

2-18-87

Vol. 52 No. 32

Pages 4887-5068

Federal Register

Wednesday
February 18, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Houston, TX, and Atlanta,
GA, see announcement on the inside cover of this issue.



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for \$340.00 per year, or \$170.00 for 6 months, payable in advance. The charge for individual copies is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under **INFORMATION AND ASSISTANCE** in the **READER AIDS** section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

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.

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

ATLANTA, GA

WHEN: March 26; at 9 am.

WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Call the Atlanta Federal Information Center, 404-331-2170.

Contents

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 1987

Agency for International Development

NOTICES

Meetings:

Research Advisory Committee, 4977

Agriculture Department

See Animal and Plant Health Inspection Service; Farmers Home Administration; Soil Conservation Service

Animal and Plant Health Inspection Service

RULES

Swine health protection:

License cancellation; inactive garbage treatment facilities, etc., 4889

Army Department

See also Engineers Corps

NOTICES

Meetings:

Science Board, 4927

Arts and Humanities, National Foundation

See National Foundation on the Arts and Humanities

Bonneville Power Administration

NOTICES

Pacific Northwest-Pacific Southwest Intertie access policy: Near term, 4928

Commerce Department

See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service

Commercial Space Transportation Office

NOTICES

Expendable launch vehicle commercialization agreement; comments on Air Force model agreement draft, 4986

Committee for the Implementation of Textile Agreements

NOTICES

Caribbean Basin Initiative; special access program; seminar, 4927

Defense Department

See Army Department; Engineers Corps

Economic Regulatory Administration

NOTICES

Consent orders:

Patton Oil Co., 4930

Natural gas exportation and importation:

Home Oil Resources Ltd., 4931

Minnegasco Inc., 4931

Ocean State Power, 4933

Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:

Oxy-Alkali Cogeneration Corp., 4934

(2 documents)

Education Department

NOTICES

Data acquisition activities involving educational agencies and institutions, 4928

Employment Policy, National Commission

See National Commission for Employment Policy

Energy Department

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

Energy Research Office

NOTICES

Grants; availability, etc.:

Special and basic research programs, 4947

Engineers Corps

NOTICES

Environmental statements; availability, etc.: Cleveland Harbor, OH, 4927

Environmental Protection Agency

RULES

Air quality implementation plans; approval and promulgation; various States:

Indiana, 4902

Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:

Cyano(3-phenoxyphenyl)-methyl-4-chloro-alpha-(methylethyl)benzeneacetate, 4906

Fenoxaprop-ethyl

Correction, 4992

Mineral oil, 4905

PROPOSED RULES

Air pollution; standards of performance for new stationary sources:

Residential wood heaters, 4994

Residential wood heaters, listing, 5065

Air quality implementation plans; approval and promulgation; various States:

Ohio, 4921

Utah, 4921

NOTICES

Pesticides; emergency exemption applications:

Dinoseb, 4963

Harmony, 4962

Pursuit, 4961

Equal Employment Opportunity Commission

RULES

Procedural regulations:

Deputy Legal Counsel; authority delegation, 4902

NOTICES

Meetings; Sunshine Act, 4987

Executive Office of the President

See Presidential Documents

Farmers Home Administration**PROPOSED RULES**

Program regulations:

General revision of farmer programs, 4913

Federal Aviation Administration**RULES**

Airworthiness directives:

Avions Marcel Dassault-Breguet Aviation, 4892

Restricted areas, 4894, 4895

(2 documents)

Terminal control areas, 4893

VOR Federal airways, 4893

PROPOSED RULES

Airworthiness directives:

Beech, 4914

Mitsubishi, 4915

Control zones, 4916

Federal Communications Commission**NOTICES**

Meetings; Sunshine Act, 4987

(3 documents)

Federal Energy Regulatory Commission**RULES**

Electric utilities (Federal Power Act):

Rate of return on common equity for public utilities;
generic determination

Correction, 4896

NOTICES

Meetings; Sunshine Act, 4987

Natural gas certificate filings:

Columbia Gas Transmission Corp. et al., 4942

Applications, hearings, determinations, etc.:

Amoco Production Co., 4937

Arkla Energy Resources et al., 4938

Citizens Energy Corp. et al., 4942

Diamond Shamrock Exploration Co., 4947

Energy Marketing Exchange, Inc., 4935

Mobil Oil Corp., 4935

Pacific Gas & Electric Co., 4947

Panhandle Gas Co. et al., 4936

Petro-Lewis Funds, Inc., 4937

Samedan Oil Corp., 4937

Federal Home Loan Bank Board**RULES**

Federal Savings and Loan Insurance Corporation:

Employment contracts; technical amendments, 4891

NOTICES*Applications, hearings, determinations, etc.:*

Americana Savings Bank, 4967

Bristol Federal Savings Bank, 4968

Federated Financial Savings & Loan Association, 4968

Federal Mine Safety and Health Review Commission**NOTICES**

Meetings; Sunshine Act, 4989

Fish and Wildlife Service**RULES**

Endangered and threatened species:

Hayun Lagu (or tronkon guafi), 4907

PROPOSED RULES

Endangered and threatened species:

Flattened musk turtle, 5068

NOTICESEndangered and threatened species permit applications,
4976**Food and Drug Administration****RULES**

Animal drugs, feeds, and related products:

Medicated feed application procedures

Editorial amendments; correction, 4992

Nitrofurazone solution, 4897

NOTICES

Animal drugs, feeds, and related products:

Decoquinat; environmental data availability, 4968

Medical devices; premarket approval:

Kelman Omnifit II Anterior Chamber Intraocular lens,
(Model 2100), 4969

N & N 1500 (Mafilcon) Soft Contact Lens; correction, 4992

Paraperm E.W. (Pasifocon C) Rigid Gas Permeable
Contact Lens, 4968**Foreign-Trade Zones Board****NOTICES***Applications, hearings, determinations, etc.:*

Oklahoma—

Tubular Corp. of America, Inc., 4925

Health and Human Services Department*See* Food and Drug Administration; Health Care Financing
Administration**Health Care Financing Administration****NOTICES**

Medicaid:

State plan amendments, reconsideration; hearings—
Missouri, 4970

Privacy Act; systems of records, 4971

Hearings and Appeals Office, Energy Department**NOTICES**

Applications for exception:

Cases filed, 4949-4951

(3 documents)

Decisions and orders, 4953-4960

(5 documents)

Remedial orders:

Objections filed, 4959, 4960

(3 documents)

Applications, hearings, determinations, etc.:

Cases filed, 4948-4952

(3 documents)

Housing and Urban Development Department**RULES**

Community development block grants:

Indian tribes and Alaskan Native villages—

Selection process, 4897

Immigration and Naturalization Service**PROPOSED RULES**

Aliens:

Admission of refugees, 4913

Indian Affairs Bureau**NOTICES**Agency information collection activities under OMB review,
4973

Reservation establishment, additions, etc.:

Nisqually Indian Reservation, WA, 4972

Interior Department

See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service

International Development Cooperation Agency

See Agency for International Development

International Trade Administration**NOTICES**

Meetings:

President's Export Council, 4925

Interstate Commerce Commission**NOTICES**

Railroad operation, acquisition, construction, etc.:

Addison, Edward L., 4978

Delaware & Hudson Railway Co., 4977

Justice Department

See Immigration and Naturalization Service

Land Management Bureau**RULES**

Public land orders:

Alaska, 4907

NOTICES

Meetings:

Bakersfield District Advisory Council, 4975

Vale District Grazing Advisory Board, 4974

Motor vehicles; off-road vehicle designations:

California, 4975

Oil and gas leases:

New Mexico, 4974, 4975

(2 documents)

Withdrawal and reservation of lands:

Colorado, 4973, 4974

(3 documents)

Mine Safety and Health Federal Review Commission

See Federal Mine Safety and Health Review Commission

National Aeronautics and Space Administration**NOTICES**

Meetings:

Advisory Council, 4978

National Archives and Records Administration**NOTICES**

Agency records schedules; availability, 4979

National Commission for Employment Policy**NOTICES**

Meetings, 4980

National Foundation on the Arts and Humanities**NOTICES**

Meetings:

Design Arts Advisory Panel, 4980

Music Advisory Panel, 4980

National Oceanic and Atmospheric Administration**RULES**

Fishery conservation and management:

Pacific Coast groundfish, 4910

Weather modification activities; reporting and recordkeeping requirements, 4896

PROPOSED RULES

Fishery conservation and management:

Gulf of Mexico and South Atlantic coastal migratory pelagic resources, 4924

NOTICES

Committees; establishment, renewals, terminations, etc.:

