceeding. It is our view that the rule as drafted provides the necessary authority for Immigration Judges to create and control the Record of Proceeding. No detailed guidelines are needed by regulation. Any additional procedures can be set up administratively. As to access, currently attorneys and respondents/applicants are able to review the files by arrangement with the appropriate Immigration Judge's Office. Procedures for copying documents and other related procedures have been set up in the offices. There is no need to reduce these procedures to regulations.

8 CFR 3.35 codifies current practice regarding decisions rendered in all Immigration Judge proceedings. The rule permits the Immigration Judge to give either a written or oral decision, unless specified otherwise elsewhere in this chapter. If the decision is written, the rule requires the Immigration Judge to serve it on the parties either by personal service or by first-class mail to the most current address in the Record of Proceeding. If the decision is oral, the Immigration Judge is required to state it in the presence of the parties at the conclusion of the hearings. For the sake of brevity, clarity, and in order to eliminate the inconsistent requirement of service on the alien of the Immigration Judge's written decision by the District Director, 8 CFR 236.5 is amended by deleting paragraphs (a), (b), (c) and inserting in their place a new conforming paragraph (a) that would reference back to the new rule. Existing paragraphs (d) and (e) of § 236.5 would be redesignated as paragraphs (b) and (c). A number of commentators stressed the need for some type of written decision in each case. Where necessary, this may be accomplished administratively by minute orders. They are currently being widely used by the Immigration Judges. There is no need for a regulation specifying the issuance of these minute orders. In addition, one commentator suggested that there be a certified mail requirement on service of all decisions. We find this procedure unnecessary to perfect service, particularly considering the cost involved.

8 CFR 3.36 establishes a uniform procedure for filing administrative appeals relating to Immigration Judge proceedings. The rule provides for appeals from decisions of Immigration Judges to the Board of Immigration Appeals pursuant to 8 CFR 3.1(b) and authorizes both parties to file briefs pursuant to 8 CFR 3.3(c). The new rule also requires that the notice of appeal be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding within ten (10) calendar days (13 if mailed) after service of the decision. In accordance with the Board of Immigration Appeal's interpretation of the term "day" under 8 CFR 1.1(h) in *Matter of Escobar*, 18 I&N Dec. 412 (BIA 1983), the rule extends the appeal time to the next business day if the final date for filing falls on a Saturday, Sunday, or legal holiday. It is anticipated that the rule will eliminate possible confusion in the appellate process and thereby improve overall efficiency. 8 CFR 3.3(a) (notice of appeal) has also been amended. To bring this provision into conformity with the rules of procedure, it has been amended to read "an appeal shall be taken by filing notice of appeal . . . with the Office of the Immigration Judge or the Service office having administrative jurisdiction over the case . . . ." It should be noted that the intent of this provision is to make clear that appeals of Immigration Judge matters are to be filed with the Office of the Immigration Judge and Service matters are to be filed with the INS office. The two offices are not interchangeable for the filing of any appeal. 8 CFR 3.4 (withdrawal of appeal) has also been changed in that "officer" has been changed to "office" in the fourth sentence. 8 CFR 3.7 (notice of certification) has been amended by changing "officer of the Service" to "Office of the Immigration Judge or Service office," in order to parallel the language of 8 CFR 3.3(a). Lastly, for the sake of uniformity, 8 CFR 236.7 (dealing with appeals in exclusion cases) has been changed to conform to the rules of procedure. The comments regarding the appeals section were varied. Most suggested technical changes, such as further clarification on the definition of "day." Other commentators mention that more cities should be included for filing and that outside transcribers should be allowed under certain circumstances. Each of these suggestions were considered and rejected, as being either unnecessary or unworkable. One change made after considering the comments and the proposed language of the regulation is an additional section (d) which requires a separate appearance to be filed before the Board upon appeal. Withdrawal of appearance will be allowed only with Board permission. This is being done to track the language of § 3.16 which includes a similar provision regarding Immigration Judges. The intent of this section is to clarify when an appearance begins and under what terms it continues at the Board level. It will create a uniform procedure at the board and Immigration Judge level. Another change in the final rule concerns § 236.7. In order to cover any possible appeal limitation contained in section 236, it was decided to broaden the language of the section by simply citing section 236 rather than 236(d) in the first line of the section.

Section 3.37 established when the decision is final. The rule is consistent with the provisions of 8 CFR 243.1 dealing with final orders of deportation. The rule clarifies and tightens the existing provision for exclusion and deportation cases found in 8 CFR 236.6 and 242.20 and provides a uniform rule for all Immigration Judge proceedings. Moreover, the rule provides that a decision by an Immigration Judge that has not been certified to the Board becomes final upon waiver of appeal or upon the expiration of the time to appeal, if no appeal is taken. In order to bring this rule into conformity with the chapter, 8 CFR 236.6 and 242.20 have been amended accordingly. One commentator suggested that if an individual waives an appeal thereby making the decision final, that the waiver must be written and signed. This will not be necessary since it will not add significantly to an oral waiver which will be made on the record in the proceeding.

8 CFR 3.38 authorizes the promulgation of local operating procedures for Immigration Judge Offices. This authorizes individual Immigration Judge Offices to establish, by majority written concurrence of the local judges and subject to the written approval of the Chief Immigration Judge, local operating procedures not inconsistent with existing regulation and these rules of procedure. This rule will significantly enhance the ability of individual Immigration Judge Offices to deal with problems unique to their locality and consequently enable them to improve regulatory efficiency. Commentators stressed that there is a danger in these local operating procedures of promulgating rules without proper notice and comment provisions. This will not occur since the local procedures envisioned will consist of basic housekeeping and administrative provisions not significantly impacting upon the rights of individuals. In addition, the local procedures must be consistent with the existing regulations.

Together these regulatory changes will both improve and expedite the hearing process before Immigration Judges. At the same time, the new rule, as a whole and in each of its individual

sections, retains all necessary due process considerations and remains within the spirit of the Immigration and Nationality Act as amended. In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule will not be a major rule within the meaning of paragraph 1(b) of E.O. 12291.

List of Subjects

8 CFR Part 1

Definitions

8 CFR Parts 3, 103, 236, 242, and 292

Administrative practice and procedure, Aliens.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 1—DEFINITIONS

1. The authority citation for Part 1 is revised to read as follows: All other authority citations are removed.

Authority: 8 U.S.C. 1101; 28 U.S.C. 509, 510; 5 U.S.C. 301.

2. In § 1.1 paragraph (h) is revised to read as follows:

§ 1.1 Definitions.

* * * * *

(h) The term "day" when computing the period of time for taking any action provided in this chapter including the taking of an appeal, shall include Saturdays, Sundays, and legal holidays, except that when the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday.

* * * * *

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

3. The authority citation for part 3 is revised to read as follows. All other authority citations are removed.

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

4. In § 3.3, the first two sentences of paragraph (a), and paragraph (b) are revised as follows:

§ 3.3 Notice of appeal.

(a) A party affected by a decision who is entitled under this chapter to appeal to the Board shall be given notice of his or her right to appeal. An appeal shall be taken by filing Notice of Appeal Form I–290A in triplicate with the Service office or Office of the Immigration Judge having administrative jurisdiction over the case, within the time specified in the governing sections of this chapter. * * *

(b) Fees. Except as otherwise provided in this section, a notice of appeal or a motion filed under this part by any person other than an officer of the Service shall be accompanied by the appropriate fee specified by, and remitted in accordance with, the provisions of § 103.7 of this chapter. In any case in which an alien or other party affected is unable to pay the fee fixed for an appeal or a motion, he or she shall file with the notice of appeal or the motion, his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, stating the nature of the motion or appeal and his or her belief that he or she is entitled to redress. Such document shall also establish his or her inability to pay the required fee, and shall request permission to prosecute the appeal or motion without prepayment of such fee. When such a document is filed with the officer of the Service or the Immigration Judge from whose decision the appeal is taken or with respect to whose decision the motion is addressed, such Service officer or Immigration Judge shall, if he or she believes that the appeal or motion is not taken or made in good faith, certify in writing his reasons for such belief for consideration by the Board. The Board may, in its discretion, authorize the prosecution of any appeal or motion without prepayment of fee.

* * * * *

5. In § 3.4 the first sentence is revised as follows:

§ 3.4 Withdrawal of appeal.

In any case in which an appeal has been taken, the party taking appeal may file a written withdrawal thereof with the office with whom the notice of appeal was filed. * * *

6. Section 3.7 is revised to read as follows:

§ 3.7 Notice of certification.

Whenever in accordance with the provisions of § 3.1(c), a case is required to be certified to the Board, the alien or other party affected shall be given notice of consideration. A case shall be certified only after an initial decision has been made and before an appeal has been taken. If it is known at the time the initial decision is made that the case will be certified, the notice of certification shall be included in such decision and no further notice of certification shall be required. If it is not known until after the initial decision is made that the case will be certified, the Service office or Office of the Immigration Judge having administrative control over the Record of Proceeding shall cause a Notice of Certification (Form I–290C) to be served upon the party affected. In either case, the notice shall inform the party affected that the case is required to be certified to the Board and that he or she has the right to make representation before the Board, including the making of a request for oral argument and the submission of a brief. If the party affected desires to submit a brief, it shall be submitted to the Service office or Office of the Immigration Judge having administrative control over the Record of Proceeding for transmittal to the Board within ten (10) days from the date of receipt of the notice of certification, unless for good cause shown such Service office or Office of the Immigration Judge or the Board extends the time within which the brief may be submitted. The case shall be certified and forwarded to the Board by the Service office or Office of the Immigration Judge having administrative jurisdiction over the case upon receipt of the brief, or upon the expiration of the time within which the brief may be submitted, or upon receipt of a written waiver of the right to submit a brief.

7. Part 3 is amended by adding a new Subpart C to read as follows:

Subpart C—Rules of Procedure for Immigration Judge Proceedings

Sec.

Subpart C—Rules of Procedure for Immigration Judge Proceedings

§ 3.12 Scope of rules.

These rules are promulgated for the purpose of assisting in the expeditious, fair and proper resolution of matters coming before Immigration Judges. Except where specifically stated, these rules apply to all matters before Immigration Judges, including deportation, exclusion, bond, and rescission proceedings. Specifically excluded from applicability under these rules are administrative proceedings involving the withdrawal of school approval under 8 CFR 214 and departure-control hearings under 8 CFR 215.

§ 3.13 Definitions.

As used in this subpart:

Administrative Control—The term "administrative control" means custodial responsibility for the Record of Proceeding as specificed in 8 CFR 3.11.

Charging Document—The term "charging document" means the written instrument which initiates a proceeding before an Immigration Judge including an Order to Show Cause, a Notice to Applicant for Admission Detained for Hearing before Immigration Judge, and a Notice of Intention to Rescind and Request for hearing by Alien.

Filing—The term "filing" means the actual receipt of a document by the appropriate Office of the Immigration Judge.

Service—The term "service" means physically presenting or mailing a document to the appropriate party or parties.

§ 3.14 Jurisdiction & commencement of proceedings.

(a) Jurisdiction vests and proceedings before an Immigration Judge commence when a charging document is filed with the Office of the Immigration Judge except for bond proceedings as provided in 8 CFR 3.18 and 242.2(b).

(b) When the Immigration Judge has jurisdication over the underlying proceeding, sole jurisdiction over applications for asylum shall lie with the Immigration Judge.

§ 3.15 Representation.

(a) The government may be represented in proceedings before an Immigration Judge.

(b) The respondent/applicant may be represented in proceedings before an Immigration Judge by an attorney or other representative of his or her choice in accordance with 8 CFR 292, at no expense to the government.

§ 3.16 Appearances.

(a) In any proceeding before an Immigration Judge wherein the respondent/applicant is represented, the attorney or representative shall file a Notice of Appearance on the appropriate form with the Office of the Immigration Judge.

(b) Withdrawal or substitution of an attorney or representative may be permitted by an Immigration Judge during proceedings only upon oral or written motion submitted without fee.

§ 3.17 Scheduling of cases.

All cases shall be scheduled by the Office of the Immigration Judge. The Office of the Immigration Judge shall be responsible for providing notice of the time, place, and date of the hearing to the government and respondent/applicant.

§ 3.18 Custody/bond.

(a) Custody and bond redeterminations made by the INS pursuant to 8 CFR 242 may be reviewed by an Immigration Judge pursuant to 8 CFR 242.

(b) Application for bond redetermination by a respondent, his or her attorney or representative may be made orally, in writing, in person, or in the discretion of the Immigration Judge, by telephone.

(c) Application for the exercise of such authority must be made in the following order:

(1) If the alien is detained, the Immigration Judge Office at or nearest the place of detention;

(2) The Immigration Judge Office having administrative control over the case;

(3) The Office of the Chief Immigration Judge for designation of an appropriate Office of the Immigration Judge.

(d) Consideration under this paragraph by the Immigration Judge of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding, and shall form no part of such hearing or proceeding.

(e) The determination of an Immigration Judge in respect to custody status or bond redetermination shall be entered on the appropriate form at the time such decision is made and the parties shall be informed orally or in writing as to the reasons for the decision.

§ 3.19 Change of venue.

(a) Except for bond proceedings as provided in §§ 3.18 and 242.2(b), venue shall lie at the Office of the Immigration Judge where the Service files a charging document.

(b) The Immigration Judge, for good cause, may change venue on motion by one of the parties, or upon his or her own authority after the charging document has been filed with the Office of the Immigration Judge.

(c) No change of venue shall be granted without identification of a fixed street address where the respondent/applicant may be reached for further hearing notification.

§ 3.20 Pre-hearing conferences.

Pre-hearing conferences may be scheduled at the discretion of an Immigration Judge. The conference may be held to narrow issues, attain stipulations between the parties, voluntarily exchange information, and otherwise simplify and organize the proceeding.

§ 3.21 Interpreters.

Any person acting as an interpreter in a hearing shall swear or affirm to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath or affirmation shall be required.

§ 3.22 Motions.

(a) *Pre-Decision Motions.* Unless otherwise permitted by the Immigration Judge, motions submitted prior to the final order of an Immigration Judge shall be in writing and shall state, with particularity the grounds therefore, the relief sought, and the jurisdiction. The Immigration Judge may set and extend time limits for the making of motions and replies thereto. A motion shall be deemed unopposed unless timely response is made.

(b) *Reopening/Reconsideration.* (1) Motions to reopen or reconsider a decision of the Immigration Judge must be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding. Such motions shall comply with applicable provisions of 8 CFR 208.11 and 242.22. Any motion to reopen for the purpose of acting on an application for relief must be accompanied by the appropriate application for relief and all supporting documents. The Immigration Judge may set and extend time limits for replies to motions to reopen or reconsider. A motion shall be deemed unopposed unless timely response is made.

(2) When requested in conjunction with a motion to reopen/reconsider, the Immigration Judge may stay the

execution of a final order of deportation or exclusion.

§ 3.23 Waivers of fees in immigration Judge proceedings.

Any fees pertaining to a matter within the Immigration Judge's jurisdiction may be waived by the Immigration Judge upon a showing that the respondent/applicant is incapable of paying the fees because of indigency. A properly executed affidavit or unsworn declaration made pursuant to 28 U.S.C. 1746 by the respondent/applicant must accompany the request for waiver of fees and shall substantiate the indigency of the respondent/applicant.

§ 3.24 Waiver of presence of respondent/applicant.

The Immigration Judge may, for good cause, waive the presence of a respondent/applicant at the hearing where the alien is represented or where the alien is a minor child whose parent(s) is present. In addition, *in absentia* hearings may be held pursuant to section 242(b) of the Act with or without representation.

§ 3.25 Public access to hearings.

All hearings, other than exclusion hearings, shall be open to the public except that:

(a) Depending upon physical facilities, the Immigration Judge may place reasonable limitations upon the number in attendance at any one time with priority being given to the press over the general public;

(b) For the purpose of protecting witnesses, parties, or the public interest, the Immigration Judge may limit attendance or hold a closed hearing.

§ 3.26 Recording equipment.

The only recording equipment permitted in the proceeding will be the equipment used by the Immigration Judge to create the official record. No other photographic, video, electronic, or similar recording device will be permitted to record any part of the proceeding.

§ 3.27 Continuances.

The Immigration Judge may grant a motion for continuance for good cause shown.

§ 3.28 Additional charges in deportation hearings.

At any time during the proceeding, additional or substituted charges of deportability and/or factual allegations may be lodged by the Service in writing. The respondent shall be served with a copy of these additional charges and allegations and may be given a reasonable continuance to respond thereto.

§ 3.29 Filing documents and applications.

All documents and applications to be considered in a proceeding before an Immigration Judge must be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding. Filing will be considered effective only after the payment of applicable fees or the waiver of fees pursuant to 8 CFR 3.23. The Immigration Judge may set and extend time limits for the filing of applications and related documents and the responses thereto, if any. If an application or related document is not filed within the time set by the Immigration Judge, the opportunity to file that application shall be deemed waived.

§ 3.30 Service and size of documents.

(a) A copy of all documents (including proposed exhibits or applications) filed with or presented to the Immigration Judge shall be simultaneously served by the presenting party on the opposing party or parties. Such service shall be in person or by first class mail to the most recent address contained in the Record of Proceeding. A certification showing service to the opposing party or parties on a date certain shall accompany any filing with the Immigration Judge unless service is made on the record during the hearing. Any documents or applications not containing such certification will not be considered by the Immigration Judge unless service is made on the record during a hearing.

(b) Unless otherwise permitted by the Immigration Judge, all written material presented to Immigration Judges including offers of evidence, correspondence, briefs, memoranda, or other documents must be submitted on 8½" × 11" size paper. The Immigration Judge may require that exhibits and other written material presented be indexed, paginated, and that a table of contents be provided.

§ 3.31 Translation of documents.

Any foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification that the translator is competent to translate and that the translation is accurate.

§ 3.32 Testimony.

Testimony of witnesses appearing at the hearing shall be under oath or affirmation.

§ 3.33 Depositions.

(a) If an Immigration Judge is satisfied that a witness is not reasonably available at the place of hearing and that said witness' testimony or other evidence is essential, the Immigration Judge may order the taking of deposition either at his or her own instance or upon application of a party.

(b) Such order shall designate the official by whom the deposition shall be taken, may prescribe and limit the content, scope, or manner of taking the deposition, and may direct the production of documentary evidence. The Immigration Judge may also issue a subpoena in the event of the refusal or willful failure of a witness within the United States to appear, give testimony, or produce documentary evidence after due notice.

(c) The witness and all parties shall be notified as to the time and place of the deposition by the official designated to conduct the deposition.

(d) Testimony shall be given under oath or affirmation and shall be recorded verbatim.

(e) The official presiding at the taking of the deposition shall note but not rule upon objections, and shall not comment on the admissibility of evidence or on the credibility and demeanor of the witness.

§ 3.34 Record of proceeding.

The Office of the Immigration Judge shall create and control the Record of Proceeding.

§ 3.35 Decisions.

A decision may be written or oral. If the decision is written, it shall be served on the parties by first class mail to the most recent address contained in the Record of Proceeding or by personal service. If a decision is oral, it shall be stated by the Immigration Judge in the presence of the parties at the conclusion of the hearing.

§ 3.36 Appeals.

(a) Decisions of Immigration Judges may be appealed to the Board of Immigration Appeals as authorized by 8 CFR 3.1(b).

(b) The notice of appeal of the decision shall be filed with the Office of the Immigration Judge having administrative control over the Record of Proceeding within ten (10) calendar days after service of the decision. Time will be 13 days if mailed. If the final date for filing falls on a Saturday, Sunday, or legal holiday, this appeal time shall be extended to the next business day.

(c) Briefs may be filed by both parties pursuant to 8 CFR 3.3(c).

(d) In any proceeding before the Board wherein the respondent/applicant is represented, the attorney or

representative shall file a notice of appearance on the appropriate form. Withdrawal or substitution of an attorney or representative may be permitted by the Board during proceedings only upon written motion submitted without fee.

§ 3.37 Finality of decision.

Except when certified to the Board, the decision of the Immigration Judge becomes final upon waiver of appeal or upon expiration of the time to appeal if no appeal is taken.

§ 3.38 Local operating procedures.

An Office of the Immigration Judge having administrative control over Records of Proceedings may establish local operating procedures, provided that:

(a) Such operating procedure(s) shall not be inconsistent with any provision of this chapter;

(b) A majority of the judges of the local Office of the Immigration Judge shall concur in writing therein; and

(c) The Chief Immigration Judge has approved the proposed operating procedure(s) in writing.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

8. The authority citation for Part 103 is revised to read as follows. All other authority citations are removed.

Authority: 5 U.S.C. 552(a); 8 U.S.C. 1101, 1103, 1201, 1301–1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; E.O. 12356.

9. Section 103.7(c)(1) the first sentence is revised to read as follows:

§ 103.7 Fees.