National Fish and Seafood Promotional Council, 4926

Permits:

Marine mammals, 4925

National Park Service**NOTICES**

National Register of Historic Places:

Pending nominations—

California et al., 4976

National Technical Information Service**NOTICES**

Patent licenses, exclusive:

Bio-Rad Laboratories, 4977

Nuclear Regulatory Commission**NOTICES**

Environmental statements; availability, etc.:

Minerals Exploration Co., 4982

Meetings:

Reactor Safeguards Advisory Committee

Proposed schedule, 4980

Meetings; Sunshine Act, 4989

Applications, hearings, determinations, etc.:

Carolina Power & Light Co.; correction, 4982

Florida Power & Light Co., 4982

Occupational Safety and Health Review Commission**PROPOSED RULES**

Procedure rules, 4917

Postal Service**NOTICES**

Meetings; Sunshine Act, 4990

Presidential Documents**PROCLAMATIONS**

Special observances:

Thanksgiving, National Year of (Proc. 5608), 4887

Public Health Service

See Food and Drug Administration

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

Midwest Securities Trust Co., 4984

Applications, hearings, determinations, etc.:

Bankers Life Assurance Co. of Nebraska et al., 4983

Small Business Administration**NOTICES**

License surrenders:

Cogeneration Capital Fund, 4986

Meetings; regional advisory councils:

Florida, 4985

Soil Conservation Service**NOTICES**

Environmental statements; availability, etc.:

Wythoughan Park-Yellow River Bank, IN, 4925

Tennessee Valley Authority**NOTICES**

Meetings; Sunshine Act, 4990

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Transportation Department

See Commercial Space Transportation Office; Federal Aviation Administration

Treasury Department**NOTICES**

Agency information collection activities under OMB review, 4986

Western Area Power Administration**NOTICES**

Environmental statements; availability, etc.:

Charlie Creek-Belfield 345-kv transmission line project, ND, 4961

Separate Parts In This Issue**Part II**

Environmental Protection Agency, 4994

Part III

Department of the Interior, Fish and Wildlife Service, 5068

Reader Aids

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

5608..... 4887

7 CFR**Proposed Rules:**

1809..... 4913

1900..... 4913

1902..... 4913

1910..... 4913

1924..... 4913

1941..... 4913

1943..... 4913

1945..... 4913

1951..... 4913

1955..... 4913

1962..... 4913

1965..... 4913

1980..... 4913

8 CFR**Proposed Rules:**

207..... 4913

9 CFR

166..... 4889

12 CFR

563..... 4891

14 CFR

39..... 4892

71 (2 documents)..... 4893

73 (2 documents)..... 4894,

4895

Proposed Rules:

39 (2 documents)..... 4914,

4915

71..... 4916

15 CFR

908..... 4896

18 CFR

37..... 4896

21 CFR

207..... 4992

524..... 4897

558..... 4992

24 CFR

571..... 4897

29 CFR

1600..... 4902

1610..... 4902

1691..... 4902

Proposed Rules:

2200..... 4917

40 CFR

52..... 4902

180 (3 documents)..... 4905,

4906

Proposed Rules:

52 (2 documents)..... 4921

60 (2 documents)..... 4994,

5065

43 CFR**Public Land Orders:**

6639..... 4907

50 CFR

17..... 4907

663..... 4910

Proposed Rules:

17..... 5068

642..... 4924

Presidential Documents

Title 3—

Proclamation 5608 of February 12, 1987

The President

National Year of Thanksgiving, 1987

By the President of the United States of America

A Proclamation

We, as a people, have been truly blessed, and for these blessings we should be everlastingly grateful to the God to Whose providence this Nation was committed from its very inception. President Washington issued a Thanksgiving Proclamation in 1789 "to recommend to the people of the United States a day of public thanksgiving and prayer to be observed by acknowledging with grateful heart the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness."

To remind us of our own rich heritage and the blessings of life in America, 1987 has been designated the National Year of Thanksgiving. It is no coincidence that this is the year in which we celebrate the 200th anniversary of our Constitution.

The early settlers of our country possessed a strength and a conviction based on their faith in God that helped them withstand the rigors and hardships of carving a nation out of wilderness. They laid a firm foundation built on the worth, dignity, and inalienable rights of the individual. For sustaining them and granting them success in bringing forth on this continent a new Nation, they praised the Almighty and His mercy.

Throughout our history our Presidents have summoned the Nation to continue this tradition of praise and thanksgiving. From George Washington kneeling in the snow at Valley Forge to Abraham Lincoln praying for the preservation of the Union to Franklin Roosevelt expressing confidence the prayers of mankind would bring us through to victory, we have turned with faith and trust to the One Who holds the whole wide world in His hands.

The national celebration of the Bicentennial of the Constitution also gives us an opportunity to remember and honor those who gathered in Philadelphia to forge a document that would provide a blueprint for this great Nation. Benjamin Franklin, the oldest member of the Assembly, reminded his fellow delegates that God had heard their prayers during their struggle for Independence. Should they not remember, he asked, that God governs in the affairs of men? "If a sparrow cannot fall without His notice," he urged them, "how can an empire rise without His aid?"

We look to the future of our Nation in this same spirit. Let us thank God for our constitutional form of government, for our precious freedoms of speech, assembly, religion, and the press, and for all those who sacrificed to preserve them in peace and in war for two centuries.

In recognition of the vital role that expressions of thanksgiving play in our national heritage, the Congress, by Public Law 99-265, has designated 1987 as a "National Year of Thanksgiving" 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 1987 as a National Year of Thanksgiving, and I urge all Americans during this year to celebrate and demonstrate our gratitude for God's blessings and to be grateful for our heritage and our future.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of February, 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. 87-3424
Filed 2-13-87; 11:45 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 1987

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 86-059]

Swine Health Protection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning swine health protection to require the cancellation of the license held by the operator of a garbage treatment facility that for 4 consecutive months treats no garbage, and to provide a mechanism for a licensee to request cancellation of his or her license. These amendments are necessary to eliminate unnecessary visits by our inspectors to inactive facilities, and thereby save us unnecessary expenditure of workhours.

EFFECTIVE DATE: March 20, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. G.H. Frye, VS, APHIS, USDA, Room 839, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1986, we published a document in the *Federal Register* (51 FR 9682-9684), in which we proposed to amend the regulations in 9 CFR Part 166 (referred to below as the regulations), which contain provisions concerning swine health protection. Specifically, we proposed to require the cancellation of the license held by the operator of a garbage treatment facility that treats no garbage for 3 consecutive months, and also to provide a mechanism for a licensee to request cancellation of his or her license. These amendments are

necessary to eliminate unnecessary visits by our inspectors to inactive facilities, and thereby save us an unnecessary expenditure of workhours.

We solicited comments concerning the proposal for a 60-day period ending May 19, 1986, and received eight comments. These comments were from private individuals, the American Farm Bureau Federation, and a State department of agriculture.

Several commenters favored the adoption of the proposed rule without change. One commenter favored the proposal on the condition that we streamline the process of reissuing a license after cancellation. Others suggested retention of the cancellation provision, but with certain changes to lengthen the period of inactivity prior to cancellation or to otherwise accommodate operators who cease treatment of garbage for a temporary and predictable period. One commenter was concerned that APHIS could not legally cancel a license that in some cases is issued by a State.

We have carefully considered all of the comments submitted in response to the proposal, and discuss below the issues raised by the comments.

Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed below.

Cancellation Provision

We proposed that the license of an operator licensed to cook garbage for feeding to swine be canceled when the operator treats no garbage for a minimum of 3 consecutive months. Several commenters expressed concern that an operator who ceases garbage treatment for more than 3 months due to the temporary cessation of a source of garbage would not be able to resume operations speedily once the source of garbage was renewed. Several commenters noted that this would particularly affect operators who obtain their garbage from schools, which close down for 3 months each year. Since such cessations occur on a predictable basis annually, the commenters believe that the cost and inconvenience to both the operator and the Department in cancelling and then reissuing the licenses would be unnecessary.

Commenters presented three options for circumventing this problem. These

were: (1) Giving an operator the option of requesting inactive status for his or her license to accommodate a temporary cessation of treatment operations; (2) giving the Area Veterinarian in Charge the option of cancelling the license of an inactive operator, but not making it mandatory; and (3) extending the allowable period of inactivity before cancellation from 3 months to some longer period of time.

We have adopted the third option. Recognizing the legitimate concerns of operators who do temporarily cease garbage treatment, we are allowing a 4-month period of inactivity before cancelling a license. This provision will accommodate operators who annually lose their source of garbage during the school year's summer vacation.

We are rejecting the suggestion to allow for an inactive license. Such a provision would create unnecessary paperwork and administrative requirements for operators who do regularly shut down during summer vacation, compared to the alternative of extending the period of time before cancellation. The suggestion to give the Area Veterinarian in Charge the discretion to cancel or not cancel a license instead of requiring cancellation after a certain period of inactivity is rejected on the grounds that it could lead to frequent disputes between operators and APHIS over whether a license had been wrongfully canceled.

It is important to be aware that § 166.12(c) of the final rule provides, among other things, that a person whose license has been canceled, based upon the failure to treat garbage at the facility for a period of four consecutive months, may apply for a new license at any time by following the procedure for obtaining a license set forth in § 166.10.

Other Comments

As noted, one commenter supported the proposal to cancel a license after 3 months of inactivity, but only if we streamline the process of reissuing a license after cancellation. We are making no changes based on this comment. We believe that the adopted rule changes pertaining to a longer period of inactivity before cancellation will accommodate the majority of operators who temporarily cease garbage treatment operations.

One commenter expressed concern that we could not legally cancel a

license issued by a State that has entered into a cooperative agreement with us under § 166.14(d) of the present regulations. We are making no changes based on this comment. A State that has entered into such an agreement is one that has agreed to cooperate with us in enforcing the regulations, and must cancel a license when the facts are such that a cancellation would be required under the regulations.

Area Veterinarian in Charge

In the document of March 20, 1986, we proposed changing the language throughout the regulations from "Area Veterinarian in Charge" to "Veterinarian in Charge." We are not making this proposed change, however, because it does not conform to the official title of the Area Veterinarian in Charge.

Miscellaneous

This document also makes certain nonsubstantive changes in the regulations for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

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

The cancellation provisions in this document apply only to those facilities that have already become inactive, and any person who has a license canceled pursuant to this rule will be eligible to reapply for a license to operate the facility again after any such cancellation.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection provisions that are included in this rule have been approved by the

Office of Management and Budget (OMB) and have been given the OMB control number 0579-0065.

Executive Order 12372

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

List of Subjects in 9 CFR Part 166

African swine fever, Animal diseases, Foot-and-mouth disease, Garbage, Hog cholera, Hogs, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, 9 CFR Part 166 is amended as follows:

1. The authority citation for 9 CFR Part 166 continues to read as follows:

Authority: 7 U.S.C. 3802, 3803, 3804, 3808, 3809, 3811; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 166.1 is amended by removing the definitions for "Administrator", "Birds" and "Department".

3. Section 166.1 is amended by revising the definitions of the word "Inspector" and the terms "Animal and Plant Health Inspection Service (APHIS)", "Deputy Administrator" and "State Animal Health Official" to read as follows:

§ 166.1 Definitions in alphabetical order.

* * * * *
Animal and Plant Health Inspection Service. Animal and Plant Health Inspection Service, United States Department of Agriculture.
 * * * * *

Deputy Administrator. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other official to whom authority is delegated to act for the Deputy Administrator.
 * * * * *

Inspector. Any individual employed by the United States Department of Agriculture or by a State for the purposes of enforcing the Act and this part.
 * * * * *

State animal health official. The individual employed by a State who is responsible for livestock and poultry disease control and eradication programs or any other official to whom

authority is delegated to act for the State animal health official.
 * * * * *

§ 166.2 [Amended]

4. In paragraph (b) of § 166.2, the reference to "of dissemination" is changed to "or dissemination".

5. In paragraph (c) of § 166.2, the word "Federal" is removed.

§ 166.4 [Amended]

6. In paragraph (b) of § 166.4, the reference to "§ 166.13" is changed to "§ 166.14".

§ 166.5 [Amended]

7. In paragraph (b) of § 166.5, the reference to "§ 166.13(b)" is changed to "§ 166.14(b) of this part".

§ 166.6 [Amended]

8. In § 166.6, the reference to "§ 166.13(b)" is changed to "§ 166.14(b) of this part".

§ 166.8 [Amended]

9. In § 166.8, the reference to "§ 166.13(c)" is changed to "§ 166.14(c) of this part".

§ 166.9 [Amended]

10. In paragraph (d) of § 166.9, the reference to "(one)" is removed.

§ 166.10 [Amended]

11. In paragraph (a) of § 166.10, the words "of this part" are inserted immediately after the reference to "§ 166.2(a)".

12. In paragraph (c)(1) of § 166.10, the word "his" is changed to "the" both times it appears.

13. In paragraph (c)(2) of § 166.10, the word "his" is changed to "the" and the term "authorized representative of the Secretary" is changed to "inspector".

14. In paragraph (d) of § 166.10, the word "Federal" and the reference to "(one)" is removed.

§ 166.11 [Amended]

15. In paragraph (b) of § 166.11, the word "Federal" is removed and the word "he" is changed to "the Deputy Administrator".

16. In paragraph (d) of § 166.11, the word "his" is changed to "such person's" both times it appears, the reference to "(one)" is removed, and the words "of this part" are inserted immediately after the reference to "§ 166.10".

§ 166.12 [Amended]

17. In paragraph (c) of § 166.12, the reference to "(thirty)" is removed.

18. In paragraph (d) of § 166.12, the reference to "authorized representative

of the Department" is changed to "inspector".

§ 166.13 [Amended]

19. In paragraph (a) of § 166.13, the reference to "§§ 71.10(b) and 71.11 of Title 9, Code of Federal Regulations", is changed to "§§ 71.10(b) and 71.11 of this chapter".

20. In paragraph (b) of § 166.13, the words "as defined in Part 160 of this chapter" are inserted immediately after the words "accredited veterinarian", the reference to "§ 166.13(a)" is changed to "paragraph (a) of this section", and the reference to "State Animal Health Official" is changed to "State animal health official".

21. In paragraph (c) of § 166.13, the reference to "§ 166.13(a)" is changed to "paragraph (a) of this section".

22. In paragraph (d) of § 166.13, the reference to "Department of Agriculture" is changed to "United States Department of Agriculture".

§ 166.14 [Amended]

23. In paragraph (d) of § 166.14, the reference to "USDA" is changed to "United States Department of Agriculture".

24. In paragraph (e) of § 166.14, the reference to "the public" is changed to "The public", the reference to "U.S." is changed to "United States" each time it appears, and the references to "(APHIS)", "(USDA)", and "(usually the State Veterinarian)" are removed.

§§ 166.12, 166.13, and 166.14

[Redesignated as §§ 166.13, 166.14, and 166.15]

25. Present §§ 166.12, 166.13, and 166.14 are redesignated as §§ 166.13, 166.14 and 166.15 respectively and new § 166.12 is added to read as follows:

§ 166.12 Cancellation of licenses.

(a) The Area Veterinarian in Charge or, in States listed in § 166.15(d) of this part, the State animal health official shall cancel the license of a licensee when the Area Veterinarian in Charge or, in States listed in § 166.15(d) of this part, the State animal health official finds that no garbage has been treated for a period of 4 consecutive months at the facility operated by the licensee. Before such action is taken, the licensee of the facility will be informed in writing of the reasons for the proposed action and be given an opportunity to respond in writing. In those instances where there is a conflict as to the facts, the licensee shall, upon request, be afforded a hearing in accordance with rules of

practice which shall be adopted for the proceeding.

(b) Any licensee may voluntarily have his or her license canceled by requesting such cancellation in writing and sending such request to the Area Veterinarian in Charge,¹ or, in States listed in § 166.15(d) of this part, to the State animal health official. The Area Veterinarian in Charge or, in States listed in § 166.15(d) of this part, the State animal health official shall cancel such license and shall notify the licensee of the cancellation in writing.

(c) Any person whose license is canceled in accordance with paragraph (a) or (b) of this section may apply for a new license at any time by following the procedure for obtaining a license set forth in § 166.10 of this part.

Done at Washington, DC, this 12th day of February 1987.

B.G. Johnson,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-3368 Filed 2-17-87; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 87-129]

Employment Contracts; Technical Amendment

Date: February 9, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; technical amendment.

SUMMARY: In order to implement changes to the Home Owners' Loan Act and the National Housing Act mandated by the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"), Pub. L. No. 97-320, 96 Stat. 1469, the Federal Home Loan Bank Board ("Bank Board" or "Board") has adopted an amendment to its final regulations regarding employment contracts entered into by an insured institution with its officers, directors and other employees. The amendment conforms references in the regulation to

¹ The name and address of the Area Veterinarian in Charge may be obtained from the Assistant Deputy Administrator, Animal Health Programs, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, 20782.

the Home Owners' Loan Act of 1933 ("HOLA") and the National Housing Act ("NHA") with section redesignations within such acts that resulted from passage of the Garn-St Germain Act.