* * * * *

(c) Waiver of Fees. (1) Except as otherwise provided in this paragraph and in § 3.3(b) of this chapter, any of the fees prescribed in paragraph (b) of this section relating to applications, petitions, appeals, motions, or requests may be waived by the Immigration Judge in any case under his/her jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, asking for permission to prosecute without payment of fee of the applicant, petition, appeal, motion, or request, and stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. * * *

* * * * *

PART 236—EXCLUSION OF ALIENS

10. The authority citation for Part 236 is revised to read as follows. All other authority citations are removed.

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1252, 1255, 1362.

11. In § 236.5, paragraphs (a), (b) and (c) are removed; paragraphs (d) and (e) are redesignated as paragraphs (b) and (c); and a new paragraph (a) is added to read as follows:

§ 236.5 Decision of the Immigration Judge; Notice to the Applicant.

(a) *Decision.* The Immigration Judge shall inform the applicant of his or her decision in accordance with 8 CFR 3.35.

* * * * *

12. Section 236.6 is revised to read as follows:

§ 236.6 Finality of order.

The decision of the Immigration Judge shall become final in accordance with 8 CFR 3.37.

13. Section 236.7 is revised to read as follows:

§ 236.7 Appeals.

Except as limited by section 236 of the Act, an appeal from a decision of an Immigration Judge under this Part may be taken by either party pursuant to 8 CFR 3.36.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

14. The authority for Part 242 is revised to read as follows: All other authority citations are removed.

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1252, 1254, 1255, 1357, 1362; E.O. 12356. Title I of Pub. L. 95–145 enacted Oct. 28, 1977.

15. In § 242.1, paragraphs (a) and (b) are revised to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the filing of an Order to Show Cause with the Office of the Immigration Judge. In the proceeding the alien shall be known as the respondent. Orders to Show Cause may be issued by District Directors, Acting District Directors, Deputy District Directors, Assistant District Directors, for Investigations, and Officers in Charge at Agana, GU; Albany, NY; Charlotte Amalie, VI; Cincinnati, OH; Hammond, IN; Memphis, TN; Milwaukee, WI; Norfolk, VA; Oklahoma City, OK; Pittsburgh, PA; Providence, RI; Salt Lake City, UT; St. Louis, MO; and Spokane, WA.

(b) *Statement of Nature of Proceedings.* The Order to Show Cause shall contain a statement of the nature of the proceeding, the legal authority under which the proceeding is conducted, a concise statement of factual allegations informing the respondent of the act or conduct alleged to be in violation of the law, and a designation of the charge against the respondent and of the statutory provisions alleged to have been violated. The Order shall require the respondent to show cause why he should not be deported. The Order shall call upon the respondent to appear before an Immigration Judge for a hearing at a time and place which shall be specified by the Office of the Immigration Judge.

* * * * *

16. In § 242.2, the first sentence of paragraph (a) introductory text and paragraph (b) are revised to read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the time of issuance of the Order to Show Cause or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. * * *

(b) *Authority of Immigration Judge; Appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he or she may be released, an Immigration Judge may exercise the authority contained in section 242 of the Act to continue to detain a respondent in, or release from custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority must be made in the following order: First, if the alien is detained, the Immigration Judge Office at or nearest the place of detention; second, the Immigration Judge Office having administrative control over the case; third, the Office of the Chief Immigration Judge for designation of an appropriate Office of the Immigration Judge. However, if the respondent has been released from custody, such application must be made within seven (7) days after the date of such release.

Thereafter, application by a released respondent for modification of the terms release may be made only to the District Director. In connection with such application the Immigration Judge shall advise the respondent of his right to representation by counsel of his or her choice at no expense to the government. He or she shall also be advised of the availability of free legal services programs qualified under Part 292(a) of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his or her application is to be heard. The Immigration Judge shall ascertain that the respondent has received a list of such programs, and the receipt by the respondent of a copy of Form I–618, Written Notice of Appeal Rights. Upon rendering a decision on an application under this section, the Immigration Judge (or District Director if he renders the decision) shall advise the alien of his or her appeal rights under this section. The determination of the Immigration Judge in respect to custody status or bond redetermination shall be entered on the appropriate EOIR form at the time such decision is made, and the parties shall be promptly informed orally or in writing as the reasons for the Judge's decision. Consideration under this paragraph by the Immigration Judge of an application or request of a alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding. The determination of the Immigration Judge as to custody status or bond may be based upon any information which is available to the Immigration Judge or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. If the determination is appealed, a written memorandum shall be prepared by the Immigration Judge giving reasons for the decision. After a deportation order becomes administratively final, or if recourse to the Immigration Judge is no longer available because of the expiration of the seven-day period aforementioned, the respondent may appeal directly to the Board from a determination by the District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer in Charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by an Immigration Judge pursuant to § 3.36 of this chapter. An appeal to the Board taken from an appealable determination by the District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer in Charge of an office enumerated in § 242.1(a), shall be perfected by filing a notice of appeal with the District Director within 10 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal from a District Director's determination, the District Director shall immediately transmit to the Board all records and information pertaining to that determination. The filing of an appeal from a determination of an Immigration Judge or a District Director shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceedings or deportation.

* * * * *

17. In § 242.5, paragraph (b) the first two sentences are revised to read as follows:

§ 242.5 Voluntary departure prior to commencement of hearing.

* * * * *

(b) *Application.* Any alien who believes himself or herself to be eligible for voluntary departure under section 242(b) of the Act may apply therefore at any office of the Service any time prior to the commencement of deportation proceedings against him or her. The officers designated in paragraph (a) of this section may deny or grant the application and determine the conditions under which the alien's departure shall be effected. * * *

* * * * *

18. In § 242.7, paragraphs (a) and (b) are revised to read as follows:

§ 242.7 Cancellation proceedings.

(a) *Cancellation of Order to Show Cause.* Any District Director, Acting District Director, Deputy District Director, Assistant District Director for Investigations, or Officer-in-Charge of an office enumerated in § 242.1(a) of this part may cancel an Order to Show Cause prior to jurisdiction vesting with the Immigration Judge pursuant to § 3.14 of this chapter provided the officer is satisfied that:

(1) The respondent is a national of the United States;

(2) The respondent is not deportable under immigration laws;

(3) The respondent is deceased;

(4) The respondent is not in the United States; or

(5) The Order to show Cause was improvidently issued.

(b) *Motion to dismiss.* After commencement of proceedings pursuant to § 3.14 of this chapter, any officer enumerated in paragraph (a) of this section may move for dismissal of the matter on the grounds set out under paragraph (a) of this section. Dismissal of the matter shall be without prejudice to the alien or the Service.

* * * * *

19. Section 242.12 is revised to read as follows:

§ 242.12 Interpreter.

Any person acting as interpreter in a hearing before an Immigration Judge under this part shall be sworn to interpret and translate accurately, unless the interpreter is an employee of the United States Government, in which event no such oath shall be required.

20. Section 242.13 is revised to read as follows:

§ 242.13 Postponement and adjournment of hearing.

After the commencement of the hearing, the Immigration Judge may grant a reasonable adjournment either at his or her own instance or, for good cause shown, upon application by the respondent or the Service.

21. In § 242.14, paragraph (e) is revised to read as follows:

§ 242.14 Evidence.

* * * * *

(e) *Depositions.* The Immigration Judge may order the taking of depositions pursuant to § 3.33 of this chapter.

22. In § 242.16, the first three sentences of paragraph (d) are revised to read as follows:

§ 242.16 Hearing.

* * * * *

(d) *Additional charges.* The Service may at any time during a hearing lodge additional charges of deportability, including factual allegations, against the respondent. Copies of the additional factual allegations and charges shall be submitted in writing for service on the respondent and entry as an exhibit in the record. The Immigration Judge shall read the additional factual allegations and charges to the respondent and explain them to him or her. * * *

* * * * *

23. Section 242.20 is revised to read as follows:

§ 242.20 Finality of order.

The decision of the Immigration Judge shall become final in accordance with 8 CFR 3.37.

PART 292—REPRESENTATION AND APPEARANCES

24. The authority citation for Part 292 is revised to read as follows: All other authority citations are removed.

Authority: 8 U.S.C. 1103, 1362.

25. In § 292.4, paragraph (a) is revised to read as follows:

§ 292.4 Appearances.

(a) An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case. During Immigration Judge or Board proceedings, withdrawal and/or substitution of counsel is permitted only in accordance with §§ 3.16 and 3.36 respectively. During proceedings before the Service, substitution may be permitted upon the written withdrawal of the attorney or representative of record, or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his or her personal appearance or signature shall constitute a representation that under the provisions of this chapter he or she is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required.

* * * * *

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1726 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-01-M

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8 CFR Parts 3 and 103

[AG Order No. 1175-87]

Office of the Chief Special Inquiry Officer; Designation of Judges

AGENCY: Executive for Office Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations concerning the Executive Office for Immigration Review (EOIR) by replacing the seldom used terms "Chief Special Inquiry Officer" and "Special Inquiry Officer" with their current equivalents of "Chief Immigration Judge" and "Immigration Judge." This final rule further amends the regulations concerning EOIR by adding a new section which notes the designation of some Immigration Judge offices within EOIR as administrative control offices with the responsibility for the creation and maintenance of the Records of Proceedings within the geographical areas assigned to them. In order to conform existing regulations to this new rule, it is necessary to make minor technical amendments to 8 CFR 103.8 and 103.10. These sections relate, respectively, to the Immigration and Naturalization Service's definitions of the nature of their records relevant to the Freedom of Information Act and the Service's authority to grant or deny FOIA requests for materials contained in Records of Proceedings before Immigration Judges.

EFFECTIVE DATE: January 29, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041 (telephone 703-756-6470).

SUPPLEMENTARY INFORMATION: A Departmental reorganization in January, 1983, created the Executive Office for Immigration Review. This reorganization consolidated the Department's immigration review program by placing the Immigration Judge (Special Inquiry Officer function (formerly within the Immigration and Naturalization Service (INS)) with the Board of Immigration Appeals (BIA) in a new organization, thereby streamlining the Department's management of this important function and minimizing mission disparities within the INS.

Although the terms "Immigration Judge" and "Special Inquiry Officer" are defined as interchangeable at 8 CFR 1.1(1), Part 3 of this chapter is being amended for the sake of clarity and consistent usage by removing the seldom used terms "Chief Special Inquiry Officer" and "Special Inquiry Officer" and inserting, in their place, the terms more prevalent in current usage of "Chief Immigration Judge" and "Immigration Judge."

This final rule also involves an additional change in agency operations. It became readily apparent soon after the creation of EOIR as an independent Departmental entity, that if the new organization were to successfully execute its assigned responsibilities, various changes would have to be made in existing operational procedures, including ultimate transfer to EOIR of custodial control of Records of Proceedings from INS. The anticipated benefits from this latter operational change included the elimination of any residual jurisdictional confusion by clarifying the proper locations for the filing of documents and correspondence by the parties, as well as simplification of the records handling function for both EOIR and INS clerical staff.

In order to complete the transfer of custodial control of this records system to EOIR, a new § 3.11, is added to Subpart B of Part 3 of this chapter, noting the designation of some Immigration Judge offices as administrative control offices for the Records of Proceedings originating within specified geographical areas. A complete listing of these offices and their areas of geographical responsibility will be made available to the public.

In order to conform existing regulations to the new rule, minor technical changes have been made to 8 CFR 103.8 and 103.10. 8 CFR 103.8 was amended by deleting Orders to Show Cause from the list of documents relevant to initiating proceedings before the Service. 8 CFR 103.10 was amended by deleting Records of Proceedings (maintained by EOIR) from the scope of documents subject to the INS's control for purposes of processing requests for information under FOIA. Compliance with 5 U.S.C. 533 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency management and organization. This is not a major rule within the meaning of section 1(b) of E.O. 12291.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 8 CFR Parts 3 and 103

Administrative practice and procedure, Aliens.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is revised to read as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

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

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

2. In Part 3, all references to "Chief Special Inquiry Officer" and "Special Inquiry Officer" throughout Part 3 are changed to read "Chief Immigration Judge" and "Immigration Judge."

3. In Part 3, a new § 3.11 is added to read as follows:

§ 3.11 Administrative control offices.

Certain Immigration Judge offices are administrative control offices. These offices create and maintain Record of Proceedings for assigned geographical areas. All documents and correspondence pertaining to a Record of Proceeding shall be filed with the Immigration Judge office having administrative control over that Record of Proceeding and shall not be filed with any other Immigration Judge office. A list of administrative control offices with their assigned geographical areas will be made available to the public at any Immigration Judge office.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

4. The authority citation for Part 103 continues to read as follows:

Authority: 5 U.S.C. 552(a); 8 U.S.C. 1101, 1103, 1201, 1301–1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243; 31 U.S.C. 9701; E.O. 12356.

5. In § 103.8, the introductory text is republished and paragraph (c) is revised to read as follows:

§ 103.8 Definitions pertaining to availability of information under the Freedom of Information Act.

Sections 103.8, 103.9, and 103.10 of this part comprise the Service regulations under the Freedom of Information Act, 5 U.S.C. 552. These regulations supplement those of the Department of Justice, 28 CFR Part 16, Subpart A. As used in this part the following definitions shall apply:

* * * * *

(c) The term "record of proceeding" is the official history of any hearing, examination, or proceeding before the Service, and in addition to the application, petition or other initiating document, includes the transcript of hearing or interview, exhibits, and any other evidence relied upon in the adjudication; papers filed in connection with the proceedings, including motions and briefs; the Service officer's determination; notice of appeal or certification; the Board or other appellate determination; motions to reconsider or reopen; and documents submitted in support of appeals, certifications, or motions.

§ 103.10 [Amended]

6. Section 103.10 is amended by removing paragraph (b)(1)(ii) and redesignating paragraphs (b)(1)(iii) through (b)(1)(vi) as (b)(1)(ii) through (b)(1)(v).

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87–1727 Filed 1–28–87; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Parts 3 and 212

[A.G. Order No. 1172–87]

Documentary Requirements; Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule eliminates the appeal to the Board of Immigration Appeals from a denial of a 212(c) application by an INS district director. The rule provides that a 212(c) application may be renewed before an immigration judge in exclusion or deportation proceedings and that an immigration judge's denial of 212(c) relief may be appealed to the Board.

The rule also substitutes the term "immigration judge" for the seldom used term "special inquiry officer" throughout the applicable sections.

These revisions will streamline the procedure for adjudication of 212(c) applications by eliminating an appeal to the Board in applications adjudicated by district directors. The appeal to the Board of an immigration judge's 212(c) denial is retained. This change is being made to encourage speedy adjudications and economy of resources.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 756–6470.

SUPPLEMENTARY INFORMATION: These revisions will streamline the procedure for adjudication of 212(c) applications by eliminating an appeal to the Board in applications adjudicated by district directors. The appeal to the Board of an immigration judge's 212(c) denial is retained. This change is being made to encourage speedy adjudications and economy of resources.

Due process is protected in this revision since there may be an initial district director's determination followed by renewal of the 212(c) application before an immigration judge and final review before the Board. Only the duplicative Board review is eliminated.

Several technical changes are also made. To modernize terminology, the seldom used term "speical inquiry officer" is replaced by the modern equivalent "immigration judge" at the appropriate places. Also, 8 CFR 3.1(b)(3) is revised to conform to the modified procedure.

These regulatory revisions were first offered for public review in a notice of proposed rulemaking, A.G. Order No. 1096–85, published at 50 FR 25994 (June 24, 1985). The notice invited written public comments by July 24, 1985. Public response to the proposed regulation was diverse and the major criticisms fell into several general categories.

First, it was asserted that without BIA review of district director denials of 212(c) applications, a lawful permanent resident might be forced to take a trip outside of the United States and risk lawful permanent residence status in order to gain BIA review. Although we recognize that this may be the case in some instances, the fact remains that there is still a district director's decision to be had in advance of a trip outside of the United States and that eventual Board review exists, in the event that proceedings are instituted. This constitutes adequate due process protection for lawful permanent residents.

It was also claimed that some unnecessary exclusion or deportation hearings may result from this change. In weighing the occasional hearing against the clear savings of the duplicative appeal, it was decided that the elimination of a layer of appeal outweighs an occasional hearing which might have been eliminated by an earlier BIA decision favorable to the alien.

One commentator stated that some aliens' status would be unresolved with the change since the Service will sometimes not or cannot place an alien into proceedings after a District Director's denial of 212(c) relief. However, if the appeal of a District Director's denial were retained and the Board were to dismiss the applicant's appeal, that unresolved situation would still exist.

Finally, it was noted that conditions may change between the time of the district director's denial and the time that an alien's case is reviewed by the Board after proceedings before immigration judges. It was asserted, therefore, that these appeals might not be duplicative. Although conditions occasionally do change, it is still the case that the Board would be able to review all relevant factors before rendering a decision, including those

factors which existed at the time of the district director's denial. On balance, this revision streamlines the adjudications process while protecting due process.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this final rule will not have a significant economic impat on a substantial number of small entities. Further, the rule is not a major rule within the definition of Executive Order 12291 and is not subject to a regulatory impact analysis.

List of Subjects

8 CFR Part 3

Administrative practice and procedures.

8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

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

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

2. 8 CFR 3.1(b)(3) is revised to read as follows:

§ 3.1 General authorities.

* * * * *

(b) * * *

(3) Decisions of immigration judges on applications for the exercise of the discretionary authority contained in section 212(c) of the Act as provided in Part 212 of this chapter.

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

3. The authority citation for Part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252, 1182b, 1182c.

4. 8 CFR 212.3 is revised to read as follows:

§ 212.3 Applications for the exercise of discretion under section 212(c).

An application for the exercise of discretion under section 212(c) of the Act shall be submitted on Form I–191 to the district director in charge of the area in which the applicant's intended or actual place of residence in the United States is located prior to, at the time of, or at any time subsequent to the applicant's arrival in the United States. The applicant shall be notified of the decision and if the application is denied, he/she shall be notified of the reasons for denial. No appeal shall lie from a denial. However, the application may be renewed during proceedings before an immigration judge under sections 235, 236, and 242 of the Act and this chapter. An application for the exercise of discretion under section 212(c) of the Act may be submitted by the applicant to an immigration judge in the course of proceedings before him/her under sections 235, 236, and 242 of the Act and this chapter, and shall be adjudicated by the immigration judge in such proceedings, regardless of whether the applicant has made such application previously to the district director. When an appeal may not be taken from a decision of an immigration judge excluding an alien, but the alien has applied for the exercise of discretion under section 212(c) of the Act, the alien may appeal to the Board from a denial of such application in accordance with the provisions of § 236.5(b) of this chapter.

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87–1728 Filed 1–28–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–248; RE: Notice No. 601]

San Lucas Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule establishes an American viticultural area known by the appellation "San Lucas." The San Lucas Viticultural Area is located in the vicinity of the Town of San Lucas between King City and San Ardo in southern Monterey County, California.

The use of the name of an approved viticultural area as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as the locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

EFFECTIVE DATE: March 2, 1987.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, Part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition shall include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed viticultural area, based on features which can be found on United States Geoglogical Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

Almaden Vineyards of San Jose, California, one of several growers having extensive vineyard operations in the vicinity of San Lucas, California, filed a petition for the establishment of a viticultural area to be known by the appellation "San Lucas."

Notice of Proposed Rulemaking and Public Comment

ATF proposed the establishment of the viticultural area in the **Federal Register** of August 18, 1986 [51 FR 29478]. The comment period closed on October 17, 1986. No comments were received.

Final Rule

The San Lucas Viticultural Area consists primarily of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling hills to the east and west of a 10-mile-long segment of the Salinas Valley between King City and San Ardo. The principal stream that drains the area is the Salinas River. The bottomlands drained by this river share similar geological history, topographical features, and soils.

The boundary of the viticultural area encompasses approximately 53 square miles or 33,920 acres. The area is approximately 10 miles in length by 5 miles in width and is bisected by State Highway 101 and the Salinas River.

Within the area there are approximately 5,000 acres devoted to the cultivation of wine grapes. Areas presently planted in wine grapes range from alluvial fans and terraces over 350 feet above sea level to low-lying hills having maximal elevations of 800 feet above sea level. The approved area is entirely within the established Monterey Viticultural Area.

History and Name

With Mexico's independence from Spanish rule in 1824, a succession of Mexican governors ruled California. From 1836 to 1842, the governors secularized the extensive landholdings of the Spanish missions by bestowing land grants, three of which are the Rancho San Benito (6,671 acres), the Rancho San Bernardo (13,346 acres), and the Rancho San Lucas (8,875 acres), awarded during the years 1841 and 1842.

From 1862 to 1890, Alberto Trescony amassed extensive holdings of rangeland consisting of Rancho San Benito and Rancho San Lucas as well as the portion of Rancho San Bernardo north of present-day San Ardo. Trescony grazed large herds of sheep and cattle on the land and rented tracts of land to tenant farmers who raised feed grains, primarily wheat and barley. As the area prospered, a large grain elevator was erected on a site which later became the Town of San Lucas. With the extension of railroad service south to San Lucas in the 1880's, the town continued to thrive and for a while its size eclipsed that of King City, its immediate neighbor to the north. The "San Lucas (Agricultural) District", comprised of the Town of San Lucas, the San Lucas and San Benito land grants, and the northern half of the San Bernardo land grant, gained a reputation for raising grain, cattle and horses.