EFFECTIVE DATE: February 18, 1987.

FOR FURTHER INFORMATION CONTACT: Kathy Jones, Legal Assistant, (202) 377-7242, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On October 15, 1982, the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, was signed into law. The Garn-St Germain Act amended section 5(d) of HOLA (12 U.S.C. 1464(d) (1982)) and section 407(g) of the NHA (12 U.S.C. 1730(g) (1982)), which in pertinent part, grant powers to the Bank Board for enforcement of the laws and regulations which concern the Bank Board, the Federal Home Loan Bank System, or the Federal Savings and Loan Insurance Corporation.

Section 563.39 of the Bank Board's regulations (12 CFR 563.39 (1986)) provides generally the requirements for contracts entered into by an insured institution with its officers and other employees. Specifically, § 563.39(b) (2) and (3) set forth provisions that are required in each employment contract. These sections cite applicable provisions of the HOLA and NHA.

By its action today, the Board amends § 563.39 of its regulations in order to conform the regulatory language with section 5(d) of HOLA and section 407(g) of the NHA, as amended by the Garn-St Germain Act, by changing the citations in the employment contracts regulation to the current statutory paragraph designations.

Because these amendments implement statutory directives, the Board finds that observance of the notice and comment procedure pursuant to 5 U.S.C. 552(b) and 12 CFR 508.11 and the 30-day delay of effective date pursuant to 5 U.S.C. 552(d) and 12 CFR 508.14 are unnecessary and contrary to the public interest due to the minor, technical, and conforming nature of this amendment.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter

V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401-407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

2. Amend § 563.39 by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 563.39 Employment contracts.

(b) *Required provisions.* * * *

(2) If the officer or employee is suspended and/or temporarily prohibited from participating in the conduct of the institution's affairs by a notice served under section 5(d)(4)(D), or section 5(d)(5)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(4)(D) and (d)(5)(A)) or under section 407(g)(4) or section 407(h) of the National Housing Act (12 U.S.C. 1730(g)(4) and (h)), the institution's obligations under the contract shall be suspended as of the date of service, unless stayed by appropriate proceedings. If the charges in the notice are dismissed, the institution may in its discretion (i) pay the officer or employee all or part of the compensation withheld while its contract obligations were suspended and (ii) reinstate (in whole or in part) any of its obligations which were suspended.

(3) If the officer or employee is removed and/or permanently prohibited from participating in the conduct of the institution's affairs by an order issued under section 5(d)(4)(E) or section 5(d)(5)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(4)(E) and (d)(5)(A)) or under section 407(g)(5) or section 407(h) of the National Housing Act (12 U.S.C. 1730(g)(5) and (h)), all obligations of the institution under the contract shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 87-3306 Filed 2-17-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-196-AD; Amdt. 39-5563]

Airworthiness Directives: Avions Marcel Dassault-Breguet Aviation (AMB-BA) Mystere Falcon 200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AMD-BA Mystere Falcon 200 series airplanes, which requires replacement of the fuel system booster crossfeed valve actuator on the fuel distributor block with a sealed actuator. This AD is prompted by reports of malfunctions of the fuel system booster crossfeed valve actuator in flight. This condition, if not corrected, could cause fuel starvation if it becomes necessary to supply fuel from a single fuel feed line.

DATE: Effective March 25, 1987.

ADDRESSES: The applicable service information specified in this AD may be obtained from Avions Marcel Dassault-Breguet Aviation (AMD-BA), 40 FJC, Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires replacement of the fuel system booster crossfeed valve actuator with a sealed actuator, was published in the *Federal Register* on October 1, 1986 (51 FR 35001).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the NPRM.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 18 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 man-hours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per man-hour. The cost of parts is estimated to be \$500 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be \$11,880.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane (\$660). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Avions Marcel Dassault-Breguet Aviation (AMD-BA): Applies to Model Mystere Falcon 200 series airplanes, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To prevent malfunction of the fuel system crossfeed valve actuator, accomplish the following:

A. Install a fuel system booster crossfeed valve actuator, AVIAC P/N 2778-1 (ZENITH P/N D97C00-215), in accordance with AMD-BA Service Bulletin No. AMD-BA F200-64, dated March 3, 1986.

B. Install a placard on the fuel distributor block in accordance with AMD-BA Service Bulletin No. AMD-BA F200-64, dated March 3, 1986.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive, who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to Avions Marcel Dassault-Breguet Aviation, 40 JFC, Teterboro Airport, Teterboro, New Jersey 07608. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 25, 1987.

Issued in Seattle, Washington, on February 9, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-3258 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AGL-20]

Alteration of Federal Airway V-493

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Federal Airway V-493 between the Appleton, OH (APE), very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC) and the York, KY (YRK), VORTAC. This realignment will facilitate movement eastward of special use airspace and thereby enhance high density traffic volume which is north/south oriented on the western boundary of the special use airspace.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On November 28, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-493 between Appleton, OH, VORTAC and York, KY, VORTAC (51 FR 43011).

This realignment will allow eastward movement of R-5503 Wilmington, OH, and facilitate north/south air carrier traffic flow between Columbus and Cincinnati, OH. A separate docket action, 86-AGL-25, will subdivide and relocate R-5503. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two commenters were concerned that the realigned V-493 would have economic impact on users by adding additional mileage between York, KY, and Appleton, OH, thereby adding to fuel cost. However, FAA believes this added fuel cost is insignificant and does not justify withdrawing V-493.

The commissioners of Ross County expressed a need for a full regulatory evaluation. Under FAA policy guidelines, this action is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034). Therefore, it does not warrant preparation of a regulatory evaluation.

The manager of Miller Airfield, Baltimore, OH, was concerned the proposal would affect the VFR status of Miller Airfield. Miller Airfield at the present time underlies the lateral limits of V-493 and the current 700-foot transition area designated for the Newark, OH, airport. Neither of these conditions will change due to the realignment of V-493.

The Air Transport Association of America (ATA) endorsed the proposal. Therefore, based on our analysis of the comments we find no reason not to implement this alteration to V-493. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns VOR Federal Airway V-493 between Appleton, OH, VORTAC and York, KY, VORTAC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-493 [Amended]

By removing the words "York, KY; Appleton, OH;" and substituting the words "York, KY; INT York 030" and Appleton, OH, 183° radials; Appleton;"

Issued in Washington, DC, on February 9, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-3262 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWA-30]

Alteration of the Detroit, MI, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters slightly one of the areas of the Detroit, MI, Terminal Control Area (TCA). To contain instrument approaches to Runways 21R and 27 within the TCA, Area B is expanded slightly to the east and northeast. This amendment also corrects an error relative to the correct charting of navigational aid magnetic radials which describe the TCA. These radials were incorrectly depicted on the October 1985 TCA chart. The correction applies to all four areas of the TCA.

EFFECTIVE DATE: 0901 UTC, May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic

Rules Branch (ATO-230). Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9249.

SUPPLEMENTARY INFORMATION:

History

On August 13, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify Area B of the Detroit, MI, TCA to contain an instrument approach to Runway 21R and two instrument approaches to Runway 27 (51 FR 28956). In addition, the proposal corrected an error in the charting of the magnetic radials used to describe TCA boundaries. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments were received from the Detroit City Airport Department and the Air Line Pilots Association (ALPA). The Detroit City Airport Department posed no objection; ALPA supported the proposal as technically necessary. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401(b) of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations modifies slightly Area B of the Detroit, MI, TCA to contain an instrument approach to Runway 21R and two instrument approaches to Runway 27. The lateral extension is 1 NM to the northeast and the widest point of extension is 2 NM to the east. In addition, on the October 1985 chart, the navigational aid radials used to describe and chart the TCA were not the original magnetic radials that should have appeared on the chart. Prior to charting, the magnetic radials were incorrectly interpreted to be true radials and then converted to magnetic radials for purposes of charting. This action corrects the error by ensuring that the original magnetic radials used to describe the boundaries are the radials used to chart the Detroit, MI, TCA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.401 [Amended]

2. Section 71.401(b) is amended as follows:

Detroit, MI [Amended]

In Area A, wherever "050° radial" appears substitute "047° radial".

Remove the present Area B and substitute the following:

Area B. That airspace from 2,500 feet MSL to and including 8,000 feet MSL within the lateral limits of the airspace beginning at the intersection of the I-DTW 7-mile DME arc and the Willow Run VOR 047° radial; thence northeast on the Willow Run VOR 047° radial until intercepting the I-DTW 8-mile DME arc; thence clockwise along the I-DTW 8-mile DME arc until intercepting the Willow Run VOR 091° radial, eastbound on the Willow Run VOR 091° radial until the United States shoreline, southbound along the United States shoreline until intercepting the Willow Run VOR 101° radial; thence on a 215° bearing from that intersection until intercepting the I-DTW 11-mile DME arc; thence clockwise along the I-DTW 11-mile DME arc until intercepting the Willow Run VOR 186° radial, thence northeast to the point where the I-DTW 7-mile DME arc intercepts the Detroit Willow Run Airport, MI, Control Zone; thence counterclockwise along the I-DTW 7-mile DME arc to the point of origin.

In Area C, wherever "200° radial" appears substitute "197° radial", wherever "226° radial" appears substitute "220° radial" and wherever "323° radial" appears substitute "317° radial".

In Area D, wherever "050° radial" appears substitute "047° radial", wherever "323° radial" appears substitute "317° radial", wherever "226° radial" appears substitute "220° radial" and wherever "200° radial" appears substitute "197° radial".

Issued in Washington, DC, on February 9, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-3261 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 87-AWP-1]

Alteration of Restricted Areas R-2304 and R-2305, Gila Bend, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Areas R-2304 and R-2305, located near Gila Bend, AZ, indicating more accurately when the areas are being utilized. This action will reduce the time the restricted areas are in effect.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the times of use for Restricted Areas R-2304 and R-2305 located near Gila Bend, AZ. Because this would amend the time of designation to reflect actual times of use and would reduce the time the restricted areas are in effect, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.23 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; FR February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

PART 73—[AMENDED]

Adoption of the Amendment

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

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

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

§ 73.23 [Amended]

2. § 73.23 is amended as follows:

R-2304 Gila Bend, AZ [Amended]

By removing the present Time of designation and substituting the following:

Time of designation. 0700-2200 local time, other times by NOTAM at least 24 hours in advance.

By removing the present Time of designation and substituting the following:

Time of designation. 0700-2300 local time, other times by NOTAM at least 24 hours in advance.

Issued in Washington, DC, on February 10, 1987.

Harold H. Downey,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-3259 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 86-AWP-22]

Alteration of Restricted Area R-2519 Point Mugu, CA, and Revocation of Restricted Area R-2520, Point Mugu, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the lateral boundaries and the using agency

of Restricted Area R-2519 and revokes Restricted Area R-2520 located at Point Mugu, CA. This action is necessary to ensure that all hazardous activity is contained within R-2519. This action would also revoke R-2520 since the usage of the airspace no longer justifies permanent designation.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9245.

SUPPLEMENTARY INFORMATION:

History

On November 28, 1986, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the lateral boundaries of Restricted Area R-2519 and revoke Restricted Area R-2520 located at Point Mugu, CA (51 FR 43012). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and changing the using agency of R-2519 from "Commander, Pacific Missile Range, Point Mugu, CA" to "Commander, Pacific Missile Test Center, Point Mugu, CA" this amendment is the same as that proposed in the notice. Section 73.25 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations alters the lateral boundaries and the using agency of Restricted Area R-2519 and revokes Restricted Area R-2520 located at Point Mugu, CA. The lateral boundaries of R-2519 will be slightly expanded to ensure that all hazardous activity is contained within restricted airspace. R-2520 will be revoked since the usage of the airspace no longer justifies permanent designation.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally

current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

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

PART 73—[AMENDED]

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

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

§ 73.25 [Amended]

2. § 73.25 is amended as follows:

R-2520 Point Mugu, CA [Removed]

R-2519 Point Mugu, CA [Amended]

Remove the present boundaries and using agency and substitute the following:

Boundaries. Beginning at lat. 34°07'15"N., long. 119°07'40"W.; to lat. 34°06'55"N., long. 119°06'00"W.; to lat. 34°04'15"N., long. 119°03'40"W.; to lat. 34°02'15"N., long. 119°04'20"W.; thence 3 nautical miles from and parallel to the shoreline to lat. 34°05'30"N., long. 119°13'00"W.; to lat. 34°05'55"N., long. 119°11'15"W.; to lat. 34°07'08"N., long. 119°09'32"W.; to the point of beginning.

Using agency. Commander, Pacific Missile Test Center, Point Mugu, CA

Issued in Washington, DC, on February 9, 1987.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-3260 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 908

[Docket No. 60734-6134]

Maintaining Records and Submitting Reports on Weather Modification Activities

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is revising its regulations which purport to require persons engaged in weather modification activities to maintain records for 5 years to conform to the 3 year limit on recordkeeping established by the Office of Management and Budget (OMB).

DATES: February 18, 1987.

FOR FURTHER INFORMATION CONTACT: Harold A. Corzine, National Oceanic and Atmospheric Administration, OAR/Program Development and Coordination Office, Room 925, 6010 Executive Boulevard, Rockville, Maryland 20852 (301-443-8971).

SUPPLEMENTARY INFORMATION: Title 15 CFR 908.9 and 908.11(a) purport to require persons engaged in certain weather modification activities to maintain appropriate records for at least five years. This retention period exceeds the three year limit set by OMB in its regulations implementing the Paperwork Reduction Act (5 CFR 1320.6(f)). A three year period probably ensures sufficient access to scientific information about past and ongoing activities to avoid duplication of effort. Accordingly, §§ 908.9 and 908.11(a) are being revised to reflect the limits established by OMB regulations.

Other Actions Associated With Rulemaking

(A) Classification Under Executive Order 12291

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local

government agencies, or geographic regions; or 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.

(B) Administrative Procedure Act and Regulatory Flexibility Act

The present five year retention requirements of §§ 908.9 and 908.11(a) have not been approved by OMB and have no force or effect (5 CFR 1320.5). Since the amendment simply conforms to existing law, NOAA has determined under section 553(b)(B) of the Administrative Procedure Act (APA) that it would be unnecessary and contrary to the public interest to follow the notice and comment procedures of the APA. Because this rule is not subject to the requirements of notice and comment of the APA, or any other law, the Regulatory Flexibility Act does not apply. Accordingly, a Regulatory Flexibility Analysis has not been prepared.

(C) Effective Date

For the reasons explained in the immediately preceding paragraph and because this amendment relieves a restriction, the 30-day delayed effectiveness requirement of the APA does not apply and the rule is being made effective on the date of publication in the Federal Register.

(D) Paperwork Reduction Act

The information requirements for the regulations at 15 CFR Part 908 have been reviewed and approved by the Office of Management and Budget. The control number is 0648-0025.

List of Subjects in 15 CFR Part 908

Weather; Reporting and recordkeeping requirements.

Dated: February 6, 1987.

Joseph O. Fletcher,
Assistant Administrator.

For the reason set out in the preamble, 15 CFR Part 908 is amended as set forth below.

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

1. The authority citation for Part 908 continues to read as follows:

Authority: Pub. L. 92-305, 85 Stat 735, December 18, 1971.

2. Section 908.9 is revised to read as follows:

§ 908.9 Retention of records.

Records required under § 908.8 shall be retained and available for inspection by the Administrator or his designated representatives for 3 years after completion of the activity to which they relate. Such records shall be required to be produced for inspection only at the place where normally kept. The Administrator shall have the right to make copies of such records, if he or she deems necessary.

3. Section 908.11(a) is revised to read as follows:

§ 908.11 Maintenance of records of related activities.

(a) Persons whose activities relate to weather modification activities, other than persons engaged in weather modification activities, shall maintain records concerning the identities of purchasers or users of weather modification apparatus or materials, the quantities or numbers of items purchased, and the times of such purchases. Such information shall be retained for at least 3 years.

[FR Doc. 87-3315 Filed 2-17-87; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM86-12-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Correction

February 11, 1987.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Benchmark Rate of Return on Common Equity for Public Utilities; Correction.

SUMMARY: In the document beginning on page 2677 in the issue of Monday, January 26, 1987, make the following correction:

On page 2678, first column, line 19, change "1985" to "1986".

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3238 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Squire Laboratories, Inc., providing for safe and effective topical use of a nitrofurazone solution as an antibacterial on dogs, cats, and horses. The regulations are further amended to correct an omission in the drug's indications for use.