Wine grapes were planted in this area beginning in 1970. Today, with the use of irrigation, the area has approximately 5,000 acres devoted to wine grape cultivation.

Geography and Boundary

The San Lucas viticultural area consists of bottomland and alluvial fans and terraces in the floodplain of the Salinas River as well as the slopes of rolling foothills which form the east and west portions of the approved boundary. Straight lines drawn between the promontories of foothills ranging in elevation from 499 feet to 1,230 feet above sea level form the boundary of the area. The boundary described in § 9.56 is as originally proposed in Notice No. 601.

Distinguishing Characteristics

In addition to history and name, the San Luca viticultural area is distinguished from adjoining areas to the east and west by differences in climate, temperature, topography, elevation, geology, and soils, and is distinguished from areas to the northwest and southeast by climate and temperature.

Topography and Elevation

The topography of the viticultural area ranges from bottomland the alluvial fans and terraces in the basin of the Salinas River to the gently rolling Cholame Hills in the Diablo Range east of the area and the slopes at the entrances to canyons in the foothills of the Santa Lucia Range west of the area.

Elevations of existing grape plantings range from bottomlands at 350 feet to hills at 800 feet above sea level. Lying entirely within the approved Monterey Viticultural Area, the boundary of the San Lucas Viticultural Area defines a region well suited for viticulture. The topography of the area ensures adequate ventilation for viticulture.

Geology

The geology of land within the viticultural area varies little from adjoining basin lands to the northwest and southeast but does differ significantly from that of the hills and mountains to the east and west. The basin of the Salinas Valley consists of sand and gravel alluvia. The central part of the Santa Lucia Range directly west of the proposed area is composed of diatomaceous shale and massive sandstone. The Cholame Hills in the Diablo Range to the east consist chiefly of calcareous shale. The San Ardo area southeast of the proposed area yields natural gas and oil.

Soils

The basin of the Salinas River contains a mix of alluvial sand, silt and clay carried downstream over time by tributaries from the mountains and hills surrounding the Salinas Valley. The soil in the vicinity of the Town of San Lucas is mostly Lockwood shaly loam, otherwise known as "Chalk Rock."

Other soil series common to the proposed area are Oceano (loamy sand), Metz complex (loam and sand), Garey (sandy loam), Greenfield (fine sandy loam), and the Snelling-Greenfield complex loam). All are rapidly draining to well drained, coarse to medium textured soils that formed in alluvium. Slopes are 0 to 30 percent. The natural vegetation consists of annual grasses and forbs. Roots penetrate to a depth of more than 60 inches. Soils of these series are used mostly for dryland grain and range. With the use of irrigation, these soils are ideal for the planting of row crops such as grapes.

Climate

There are different climatic regions and microclimates within Monterey County depending upon proximity to the Pacific Ocean. The climate is cool and moist along the coast, where fog is common, and hot and dry in inland areas in the south-central portion of Monterey County. Temperatures near the coast are uniform throughout the year. However, as distance from water increases, the ranges between seasonal highs and lows and between daytime highs and nighttime lows during the growing season widen.

Along the coast, the average annual temperature is 57° F and freezing temperatures are rare. In the inland southern part of the county, however, greater extremes in temperature and higher average temperatures prevail. The pattern of climate becomes more complex as the maritime influence interacts with mountain barriers and inland heating. The coastal mountains in the central and southern parts of the county hold marine air away from the interior, but as the sun heats the middle and southern parts of the Salinas Valley and higher elevations near the adjacent mountains, rising warm air draws cooler marine air from Monterey Bay into the valley. As a result of the sequence of daytime heating and nighttime cooling as well as the effects of wind and

marine fog, daily and annual temperatures in the county's interior range widely.

Average annual temperatures of about 60° F are characteristic of the Salinas Valley. Temperatures farther inland in the southern Salinas Valley, however, climb fairly high during the day. In summer, the average daily maximum temperature remains in the low 60s along the coast and ranges from the middle 80s to the middle 90s in the southestern end of the Salinas Valley and the eastern mountain area. Readings of 115° F have been made in the southeasternmost inland reaches of the Salinas Valley.

Precipitation, mostly rain, occurs chiefly in winter. As a result of the terrain and the maritime influence, the amount of precipitation varies considerably from point to point. Annual precipitation ranges from about 105 inches along the crest of the Santa Lucia Range to 10 inches in southernmost Salinas Valley. In most areas of the coastal range, the annual amount averages more than 20 inches and is about 80 inches at higher elevations. Most of the Salinas Valley is in the rain shadow of the coastal range and, consequently, the annual total precipitation drops to as little as 10 inches in areas to the south of King City. Grape growing in the more interior reaches of the Salinas Valley requires irrigation from May to October. East of the Salinas Valley, precipitation increases again on the western slopes of the Gabilan and Diablo Ranges with about 20 inches reported at the higher elevations.

The location of the San Lucas Viticultural Area in the southern end of the Salinas Valley allows a distinction in climatological characteristics from the rest of the county in that the area experiences heat and less intrusion of the fog common to those portions of the Salinas Valley which are closer in proximity to the Monterey Bay.

The April through October growing season of the viticultural area is distinctly warmer than that of the portion of the Salinas Valley to the northwest and cooler than that of the portion of the valley to the southeast.

The climate of the area is characterized by cold summer night temperatures, dropping as much as 40 degrees below daytime highs. Thermograph readings document a 30-degree range between high and low temperatures at Almaden's vineyard situated east of King City and a 40-degree range between high and low temperatures at Almaden's vineyard situated south of San Lucas. The thermograph readings support a "warm" Climatic Region III classification for the petitioner's vineyard east of King City and a "cool" Climatic Region IV classification for the petitioner's vineyard south of San Lucas.

In Notice No. 601, ATF had proposed a northern leg of the boundary. Since the transition between climatic regions is gradual, ATF sought the submission during the comment period of additional thermograph readings taken from various points in the extensive vineyards situated immediately northwest of the boundary as proposed. Readings recorded over at least the past 10 years would have been helpful in delineating more precisely the northern leg of the boundary. However, ATF received no comments to Notice No. 601. Therefore, this final rule incorporates the boundary description proposed in the notice.

Based on the data submitted by the petitioner for vineyards near King City and San Lucas for the 11-year period 1974 to 1984, ATF concludes that the microclimate of the San Lucas Viticultural Area is the chief characteristic which distinguishes the area from other adjoining areas.

Executive Order 12291

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

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,

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

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

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

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The Table of Sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.56 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.

9.56 San Lucas.

Par. 3. Subpart C is amended by adding § 9.56 to read as follows:

§ 9.56 San Lucas.

(a) *Name.* The name of the viticultural area described in this section is "San Lucas."

(b) *Approved maps.* The appropriate maps for determining the boundary of San Lucas viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series:

San Lucas, CA, 1949, photorevised 1979,
Nattrass Valley, CA, 1967,
San Ardo, CA, 1967, and,
Espinosa Canyon, CA, 1949, photorevised 1979.

(c) *Boundary.* The San Lucas viticultural area is located in Monterey County in the State of California. The boundary is as follows:

Beginning on the "San Lucas Quadrangle" map at the northwest corner of section 5 in Township 21 South, Range 9 East, the

boundary proceeds northeasterly in a straight line approximately 0.35 mile to the 630-foot promontory in section 32, T. 20 S., R. 9 E.;

(1) Then east southeasterly in a straight line approximately 0.6 mile to the 499-foot promontory in the southwest corner of section 33, T. 20 S., R. 9 E.;

(2) Then east southeasterly in a straight line approximately 1.3 miles to the 847-foot promontory in section 3, T. 21 S., R. 9 E., on the "Nattrass Valley Quadrangle" map;

(3) Then south southeasterly in a straight line approximately 2.2 miles to the 828-foot promontory in section 14, T. 21 S., R. 9 E., on the "San Ardo Quadrangle" map;

(4) Then east southeasterly in a straight line approximately 1.3 miles to the 868-foot promontory in section 13, T. 21 S., R. 9 E.;

(5) Then southeasterly in a straight line approximately 0.94 mile to the 911-foot promontory in section 19, T. 21 S., R. 10 E.;

(6) Then easterly in a straight line approximately 1.28 miles to the 1,042-foot promontory in section 20, T. 21 S., R. 10 E.;

(7) Then east northeasterly in a straight line approximately 1.28 miles to the 998-foot promontory in southeast corner of section 16, T. 21 S., R. 10 E.;

(8) Then southerly in a straight line approximately 2.24 miles to the 1,219-foot promontory near the east boundary of section 28, T. 21 S., R. 10 E.;

(9) Then southwesterly in a straight line approximately 1.5 miles to the 937-foot promontory near the north boundary of section 32, T. 21 S., R. 10 E.;

(10) Then southwesterly in a straight line approximately 0.34 mile to the 833-foot promontory in section 32, T. 21 S., R. 10 E.;

(11) Then south southeasterly in a straight line approximately 0.5 mile to the 886-foot "Rosenberg" promontory in section 32, T. 21 S., R. 10 E.;

(12) Then south southeasterly approximately 1.1 miles to the 781-foot promontory in section 5, T. 22 S., R. 10 E.;

(13) Then southeasterly in a straight line approximately 0.7 mile to the 767-foot promontory in section 9, T. 22 S., R. 10 E.;

(14) Then southerly in a straight line approximately 0.5 mile to the 647-foot promontory along the south boundary of section 9, T. 22 S., R. 10 E.;

(15) Then southwesterly in a straight line approximately 2.67 miles to the 835-foot promontory in section 19, T. 22 S., R. 10 E.;

(16) Then west southwesterly in a straight line approximately 1.1 miles to the 1,230-foot promontory in section 24, T. 22 S., R. 9 E.;

(17) Then north northwesterly in a straight line approximately 1.4 miles to the 1,149-foot promontory in section 14, T. 22 S., R. 9 E.;

(18) Then northwesterly in a straight line approximately 0.57 mile to the 1,128-foot promontory in section 11, T. 22 S., R. 9 E.;

(19) Then west southwesterly in a straight line approximately 0.58 mile to the 1,220-foot promontory near the north boundary of section 15, T. 22 S., R. 9 E.;

(20) Then northwesterly in a straight line approximately 1.33 miles to the 1,071-foot promontory in the northwest corner of section 9, T. 22 S., R. 9 E.;

(21) Then northwesterly in a straight line approximately 2.82 miles to the 1,004-foot promontory in section 31, T. 21 S., R. 9 E., on the "Espinosa Canyon Quadrangle" map;

(22) Then north northwesterly in a straight line approximately 1.32 miles to the 882-foot promontory in section 25, T. 21 S., R. 8 E.;

(23) Then northwesterly in a straight line approximately 1.05 miles to the 788-foot promontory in section 23, T. 21 S., R. 8 E.;

(24) Then northerly in a straight line approximately 1.54 miles to the 601-foot promontory in section 13, T. 21 S., R. 8 E.;

(25) Then northeasterly in a straight line approximately 3.2 miles to the point of beginning.

Signed: December 18, 1986.

Stephen E. Higgins,

Director.

Approved: January 9, 1987.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement).

[FR Doc. 87-1773 Filed 1-28-87; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300133A; FRL 3146-9]

Octyl Epoxytallate, Stearic Acid, 4,4'-Isopropylidenediphenol Alkyl (C_{12}–C_{15}) Phosphites, Carbon Black, Chlorinated Polyethylene, and Epoxidized Soybean Oil; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}–C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil from the requirement of a tolerance when used as inert ingredients in pesticide formulations in animal ear tags. This regulation was requested by Zoecon Industries.

EFFECTIVE DATE: Effective on January 29, 1987.

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: Rosalind Gross, 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 July 17, 1985 (50 FR 28957), which announced that Zoecon Industries, Dallas, TX 75234, had requested that 40 CFR 180.1001(e) be amended by establishing exemptions from the requirement of a tolerance for octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}–C_{15}) phosphites, carbon black, and chlorinated polyethylene when used as inert ingredients in pesticide formulations in animal ear tags, and amending the existing exemption from the requirement of a tolerance for epoxidized soybean oil for the additional use as a plasticizer in pesticide formulations for animal ear tags.

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.

After the proposed rule was published, EPA initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support these regulations.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices these ingredients are useful and do not pose a hazard to humans or the environment. In conclusion, the Agency has determined that the amendments to 40 CFR Part 180 will protect the public health. Therefore, the regulations are established as set forth below.

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

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: January 14, 1987.

Susan H. Wayland,

Acting 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
* * * * *		
Carbon black (CAS Reg. No. 1333-86-4).		Colorant/pigment in animal tag.
* * * * *		
Chlorinated polyethylene (CAS Reg. No. 64754-90-1).		Resin, component animal tag.
* * * * *		
Epoxidized soybean oil (CAS Reg. No. 8013-07-8).		Stabilizer, plasticizer, component animal tag.
* * * * *		
4,4'-Isopropylidenediphenol alkyl (C_{12}-C_{15}) phosphites (CAS Reg. No. 92908-32-2).	Not to exceed 1 percent of polymer.	Stabilizer, component animal tag.
* * * * *		
Octyl epoxytallate (CAS Reg. No. 61788-72-5).		Plasticizer, component animal tag.
* * * * *		
Stearic acid (CAS Reg. No. 57-11-4).		Lubricant, component animal tag.
* * * * *		

[FR Doc. 87-1761 Filed 1-28-87; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 52, No. 19
Thursday, January 29, 1987

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 JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3 and 292

[A.G. Order No. 1170-87]

Executive Office for Immigration Review; Representation and Appearances

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed regulation.

SUMMARY: The proposed revisions would change the procedure at 8 CFR 292.3 by which attorneys and representatives may be disbarred or suspended. Under this proposal, the Service would investigate complaints of misconduct against attorneys and representatives. If the Service believes that there is sufficient evidence to proceed, the General Counsel would cause written charges to be filed with the Office of the Chief Immigration Judge with a copy served on the attorney/representative. A response would be made to the charges by the attorney/representative. The Chief Immigration Judge would select an immigration judge to preside and decide the case. A hearing would be held, evidence introduced, a record created, and a decision made by the immigration judge. An appeal is available to the Board of Immigration Appeals, and within limited circumstances, the case may be certified to the Attorney General for review. The revisions also amend relating sections, specifically 8 CFR 292.3(a) and 3.1(d)(3), by making changes necessary to conform to the procedure.

The proposed revisions would also modify the grounds for suspension or disbarment under 8 CFR 292.3(a)(5) by deleting the reference to advertising, generally, as an unethical or unprofessional practice.

DATE: Comments must be received on or before March 2, 1987.

ADDRESS: Please submit written comments in duplicate to the Office of the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756-6470.

SUPPLEMENTARY INFORMATION: The proposed revisions change the procedure for suspension and disbarment proceedings. With the creation of the Executive Office for Immigration Review, which separated the immigration judges from the Immigration and Naturalization Service, it was clear that the current suspension and disbarment process should be amended since it contains undesirable entanglements between the Service's regional commissioners and the immigration judges.

The proposed revision sets out a procedure that generally keeps the adjudication of suspension and disbarment matters within the Executive Office for Immigration Review. The procedure provides for a hearing before an immigration judge based on charges filed by INS. The immigration judge makes a decision in the case, unlike the current procedure which calls for an officer to "preside" followed by a regional commissioner recommendation and decision by the Board. The proposed procedure is simpler and more easily workable than the current procedure. It eliminates the undesirable entanglements between the INS regional commissioners and the EOIR adjudicators.

Appeal rights still exist to the Board as does a limited review by the Attorney General in certain situations. This was done to provide adequate due process for the parties, since an initial decision and administrative review are maintained, while streamlining the procedure by eliminating mandatory Attorney General review.

In addition to changes in the suspension and disbarment procedure itself, certain technical conforming changes were made in 8 CFR 292.3(a) and 3.1(d)(3). 8 CFR 292.3(a) grants the suspension/disbarment authority to the immigration judge, Board, or Attorney General. This is consistent with the proposed procedure which contemplates possible final adjudication at any of these levels. 8 CFR 3.1(d)(3) would be changed to delete the phrase "and may disbar for cause." This language would be superfluous because of the clearly stated authority of the immigration judge, Board, and Attorney General to suspend or disbar in 8 CFR 292.3(a).

Finally, the proposed revisions would delete the reference to advertising, generally, as an unethical or unprofessional practice under 8 CFR 292.3(a)(5). This is proposed to conform to the considerable body of caselaw which allows advertising for legal services under certain circumstances. It is not meant to eliminate any type of advertising as a possible ground for suspension or disbarment, since the courts have indicated that certain types of advertising may still be unethical or unprofessional. The general reference to unethical or unprofessional soliciting would still be applicable to certain types of misleading or otherwise improper advertising.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of paragraph 1(b) of Executive Order 12291.

List of Subjects in 8 CFR Parts 3 and 292

Administrative practice and procedures, Aliens.

Accordingly, it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

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

Authority: 8 U.S.C. 1103, 1362; 28 U.S.C. 509, 510, 1746; 5 U.S.C. 301; Sec. 2 Reorg. Plan No. 2 of 1950.

2. In § 3.1, paragraph (d)(3) would be revised to read as follows:

§ 3.1 General authorities.

* * * * *

(d) * * *

(3) *Rules of Practice: Discipline of Attorneys and Representatives.* The Board shall have authority, with the approval of the Director, EOIR, to

prescribe rules governing proceedings before it. It shall also determine whether any organization desiring representation is of a kind described in § 1.1(j) of this chapter, and shall regulate the conduct of attorneys, representatives of organizations, and others who appear in a representative capacity before the Board or the Service or any Special Inquiry Officer.

* * * * *

PART 292—REPRESENTATION AND APPEARANCES

1. The authority citation for Part 292 continues to read as follows.

Authority: 8 U.S.C. 1103, 1362.

2. In § 292.3, paragraphs (a) introductory text and (5) and (b) would be revised to read as follows:

§ 292.3 Suspension or disbarment.

(a) *Grounds.* The immigration judge, Board, or Attorney General may suspend or bar from further practice an attorney or representative if it is found that it is in the public interest to do so. The suspension or disbarment of an attorney or representative who is within one or more of the following categories shall be deemed to be in the public interest, for the purposes of this part, but the enumeration of the following categories does not establish the exclusive grounds for suspension or disbarment in the public interest:

* * * * *

(5) Who solicits practice in any unethical or unprofessional manner, including but not limited to, the use of runners;

* * * * *

(b) *Procedure.* (1) Complaints regarding the conduct of attorneys and representatives shall be investigated by the Service. If an investigation establishes to the satisfaction of the Service that suspension of disbarment proceedings should be instituted, the General Counsel shall cause a copy of written charges to be served upon the attorney/representative, either by personal service or by registered mail. The General Counsel shall file the written charges with the Office of the Chief Immigration Judge immediately after service of the charges upon the attorney/representative. The attorney/representative shall answer the charges, in writing, within thirty (30) days of service and file the answer with the Office of the Chief Immigration Judge. The attorney/representative shall serve a copy of the answer on the General Counsel. Proof of service on the opposing party must be included with all documents filed.

(2) The Chief Immigration Judge shall designate an immigration judge to hold a hearing and render a decision in the matter. The designated immigration judge shall notify the attorney/representative and the Service as to the time and the place of the hearing. At the hearing, the attorney/representative may be represented by an attorney at no expense to the Government and the Service shall be represented by an attorney. At the hearing, the attorney/representative will have a reasonable opportunity to examine and object to the evidence presented by the Service, to present evidence on his/her own behalf and to cross-examine witnesses presented by the Service. Failure of the attorney/representative to answer the written charges in a timely manner will constitute an admission that everything alleged in the written charges is correct. The Service shall bear the burden of proving the grounds for the suspension or disbarment by a preponderance of the evidence. The record of the hearing shall conform to the requirements of 8 CFR 242.15.

(3) The immigration judge shall consider the record and render a decision in the case. The immigration judge may find that the evidence presented does not sufficiently prove grounds for a suspension or disbarment, or that a suspension or disbarment is justified. If the immigration judge finds that a suspension is justified, an amount of time shall be set by the immigration judge for the suspension.

(4) Either party may appeal the decision of the immigration judge to the Board. The appeal must be filed within ten (10) days from the date of the decision, if oral, or thirteen (13) days from the date of mailing of the decision, if written. The appeal must be filed with the office of the immigration judge holding the hearing. If an appeal is not filed in a timely manner or if the appeal is waived, the immigration judge's decision is final.

(5) If a case is appealed in a timely manner, the Board shall consider the record and render a decision. Receipt of briefs and the hearing of oral argument shall be at the discretion of the Board. The Board's decision shall be final except when a case is certified to the Attorney General pursuant to 8 CFR 3.1(h). When the final decision is for suspension or disbarment, the attorney/representative shall not thereafter be permitted to practice until authorized by the adjudicator rendering the final decision.

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1732 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 242

[A.G. Order No. 1171-87]

Proceedings to Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing, and Appeal

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed regulation.

SUMMARY: The proposed revision would delete the provision that treats the filing of an application for adjustment of status under section 245 of the Act, by itself, as a motion to reopen when the application shows new evidence not available or discoverable at the time of the deportation hearing. This deletion would require that motions to reopen for section 245 adjustment of status be treated as any other motion to reopen and that these motions must be in full compliance with 8 CFR 103.5, 242.22, and/or 3.2.

DATE: Comments must be received on or before March 2, 1987.

ADDRESS: Please submit written comments in duplicate to the Office of the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756-6470.

SUPPLEMENTARY INFORMATION: The proposed revision would delete the language allowing an application for adjustment of status under section 245, filed by itself, to be considered as a motion to reopen in deportation proceedings. The current regulations treating applications for adjustment of status as motions to reopen have led to considerable confusion and significant administrative difficulties. Often, these applications are filed without a notation that they are to be treated as motions to reopen. They may be easily misfiled with the Immigration and Naturalization Service and not reach the office of the immigration judge in a timely fashion. This may result in delayed adjudication

by the immigration judge or the Board and occasionally, lost applications.

The proposed revision would treat motions to reopen for adjustment of status as any other motion to reopen. Motions to reopen for adjustment of status would have to meet the requirements of 8 CFR 103.5, 242.22, and/or 3.2, in all respects. A properly filed motion to reopen would, therefore, have to be clearly marked as such. The motion would also contain all appropriate supplementary documentation.

This procedure should eliminate the difficulties involved with the filing of a bare adjustment of status application with no indication of whether or not it is a motion to reopen before the immigration judge or the Board.

List of Subjects in 8 CFR Part 242

Administrative practice and procedures, Aliens.

Accordingly it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

1. The authority citation for Part 242 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1252, 1254, 1255, 1357, 1362; E.O. 12356. Title I of Pub. L. 95-145 enacted Oct. 28, 1977.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

2. Section 242.22 would be revised to read as follows:

§ 242.22 Reopening or reconsideration.

Except as otherwise provided in this section, a motion to reopen or reconsider shall be subject to the requirements of §103.5 of this chapter. The immigration judge may upon his/her own motion, or upon motion of the trial attorney or the respondent, reopen or reconsider any case in which he/she had made a decision, unless jurisdiction in the case is vested in the Board of Immigration Appeals under Part 3 of this chapter. An order by the immigration judge granting a motion to reopen may be made on Form I-328. A motion to reopen will not be granted unless the immigration judge is satisfied that evidence sought to be offered is material and was available and could not have been discovered or presented at the hearing; nor will any motion to reopen for the purpose of providing the respondent with an opportunity to make an application under § 242.17 be granted if respondent's rights to make such application were fully explained to him/her by the immigration judge and he/she was afforded an opportunity to do so at the hearing, unless circumstances have arisen thereafter on the basis of which the request is being made. The filing of a motion under this section with an immigration judge shall not serve to stay the execution of an outstanding decision; execution shall proceed unless the immigration judge who has jurisdiction over the motion specifically grants a stay of deportation. The immigration judge may stay deportation pending his/her determination of the motion and also pending the taking and disposition of an appeal from such determination.

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1733 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 244

[A.G. Order No. No. 1173-87]

Suspension of Deportation and Voluntary Departure

AGENCY: Executive Office for Immigration Review—Department of Justice.

ACTION: Proposed regulation.

SUMMARY: The proposed revisions would allow INS district directors the sole authority to reinstate or extend voluntary departure after an initial grant of voluntary departure is made by an immigration judge or the Board of Immigration Appeals, except in the limited circumstances of voluntary departure granted in a deportation proceeding that has been reopened for some other purpose. In those circumstances, an immigration judge or the Board may reinstate voluntary departure. This is being done to simplify and streamline voluntary departure adjudications.

DATE: Comments must be received on or before March 2, 1987.

ADDRESS: Please submit written comments in duplicate to Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 756-6470.

SUPPLEMENTARY INFORMATION: The proposed revisions give the INS district directors the sole authority to reinstate or extend voluntary departure after an initial grant by an immigration judge or the Board, except in very limited circumstances. This is being done to simplify and streamline voluntary departure adjudications.

Under current regulations, after an immigration judge or the Board grant voluntary departure initially, the district director has sole authority to extend voluntary departure. There are a limited number of instances in which the respondent applies for "voluntary departure anew" before an immigration judge or the Board. This application is not mandated by statute and can be more efficiently handled by the district director, who adjudicates most other matters relating to extensions and reinstatements of voluntary departure.

The reinstatement of voluntary departure by an immigration judge or the Board is retained in a limited circumstance of cases involving reopening for other reasons, such as applications for suspension of deportation or asylum. In these instances, since the immigration judge or the Board has reopened the matter for some other purpose, it is logical to have an immigration judge or the Board complete the matter with a determination on the issue of voluntary departure. It should be stressed, however, that under this proposal, the immigration judge or the Board would lack the authority to reopen the case solely for the reinstatement of voluntary departure.

In accordance with 5 U.S.C. 605(b) the Attorney General certifies that this rule will not have a significant impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of paragraph 1(b) of Executive Order 12291.

List of Subjects in 8 CFR Part 244

Administrative practice and procedure, Aliens, Immigration.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

1. The authority citation for Part 244 would be revised to read as follows:

Authority: 8 U.S.C. 1103, 1252, 1254.

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

2. 8 CFR 244.2 would be revised to read as follows:

§ 244.2 Extension or time to depart.

Authority to reinstate or extend the time within which to depart voluntarily specified initially by an immigration

judge or the Board is within the sole jurisdiction of the district director, except that an immigration judge or the Board may reinstate voluntary departure in a deportation proceeding that has been reopened for a purpose other than solely making an application for voluntary departure. A request by an alien for reinstatement or an extension of time within which to depart voluntarily shall be filed with the district director having jurisdiction over the alien's place of residence. Written notice of the district director's decision shall be served upon the alien and no appeal may be taken therefrom.

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1734 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 292

[A.G. Order No. 1169-87]

Representation and Appearances; Foreign Licensed Attorneys

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Proposed regulation.

SUMMARY: The proposed revisions would bar foreign-licensed attorneys, who are outside the definition of 8 C.F.R. 1.1.(f), from representing persons before the Immigration and Naturalization Service, the Board of Immigration Appeals, and immigration judges in any matter conducted within the geographical confines of the United States.

The proposed revisions would also limit representation of persons by such foreign-licensed attorneys to proceedings conducted outside the georgraphical confines of the United States and only in those situations where the Service, in its discretion, allows such representation. These revisions are necessary to improve representation in immigration proceedings by providing additional assurances that those attorneys who appear before immigration judges, the Board, and Service adjudicators are competent to do so.

DATE: Comments must be received on or before March 2, 1987.

ADDRESS: Please submit written comments in duplicate to the Office of the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 756-6470.

SUPPLEMENTARY INFORMATION: The proposed revisions would eliminate the representation of persons by foreign-licensed attorneys, who are outside the definition of 8 CFR 1.1(f), in all matters before the Service, the immigration judges, and the Board of Immigration Appeals (which are conducted within the United States) and limit representation by such foreign-licensed attorneys to matters before the Service outside the United States and to those instances where the Service, in its discretion, allows such representation.

Unlike United States licensed attorneys who, in the main, must graduate from a U.S. accredited law school and, in most cases, pass a bar examination, foreign-licensed attorneys, who are outside the definition of 8 CFR 1.1(f), are licensed in countries which may or may not have rigorous standards for bar membership and may or may not be trained in United States law. There would be no assurance that such a person is properly or even minimally qualified to practice law in immigration proceedings. Therefore, for the protection of the persons appearing in various immigration proceedings and to assure the proper conduct of the proceedings, it is beneficial to eliminate the difficulties attached to representation by foreign-licensed attorneys, who are outside the definition of 8 CFR 1.1(f), by eliminating their appearances in proceedings in the United States.

The proposed revisions allow practice before the Service by foreign-licensed attorneys, who are outside the definition of 8 CFR 1.1(f), on a limited basis outside the United States. This privilege is preserved so that in foreign countries, where U.S. licensed attorneys are not readily available, representation will exist. Also, since each Service office affected is located in a particular foreign country, it is probable that Service officers will be familiar with information regarding competency of foreign-licensed attorneys in that country. The provision that Service officers may allow such foreign-licensed attorneys the opportunity to appear as a matter of discretion should give the Service sufficient authority to remove such an attorney from representation if problems develop.

List of Subjects in 8 CFR Part 292

Administrative practice and procedures, Aliens.

Accordingly, it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

1. The authority citation for Part 292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1362.

PART 292—REPRESENTATION AND APPEARANCES

2. In § 292.1, paragraph (a)(6) would be revised to read as follows:

§ 292.1 Representation of others.

(a) * * *

(6) *Attorneys outside the United States.* An attorney other than one described in § 1.1(f) of this chapter who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he/she resides and who is engaged in such practice. Provided that he/she represents persons only in matters outside the geographical confines of the United States as defined in section 101(a) (38) of the Act, and that the Service official before whom he/she wishes to appear allows such representation as a matter of discretion.

* * * * *

Dated: January 7, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-1730 Filed 1-28-87; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-47]

Quality Technology Company; Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Receipt of petition for rulemaking; correction.

SUMMARY: This document clarifies a portion of the notice of receipt for a petition for rulemaking filed by Quality Technology Company and docketed as PRM-50-47. The notice of receipt for this petition was published January 12, 1987 (52 FR 1200). This notice clarifying the petitioner's original intent is based on communications with the petitioner since PRM-50-47 was docketed on November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Acting Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, Telephone: 301–492–7758 or, Toll Free, 800–368–5642.

In the notice of receipt for PRM–50–47, published on January 12, 1987 (52 FR 1200), replace the next to the last sentence in the second column under the heading "Basis of the Proposal," with the following sentence:

It is clear to the petitioner that the safeguards that the utilities' management and the regulatory commissions have put in place are only effective to a degree.

Dated at Washington, DC, this 21st day of January 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87–1776 Filed 1–28–87; 8:45 am]

BILLING CODE 7590–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–5–FRL–3147–2]

Federal and State Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for General Motors Corp., Truck and Bus Group, Pontiac West Assembly Plant, Pontiac, MI

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: The USFPA is proposing to approve a Delayed Compliance Order (DCO) issued by the Michigan Department of Natural Resources (MDNR) to the General Motors Corporation for its Pontiac West Assembly Plant (Plant #3) located in Pontiac, Michigan. The Order requires the company by August 1, 1987, to bring volatile organic compound (VOC) emissions from topcoating lines at its plant into compliance with the limits established by the Michigan Administrative Code 1980 AACS, R336.1610, which is part of the federally approved Michigan State Implementation Plan (SIP).

DATE: Written comments must be received on or before March 2, 1987.

ADDRESSES: Copies of the State Order, supporting materials, and public comments received in response to this rulemaking are available for inspection at the following addresses: U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Comments on this proposed action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ann Pontius, Air Compliance Branch (5AC–26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–4364.

SUPPLEMENTARY INFORMATION: On March 24, 1986, the MDNR submitted to USEPA for review and approval a DCO which it had issued to General Motors Corporation, Truck and Bus Group for its Pontiac West Assembly Plant (Plant #3) located in Pontiac, Michigan. The Order under consideration addresses the emission of VOCs from topcoating lines at the Pontiac facility. These emissions are subject to Michigan Administrative Code 1980 AACS, R336.1610, which is part of the federally approved Michigan SIP. The Order requires final compliance with R336.1610 by August 1, 1987. At final compliance, VOC emissions from the Plant 3 assembly topcoating operations shall not exceed an average of 2.8 pound of VOC per gallon of coating, minus water, as applied, as specified in Michigan's R336.1610. The company has agreed to the terms of the Order and has agreed to meet the increments established in the Order. USEPA evaluated the Order using criteria set forth in section 113(d) of the Clean Air Act (Act), and in an April 26, 1983, memorandum from Kathleen M. Bennett, then Assistant Administrator for Air, Noise and Radiation, and determined that it meets all requirements as shown below.

1. The Order must include a finding that the source is unable to comply with the SIP requirement involved. The Order contains such a finding.

2. The Order must have been issued after notice to the public of the content of the proposed Order and opportunity for public hearing. A public hearing was held December 3, 1985.

3. The Order must contain a schedule and timetable for compliance, including increments of progress. The Order sets out a schedule of dates by which the company must place orders for equipment, install the equipment, begin to operate the equipment, and achieve final compliance.

4. The Order contain requirements for use of the best practicable system or systems of emission reduction for the period the Order is in effect and for compliance with reasonable and practicable interim requirements. The interim requirements are to include those necessary to avoid an imminent and substantial endangerment to human health and a requirement to meet the SIP, insofar as the source is able. The Order provides for interim control emission limits (3.6 pounds of VOC per gallon of coating, minus water, as applied or 18.4 pounds of VOC per gallon of applied coating solids) until final compliance is reached and calls for the company to submit evidence to substantiate that the new coating formulations and equipment necessary to achieve final compliance have been placed on order with the manufacturer.

5. The Order must include a requirement for reasonable emission monitoring and reporting. This requirement is satisfied by the Order which requires the company to provide written quarterly reports verifying that the emission limits are being met.

6. The Order must provide for final compliance as expeditiously as practicable but no later than 3 years after the date for final compliance specified in the SIP. This requirement is met by the Order as original compliance was required by December 31, 1985. The final compliance date specified in the Order is August 1, 1987.

7. The Order must give notice of possible liability for noncompliance penalties, under Section 120 of the Act. This requirement is met by the Order.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulations, it must be approved by USEPA before it becomes effective as a DCO under section 113(d) of the Act.

During the period of the order in effect under section 113(d)(10) and where the owner or operator is in compliance with the terms of such order, no Federal enforcement action pursuant to this action and no action under Section 304 of the Act shall be pursued against such owner operator based upon non-compliance during the period the order is in effect with the requirement for the source covered by such order. If approved, the Order would constitute an addition to the Michigan SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether USEPA may approve the Order. After the public comment period, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: January 15, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–1763 Filed 1–28–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 65

[A-5-FRL-31473]

Federal and State Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for Marcat Manufacturing Company, Detroit, MI

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: The USEPA is proposing to approve a Delayed Compliance Order (DCO) issued by the Wayne County Air Pollution Control Division (WCAPD), to the Marcat Manufacturing Company for its facility located in Detroit, Michigan. The Order requires the Company to bring volatile organic compound (VOC) emissions from its metal coating lines into compliance by June 9, 1986, with the limits established by the Michigan Administrative Code 1980 AACS, R336.1621, which is a part of the federally approved Michigan State Implementation Plan (SIP).

DATE: written comments must be received on or before March 2, 1987.

ADDRESSES: Copies of the State Order, supporting materials, and public comments received in response to this rulemaking are available for inspection at the following address: U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Comments on this proposed action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ann Pontius, Air Compliance Branch (5AC–26), U.S. Environmental Protection Agency, Region, V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–4364.

SUPPLEMENTARY INFORMATION: On June 12, 1986, the State of Michigan submitted to USEPA for review and approval a Delayed Compliance Order (DCO) which Wayne County Air Pollution Control Division (WCAPCD) has issued to Marcat Manufacturing Company for its facility located in Detroit, Michigan. The Order under consideration addresses the emission of VOCs from Marcat's miscellaneous metal coating lines. These emissions are subject to Michigan Administrative Code 1980 AACS, R336.1621, which is part of the federally approved Michigan SIP. The Order requires final compliance by June 9, 1986. The company agreed to the terms of the Order and agreed to meet the increments established in the Order. In October 1986, WCAPCD found Marcat Manufacturing Company to be in compliance with R336.1621.

USEPA evaluated the Order using criteria set forth in Section 113(d) of the Clean Air Act (the Act), and in April 26, 1983, memorandum from Kathleen M. Bennett, then Assistant Administrator for Air, Noise and Radiation, and determined that it meets all requirements as shown below:

1. The Order must include a finding that the source is unable to comply with the SIP requirement involved. The Order contains such a finding.

2. the Order must have been issued after notice to the public of the content of the proposed Order and opportunity for public hearing. A public comment period was held between April 21 and May 19, 1986.

3. the Order must contain a schedule and timetable for compliance, including increments of progress. The Order contains a schedule of dates by which the company must place orders for equipment, install the equipment, begin to operate the equipment, and achieve final compliance or initiate and implement process changes.

4. The Order must contain requirements for use of the best practicable system or systems or emission reduction for the period the Order is in effect and for compliance with reasonable and practicable interm requirements. The interim requirements are to include those necessary to avoid an imminent and substantial endangerment to human health and a requirement to meet the SIP, insofar as the source is able. The Order provides for an interim control emission limit until final compliance is reached and calls for the company to submit an application for an installation permit for new formulations and equipment necessary to achieve final compliance.

5. The Order must include a requirement for reasonable emission monitoring and reporting. This requirement is satisfied by the Order which requires the company to provide monthly written reports documenting all coating usage, including VOC content, solids and water content, density of all coatings and solvents, and diluent proportions.

6. The Order must require final compliance as expeditiously as practical but no later than 3 years after the date for final compliance specified in the SIP. The Order requires compliance by June 9, 1986. This is within 3 years of the final compliance date of December 31, 1983, specified in the Michigan SIP.

7. If the Order is for a major source, it must notify the source of its possible liability for noncompliance penalties under Section 120 of the Act. This is provided for in the Order.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulations, it must be approved by USEPA before it becomes effective as a DCO under section 113(d) of the Act. During the period of the order in effect under section 113(d)(10) and where the owner or operator is in compliance with the terms of such order, no Federal enforcement action pursuant to this section and no action under Section 304 of this Act shall be pursued against such owner or operator based upon noncompliance during the period the order is in effect with the requirement for the source covered by such order. If approved, the Order would constitute an addition to the Michigan SIP. However, source compliance with the Order does not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether USEPA may approve the Order. After the public comment period, the Administrator of USEPA will publish, in the **Federal Register**, the Agency's final action on the Order in 40 CFR Part 65.

Dated: January 15, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–1762 Filed 1–28–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 5E3247/P409; FRL–3145–5]

Pesticide Tolerance for Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the desiccant, defoliant, and herbicide paraquat in or on the raw agricultural commodity pigeon peas. The proposed regulation to establish a maximum permissible level for residues of paraquat in or on pigeon peas was requested in a petition submitted by the Interregional Research Project No. 4. (IR–4).

DATE: Comments, identified by the document control number [PP 5E3247/P409], should be received on or before March 2, 1987.

ADDRESS: By mail, submit written 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, bring comments to: Rm 236, CM #2, 1981 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3247 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide paraquate (1,1'-dimethyl-4,4'-bipyridinium ion) derived from application of either the bis (methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the raw agricultural commodity pigeon peas at 0.05 part per million (ppm). The petitioner proposed that use on pigeon peas be limited to Puerto Rico based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought., The toxicological data considered in support of the proposed tolerance include several rat acute oral-feeding studies with median lethal dose (LD_{50}) values of 30 to 150 milligrams (mg) paraquat cation/kilogram (kg) of body weight (bw); a 90-day dog feeding study with a non-observed effect level (NOEL) of 20 ppm of paraquat cation (0.5 mg/kg bw); a mouse oncogenicity study with a systemic NOEL for non-oncogenic effects of 12.5 and 100/125 ppm levels fed.; a one-generation rat reproduction study with a NOEL of 100 ppm paraquat cation (10 mg/kg bw, highest level tested); two teratology studies, rat and mouse, with maternal NOEL at 1 mg/ky and fetotoxic NOEL's at 1 and 5 mg/kg, respectively; a three-generation rat reproduction study with a reproductive NOEL of 150 ppm and a systemic NOEL of 25 ppm (core guideline); a 1-year dog feeding study with a systemic NOEL of 15 ppm (0.45 mg of cation/kg/bw) and a systemic lowest effect level (LEL) of 30 ppm; and a rat chronic feeding/oncogenic study that has been submitted and is currently under review.

A rate chronic feeding/oncogenic study indicated a NOEL slightly below 25 ppm (1.25 mg paraquat cation/kg/bw) and lung lesions which were difficult to differentiate between neo-plastic and non-neoplastic pulmonary lesions as addressed in the Registration Standard for Paraquat dated March 31, 1986. The Agency, subsequently considered the evidence for pulmonary adenomas and carcinomas, as well as several other tumors in evaluating the rat feeding study and concluded that only squamous cell neoplasms of the skin and the subcutaneous areas of the head region of the high-dose (150 ppm) male rates was significantly increased over the concurrent control group. The tumors are though to have resulted from direct contract with the skin, rather than through dieting exposure. The Agency concluded that the data presently available for parquat places it in the "C Category"—limited evidence for oncogenicity in animals. The Agency has further decided not to develop a quantitative estimation of the oncogenic potential of paraquat. The Guidelines for Carcinogen Risk Assessment (51 FR 33992) state that judgements may be made on a case-by-case basis as to whether agents classified in Group C are suitable for quantitative risk assessment. Twenty-one mutagenicity studies were submitted. Paraquat was negative in eight studies (mostly in gene mutation and chromosomal aberration assays); weakly positive in four studies (two gene mutations, one chromosomal aberration and one DNA damage/repair assays); and positive in four studies (all DNA damage/repair assays). Five studies were not acceptable. Additional mutagenicity studies are not required. The significance of these findings will be considered in a weight of evidence review when the Agency makes a final decision on oncogenicity.