EFFECTIVE DATE: February 18, 1987.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Squire Laboratories, Inc., 100 Mill St., Revere, MA 02151, filed NADA 138-455 providing for topical use of a 0.2 percent nitrofurazone solution as an antibacterial on dogs, cats, and horses (not intended for food use). The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

The regulations are further amended to correct a claim omission error in 21 CFR 524.1580d. The existing indication for use of the drug in dogs, cats, and horses (paragraph (d)(1)(i)) reads, "For the treatment of topical bacterial infections." However, the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group for nitrofurazone topical preparations for animal use found the subject drug effective for both prevention or treatment of surface bacterial infections. FDA concurred with the group's finding (see 44 FR 4014; January 19, 1979). The prevention claim was inadvertently omitted from the paragraph. Therefore, this document is amending § 524.1580d to add the prevention claim.

In accordance with the freedom of information provisions of Part 20 (21

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

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

List of Subjects in 21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 524 continues to read as follows:

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

2. Section 524.1580d is amended by revising paragraphs (b) and (d)(1)(i) to read as follows:

§ 524.1580d Nitrofurazone solution.

* * * * *

(b) *Sponsor.* See 000857, 015562, 015579, and 051259 in § 510.600(c) of this chapter for use as in paragraphs (d)(1) and (2) of this section. See 017153 and 053617 in § 510.600(c) of this chapter for use as in paragraph (d)(1) of this section.

* * * * *

(d) *Conditions of use—(1) Dogs, cats, and horses—(i) Indications for use.* For prevention or treatment of topical bacterial infections.

* * * * *

Dated: February 10, 1987.

Gerald B. Guest,
Director, Center for Veterinary Medicine.

[FR Doc. 87-3269 Filed 2-17-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-87-R-1200; FR-2000]

Community Development Block Grants for Indian Tribes and Alaskan Native Villages—Selection Process

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts, with some changes, the proposed rule to revise the regulations governing the application ranking and selection process in the CDBG program for Indian Tribes and Alaskan Native Villages. Under this final rule, new policies and procedures are added to simplify rating and ranking. As part of the regulatory revision, the "need" and "benefit" measures are eliminated in favor of a 51 percent low- and moderate-income benefit threshold requirement. Additionally, Tribes are given more discretion and flexibility to pursue their objectives in the rehabilitation and economic development categories, and uniformity in measuring "Quality" factors is established.

EFFECTIVE DATE: March 19, 1987.

FOR FURTHER INFORMATION CONTACT: Leroy Gonnella, Office of Program Policy Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 755-6092. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Summary of This Rule

This final rule, which is substantially similar to the proposed rule published on August 1, 1985 (50 FR 31194), revises the policies and procedures for rating and ranking applications from Indian Tribes and Alaskan Native Villages for Community Development Block Grant assistance under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307). This rule establishes a threshold requiring all applicants to show that, at a minimum, 51 percent of the beneficiaries of each project will be low- and moderate-income persons.

The rule prescribes four categories—Housing Rehabilitation, Community

Facilities/Services, Economic Development, and Land to Support New Housing—into which all projects will be grouped. (These categories may be subdivided to accommodate regional differences or preferences.) The rule also fixes a 60/40 ratio for "Quality" factors and "Impact" factors, respectively. Points will be awarded to projects based on their compliance with Quality and Impact factors. Impact factors follow a hierarchical scale, and within each category several factors are delineated—from the most important (that is, those that will give a project maximum points) to those factors that give the fewest points.

Impact factors primarily measure the level of need for a proposed project in a community or reservation. Quality factors measure how well the job can be carried out, and how much can be accomplished for the level of Federal investment made. Because it is in the "Quality" area that the greatest differences among projects are expected, it has been assigned more weight.

This rule permits a Field Office to continue to establish Impact Factors. It provides for a more flexible approach than under the existing regulations, so that Tribes may focus on their primary objectives. However, the introduction of additional Impact factors as provided for in § 571.308(b) (formerly proposed § 571.302(c)(6)) must not result in the system's becoming too restrictive. The rule contemplates that new factors may be introduced without additional regulatory changes being required. Flexibility should allow the system to grow as projects become more complex and sophisticated, and should encourage and facilitate Tribal self-determination.

Provision is made in § 571.308(a) (formerly § 571.302(c)(5)) for waiver or modification of individual factors if their application would result in hardship or produce an unwanted result for the applicants in a particular Field Office.

Section 571.3 has been amended in this rule by removing the language "relative need among applicants." The amendment here promotes consistency between this rule's revised criteria for the selection process and the general description of the nature of the program in § 571.3.

Revisions to the Proposed Rule in This Final Rule

To promote greater ease of reference, section designations used in the proposed rule have been revised, and the proposed rule's single section on the selection process has been divided into a related series of five sections (§§ 571.302 through 571.306). Existing §§ 571.303 and 571.304 have been

redesignated § 571.307 and § 571.308, respectively. In particular, proposed §§ 571.302 (c)(5), (c)(6), and (c)(7) have been combined under one section—§ 571.306—and are now designated §§ 571.306 (a), (b), and (c), respectively. A new paragraph (d) is added to clarify that the consultation process of § 571.6 is applicable to this rule.

In § 571.305(a)(1)(i) (formerly proposed § 571.302(c)(4)(i)(A)(1)(i)), the word "portion" has been changed to "percentage". The same substitution of words has been made in §§ 571.303(a)(1)(ii) and (iii) (formerly proposed paragraphs (ii) and (iii) of § 571.302(c)(4)(i)(A)(1)(i)). This is a minor technical change.

The "Quality" factor "The project has the highest priority among the projects submitted by the Tribe" has been removed from proposed § 571.302(c)(4)(i)(A)(2)(i) and also from §§ 571.302(c)(4)(i)(B)(2)(i) and 571.302(c)(4)(iii)(B)(1). (See p. 9.) The remaining paragraphs have been renumbered and redesignated accordingly.

Section 571.303(a)(2)(iii) (formerly paragraph (iv) of proposed § 571.302(c)(4)(i)(A)(2)) has been revised by removing the first sentence from § 571.303(a)(2)(v) (formerly proposed paragraph (vi) of § 571.302(c)(4)(i)(A)(2)) ("The proposed rehabilitation program reduces the cost of rehabilitation activities") and including it as an element under paragraph (iii). The Department believes that this sentence more appropriately belongs under paragraph (iii) of § 571.303(a)(2).

In paragraphs (i) and (iii) of proposed § 571.302(c)(4)(iii)(A)(1) (now §§ 571.305(a)(1) (i) and (iii), respectively), the language "or a cost benefit ratio greater than one on publicly oriented projects" and "over its economic life the enterprise will have a cost benefit ratio greater than one and", respectively, has been deleted, for the reason set out below in the discussion of public comments. Also deleted is the word "legally" from proposed § 571.302(c)(4)(iii)(B)(5) (now § 571.305(b)(4)).

The second sentence of proposed paragraph (6) of § 571.302(c) (now designated § 571.306(b)) has been removed to avoid ambiguity, and a new clause has been added at the end of the paragraph that reads "or when new qualitative measures are identified after consultation with eligible applicants and subject to the approval of the Secretary." The addition here promotes flexibility in the choice of factors.

Public Comments

The proposed rule of August 1, 1985 invited public comment for a period of

60 days ending September 30, 1985. Six comments were received. These comments are summarized below, along with the Department's response.

Two commenters argued that the rule should retain "absolute need" as an Impact factor. According to these comments, the use of an "absolute need" factor resulted in a more favorable distribution of CDBG funds to large Tribes, while this rule would favor small Tribes. In elaboration, one of these commenters pointed out that the "absolute need" factor allowed CDBG funds to be used for infrastructure development which benefitted a larger percentage of the Tribal population than the 51 percent threshold adopted in this rule. The 51 percent test, it also was contended, rather than helping to alleviate the needs of Indian populations generally (the majority of whom are below the poverty level with a per capita income of \$2,500) would benefit mostly moderate income Tribal members.

The data on which the "need" factor relied were in many cases an unreliable measure of the true needs of Tribes in the program. Further, contrary to the commenter's assertion, there is no evidence that the existing system is fairer. (The system is flawed in other respects detailed in the proposed rule preamble at 50 FR 31194.) Nor is there evidence that the system being revised has favored large Tribes. The Department wishes to explain, however, that although "absolute needs" is no longer an Impact Factor, distribution of funds will still be predicated on the needs of the Tribes. In other words, HUD will not approve a project for which there is no need among Tribal members.

The Department believes that the criticism of the 51 percent threshold is unfounded. First, application of the 51 percent test will not benefit moderate income persons only, but *low and moderate income persons*. A "low and moderate income person" is defined at 24 CFR 571.4(i) as

a member of a family having family income [that does not exceed 80 percent of the median family income for the area, . . .].

Second, the 51 percent figure is only a floor—that is, if an applicant cannot show that *at least* 51 percent of the beneficiaries of each project would be low and moderate income persons, the project will not be approved. (See § 571.302(a)(3) "If . . . less than 51 percent of the intended beneficiaries of the proposed project are low and moderate income persons, the Field Office shall . . . reject the project.") This test is not as dependent as the

"absolute needs" test on statistical accuracy of several variables, e.g., number and percent of persons in poverty or unemployed and number and percent of low- and moderate-income persons served. As such, the 51 percent test is simpler, avoiding the statistical preciseness and dependency of the "absolute needs" test, but without sacrificing the goal of helping low- and moderate-income members—the largest group in a Tribe. Third, it should be noted that the statute itself (see section 101(b) of the Housing and Community Development Act of 1974) enunciates as one of the Congress' findings and purposes in establishing the CDBG program the "improvement of] the living environment of low- and moderate-income families."

Finally, there is nothing in this rule that would prevent Tribes from continuing to propose projects that would benefit all their members, or that would contribute to the development of a reservation's infrastructure.

Two commenters criticized the appropriateness of the "Quality" factors and the proposed rule's limiting them to six (now reduced to five in this final rule). It was argued that the rule should allow the Field Offices more discretion in developing "Quality" factors to evaluate a Tribe's application. By affording the Field Office more flexibility in applying the Quality factors (as under the old regulations), argued one comment, a Field Office would be better able to consider the peculiar needs of a Tribe seeking funding under the program.

The final rule limits the Quality factors to five (the Quality factor that appeared first in each section of the proposed rule has been removed) because, in the Department's experience, these five factors have proven most reliable in evaluating the soundness of a project. Field Offices will have, however, wide discretion in applying these factors in rating a project.

A commenter opined that the rule would "open several new avenues to interprogrammatic relationships between the CDBG program and the various Indian housing programs." This, the commenter said, would ultimately lead to a single block grant for both community development and housing. This rule will not have the result feared by the commenter. Moreover, this Department has no authority to combine for funding purposes (or for any other purpose) these separate legislative authorities (i.e., the CDBG Indian program and Indian housing), as would be necessary to bear out the commenter's misgivings.

Another commenter, while expressing reservations about this rule's possible impact on funding for large Tribes, wondered whether the rule would "lead to a situation where only the top-ranked project would be eligible for funding."

As indicated above, this rule is neutral with respect to the relationship between allocation of CDBG funds and the size of an applicant Tribe. Funding levels will continue to be set by the grant ceilings established by the Field Office in consultation with the Tribes.

The Department agrees that there may be legitimate concern about the priority factor. Accordingly, this factor (see, e.g., proposed § 571.302(c)(4)(i)(A)(2)(i)) has been removed as a "Quality" factor, since it is arguable that it may not always be an appropriate measure of the quality of the proposed project. However, Field Offices that wish to use the priority factor may seek approval for its use, in accordance with § 571.306(b).

Criticism was voiced by a Tribe of the proposed rule's use of a cost-benefit ratio among "Impact" factors (see proposed §§ 571.302(c)(4)(iii)(A)(1)(i) and (A)(1)(iii)), and use of the word "legally" in proposed § 571.302(c)(4)(iii)(B)(5). As the commenting Tribe saw it, the concept of a cost-benefit ratio is "difficult to define . . . within human services programs[,] is not appropriate for economic development and will cause confusion." The Department recognizes that there is merit in the Tribe's criticism, and has removed the reference in the above-cited clauses to a cost-benefit ratio. (These clauses are now designated §§ 571.305(a)(1)(i) and (iii), respectively.)

In its objection to the use of the term "legally", the Tribe pointed out that what is "legal" in the context of Tribal affairs depends on "Tribal, state, county, city, or Federal law." Further, "'legally' adds no substance to the factor and only confuses its intent," since HUD has no right to attempt to define the legality of a Tribal business mechanism. HUD agrees that use of the word "legally" in the affected paragraph could cause interpretive problems, and has removed it from § 571.302(c)(4)(iii)(B)(5) (now § 571.305(b)(4)). (As part of its overall comment, this Tribe supported the rule's requirement for project approval of a 51 percent benefit threshold, agreeing that the demographic data used to determine need under the existing regulations were "unreliable and of questionable benefit to smaller and larger Tribes.")

Support for the rule was also voiced by another commenter because it would allow Tribes "to pursue their individual needs and priorities" while satisfying a

"real need" among Tribes "in the area of permanent, quality living structures and land acquisition." The commenter did seek clarification of proposed § 571.302(c)(7) (now § 571.306(c)), asking whether "points will be calculated on a Tribe by Tribe basis, within a particular region, etc." As in the past, points will continue to be calculated based on projects proposed within each separate Field Office.

The 60/40 ratio of Quality factors to Impact factors drew strong criticism. One commenter posited that the weighting system was "specifically designed for small tribes" because "small Tribes generally submit only one project, whereas the larger Tribes submit more than one." This commenter submitted a table showing the weight of Impact factors ranging from 61 percent to 80 percent over a four-year period. Another commenter argued that the weight for Impact factors in Region IX has been between 65 and 70 percent for the last two years. The commenter recommended that, since the weighting of Impact and Quality will be regulated, and not left to Field Office discretion, it should be split 60/40, Impact to Quality (reversing the proposed rule's weighting).

The Department fixed a 60/40 Quality to Impact weighting to encourage the development of first-rate projects. Impact establishes the basic minimum level that a project must meet. As a minimum level, Impact factors should account for a lesser weight than those factors (i.e., Quality factors) that will enhance the usefulness and acceptability of a project. In the Department's view, the need to emphasize (and thus give greater weight to) Quality factors is critical to ensure that an applicant has the capability of carrying out a project in a manner that will assure its successful completion and the realization of its intended benefits.

According to the last commenter, the information in the proposed rule is vague and confusing. It is difficult to rate a project, argued the commenter, when there are multiple factors with no indication of the number of points to be assigned each. Multiple Quality factors are set out in the rule to allow Field Offices the latitude to choose the most appropriate factor or factors to be used and to determine the number of points to be assigned to each. In HUD's view, this approach is consistent with the Department's avowed purpose of making the selection process more flexible.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 CFR Part 50. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued on February 17, 1981. An analysis of the rule indicates that it does not (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule broadens the rating system by including more Impact factors and simplifies it by eliminating need and benefit factors and limiting the number of Quality factors. The new rating system will ensure a more uniform approach with more opportunities for Indian Tribes and Alaskan Native Villages to pursue their highest priority objectives without having a significant adverse economic impact on these entities.

This rule was listed as Sequence Number 922, RIN 2506-AA33 (CPD-11-84, FR-2000 in the Department's Semiannual Agenda of Regulations published on October 27, 1986 (51 FR 38460), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number is 14.223.

List of Subjects in 24 CFR Part 571

Community development block grants, Grant programs—Housing and Community development, Grant programs—Indians, Indians.

Accordingly, the Department amends 24 CFR Part 571 as follows:

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

1. The authority citation for Part 571 continues to read as follows:

Authority: Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301-5320; section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 571.3 is revised to read as follows:

§ 571.3 Nature of program.

The Indian CDBG Program is competitive in nature. The demand for funds far exceeds the amount of funds available. Therefore, selection of eligible applicants for funding will reflect consideration of the relative adequacy of applications in addressing locally determined need. Applicants for funding must have the administrative capacity to undertake the community development activities proposed, including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement.

3. Section 571.302 is amended by adding a new paragraph (a)(3) and by revising paragraph (c) to read as follows:

§ 571.302 Selection process.

(a) * * *

(3) *Benefit.* The applicant's project indicates that at least 51 percent of the persons benefitting from the project are of low- and moderate-income. If available data, in the judgment of the Field Office, indicate that fewer than 51 percent of the intended beneficiaries of the proposed project are low- and moderate-income persons, the Field Office shall determine that the applicant has not met this threshold requirement and reject the project from further consideration. Before rejecting the project, however, the Field Office must first give the applicant an opportunity to examine the available data or to submit new data that, in the judgment of the Field Office, show that 51 percent of the beneficiaries are of low- and moderate-income. For purposes of this section, a project may be considered to benefit low- and moderate-income people if it meets the standards set forth in § 570.901(b)(1) of this chapter.

(c) *Application rating system.* (1) Applications that meet the threshold requirements established in paragraph (a) of this section will be rated competitively within each Field Office's jurisdiction. Field Offices may conduct

separate competitions among applicants on the basis of size.

(2) All projects will be rated on the basis of their impact on the community development need identified and the quality of the proposed project. The specific measures, numbers, percentages, and definitions to be used for the "Impact" and "Quality" factors identified in this subpart are to be developed by each Field Office. If a Field Office finds it desirable, each of the categories may be subdivided into two or more subcategories in order better to deal with project ratings.