The acceptable daily intake (ADI), based on the 1-year dog feeding study (systemic NOEL of 0.45 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.0045 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.27 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.1134 mg/day; the current action will increase the TMRC by 0.00002 mg/day (0.02 percent). Published tolerances utilize 42 percent of the MPI.

Tolerances have previously been established for paraquat on a wide variety of food commodities, including meat, milk, grain, fruits, vegetables, and nuts at levels ranging from 0.01 to 5 ppm. The Agency has concluded that the amount of paraquat added to the diet from the proposed use will not significantly increase dietary exposures in human. Thus the tolerance that will be established by this proposed rule is considered to pose a negligible increment in risk.

The nature of the residues is adequately understood and an adequate analytical method, spectrophotometry, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. EPA has reviewed paraquat as a candidate for rebuttable presumption against registration (RPAR) and concluded that available data did not support an RPAR.

Based on the above information and data considered, and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from use of cannery waste as animal feed, the Agency concludes that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which

contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3247/P409]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule 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).

List of Subjects in 40 CFR Part 180

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

Dated: January 7, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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.

2. Section 180.205 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

(b) Tolerances with regional registration are established for residues of the pesticide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived for application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the raw agricultural commodities:

Commodities	Parts per million
Pigeon peas	0.05

[FR Doc. 87–1356 Filed 1–27–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 5E3244/P410; FRL–3145–3]

Pesticide Tolerance for Oxytetracycline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes an amendment to the currently established tolerance for residues of the oxytetracyline calcium complex and oxytetracyline hydrochloride in or on the raw agricultural commodity pears. This proposed amendment to remove the 0.1 part per million (ppm) tolerance regulation for residues of the oxytetracycline complex in or on pears resulting from application of the pesticide up to 60 days before harvest was requested, in part, in a petition by the Inter-regional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 5E3244/P410], should be received on or before March 2, 1987.

ADDRESS: By mail, submit written 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, bring comments to: Rm 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will 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: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office locations and telephone number: Rm. 716B, CM #2, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 5E3244 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of California and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend the established tolerance for residues of the pesticide oxytetracyline calcium complex in or on the raw agricultural commodity pears by deleting reference to the minimum number of days the pesticide may be applied prior to harvest. The tolerance is currently established at a level of 0.1 ppm in or on the raw agricultural commodity pears from spray applications of the pesticide up to 60 days before harvest. The petitioner has proposed that the preharvest interval (i.e., "up to 60 days prior to harvest") be deleted from the tolerance expression and instead be regulated on the pesticide product labeling. Additionally, data have been submitted with the petition to demonstrate that a shorter preharvest interval and an increased number of applications would not result in residues in excess of the currently established level.

The Agency has reviewed the petitioner's request and concludes that the proposed amendment to the tolerance regulation is useful for the purposes sought. Additionally, the Agency believes other modifications to the oxytetracycline tolerance expression for pears would be in order at this time. Specifically, there are currently two separate tolerances for residues of oxytetracycline on pears: one resulting from application of oxytetracycline hydrochloride as a tree infusion after harvest and prior to formation of new blooms at 0.35 ppm and one resulting from spray applications up to 60 days before harvest at 0.1 ppm. The Agency does not generally include the method of application (e.g., tree infusion or spray) or the time at which treatment, other than postharvest treatment of the raw agricultural commodity, may occur in

the tolerance expression. Such limitations are regulated as part of the labeling for the pesticide product.

The Agency has also determined that the tolerances would more accurately be expressed as residues of oxytetracycline rather than oxytetracycline hydrochloride and the oxytetracycline calcium complex as currently established. Residue analyses are based on a microbiological cylinder-plate assay using *Bacillus cereus* as the indicator organism. Residue levels are determined by oxytetracycline activity which causes inhibition of this organism. The tolerance for peaches is expressed as residues of oxytetracycline, thus, such a revision to the tolerance for pears would make 40 CFR 180.337 more consistent.

The modifications which revise the manner in which residues are expressed obviate the need for two separate oxytetracycline tolerances for pears. Consequently, only the higher tolerance level of 0.35 ppm will be retained.

Based on the information considered, the Agency concludes that the amendment will protect the public health. Therefore, it is proposed that the amendment be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3244/P410]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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, Recording and recordkeeping requirements.

Dated: January 12, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

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.

2. Section 180.337 is revised to read as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

Tolerances are established for residues of the pesticide oxytetracycline in or on the following raw agricultural commodities:

Commodities	Parts per million
Peaches	0.1
Pears	0.35

[FR Doc. 87-1355 Filed 1-27-87; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 52, No. 19
Thursday, January 29, 1987

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

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than February 18, 1987, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-00001."

Applicant: American Film Marketing Association ("AFMA"), 9000 Sunset Boulevard, Suite 515, Los Angeles, California 90069. Contact: Jerald A. Jacobs, Legal Counsel 202/223-4400

Application #: 87-00001.

Date Deemed Submitted: January 12, 1987.

Controlling Entity: None.

Members (in addition to applicant): ABC Distribution Company; Arista Films, Inc.; Atlantic International; Australian Films International, Inc.; Alexander Beck Ents., Inc.; Cannon Int'l, Inc.; Carolco International, N.V.; Cinetelfilms, Inc.; Concorde/New Horizons; Cori Films International; Crown Int'l Pictures, Inc.; De Laurentiis Entertainment Group; Earl Owensby Studios; Embassy Films, Inc.; Empire International; Euramco Int'l, Inc.; Film Ventures Int'l, Inc.; Filmaccord, Inc.; Filmation Associates; Films Around the World, Inc.; F/M Entertainment International, Inc.; Fries Distribution Co.; Globe Export Corp.; Goldfarb Distributors, Inc.; Granat Releasing Corp.; Hemdale Film Corp.; Inter-Ocean Film Sales, Ltd.; Interaccess Film Dist.; Intercontinental Releasing Corp.; International Film Representatives; International Video Ent.; Inter Planetary Pictures; ITC Entertainment, Inc.; J.E.R. Pictures, Inc.; Jad Films Int'l Inc.; K.R.G. Film Sales; Kodiak Films, Inc.; Lorimar-Telepictures Corporation; Manley Productions; Manson International; Media Home Entertainment; MGM/UA Distribution Co.; Miracle Films, Inc.; Nelson Entertainment, Inc.; New Line Int'l Releasing; New World Pictures Inc.; Noble Productions; OKCO/Trilogy Licensing Corp.; Omega Entertainment; Orion Pictures Int'l; Overseas Filmgroup, Inc.; P.C. Films Corp.; Peregrine Film Dist., Inc.; Reel Movies International; RKO Programmes International; The Samuel Goldwyn Company; Shapiro Entertainment Corp.; Showtime/The Movie Channel; Silverstein Int'l Corp.; Simcom Int'l, Inc.; Skouras Pictures, Inc.; Trans World Entertainment; Transcontinental Pic. Ind.; Troma, Inc.; UAA Films, Inc.; Universal City Studios, Inc.; The Vista Organization Partnership.

Summary of the Application

A. Export Trade

Licensing and sales, and the facilitation of licensing and sales, of distribution rights primarily to independently-produced, English-language motion pictures, television programs and video recordings and ancillary rights to them (video cassette rights, broadcast or satellite television rights, cable television rights, music rights, etc.). All of these rights are referred to in this notice as "Distribution Rights".

B. Export Markets

Worldwide.

C. Export Trade Activities and Methods of Operation

With respect to the licensing and sale of Distribution Rights in the Export Markets, AFMA and its members intend to engage in activities related to the:

1. Promulgation among AFMA members of voluntary model sales contract forms;

2. Providing services to AFMA members and others in arbitration of disputes arising over the terms of licensing or sales;

3. Exchange of information among AFMA members regarding all aspects of market conditions and customers;

4. Development and recommendation among AFMA members of voluntary model business practices, including methods of reducing foreign trade barriers, improving intellectual property protection, and expanding markets;

5. Collection and dissemination among AFMA members of market research information;

6. Negotiation and agreement with representatives of foreign governments and organizations toward reducing trade barriers, expanding markets, and improving intellectual property protection; and

7. Certification of AFMA members as to such matters as involvement in transactions, evidence of ownership, and true signatures.

Dated: January 23, 1987.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 87-1824 Filed 1-27-87; 2:33 pm]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Singapore; Correction

January 22, 1987.

On June 16, 1986 a notice was published in the **Federal Register** (51 FR 21788) which announced import restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. All references to "Category 659 (all TSUSA numbers in the category except infants' sets and swimwear)" should be corrected to read "Category 659 (TSUSA numbers in the category except infants' sets, swimwear and vests)."

In addition, in the letter to the Commissioner of Customs footnotes 2 and 7 should be corrected to read:

In Category 659, all TSUSA numbers except 384.2105, .2115, .2120, .2125, .2646, .2647, .2648, .2649, 2652, .8651, .8652, .8653, .8654, .9356, .9357, .9358, .9359, .9365, 381.2340, .3170, 9100, .9570, .1920, .2339, .8300, .8400, 384.9353, 381.2836, .3332, .9224, .9837, 384.2250, .2251, .2663, .2664, .8677, .9472 and .9473.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-1823 Filed 1-27-87; 2:32 pm]

BILLING CODE 3510-DR-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180713; FRL-3145-2]

Receipt of Applications for Specific Exemptions To Use Harmony; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Virginia Department of Agriculture and Consumer Services and the Kentucky Department of Agriculture (hereafter referred to individually by state or collectively as "Applicants") for use of the unregistered product Harmony to control wild garlic in wheat, in Kentucky, and in wheat and barley, in Virginia. Harmony, manufactured by E.I. duPont de Nemours and Company, contains the unregistered active ingredient methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino] carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA is soliciting comments before making the decision whether or not to grant these specific exemption requests.

DATE: Comments must be received on or before February 13, 1987.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180713," 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 (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 to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jack E. Housenger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

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 State agency from any registration provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants have requested the Administrator to issue specific exemptions to permit the use of the unregistered product, Harmony, to control wild garlic in wheat and/or barley. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

The Applicants have requested a maximum of one postemergence application of Harmony. Applications will be made between the 2-leaf and boot stage of wheat or barley. A maximum of 0.67 ounce of product is proposed to be applied per acre. A maximum of 68,000 acres of wheat and barley is proposed to be treated in Virginia and a maximum of 402,500 acres of wheat throughout Kentucky. If all of the acreage were treated, a maximum of 2,125 pounds of product would be needed in Virginia and a maximum of 12,578 pounds of product would be needed in Kentucky.

Applications are proposed to be made using either aerial or ground equipment. All applications are proposed to be made by or under the direct supervision of certified applicators. The Applicants have requested authorization to make treatments through April 1987.

The Applicants claim that emergency conditions exist due to the presence of wild garlic bulblets in harvested wheat and barley. Grain sold with garlic bulblets present is docked generally on a per-bulblet basis. The Applicants claim that the new regulations under the U.S. Grain Standards Act which lower by two-thirds the amounts of wild garlic allowable in marketed wheat and barley have contributed to the need for a better means of controlling garlic. If these new standards cannot be met, prices will be docked severely or the grain may be refused altogether. In any event, the economic consequences could be substantial if growers are unable to control wild garlic in wheat and barley to meet this new standard.

The Applicants claim that the registered alternatives currently available do not provide the level of control of wild garlic sufficient to meet the more stringent grading standards. The Applicants claim that wheat and barley growers have traditionally used 2,4-D and dicamba to control this weed. Specifically, Kentucky states that 2,4-D and dicamba provide only 30 to 50 percent control of wild garlic and Virginia claims there is no herbicide available which will prevent a serious economic loss from garlic contamination in wheat and barley.

This notice does not constitute a decision by EPA on the application itself. It is the Agency's policy to solicit public comment on applications involving unregistered active ingredients. Accordingly, interested

persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before February 9, 1987 and should bear the identifying notation "OPP-180713." 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, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Kentucky Department of Agriculture and the Virginia Department of Agriculture and Consumer Services.

Dated: January 12, 1987.

Edwin F. Tinsworth,

Director Registration Division, Office of Pesticide Programs.

[FR Doc. 87-1358 Filed 1-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36136; FRL-3145-1]

Availability of Pesticide Chemical Fact Sheets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of Pesticide Chemical Fact Sheets. It also supersedes all other availability information in earlier **Federal Register** notices regarding Pesticide Chemical Fact Sheets. EPA has made arrangements with the National Technical Information Service (NTIS) to process and distribute the Pesticide Chemical Fact Sheets. EPA will provide NTIS with the Pesticide Chemical Fact Sheets, previously issued and future ones, as they are issued.

ADDRESS: Published Pesticide Fact Sheets may be purchased from NTIS at the following address: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703-487-4650).

Orders may be placed by telephone to the NTIS order desk and charged against a deposit account or American Express, VISA, or MasterCard, or sent by mail with check, money order, or account number.

FOR FURTHER INFORMATION CONTACT: By mail: Summer Gardner, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia (703-557-2126).

SUPPLEMENTARY INFORMATION: The Pesticide Chemical Fact Sheets include a description of the chemical use patterns and formulations, scientific findings, a summary of the Agency's regulatory position/rationale, and a summary of major data gaps. They are issued if one of the following regulatory actions occurs:

1. A Registration Standard has been issued.
2. A significantly different use pattern has been registered.
3. A new chemical is registered.
4. A Special Review determination document has been issued.

Facts Sheets have been prepared for Registration Standards issued since June 1982 and for new chemicals and for chemicals with significantly changed use patterns registered since January 1984. Fact Sheets have also been issued for Special Review final determinations since June 1983.

For each Pesticide Chemical Fact Sheet desired, provide NTIS with the title of the document, the corresponding NTIS order Number, and whether hard copy or microfiche is desired. The NTIS order number is the same for hard copies and microfiche, but the price differs. All microfiche copies are $6.50 and the hard copies are $9.95.

The following Pesticide Chemical Fact Sheets are available to this date from NTIS:

Chemical name	EPA No.	NTIS order No.
1,3-Dichloropropene (Telone)	95	PB87-116547
Aluminum Phosphide	69.1	PB87-116521
Azinphos-Methyl (Guthion)	100	PB87-116489
Carbophenothion	25	PB87-116596
Chlorimuron Ethyl	82	PB87-114773
Chlorobenzilate	15	PB87-113981
Chlorothalonil	36	PB87-113296
Chlorpyrifos	37	PB87-114781
Chlopyrifos Methyl (Reidan)	57	PB87-111993
Clipper (Paclobutrazol)	62	PB87-111928
Command	90	PB87-124764
Copper Sulfate	87	PB87-116570
Cryolite	2	PB87-116109
Cyanazine	41	PB87-117461
Cyhexatin	56	PB87-111969
Daminozide	26	PB87-112025
Dantochlor	33	PB87-112017
DCNA	13	PB87-112033
Demeton	45	PB87-112009
Diazinon	96	PB87-116505
Dicamba	8	PB87-111944
Dicofol	16	PB87-111936
Diflubenzuron (Dimilin)	68	PB87-111951
Dinocap	65	PB87-111480
Dipropetryn	55	PB87-114245
Ethoprop	3.1	PB87-111498
Fenoxycarb	78	PB87-115614
Fensulfothion	14.1	PB87-111506
Fluchloralin	52	PB87-113494
Fluometuron	88	PB87-111514
Fluridone	81	PB87-111985
Fluvalinate	86	PB87-124756
Fonofos	22.1	PB87-124749
Glycoserve	47	PB87-112272
Heliothis	27	PB87-112280
Linalool	77.1	PB87-111522
Lindane	73	PB87-111795
Linuron	28	PB87-116588
Magnesium Phosphide	66.1	PB87-116539
Methyl Bromide	98	PB87-116513
Metribuzin	53	PB87-116604
Metsulfuron Methyl	71	PB87-124731
Monocrotophos	72	PB87-116612
Naled	4	PB87-118485
Naptalam	49	PB87-118915
Nitrapyrin	54	PB87-118022
Norflurazon	60	PB87-118477
Pendimethalin	50	PB87-117578
Perfluidone	74	PB87-117560
Phorate	34.1	PB87-111530
Phosmet	101	PB87-117198
Picloram	48	PB87-117586
Potassium Bromide	38	PB87-118923
Potassium Permanganate	80	PB87-124772
Pronamide	70	PB87-124723
Propachlor	44	PB87-116083
Propargite	99	PB87-116497
Thiodicarb	18	PB87-111811
Thiophanate Ethyl	84	PB87-111548
Thiophanate Methyl	92	PB87-111555
Thiram	29	PB87-111563
TPTH	39	PB87-111803
Trimethacarb	76	PB87-111571
Vitamin D-3	43	PB87-115622
Wood Preservatives	31	PB87-115630

Availability of additional Pesticide Chemical Facts Sheets through NTIS will be published quarterly in the **Federal Register.**

Dated: January 13, 1987.

Susan H. Wayland,

Director, Office of Pesticide Programs.

[FR Doc. 87-1361 Filed 1-27-87; 8:45 am]

BILLING CODE 6560-50-M

[PF-475; FRL-3145-4]

Pesticide Tolerance Petitions; Nor-Am Chemical Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-475] and the petition number, attention Product Manager (PM) named in each petition, at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 4 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. Written comments filed in response to this notice will be available for public inspection in the Information Service Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attn: (Product Manager (PM) named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards, PM–12.	Rm 202, CM #2, 703–557–2386.	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202
George LaRocca, PM–15.	Rm 204, CM #2, 703–557–2400.	Do.
Arturo Castillo, PM–17.	Rm 207, CM #2, 703–557–2602.	Do.
Lois Rossi, PM–21.	Rm 227, CM #2, 703–557–1900.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and/or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

1. *PP 4F3081.* EPA issued a notice, published in the **Federal Register** of June 20, 1984 (49 FR 25292) which announced that Nor-Am Chemical Co., P.O. Box 7495, Wilmington, DE 19893 filed PP 4F3081 proposing to amend 40 CFR 180.287 by establishing tolerances for the combined residues of amitraz (*N'*(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on certain meat commodities. Nor-Am has amended the petition by increasing the tolerance levels as follows:

Commodities	Proposed tolerances	
	49 FR 25292	New levels
Hogs, fat	0.05	0.1
Hogs, liver	0.01	0.2
Hogs, kidney	0.01	0.2
Hogs, liver	0.1	0.2
Hogs, meat byproducts	0.05	0.3

The proposed analytical method for determining residues is gas chromatography. (PM–12).

2. *FAP 7H5522.* Roussel Uclaf, c/o Hoechst-Roussel Agri-Vet Co. Proposes amending 21 CFR Part 193 by establishing a regulation to permit residues of the insecticide deltamethrin ((*S*)-*alpha*-cyano-3-phenoxybenzyl (1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate) in the food commodities tomato paste and tomato catsup at 0.20 ppm. (PM–15).

3. *FAP 7H5525.* E. I. du Pont de Nemours & Co., Inc., Walker's Mill, Barley Mill Plaza, Wilmington, DE 19898. Proposes amending 21 CFR Part 561 by establishing a regulation to permit the combined residues of the miticide trans-5-(4-chloro-phenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the thiazolidine moiety in or on the feed commodity almond hulls at 15.0 ppm. (PM–15).

4. *PP 1F2507.* Duphar B. V., c/o John W. Kennedy, Consultants, Inc., 9101 Cherry Lane, Suite 113, Laurel, MD 20708–1133. Proposes amending 40 CFR 180.377 by establishing tolerances for residues of the insecticide diflubenzuron [*N*-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide] in or on the raw agricultural commodities grapefruit and oranges (whole fruit) at 0.5 part per million (ppm).

The proposed analytical method for determining residues is gas chromatography. (PM–17).

5. *FAP 1H5301.* Duphar B. V., c/o John W. Kennedy, Consultants, Inc., 9101 Cherry Lane, Suite 113, Laurel, MD 20708–1133. Proposes amending 21 CFR, Chapter I by establishing regulations to permit residues of the insecticide diflubenzuron as follows:

a. In citrus oil at 75.0 ppm under 21 CFR Part 193. (PM–17).

b. In dried citrus pulp at 1.0 ppm under 21 CFR Part 561. (PM–17).

6. *PP 7F3477.* Ciba-Geigy Corp., Agricultural Div., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR 180.414 by establishing a tolerance for the combined residues of the insectide cyromazine (*N*,cyclo-propyl-1,3,5-triazine-2,4,6-triamine) and its major metabolite, melamine (1,3,5-triazine-2,4,6-triamine) in or on the commodity kidney of cattle at 0.25 ppm. The proposed analytical method for determining residues is AG–408, using high pressure liquid chromatography and an ultra violet detector. (PM–17).

7. *PP 7F3476.* Rohm and Haas, Independence Mall West, Philadelphia, PA 19105. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings in or on apples (whole fruit) at 0.5 ppm; grapes (whole fruit) at 1.0 ppm; meat and meat byproducts (except liver) at 0.04 ppm; liver (cattle, goats, hogs, horses and sheep) at 0.5 ppm; milk at 0.1 ppm; and eggs at 0.04 ppm. The proposed analytical method for determining residues is liquid gas chromatography. (PM–21).

8. *FAP 7H5523.* Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 21 CFR, Chapter I by establishing regulations to permit residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and triazole rings as a result of application of the fungicide in the growing of crops in connection with an approved experimental use program (707–EUP–105, expires February 28, 1988) as follows:

a. In or on raisins at 5.0 ppm under 21 CFR Part 193. (PM–21).

b. In or on wet apple pomace at 1.0 ppm; dry apple pomace at 5.0 ppm, wet grape pomace at 1.0 ppm, and dry grape pomace at 5.0 ppm under 21 CFR Part 561. (PM–21).

9. *FAP 7H5524.* Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 21 CFR, Chapter I by establishing regulations to permit residues of the fungicide alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile and its metabolites containing both the chlorophenyl and and triazole rings as follows:

a. In or on raisins at 10.0 ppm under 21 CFR Part 193.

b. In or on grape wet pomace at 2.0 ppm, grape dry pomace at 10.0 ppm, and raisin waste at 25.0 ppm under 21 CFR Part 561. (PM–21).

Dated: January 14, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–1357 Filed 1–27–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, February 2–4, 1987, Building 31C, Conference Room 6, 6th Floor, National Institutes of Health, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of the meeting will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred J. Lumsden, Committee Management Officer, Division of Extramural Activities, National Cancer Institute, 9000 Rockville Pike, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708), will provide a summary of the minutes and rosters of the Board members upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Institutes of Health, Building 31, Room 10A03, Bethesda, Maryland 20892 will provide other information pertaining to the meetings.

This notice is being published less than 15 days prior to the meetings because of the difficulties is scheduling these meetings without interfering with the Board members previous commitments.

Name of Committee: Subcommittee on Cancer Information
Executive Secretary: Mr. Paul Van Nevel, Building 31, Room 10A29, Bethesda, MD 20892 (301/496–6631)
Date of Meeting: February 1
Place of Meeting: Hyatt Regency Hotel, One Bethesda Metro Center, Executive Board Room, First Floor, Bethesda, MD 20814 (301/657–1234)
Open: February 1, 5 p.m. to adjournment
Agenda: Finalize recommendations on public participation hearings

Name of Committee: Subcommittee on Planning and Budget
Executive Secretary: Mr. John P. Hartinger, Building 31, 11A18, Bethesda, MD 20892 (301/496–5803)
Date of Meeting: February 2
Place of Meeting: Building 31C, Conference Room 7
Open: February 2, 4:30 p.m. to adjournment
Agenda: Update of 1988 President's budget

Name of Committee: Subcommittee on Cancer Control for the Year 2000
Executive Secretary: Dr. Peter Greenwald, Building 31, 4A32, Bethesda, MD 20892 (301/496–6616)
Date of Meeting: February 2
Place of Meeting: Building 31C, Conference Room 7
Open: February 2, 7:30 p.m. to adjournment
Agenda: To discuss NCAB public participation and other issues of cancer control

Name of Committee: Subcommittee on Special Actions for Grants
Executive Secretary: Mrs. Barbara S. Bynum, Building 31, Room 10A03, Bethesda, MD 20892 (301/496–5147)
Date of Meeting: February 3
Place of Meeting: Building 31C, Conference Room 6
Closed: February 3, 8:30 a.m. to adjournment

Name of Committee: Subcommittee on Innovations in Surgical Oncology
Executive Secretary: Dr. Frederick Avis, Building 10, Room 2B–13, Bethesda, MD 20892 (301/496–4164)
Date of Meeting: February 3
Place of Meeting: Building 31C, Conference Room 7
Open: February 3, 7 p.m. to adjournment
Agenda: To discuss the relationship of surgical oncology research to the National Cancer Institute

Name of Committee: National Cancer Advisory Board
Executive Secretary: Mrs. Barbara S. Bynum, Building 31, Room 10A03, Bethesda, MD 20892 (301/496–5147)
Date of Meeting: February 2 and 4
Place of Meeting: Building 31C, Conference Room 6
Open: February 2, 8:30 a.m. to recess; February 4, 8 a.m. to adjournment
Agenda: Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; Subcommittee Reports and New Business.

Catalog of Federal Domestic Assistant Program Nos.: (13.392, Project grants in cancer construction; 13–393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower and 13.399; Project grants and contracts in cancer control.)

Dated: January 21, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–1875 Filed 1–28–87; 8:45 am]

BILLING CODE 4140–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–154]

Certain Dot Matrix Line Printers and Components Thereof; Commission Decision Granting Joint Motions for Modification of Consent Order Agreement; Issuance of Amended Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Commission decision granting joint motions for modification of consent order agreement and for issuance of an amended consent order.

SUMMARY: Notice is hereby given that the Commission has determined to grant the joint motions filed by the former parties for modification of the consent order agreement and for issuance of a consent order (Motion 154–32) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0143.

SUPPLEMENTARY INFORMATION: On July 23, 1985, the Commission issued an Action and Order denying the former complainant and respondents Joint Motion to Withdraw the "Motion for Modification of Consent Order Agreement and to Maintain the Underlying Settlement Agreement as Confidential Business Information" (Motion No. 154–31). 50 FR 31049 (July 31, 1985). Among other provisions, the Commission's Action and Order stated that any motions to modify the terms of the consent order agreement, and thereby the terms of the Commission's consent order, should be made in accordance with § 211.57 of the Commission's Rules of Practice and Procedure (19 CFR 211.57).

Accordingly, on December 25, 1985, the former parties including the Commission investigative attorney filed Joint Motions to Withdraw the "Motion for Modification Consent Order Agreement and for Declassification of Information Under Protective Order," for Modification of Consent Order Agreement, and for Issuance of a Consent Order (Motion No. 154–32).

On April 30, 1986, the Commission provisionally accepted the joint motions and referred them to the ALJ for issuance of a recommended determination. On May 22, 1986, the ALJ issued her recommended determination. The ALJ recommended that: Motion No. 154–32 be denied in part and the Commission refuse to issue the proposed consent order; the joint motion that Motion No. 154–30 be withdrawn be granted; and the case should be closed. Upon review of the ALJ's recommended determination, the Commission determined to grant the joint motions (Motion No. 154–32).

Copies of the Commission Action and Order issued in connection with disposition of the matter, the nonconfidential version of the ALJ's recommended determination, 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 concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: January 20, 1987.

[FR Doc. 87–1769 Filed 1–28–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Termination of Investigation Based on a Finding of No Violation

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUMMARY: Notice is given that the U.S. International Trade Commission has determined that there is no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Charles Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

SUPPLEMENTARY INFORMATION: On May 2, 1983, the U.S. International Trade Commission instituted an investigation under section 337 of the Tariff Act of 1930 upon the complaint of Beloit Corporation, 1 St. Lawrence Avenue, Beloit, Wisconsin 53511. (48 FR 21213). Complaint alleged unfair methods of competition and unfair acts in the importation of certain papermaking machine forming sections for the continuous production of paper and components thereof into the United States, or in their sale, by reason of alleged (1) direct infringement, (2) contributory infringement, and (3) induced infringement of claims 1, 2, 3, 4, 7, 8, 10, and 11 of U.S. Letters Patent 3,726,758. Complainant further alleged that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Named as respondents were the following companies: Valmet Oy of Helsinki, Finland and TVW Paper Machines, Inc., of Atlanta, Georgia.

On February 14, 1984, the presiding Commission administrative law judge issued an initial determination (ID) that there is no violation of section 337. Complainant and respondents filed petitions for review of various parts of the ID, pursuant to § 210.54(a) of the Commission's rules. Having examined the record in this investigation, including the ID, the petitions for review, and the responses thereto, the Commission on March 15, 1984, determined not to review the ID as to the issue of noninfringement. The Commission took no position as to the other issues determined in the ID. (49 FR 11896.)

On April 2, 1985, the U.S. Court of Appeals for Federal Circuit issued its mandate reversing the Commission's determination of no violation of section 337 and remanding the case to the Commission for "further appropriate proceedings."

Both complainant and respondents then petitioned for review of various parts of the initial determination pursuant to § 210.54(a) of the Commission's rules. Because the Commission took no position on these matters in its earlier determination, they were again before the Commission for consideration and decision. After examining the petitions for review and the responses thereto, the Commission concluded that certain issues warranted review. (51 FR 8371.) Specifically, the Commission reviewed the following questions:

1. Whether U.S. Letters Patent 3,727,758 (the '758 patent) is invalid by virtue of anticipation within the meaning of 35 U.S.C. 102. Specifically, the Commission is reviewing *only* those portions ofthe ID concerning anticipation of the '758 patent by U.S. Letters Patent 3,232,825 (Robinson).

2. Whether the '758 patent is invalid as obvious within the meaning of 35 U.S.C. 103.

3. Whether complainant's domestic activities with respect to the '758 patent constitute and "industry, . . . in the United States" within the meaning of section 337. In reviewing this portion of the ID, the Commission is concerned only with those findings of fact and conclusions of law relating to the level of complainant's domestic activity and not with those portions of the ID which concern specific cost allocations or methods thereof. The Commission has determined not to review the findings of fact which concern complainant's representations on the question of continued commitment to overall domestic operations.

4. Whether the importation or sale of respondents' devices has the tendency to destroy or substantially injure an industry in the United States.

On January 15, 1987, the Commission determined that there is no violation of section 337 by virtue of the importation into or sale in the United States of the accused devices. Specifically, the Commission found:

1. That claims 1, 2, and 10 of the '758 patent are invalid as anticipated within the meaning of 35 U.S.C. 102 (b) and (e).

2. That claims 1–4, 7, 8, 10, and 112 of the '758 patent are *invalid* or obviousness within the meaning of 35 U.S.C. 103.

3. That complainant's domestic activities with respect to the '758 patent *do not* constitute an "industry . . . in the United States" within the meaning of section 337.

4. That because the '758 patent is invalid and a domestic industry does not exist, the importation or sale of respondents' devices *do not* have the effect or tendency to destroy or substantially injure an industry in the United States.

Based upon those findings, the Commission terminated the investigation.

Copies of the Commission's action and order, the opinion issued in connection therewith, 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.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: January 20, 1987.

[FR Doc. 87–1770 Filed 1–28–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–241]

Certain Prefabricated Bow Forms; Decision To Extend Deadline for Determining Whether To Review Initial Determination

AGENCY: U. S. International Trade Commission.

ACTION: Extension of deadline for determining whether to review an initial determination.

SUMMARY: The Commission has extended from January 21, 1987, to February 20, 1987, the deadline for determining whether to review the initial determination (ID) on violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., or Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–3395 or 202–523–0311 respectively.

SUPPLEMENTARY INFORMATION:

Background

Investigation No. 337–TA–241 is being conducted to determine whether there is a violation of section 337 in the importation or sale of certain prefabricated bow forms from the Philippines, Italy, Hong Kong, and Taiwan. The accused imported bow forms are alleged to infringe claim 1 or claim 2 of U.S. Letters Patent 3,637,455 (the '455 patent). The complainant is the patent owner, Minnesota Mining and Manufacturing Co. (3M) of St. Paul, MN. Ten domestic and foreign companies were named as respondents. *See* 51 FR 6183 (Feb. 20, 1986) and 51 FR 24949 (July 9, 1986).

On November 20, 1986, the ALJ issued an ID holding that there is no violation of section 337 in the importation or sale of the accused imported bow forms. Complainant 3M and domestic respondents Berwick Industries and Harvard Fair Corp. each petitioned for review of the ID. The Commission investigative attorney and other parties opposed the respective petitions.

The previous deadline for the Commission to determine whether to review the ID was the close of business on January 21, 1987. (*See* 52 FR 1535 (Jan. 14, 1987).) The Commission has determined to extend this deadline to February 20, 1987, which is the statutory one-year deadline for concluding the investigation. (See 19 U.S.C. 1337(b)(1).) If the Commission decides to review some or all of the ID, the investigation will be designated "more complicated" pursuant to 19 U.S.C. 1337(b)(1), and the Commission will establish a new administrative deadline for completing the investigation.

Public inspection. Copies of the ID, the petitions for review, the responses thereto, and all other nonconfidential documents on the record of the investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–724–0002.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: January 21, 1987.

[FR Doc. 87–1771 Filed 1–28–87; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray House, (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commer Commission, Room 1325, 12th and Constitution Ave. NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Quarterly Report of Results of Operations
OMB Form No.: 3120–0002
Agency Form No.: QFR
Frequency: Quarterly
Respondents: Transportation Industry
No. of Respondents: 1,101
Total Burden Hrs.: 18,717

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I & II Motor Carriers of Household Goods
OMB Form No.: 3120–0033
Agency Form No.: M–H
Frequency: Annually
Respondents: Class I & II Motor Carriers of Household Goods
No. of Respondents: 154
Total Burden Hrs.: 5,390

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I & II Motor Carries of Property
OMB Form No.: 3120–0032
Agency Form No.: M
Frequency: Annually
Respondents: Class I & II Motor Carriers of Property
No. of Respondents: 2,183
Total Burden Hrs.: 100,418

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Survey Form for Certain Switching and Terminal Companies
OMB Form No.: 3120–0111
Agency Form No.: S&T
Frequency: Annually
Respondents: Selected Class III Switching and Terminal Companies
No. of Respondents: 18
Total Burden Hrs.: 72

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Revenues, Expenses & Statistics
OMB Form No.: 3120–0022
Agency Form No.: QPA
Frequency: Quarterly & Annually
Respondents: Class I Motor Carriers of Passengers
No. of Respondents: 45
Total Burden Hrs.: 1,080

Type of Clearance: Reinstatement
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts Motor Carriers of Property
OMB Form No.: 3120–0106
Agency Form No.: N/A
Frequency: Quarterly/Annually
Respondents: Motor Carriers of Property
No. of Respondents: 2,337
Total Burden Hrs.: 329,517

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report Form R–1
OMB Form No.: 3120–0029
Agency Form No.: R–1
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 24

Total Burden Hrs.: 19,200

Noreta R. McGee,

Secretary.

[FR Doc. 87-1787 Filed 1-28-87; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: January 22, 1987.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

A. (1) Agway Inc.
(2) Box 4933, Syracuse, NY 13221.
(3) 333 Butternut Drive, Box 4933. Syracuse, NY 13221.
(4) Michelle M. Rurka, Box 4853, Syracuse, NY 13221.

B. (1) Farmer Union Co-op Transport, Inc.
(2) P.O. Box 118, Stetsonville, WI 54480.
(3) N. 983 Highway 13, Stetsonville, WI 54480.
(4) Larry Ray, P.O. Box 118, Stetsonville, WI 54480.

C. (1) Farmland Foods, Inc.
(2) 6910 North Holmes, Kansas City, MO 64116.
(3) P.O. Box 403, Denison, IA 51442.
(4) Larry Schwarte or William Wait, P.O. Box 403, Denison, IA 51442.

D. (1) Knouse Foods Cooperative, Inc.
(2) Peach Glen, PA 17306.
(3) Peach Glen, PA 16306.
(4) Robert W. Kluck, Peach Glen, PA 17306.

E. (1) Missouri Farmers Association, Inc.
(2) 615 Locust St., Columbia, MO 65201.
(3) 615 Locust St., Columbia, MO 65201.
(4) Dale E. Bolander, 615 Locust St., Columbia, MO 65201.

F. (1) Southern States Cooperative, Inc.
(2) P.O. Box 26234, Richmond, VA 23260.
(3) 6606 West Broad St., P.O. Box 26234, Richmond, VA 23260.
(4) Garry L. Horn, P.O. Box 26234, Richmond, VA 232260.

Noreta R. McGee,

Secretary.

[FR Doc. 87-1788 Filed 1-28-87; 8:45 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

Carolina Power & Light Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (The Commission) has denied a request by the licensee for an amendment to Facility Operating License No. DPR-23, issued to Carolina Power & Light Company (the licensee) for operation of the H.B. Robinson Steam Electric Plant, Unit No. 2 (the facility), located in Darlington County, South Carolina.

The proposed amendment would have revised the Technical Specifications (TS) to add new § 3.18 and 4.18 and would have consisted of operability and surveillance requirements for those systems not currently included in the TS (fire protection). Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on September 10, 1986 (51 FR 32265). The licensee's application for the amendment was dated March 29, 1985.

The request was found unacceptable due to the fact that fire protection systems are not part of the safety related systems relied upon for safe shutdown or mitigation of design basis accidents as defined in FSAR Chapet 15. For this reason, the dedicated/alternate shutdown system requirements do not need to be incorporated in the Technical Specifications. Our NRC guidance concerning Technical Specifications improvements also does not require Technical Specifications for the dedicated/alternate shutdown systems.

The licensee was notified of the Commission's denial of this request by letter dated January 20, 1987.

By March 2, 1987 the licensee may demand a hearing with repect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, DC by the above date.

A copy of any petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to T.A. Baxter, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 29, 1985, and (2) the Commission's letter to Carolina Power & Light Company dated January 20, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-A.

Dated at Bethesda, Maryland, this 20th day of January, 1987.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate #2, Division of PWR Licensing-A.

[FR Doc. 87-1787 Filed 1-28-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Oconee Nuclear Station, Units 1, 2 and 3; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2 and 3, located in Oconee County, South Carolina.

Identification of Proposed Action

The amendments would consist of changes to the operating licenses to extend the expiration dates of the operating licenses for Oconee Nuclear Station, Units 1, 2 and 3, from November 6, 2007 to February 6, 2013 for Oconee Unit 1 (DPR–38); to October 6, 2013 for Oconee Unit 2 (DPR–47); and to July 19, 2014 for Oconee Unit 3 (DPR–55). The license amendments are responsive to the licensee's application dated January 14, 1986, as supplemented on April 10, June 18, 1986 and January 15, 1987. The Commission's staff has prepared an Environmental Assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Change in Expiration Dates of Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, Duke Power Company, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Dockets Nos. 50–269, 50–270 and 50–287," dated January 22, 1987.

Summary of Environmental Assessment

The Commission's staff has reviewed the potential environmental impact of the proposed change in the expiration dates of the Operating Licenses for Oconee Nuclear Station, Units 1, 2 and 3. This evaluation considered the previous environmental studies, including the "Final Environmental Statement Related to Operation of Oconee Nuclear Station, Units 1, 2 and 3", March 1972, and more recent NRC policy.

Radiological Impacts

Based on the 1980 census, the population within 20 miles of the plant is estimated to increase about 90% over what was forecast in the FES based on the 1970 census. The actual permanent population within the low population boundary (six miles from the site) was 3620 in 1970 and is estimated to be 8900 in 2010. The staff concludes that the Low Population Zone and the nearest population center distances will likely be unchanged from those used for licensing the units. Therefore, the conclusion reached in the staff's Safety Evaluation in 1970 that Oconee Nuclear Station meets the requirements of 10 CFR Part 100 remains unchanged.

Station radiological effluents to unrestricted areas during normal operation have been well within Commission regulations regarding as-low-as-is-reasonably-achievable (ALARA) limits, and are indicative of future releases. In addition, the proposed additional years of reactor operation do not increase the annual public risk from reactor operation. Thus, the higher-than-projected population growth rate within 20 miles of the site does not change the environmental impact findings in the FES because its effects are offset by favorable radiological exposure from plant releases during normal operation and by low public risk from accidents.

With regard to normal plant operation, the licensee complies with Commission guidance and requirements for keeping radiation exposures "as low as is reasonably achievable" (ALARA) for occupational exposures and for radioactivity in effluents. The licensee would continue to comply with these requirements during any additional years of facility operation and also apply advanced technology when available and appropriate. Accordingly, radiological impacts on man, both onsite and offsite, are not significantly more severe than previously estimated in the FES and our previous cost-benefit conclusions remain valid.

The environmental impacts attributable to transportation of fuel and waste to and from the Oconee Nuclear Station, with respect to normal conditions of transport and possible accidents in transport, would be bounded as set forth in Summary Table S–4 of 10 CFR Part 51.52, and the values in Table S–4 would continue to represent the contribution of transportation to the environmental costs associated with the reactor.

Non-Radiological Impacts

The Commission has concluded that the proposed extension will not cause a significant increase in the impacts to the environment and will not change any conclusions reached by the Commission in the FES.

Finding of No Significant Impact

The Commission's staff has reviewed the proposed change to the expiration dates of the Oconee Nuclear Station, Units 1, 2 and 3, Facility Operating Licenses relative to the requirements set forth in 10 CFR Part 51. Based upon the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendments will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to this action, see (1) the application for amendments dated January 14, 1986, as supplemented on April 10, June 18, 1986 and January 15, 1987, (2) the Final Environmental Statement Related to Operation of Oconee Nuclear Station, Units 1, 2 and 3, issued March 1972, and (3) the Environmental Assessment dated January 22, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, Washington, DC, 20555 and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Dated at Bethesda, Maryland, this 22nd day of January, 1987.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate #6, Division of PWR Licensing–B.

[FR Doc. 87–1765 Filed 1–28–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactor Designs; Meeting

The ACRS Subcommittee on Advanced Reactor Designs will hold a meeting on February 4, 1987, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 4, 1987—8:30 A.M. until the conclusion of business

The Subcommittee will review DOE advanced non-LWR designs regarding the use of proven technology and standardization.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recording will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangement can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by the hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. M. El-Zeftawy (telephone 202/634-3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: January 21, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-1777 Filed 1-28-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-5 (EP Exercise)]

Long Island Lighting Co., (Shoreham Nuclear Power Station, Unit 1); Oral Argument

Notice of Oral Argument

Notice is hereby given that, in accordnce with the Appeal Board's order of January 21, 1987, oral argument on the pending petition of the Federal Emergency Management Agency (FEMA) seeking leave to appeal from portions of the Licensing Board's December 11, 1986 order in the emergency planning exercise phase of this operating license proceeding will be heard at *9:30 a.m. on Thursday, February 5, 1987, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Betheasda, Maryland.*

Dated: January 21, 1987.

For the appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 87-1778 Filed 1-28-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL and 50-444-OL; ASLBP No. 82-471-02 OL]

Public Service Co. of New Hampshire et al.; Reconstitution of Board

Pursuant to the authority contained in 10 C.F.R. § 2.721, the Atomic Safety and Licensing Board for *Public Service Company of New Hampshire, et al.* (Seabrook Station, Units 1 and 2) (Offsite Emergency Planning and Safety Issues), Docket Nos. 50-443-OL and 50-444-OL, is hereby reconstituted by appointing Administrative Judge Gustave A. Linenberger, Jr., in place of Administrative Judge Emmeth A. Luebke who does not plan to be available to serve through the expected completion date of this proceeding.

As reconstituted, the Board is comprised of the following Administrative Judges:

Helen F. Hoyt, Chairperson
Gustave A. Linenberger, Jr.
Jerry Harbour

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR § 2.701 (1980). The address of the new Board member is: Administrative Judge Gustave A. Linenberger, Jr., Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 20th day of January, 1987.

B. Paul Cotter, Jr.

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-1779 Filed 1-28-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15546]

Notice Under the Investment Company Act of 1940 Proposing To Amend Prior Commission Orders; American Pioneer Government Securities Fund, Inc., et al.

January 20, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Proposed Amendment by SEC of Orders Previously Granted Under the Investment Company Act of 1940 ("1940 Act").

Relevant 1940 Act Sections

As authorized by section 38(a), existing orders under section 11(a), and also in some cases under section 6(c), granting exemption from section 22(d), are proposed to be amended.

Summary of Proposed Amendment

The SEC is proposing to amend 50 orders previously issued under the 1940 Act ("Prior Orders") approving exchange transactions between open-end investment companies ("Subject Funds") that imposed administrative or other processing fees ("administrative fees") on the exchanges. The amendment would require the Subject Funds to conform their exchange transactions to the provisions of proposed rule 11a-3 (Release No. IC-15494), when adopted. Under the terms of the proposed rule the Subject Funds would, among other things, be required to disclose any administrative fees assessed on exchange transactions in their prospectuses and in any sales literature or advertising that describes an exchange offer. The names and addresses of the Subject Funds (and any relevant principal underwriter or distributor) are listed at the end of this Notice.

Hearing or Notification of Hearing

If no hearing is ordered on whether a Prior Order should be amended, it will be amended. Any interested person may request a hearing on amendment of a particular Prior Order or ask to be notified if a hearing is ordered. Any requests must be received by 5:30 p.m., on February 17, 1987 and addressed to: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Subject Fund (and its principal underwriter or distributor if listed at the end of this Notice) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

FOR FURTHER INFORMATION CONTACT: Glen A. Payne, Assistant Director (202) 272-3018 or Brian P. Kindelan, Attorney (202) 272-2048 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the facts and common terms under which the Prior Orders were granted, and a description of the action the SEC proposes to take; the complete applications on which the Prior Orders were based are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Statement of Facts

1. The Subject Funds are open-end, management investment companies registered under the 1940 Act, and in most cases, are funds within a "family of funds" (i.e., two or more registered open-end investment companies having the same investment adviser or principal underwriter that hold themselves out as related companies for purposes of investment and investor services). Each Subject Fund either individually, or as part of a fund family, has obtained an order under section 11(a) of the 1940 Act, and in some cases also under section 6(c), granting an exemption from

section 22(d) of the 1940 Act. These orders approved the terms under which Subject Fund shares may be exchanged for shares of other registered open-end investment companies (usually funds within the same family of funds and funds having the same principal underwriter as the fund family).

2. The terms of the Prior Orders permit the Subject Funds to charge administrative fees for exchange transactions, which are typically modest (e.g., $5.00 to $10.00), and are designed to defray expenses incurred and to discourage excessive exchanging. In addition, if the security acquired by exchange is subject to a higher sales load than the security being exchanged, a sales load may also be imposed to recoup the differential. This "sales load differential" generally equals any additional sales load that an investor would have to pay to purchase the security directly over the sales load already paid on the security being exchanged.

3. The SEC has proposed rule 11a–3 under the 1940 Act to permit registered open-end investment companies and their principal underwriters to make specified exchange offers to their shareholders without first obtaining approval by the SEC under section 11(a). Among other things, this proposed rule will allow funds to charge nominal administrative fees if the fees are disclosed and they are uniformly applied to all offerees of the class specified in the exchange offer. The proposed rule requires funds to disclose any administrative fees charged for exchange transactions in their prospectuses and in any sales literature or advertising that describes an exchange offer.

4. Section 38(a) of the 1940 Act authorizes the SEC to amend outstanding 1940 Act orders. Because of the importance of the requirements of proposed rule 11a–3, particularly the disclosure provisions, the SEC proposes amending the Prior Orders to conform them to the provisions of proposed rule 11a–3, when adopted. The proposed amendment will supplement the Prior Orders; a Subject Fund will continue to be required to comply with all of the terms and conditions of its Prior Order, as amended.

5. Proposed rule 11a–3 is discussed in Release No. IC–15494 (December 23, 1986) [51 FR 47260]. The period for commenting on the proposal will close March 31, 1987.

Exemption Holder Information

Following is a list of Subject Funds, their file numbers, notice numbers and dates, order numbers and dates, and addresses.

1. American Pioneer Government Securities Fund, Inc., American Pioneer Tax-Free Securities Fund, Inc. and Pioneer Securities, Inc. (File No. 812–5625; Notice IC–13644, 11/28/83; Order IC–13698, 01/05/84), 1121 E. Missouri Ave., Suite 200, Phoenix, AZ 85014.

2. Bullock Fund, Ltd., Bullock Tax-Free Shares, Inc., Canadian Fund, Inc., Dividend Shares, Inc., Monthly Income Shares, Inc., Nation-Wide Securities Co., Inc., and Calvin Bullock, Ltd., (File No. 812–4064; Notice IC–9645, 02/14/77; Order IC–9676, 03/14/77), 40 Rector Street, New York, NY 10006.

3. Bullock Fund, Ltd., Bullock Tax-Free Shares, Inc., Canadian Fund, Inc., Dividend Shares, Inc., Money Shares, Inc., Monthly Income Shares, Inc., Nation-Wide Securities Company, Inc., and Calvin Bullock, Ltd., (File No. 812–4221; Notice IC–10681, 05/03/79; Order IC–10724, 06/11/79), 40 Rector Street, New York, NY 10006.

4. Bullock Fund, Ltd., Bullock Tax-Free Shares, Inc., Canadian Fund, Inc., Dividend Shares, Inc., High Income Shares, Inc., Money Shares, Inc., Monthly Income Shares, Inc., Nation-Wide Securities Company, Inc. and Calvin Bullock, Ltd., (File No. 812–4733; Notice IC–11534; 01/05/81 Order IC–11605, 02/04/81), 40 Rector Street, New York, NY 10006.

5. Colonial Convertible & Senior Securities, Inc., Colonial Growth Shares, Inc., The Colonial Fund, Inc., Colonial Income Fund, Inc., and Colonial Management Associates, Inc., (File No. 812–4034; Notice IC–9617, 01/24/77; Order IC–9654, 02/24/77), One Financial Center, Boston, MA 02111.

6. Colonial Option Income Fund, Inc., and Colonial Management Associates, Inc., (File No. 812–4117; Notice IC–9863, 07/21/77; Order IC.–9894, 08/17/77), One Financial Center, Boston, MA 02111.

7. Colonial Tax-Managed Trust and Colonial Management Associates, Inc., (File No. 812–4379; Notice IC–10503, 11/30/78; Order IC–10537, 12/29/78), One Financial Center, Boston, MA 02111.

8. Continental U.S. Government Plus Fund Trust, Continental Capital Appreciation Plus Fund Trust, Continental Option Income Plus Fund II Trust, Continental Money Market Fund Trust and Continental Tax-Exempt Money Market Fund Trust (initial and future series), (File No. 812–6298; Notice IC–14973, 03/07/86; Order IC–15029, 180 Maiden Lane, Now York, NY 10038.

9. Daily Money Fund, Daily Tax-Exempt Money Fund, Equity Portfolio: Growth Equity Portfolio; Income, Fidelity California Tax-Free Fund, Fidelity Cash Reserves, Fidelity Congress Street Fund, Fidelity Contrafund, Fidelity Corporate Bond Fund, Fidelity Corporate Trust, Fidelity Daily Income Trust, Fidelity Destiny Fund, Fidelity Discoverer Fund, Fidelity Exchange Fund, Fidelity Freedom Fund, Fidelity Fund, Fidelity Government Securities Fund, Fidelity High Income Fund, Fidelity High Yield Municipals, Fidelity Institutional Cash Portfolios, Fidelity Institutional Tax-Exempt Cash Portfolios, Fidelity Limited Term Municipals, Fidelity Massachusetts Tax-Free Fund, Fidelity Money Market Trust, Fidelity Mortgage Securities Fund, Fidelity Municipal Bond Fund, Fidelity New York Tax-Free Fund, Fidelity Puritan Fund, Fidelity Qualified Dividend Fund, Fidelity Tax-Exempt Money Market Trust, Fidelity Thrift Trust, Fidelity Trend Fund, Fidelity U.S. Government Reserves Fund, Fixed Income Portfolios, Tax Exempt Portfolios, Variable Insurance Products Fund, Fidelity Equity-Income Fund Fidelity Magellan Fund, Fidelity Mercury Fund, Fidelity Overseas Fund, Fidelity Securities Fund: OTC Portfolio, Fidelity Select Portfolios, Fidelity Special Situations Fund, Fidelity Distributors Corporations ("Distributors") and any future similar investment companies principally underwritten by Distributors, (File No 812–6209; Notice IC–14871, 12/23/85; Order IC–14922, 1/28/86), 82 Devonshire St., Boston, MA 02109.

10. Delaware Fund, Inc., Decatur Fund, Inc., Delta Trust Fund, Inc., Delchester Bond Fund, Inc., DMC Tax-Free Income Trust-PA, DMC Tax-Free Income-USA, Inc., Delaware Group Government Fund, Inc., Delcap Fund, Inc., Delaware Cash Reserve, Delaware Tax-Free Money Fund, Inc., Delaware Treasury Reserves, Delaware Management Company, Inc. ("Management"), Delaware Distributors, Inc., ("Distributors") and other investment companies managed by Management or distributed by Distributors, (FIle No. 812–6276; Notice IC–15124, 06/02/86; Order IC–15186, 06/30/86), Ten Penn Center Plaza, Philadelphia, PA 19103.

11. Double Exempt Flex Fund, Inc., Double Exempt Capital Conservation Fund, Inc., Dougherty, Dawkins, Strand & Yost, Inc. ("Underwriter") and any future open-end investment companies principally underwritten or distributed by Underwriter, (File No. 812–6212; Notice IC–14768, 10/25/85; Order IC–14804, 11/19/85), 100 S. 5th St., Suite 2300, Minneapolis, MN 55402.

12. Drexel Series Trust (Money Market Series, Government Securities Series, Bnd Series, Growth Series,

Emergining Growth Series, Option Income Series and any additional series or classes of shares), (File No. 812–5968; Notice IC–14303, 01/04/85; Order IC–14343, 01/30/85), c/o Drexel Burnham Lambert, Inc., 60 Broad Street, New York, NY 10004.

13. Fenimore International Fund Inc. and Drexel Series Trust, (File No. 812–6335; Notice IC–15358, 10/14/86; Order IC–15432, 11/21/86), 60 Broad St., New York, NY 10004.

14. Franklin Money Fund, Research Capital Fund, Inc., Research Equity Funds, Inc., Franklin Custodian Fund, Inc., Franklin Option Fund, Inc., Franklin California Tax-Free Income Fund, Inc., Franklin New York Tax-Free Income Fund, Inc., Franklin Federal Money Fund, Franklin Tax-Exempt Money Fund, Franklin Cash Management Fund, Age High Income Fund, Inc., and Franklin Distributors, Inc., (File No. 812–5138; Notice IC–13134, 03/31/83; Order IC–13192, 04/26/83), 777 Mariners Island Blvd., San Mateo, CA 99404.

15. Heritage Capital Appreciation Trust, Heritage Cash Trust, Raymond James & Associates Inc. ("Associates") And other future investment companies underwritten by associates, (File No. 812–6259; Notice IC–14975, 03/07/86; Order IC–15032, 04/02/86), 1400 66th St., North, St. Petersburg, FL 33710.

16. Industrial Series Trust (Industrial Cash Management Fund, Industrial American Fund, Industrial Bond Fund, Industrial Option Income Fund, Industrial Government Securities Plus Fund and subsequent series), Mackenzie Investment Management Inc., ("Mackenzie") and additional funds offered by Mackenzie, (File No. 812–6224; Notice IC–15043, 04/07/86; Order IC–15088, 05/06/86), Suite 604, 1665 Palm Beach Lakes Blvd., West Palm Beach, FL 33401.

17. International Investors Incorporated and I.I.I. Securities Corporation, (File No. 812–3914; Notice IC–9214, 03/19/76; Order IC–9248, 04/16/76), 122 E. 42 St., New York, NY 10168.

18. International Investors Incorporated, Van Eck Funds (World Trends Fund, Gold/Resources Fund and U.S. Government Money Fund), Van Eck Securities Corporation ("Corporation") and any additional similar series principally underwritten by the Corporation, (File No. 812–6279; Notice IC–15131, 06/04/86; Order IC–15175, 06/27/86), 122 E. 42 St., New York, NY 10168.

19. IRI Stock Fund, Inc., Midas Gold Shares & Bullion, Inc., IRI Securities Corporation ("IRI") and future open-end investment companies principally underwritten or distributed by IRI, (File No. 812–6271; Notice IC–14911, 01/24/86; Order IC–14947, 02/20/86), One Appletree Square, Minneapolis, MN 55420.

20. Keystone Custodian Funds, Inc., The Keystone Company of Boston and Cornerstone Financial Services, Inc., (File No. 812–4206; Notice IC–9995, 11/07/77; Order IC–10050, 12/08/77), 99 High Street, Boston, MA 02110.

21. Keystone Custodian Funds, Inc., The Keystone Company of Boston, American Liquid Trust, Polaris Fund Inc., Cornerstone Financial Services, Inc., (File No. 812–4420; Notice IC–10591, 02/12/79; Order IC–10626, 03/13/79), 99 High St, Boston, MA 02110.

22. Kidder, Peabody Equity Income Fund, Inc., Kidder, Peabody Government Income Fund, Inc., Kidder, Peabody Special Growth Fund, Inc., Kidder, Peabody & Co. Incorporated ("Company") and similar funds distributed prinicipally by Company, (File No. 812–6359; Notice IC–15163, 06/23/86; Order IC–15222, 07/24/86), 20 Exchange Place, New York, NY 10005.

23. Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Capital Development Fund, Inc., Massachusetts Financial Development Fund, Inc., Massachusetts Financial Bond Fund, Inc., Massachusetts Financial Services, Inc., and Massachusetts Financial Services Company, (File No. 812–4072; Notice IC–9860, 07/20/77; Order IC–9904, 08/24/77), 200 Berkeley St., Boston, MA 02116.

24. Mutual Investing Foundation and Heritage Securities, Inc., (File No. 812–4549; Notice IC–11073, 03/07/80; Order IC–11111, 04/01/80), One Nationwide Plaza, Columbus, OH 43216.

25. Nationwide Investing Foundation (Nationwide Fund, Nationwide Growth Fund, Nationwide Bond Fund, Nationwide Money Market Fund, Nationwide U.S. Government Money Market Fund and future classes of shares) and Heritage Securities, Inc., (File No. 812–5330; Notice IC–12945, 01/04/83; Order IC–13029, 02/17/83), One Nationwide Plaza, Columbus, OH 43216.

26. New York Venture Fund, Inc. Venture Income Plus, Inc. and Venture Advisers, Inc., (File No. 812–4589; Notice IC–11593, 01/30/81; Order IC–11663, 03/04/81, P.O. Box 1688, 309 Johnson Street, Santa Fe, NM 87501.

27. Paine Webber CASHFUND, Inc., Paine Webber RMA Money Fund, Inc., Paine Webber RMA Tax-Free Fund, Inc., Paine Webber AMERICA Fund, Inc., Paine Webber ATLAS Fund, Inc., Paine, Webber, Jackson & Curtis Incorporated ("Distributor") and any additional investment companies principally under-written or distributed by Distributor, (File No. 812–5666; Notice IC–13776, 02/16/84; Order IC–13822, 03/14/84), 11 W. 42nd Street, New York, NY 10019.

28. PaineWebber Master Series, Inc., (File No. 812–6353; Notice IC–15116, 05/27/86; Order IC–15166, 06/23/86), 1285 Ave. of the Americas, New York, NY 10019.

29. Pilgrim Fund Inc., Magna Cap Fund, Inc., Magna Income Trust, Pilgrim GNMA Fund and Pilgrim Distributors Corp., (File No. 812–5960; Notice IC–14282, 12/18/84; Order IC–14323, 01/16/85), 222 Bridge Plaza South, Fort Lee, NJ 07024.

30. Pilgrim Fund, Inc., Pilgrim Formula Shares, Inc., Magna Cap Fund, Inc., Magna Income Trust and William Jennings & Co., Inc., (File No. 812–4137; Notice IC–9982, 10/31/77; Order IC–10039, 12/05/77), 222 Bridge Plaza South, Fort Lee, NJ 07024.

31. Principal World Fund, Inc., Principal Equity Fund, Inc., Principal Cash Management Fund, Inc. and Principal Investors Corporation (File No. 812–4966; Notice IC–12163, 01/15/82; Order IC–12255, 03/02/82), 6310 N. Scottsdale Road, Scottsdale, AZ 85283.

32. Principal World Fund, Inc., Principal Equity Fund, Inc., Principal Arizona Tax-Free Fund, Inc., Principal Investors Croporation ("Corporation") and any future open-end investment companies principally underwritten or distributed by Corporation, (File No. 812–6227; Notice IC–15018, 03/27/86; Order IC–15071 04/24/86, 6310 N. Scottsdale Rd., Scottsdale, AZ 85253.

33. Putnam Tax Exempt Income Fund, Putnam Convertible Fund, Inc., Putnam Daily Dividend Trust, Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc., Putnam Option Income Trust, and Putnam Fund Distributors Inc., (File No. 812–4083; Notice IC–9760, 05/09/77; Order IC–9795, 06/02/77), One Post Office Square, Boston, MA 02109.

34. RNC Liquid Assets Fund, Inc., RNC Regency Fund, Inc., RNC Income Fund, Inc., Midvale Securities Corporation ("Midvale") and subsequent investment companies principally underwritten by Midvale, (File No. 812–6227; Notice IC–15112, 05/23/86; Order IC–15158, 06/19/86), 11601 Wilshire Blvd., Penthouse, Los Angeles, CA 90025.

35. Safeco Equity Fund, Inc., Safeco Income Fund, Inc., Safeco Growth Fund, Inc., Safeco Special Bond Fund, Inc., and Safeco Securities, Inc., (File No. 812–4579; Notice IC–11031, 01/29/80; Order

IC-11059,. 02/27/80), Safeco Plaza, T-15, Seattle, WA 98185.

36. Securities Fund Investors, Inc., Templeton Funds, Inc., and Templeton Growth Fund, Ltd., (File No. 812-5405; Notice IC-13184, 04/22/83; Order IC-13259, 05/20/83), 405 Central Avenue, P.O. Box 3942, St Petersburg, FL 33731.

37. Securities Fund Investors, Inc., Templeton Funds, Inc. and Templeton Growth Fund, Ltd., (File No. 812-5406; Notice IC-13184, 04/22/83; Order IC-13259, 05/20/82), 405 Central Avenue, P.O. Box 3942, St. Petersburg, FL 33731.

38., Shearson Lehman Special Portfolios (Equity Growth Portfolio, Equity Plus Portfolio, International Equity Portfolio and future series), (File No. 812-6281; Notice IC-14955, 02/24/86; Order IC-14999, 03/18/86), Two World Trade Center, New York, NY 10048.

39. Shearson Lehman Special Portfolios (Option Income Portfolio, Long Term Government Securities Portfolio, Intermediate Term Government Securities Portfolio, Tax-Exempt Income Portfolio, and additional future similar series or classes), (File No. 812-6282; Notice IC-14957, 02/25/86; Order IC-15005, 03/19/86), Two World Trade Center, New York, NY 10048.

40. Shearson Lehnam Special Portfolios (Option Income Portfolio, Tax-Exempt Income Portfolio, Intermediate Term Government Securities Portfolio and future series), (File No. 812-6126; Notice IC-14668, 08/09/85; Order IC-14706, 09/05/85, Two World Trade Center, New York, NY 10048.

41. Strategic Investments Fund, Inc., Strategic Treasury Positions, Inc., Preferential Brokerage, Inc. ("Preferential") and future funds organized by Preferential, (File No. 812-5020; Notice IC-12203, 01/28/82; Order IC-12254, 03/02/82), 2030 Royal Lane, Dallas, TX 75229.

42. Strong Total Return Fund, Inc., Strong Investment Fund, Inc., Strong Opportunity Fund, Inc., Strong Income Fund, Inc., Strong Money Market Fund, Inc., Strong Tax-Free Income Fund, Inc., Strong Government Securities Fund, Inc., Strong/Corneliuson Capital Management, Inc. ("Management"), and subsequent similar funds principally underwritten by Management, (File No. 812-6412; Notice IC-15357, 10/14/86; Order IC-15411, 11/13/86), 815 E. Mason St., Milwaukee, WI 53202.

43. Sunbelt Growth Fund, Inc., Commerce Income Shares, Pilot Fund, Inc. and Funds, Inc., Service Corp., (File No. 812-5511; Notice IC-13268, 05/23.83; Order IC-13365, 06/24/83), 333 Clay Street, Suite 4300, Houston, TX 77002.

44. Sunbelt Growth Fund, Inc., Commerce Income Shares, Pilot Fund, Inc., and Funds, Inc. Services Corp., (File No. 812-5303; Notice IC-12743, 10/15/82; Order IC-12818, 11/16/82), 333 Clay Street, Suite 4300, Houston, TX 77002.

45. Templeton Growth Fund, Ltd., Templeton World Fund, Inc., and Securities Fund Investors, Inc., (File No. 812-4245; Notice IC-10140, 02-27-78; Order IC-10192, 04/06/78), 405 Central Avenue, P.O. Box 3942, St. Petersburg, FL 33731.

46. Templeton Growth Fund, Ltd. and Securities Fund Investors, Inc., (File No. 812-4148; Notice IC-9962, 10/18/77; Order IC-10018, 11/18/77), 405 Central Avenue, P.O. Box 3942, St. Petersburg, FL 33731.

47. Templeton World Fund, Inc. and Securities Fund Investors, Inc., (File No. 812-4219; Notice IC-10133, 02/23/78; Order IC-10172, 03/22/78), 405 Central Avenue, P.O. Box 3942, St. Petersburg, FL 33731.

48. The 44 Wall Street Equity Fund, Inc. and Forty Four Sales, Inc., (File No. 812-4690; Notice IC-11286, 08/06/80; Order IC-11322, 08/29/80), One State Street Plaza, New York, NY 10004.

49. The Advantage Government Securities Fund, The Adventage Income Fund, The Advantage Growth Fund and The Advantage Concept Fund, (File No. 812-6235; Notice IC-14889, 01/08/86; Orde IC-14927, 01/30/86), 60 State Street, Boston, MA 02109.

50. Wellington, Fund, Inc., Windsor Fund, Inc. and Wellington Company, Inc., (File No. 812-1671; Notice IC-3948, 04/01/64; Order IC-3959, 04/17/64), 1300 Morris Drive, P.O. Box 2600, Valley Forge, PA 19482.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-1780 Filed 1-28-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Values for War Risk Insurance; Correction

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Determination of ship values for war risk insurance, effective July 1, 1986.

SUMMARY: This document corrects a notice, published on January 21, 1987 (52 FR 2346), of the stated valuations of individual vessels upon which interim binders for war risk hull insurance have been issued. Inadvertently, the list of stated values for the respective vessels was not included in the notice. That list is provided below.

Dated: January 23, 1987.

James E. Saari,

Secretary.

FEDERAL REGISTER LIST OF SHIP VALUATIONS.—11/03/86: 13.89

Binder No.	Vessel name	Official No	Valuation 7/1/86
3321	Alaska Standard	278320	$150,000
3537	Alison C	513704	1,550,000
3647	Am Veteran (Austral Moon)	530142	8,000,000
2764	America Sun	523846	10,400,000
2812	American Apollo	529004	5,895,000
2869	American Aquarius	530999	5,895,000
2583	American Astronaut	520694	5,895,000
3360	American Heritage	577343	4,500,000
2446	American Lancer	514261	5,500,000
2550	American Lark	518444	5,500,000
2485	American Liberty	516464	5,500,000
2518	American Lynx	517450	5,500,000
3644	American Marketer	544303	8,500,000
3645	American Merchant	547288	8,500,000
3641	American Monarch	519937	705,000
3648	American Resolute	612715	13,250,000
3312	American Spirit	580245	44,000,000
3639	American Spitfire	518434	705,000
3640	American Titan	515976	705,000
3395	American Trader	530139	13,500,000
3642	American Trojan	517617	705,000
3654	Amoco Columbia	648470	5,660,000
3609	Amoco Florida	640014	10,375,000
3610	Amoco Georgia	643069	9,140,000
3607	Amoco Richmond	644241	5,660,000
3611	Amoco South Carolina	645759	12,260,000
3495	Arco Alaska	614544	32,000,000
3048	Arco Anchorage	548424	19,500,000
3518	Arco California	623291	32,000,000
233	Arco Endeavor	277623	675,000
3194	Arco Fairbanks	559400	19,500,000
3604	Arco Independence	586633	44,000,000
3142	Arco Juneau	556666	19,500,000
29000	Arco Prudhoe Bay	536496	11,295,000
2948	Arco Sag River	539313	11,295,000
3469	Argonaut	601377	13,250,000
1716	Ashley Lykes	292191	1,000,000
3385	Atigun Pass	586128	29,000,000
3608	Atlanta Bay	646348	5,660,000
3337	Austral Rainbow	530141	8,000,000
3636	Bay Ridge	600128	43,000,000
3357	Beaver State	572359	4,500,000
3522	Benjamin Harrison	624457	27,200,000
3315	Biehl Trader	582451	4,230,000
3316	Biehl Traveler	584617	4,230,000
3628	Blue Ridge	633428	35,600,000
3270	Boston	511485	490,000
1414	Brinton Lykes	288699	1,000,000
3408	Brooks Range	586130	29,000,000
3623	CG-461 Thru CG-480	543461-543480	30,000
3624	CG-481 thru CG-660	543481-543660	30,000
3457	Charles Lykes	577636	12,500,000
3350	Charleston	248095	675,000
3215	Chelsea	562416	3,500,000
3144	Cherry Valley	557503	3,500,000
3286	Chestnut Hill	577738	4,500,000
3394	Chevron Arizona	588320	11,500,000
2985	Chevron California	541563	11,500,000
3308	Chevron Colorado	577358	11,500,000
3372	Chevron Louisiana	584696	11,500,000
2992	Chevron Mississippi	542850	11,500,000
3309	Chevron Oregon	566080	11,500,000
3310	Chevron Washington	570709	11,500,000
3626	Coast Range	638709	35,600,000
3104	Coronado	553623	3,500,000
2944	Delaware Sea	245058	820,000
2806	Edgar M. Queeny	528567	5,555,000
3531	Edward Rutledge	625873	27,200,000
2086	Elizabeth Lykes	500702	910,000
3658	Energy Independence	657540	53,900,000
2980	Export Freedom	541414	5,000,000
3065	Export Patriot	548442	5,000,000
2593	Exxon Baltimore	282272	1,280,000
3056	Exxon Baton Rouge	524619	9,500,000
3465	Exxon Benicia	600478	29,000,000
2595	Exxon Boston	283784	1,345,000
3668	Exxon Charleston	658493	78,000,000
2599	Exxon Gettysburg	273362	1,600,000
2601	Exxon Houston	297151	4,240,000
2603	Exxon Jamestown	275519	1,600,000
2610	Exxon Lexington	276270	1,600,000
2606	Exxon New Orleans	298216	4,240,000

Binder No.	Vessel name	Official No	Valuation 7/1/86
3460	Exxon North Slope	600477	29,000,000
3057	Exxon Philadelphia	526792	9,500,000
3058	Exxon San Francisco	523626	9,500,000
2609	Exxon Washington	273896	1,600,000
3293	Fredericksburg	629297	7,850,000
3540	Freeport I	514966	5,500,000
3541	Freeport II	516720	5,500,000
3538	Gale B	292748	1,385,000
2556	Galveston	248242	675,000
2421	Genevieve Lykes	513140	910,000
3346	Glacier Bay	526588	10,785,000
2791	Golden Gate	526972	9,675,000
3512	Golden Monarch	566090	4,500,000
2861	10S 3301 Martha R. Ingram	531048	5,000,000
2935	10S 3302 Carol G. Ingram	538231	5,000,000
2108	Islander	292810	635,000
387	James Lykes	280564	975,000
1304	Jean Lykes	287103	975,000
3186	Jo Anne	541373	2,700,000
3366	Joe Sevier	500799	395,000
389	John Lykes	282772	975,000
390	Joseph Lykes	281326	975,000
3596	Joseph P. Grace	2129	630,000
3491	Kauai	621042	48,000,000
3456	Kenai	586127	22,150,000
3398	Keystone Canyon	586129	29,000,000
598	Keystoner	266730	650,000
3287	Kittanning	579572	4,500,000
3622	LB-726 Thru LB-966	550598-562966	30,000
1352	Leslie Lykes	487416	975,000
2403	Letitia Lykes	512187	910,000
3256	Long Beach	248240	1,080,000
2062	Louise Lykes	299938	910,000
3597	M.P. Grace	2774	1,080,000
2233	Mallory Lykes	504077	3,000,000
1356	Manhattan	287253	5,000,000
2763	Manukai	524219	16,120,000
2803	Manulani	528400	16,120,000
3492	Maoi	618705	880,000
2814	Marine Chemist	529399	4,600,000
2777	Marine Duval	245851	725,000
2133	Marine Floridian	246836	670,000
1812	Marine Texan	247563	550,000
1513	Marjorie Lykes	289873	1,000,000
3539	Martha B	299786	2,850,000
2109	Maunalei	246343	720,000
2649	Maunawili	246984	1,080,000
3410	Meton	278624	795,000
3152	Mobil Arctic	542026	19,500,000
2442	Mobil Meridian	286479	1,500,000
2525	Monmouth	242426	555,000
3301	Mormacsky	578288	3,675,000
3302	Mormacstar	569257	3,675,000
3303	Mormacsun	573770	3,675,000
2799	Mount Vernon Victory	284178	1,405,000
2800	Mount Washington	293097	1,415,000
1243	Nancy Lykes	286650	975,000
3348	New York	569583	9,000,000
3656	New York Sun	628783	26,810,000
3282	Newark	511486	675,000
3259	Oakland	248076	1,080,000
3577	Ogden Hudson	642151	43,500,000
3471	Ogden Leader	520839	5,555,000
2614	Ogden Wabash	520728	5,500,000
3515	Ogden Yukon	547919	11,065,000
2745	OMI Champion	523341	5,500,000
3470	OMI Charger	522864	5,555,000
3576	OMI Dynachem	638899	43,500,000
2591	OMI Willamette	518738	5,500,000
2827	Overseas Alaska	529795	9,760,000
3672	Overseas Alice	514928	4,455,000
2862	Overseas Arctic	530877	9,760,000
3378	Overseas Chicago	583412	19,500,000
3409	Overseas Harriette	590624	5,400,000
3533	Overseas Juneau	553137	19,500,000
3406	Overseas Marilyn	590623	5,400,000
3377	Overseas Natalie	287156	4,000,000
3386	Overseas New York	588001	19,500,000
3383	Overseas Ohio	586647	19,500,000
3671	Overseas Valdez	517186	4,455,000
3480	Overseas Vivian	518125	4,455,000
3399	Overseas Washington	588955	19,500,000
3313	P.L. 1-0740	564740	70,000
3260	Panama	248241	1,080,000
3472	Petersburg	291990	1,410,000
2560	Philadelphia	516541	675,000
3655	Philadelphia Sun	638073	30,000,000
2844	Pittsburgh	247275	1,000,000
3277	Portland	511487	675,000
3277	Portland (DUP)	511487	675,000
2501	President Adams	517120	1,700,000
2740	President Cleveland	521866	1,700,000
2447	President Fillmore	513860	3,885,000
3483	President Grant	530138	13,500,000
3485	President Hoover	530137	13,500,000
2526	President Jackson	517717	1,700,000
3030	President Jefferson	544900	8,500,000
3121	President Johnson	552109	8,500,000
1947	President Kennedy	296779	3,645,000
3677	President Lincoln	561627	35,000,000
3041	President Madison	546725	8,500,000
2416	President McKinley	512593	3,885,000
3678	President Monroe	655397	35,000,000
3120	President Pierce	552108	8,500,000
2398	President Taft	511653	3,885,000
2565	President Taylor	518517	1,700,000
1418	President Truman	287976	3,400,000
3484	President Tyler	530140	13,500,000
2359	President Van Buren	509581	3,885,000
3679	President Washington	653424	35,000,000
2622	President Wilson	520392	1,700,000
3396	Prince William Sound	570108	19,500,000
3147	Robert E. Lee	557033	9,800,000
2162	Ruth Lykes	502928	910,000
2846	San Pedro	248238	1,000,000
2918	Sansinena II	535020	11,170,000
3423	Santa Adela	504015	1,455,000
2752	Santa Juana	502726	1,455,000
3617	Sasstown	1876	855,000
3453	Sea-Land Adventure	594073	10,900,000
3100	Sea-Land Consumer	552818	9,250,000
3488	Sea-Land Defender	604246	26,750,000
3513	Sea-Land Developer	604247	26,750,000
2868	Sea-Land Economy	532410	7,000,000
3534	Sea-Land Endurance	606062	26,750,000
3489	Sea-Land Explorer	604248	26,750,000
3514	Sea-Land Express	604249	26,750,000
3527	Sea-Land Freedom	606065	26,750,000
3516	Sea-Land Independence	606061	26,750,000
3529	Sea-Land Innovator	606064	26,750,000
3451	Sea-Land Leader	594374	10,900,000
3487	Sea-Land Liberator	604245	26,750,000
3526	Sea-Land Mariner	606066	26,750,000
3450	Sea-Land Pacer	593980	10,900,000
3486	Sea-Land Patriot	604244	26,750,000
3452	Sea-Land Pioneer	594375	10,900,000
3131	Sea-Land Producer	552819	9,250,000
2867	Sea-Land Venture	531478	7,000,000
3517	Sea-Land Voyager	606063	26,750,000
1428	Shirley Lykes	289283	1,000,000
3627	Sierra Madre	641804	35,600,000
3344	Sohio Intrepid	533270	10,400,000
3345	Sohio Resolute	535357	10,400,000
982	Solon Truman	285889	975,000
2489	Spirit of Liberty	516521	4,455,000
3415	SS Maui	591709	39,000,000
2755	St. Louis	515620	1,000,000
2248	Stella Lykes	504982	3,000,000
3148	Stonewall Jackson	557034	9,800,000
3413	Stuyvesant	584459	43,000,000
3606	Tallahassee Bay	640635	5,660,000
2927	Texas Sun	283897	1,430,000
3536	Theresa F	516158	1,550,000
405	Thompson Lykes	283413	975,000
3431	Thompson Pass	586131	29,000,000
3618	Timbo	1778	855,000
3391	Tonsina	585629	22,530,000
2418	Transcolorado	248806	450,000
2419	Transcolumbia	248702	450,000
3657	Tropic Sun	275583	840,000
2270	Valley Forge	505786	4,265,000
3652	Virginia Bay	642492	10,375,000
3361	WA-1-001/0302—0304/0450	551001	30,000
3362	WA-2-0451-2-0575	567451	30,000
3621	WA-3-0576 Thru WA-3-0725	608713-608862	35,000
2928	Western Sun	268798	1,130,000
3599	William R. Grace	2015	650,000
411	Zoella Lykes	282126	975,000

[FR Doc. 87-1774 Filed 1-28-87; 8:45 am]
BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Dated: January 21, 1987.

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 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: 1545-0415
Form Number: W-4P
Type of Review: Revision
Title: Withholding Certificate for Pension and Annuity Payments
Clearance Officer: Garrick Shear (202) 566-6150), Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 355-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Financial Management Service

OMB Number: 1510-0048
Form Number: None
Type of Review: Extension
Title: Minority Bank Deposit Program Savings and Loan Association Certification Form for Admission
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. 87-1789 Filed 1-28-87; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 19
Thursday, January 29, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, January 28, 1987, see times below.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

MATTERS TO BE CONSIDERED:

10:00 a.m.

Open to the Public

1. Program Overview: Fire/Burn; Household

The staff will brief the Commission on an overview of activities in the Fire Hazards Program and the Household Structural Products Program.

2:30 p.m.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

January 27, 1987.

[FR Doc. 87–1857 Filed 1–27–87; 4:06 am]

BILLING CODE 65355–01–M

FEDERAL ELECTION COMMISSION

[Federal Register No. 87–1527]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, January 27, 1987, 10:00 a.m. This closed meeting was postponed to Thursday, January 29, 1987, immediately following close of open meeting.

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENDA OF OPEN MEETING OF JANUARY 29, 1987: Recently closed enforcement cases: MURS 2110 and 2260.

DATE AND TIME: Tuesday, February 3, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, February 5, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC, Ninth Floor.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinion 1986–45—Richard M. Daly on behalf of Jeff Bingaman for U.S. Senate Committee.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 87–1831 Filed 1–27 87; 2.17 pm]

BILLING CODE 6710–01–M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Tuesday, February 3, 1987. If not concluded on this date, the hearing will continue at 10:00 a.m. on Thursday, February 5, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Hearing before the Board of Governors on applications by Citicorp, J.P. Morgan & Co. Incorporated, and Bankers Trust New York Corporation, all of New York, New York, to underwrite and deal in commercial paper, mortgage-backed securities, municipal revenue bonds, and consumer-related receivables to a limited extent through wholly owned subsidiaries.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 27, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–1829 Filed 1–27–87; 1:58 pm]

BILLING CODE 6210–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Tuesday, February 3, 1987.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first item will be open to the public. The last four items will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Midwest Express Airlines Flight 105, McDonnell Douglas DC–9 14, N100ME, General Billy Mitchell Field, Milwaukee, Wisconsin, September 6, 1985.
2. *Opinion and Order:* Administrator v. Stear, Docket SE–7100; disposition of respondent's appeal.
3. *Order and Order: Administrator v. Robinson, Docket SE–7217; disposition of the Administrator's appeal.*
4. *Opinion and Order:* Commandant v. Murphy, Docket ME–122, disposition of seaman's appeal.
5. *Order:* Administrator v. Ruggles, Docket SE–7395; disposition of respondent's request for reconsideration.

FOR MORE INFORMATION CONTACT: Ray Smith (202) 382–6525.

Ray Smith,

Federal Register Liaison Officer.

January 27, 1987.

[FR Doc. 87–1854 Filed 1–27–87; 3:58 pm]

BILLING CODE 7533–01–M

SECURITIES AND EXCHANGE COMMISSION

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission held a closed meeting on Tuesday, January 20, 1987 at 3:00 p.m., to consider the following item.

Settlement of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Cox, Peters, Grundfest and Fleischman, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272-3195.

Jonathan Katz,

Secretary.

January 21, 1987.

[FR Doc. 87-1856 Filed 1-27-87; 4:02 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 19
Thursday, January 29, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents. 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

School Breakfast and Child Care Food Programs; Increase in Breakfast Reimbursement

Correction

In notice document 87–1152 beginning on page 2122 in the issue of Tuesday, January 20, 1987, make the following correction:

On page 2122, in the third column, in the first complete paragraph, in the 13th line, "1966" should read "1986".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 76P–0296–PRC and 84N–0153]

Food Labeling; Definitions of Cholesterol Free, Low Cholesterol, and Reduced Cholesterol

Correction

In proposed rule document 86–26597 beginning on page 42584 in the issue of Tuesday, November 25, 1986, make the following corrections:

1. On page 42589, in the first column, in the first complete paragraph, in the 22nd line, remove "27".

2. Also on page 42589, in the third column, in the first complete paragraph, in the 14th line, remove "a".

BILLING CODE 1505–01–D

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