(3) The maximum value of the "Impact" factors and "Quality" factors described in this section will be 40 percent and 60 percent, respectively.

(4) In addition to meeting the requirements of this section, which apply to all projects, the Field Office will examine each project submitted to determine in which one of the four rating categories set out in § 571.303 through § 571.305 the project most appropriately belongs. The project will then be rated on the basis of the criteria identified in the rating category to which the project has been assigned.

4. In Part 571, § 571.303 and § 571.304 are redesignated § 571.307 and § 571.308, respectively, and new §§ 571.303 through 571.306 are added, to read as follows:

§ 571.303 Housing-related categories.

(a) *Housing rehabilitation projects—*
(1) *Impact factors.* (i) Maximum points will be awarded to those projects that propose to use a larger percentage of the construction funds to rehabilitate homes to a standard condition, with the balance of the funds to be used for another housing-related purpose, or to projects that propose to implement a housing-assistance strategy that identifies how housing needs are to be addressed and how, over time, homes to be assisted will be brought up to standard condition or replaced. The evaluation of the effectiveness of a housing assistance strategy as an alternative to a project proposing to use most funds for rehabilitation of housing to a standard condition will be based on criteria established through the consultation process.

(ii) Fewer points will be awarded to those projects that propose to use a smaller percentage of the construction funds to rehabilitate homes to a standard condition, with the balance to be used for another housing-related purpose.

(iii) The fewest points will be awarded to those projects that propose to use the smallest percentage of the

construction funds, as compared to the allocations under either paragraph (a)(1)(i) or (ii) of this section, to rehabilitate homes to a standard condition, with the balance to be used for another housing-related purpose.

(2) *Quality factors.* Points will be awarded for each of the following Quality factors that is met. Whether:

(i) Adopted policies are in place to guide the administration of the program.

(ii) Adopted housing standards exist with regard to which houses can be rehabilitated and what constitutes "standard condition".

(iii) The proposed rehabilitation program meets one or more of the following factors: (A) It reduces the cost of current rehabilitation activities; (B) it provides for energy conservation; (C) it provides for a Tribal contribution; or (D) it provides for a secondary benefit from the rehabilitation.

(iv) Extraordinary benefit to low- and moderate-income persons is provided by the project.

(v) The program establishes a maintenance policy to protect the investment made in the housing units assisted.

(b) *Land to support new housing—(1) Impact Factors.* (i) Maximum points will be awarded for land acquisition to those projects that have no land or no suitable land for the construction of housing along with housing amenities.

(ii) Fewer points will be awarded to those projects that have land that is suitable for the construction of housing along with housing amenities, but such land is officially dedicated to another purpose.

(iii) The fewest points will be awarded to those projects for the acquisition of additional land to construct only housing amenities for existing housing.

(2) *Quality factors.* Points will be awarded for each of the following Quality factors that is met. Whether:

(i) The land to be acquired is suitable for housing (*i.e.*, the land does not require extensive preparation).

(ii) The Housing Authority or Tribe, or both, have agreed to use the land to be acquired.

(iii) Housing resources have been committed to construct the housing, or will be committed by the Field Office or other organization, at the time of approval.

(iv) Support services are or will be made available and families are willing to relocate to the new location.

(v) Land can be taken into trust; or a provision has been made for taxes and fees.

§ 571.304 Community facilities/services category.

(a) *Impact factors.* (1) Maximum points will be awarded to those projects that propose to provide a facility or service that is not available from sources either within or outside the community or reservation, and no functioning facility or service currently exists.

(2) Fewer points will be awarded to those projects that propose to provide a facility or service that is not available from sources either within or outside the community or reservation, and the current facility or service no longer functions in a reliable manner.

(3) The fewest points will be awarded to those projects that propose to expand or improve an existing facility or service to enhance the provision of current or future services.

(b) *Quality factors.* Points will be awarded for each of the following Quality factors that is met. Whether:

(1) The facility or service will accomplish one or more of the following:

(i) Produce a secondary benefit from its construction or implementation;

(ii) Address a serious health and safety problem; or

(iii) Meet an essential community need.

(2) One or more of the following will be accomplished:

(i) The facility or service will be shared with other communities or Tribes;

(ii) Other funds will be contributed in support of the facility; or

(iii) The facility or service will serve multiple purposes.

(3) A maintenance plan has been prepared that includes an adequate fund for future replacements, and a funding source has been identified to assure that the facility will be properly maintained.

(4) The design, scale, and costs of the facility or service and the equipment proposed are appropriate to the need.

(5) Extraordinary benefit to low and moderate income persons is provided by the project.

§ 571.305 Economic development category.

(a) *Impact factors.* (1) Maximum points will be awarded to those projects that propose an enterprise that over its economic life will have a rate of return that is equal to or greater than that which has been fixed by the Field Office or over its economic life the enterprise will have a rate of return that is less than that which has been fixed by the Field Office in § 571.305(a)(1)(i), and

(i) Will result in the creation of a certain number of jobs (the number of

jobs will be determined by the Field Office); or

(ii) Will provide a product, service, or resource not otherwise available, or provide it at a significantly lower cost.

(2) Fewer points will be awarded to those projects that propose an enterprise that, over its economic life, will have a rate of return fixed by the Field Office which will be less than the rate of return in paragraph (a)(1)(i) of this section.

(3) The fewest points will be awarded to those projects that propose an enterprise that, over its economic life, will have a rate of return that is less than the rate of return in paragraph (a)(2) of this section.

(4) No points will be awarded to a project that will have a rate of return below the minimum threshold established by the Field Office.

(b) *Quality factors.* Points will be awarded for each of the following Quality factors that is met. Whether:

(1) The cost per job is less than a dollar amount determined by the Field Office.

(2) The percentage of the grant leveraged by other resources is more than the appropriate percentage determined by the Field Office.

(3) The project meets the standards of quality for the type of project proposed.

(4) An accountable Tribal business management mechanism exists for completion and operation of the project.

(5) The project meets one or more of the following:

(i) It has an assured market;

(ii) It will utilize special skills of members; or

(iii) It will provide multiple benefits.

§ 571.306 Additional features of the selection process.

(a) *Waiver or modification of factors.* Individual factors may be waived or modified by the Secretary when the application of a particular factor or factors would result in a hardship for applicants to address, or would bring about a result that is not consistent with the needs of the applicants in a Field Office's jurisdiction.

(b) *Adding factors.* Additional Impact factors may be added in order to expand Tribal opportunities for dealing with problems or for meeting local needs. Quality factors also may be added or modified when new Impact factors are proposed, or when new qualitative measures are identified.

(c) *Point calculations.* The formula for calculating points for the above factors will be developed by the Field Office. In no case may these calculations change the overall percentage values of the Impact and Quality factors (40 and 60

percent, respectively; of total points awarded) without the prior approval of the Secretary.

(d) The addition of factors or the development of a formula for calculating points may be done by a Field Office after consultation with eligible applicants, as provided in § 571.6, and subject to the approval of the Secretary.

Dated: February 6, 1987.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 87-3228 Filed 2-17-87; 8:45 am]

BILLING CODE 4210-29-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1600, 1610, and 1691

Procedural Regulations; Delegations of Authority

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rules.

SUMMARY: The Equal Employment Opportunity Commission has restructured its Office of Legal Counsel. The organizational title of Associate Legal Counsel, Legal Services, no longer exists and a new organizational title, Deputy Legal Counsel, has been added. These regulatory changes effectuate delegations of authority to permit issuance of responses under the Freedom of Information Act by the Legal Counsel, Deputy Legal Counsel, or their designees.

EFFECTIVE DATE: February 18, 1987.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel or Kathleen Oram, Staff Attorney, at (202) 634-6690.

For the Commission.

Clarence Thomas,
Chairman.

PART 1600—[AMENDED]

1. The authority citation for 29 CFR Part 1600 continues to read as follows:

Authority. E.O. 11222, 30 FR 6469, 3 CFR Part 1965 Supp.; 5 CFR 735.101 et seq.

2. 29 CFR Part 1600 is amended by removing the words "Associate Legal Counsel, Legal Services" and inserting, in their place, "Deputy Legal Counsel" in §§ 1600.735-204 (d) and (f)(4), and 1600.735-402, and 1600.735-403.

PART 1610—[Amended]

1. The authority citation for 29 CFR Part 1610 continues to read as follows:

Authority. Sec. 713(a), 78 Stat. 265, 42 U.S.C. 2000e-12(a); 5 U.S.C. 552, as amended by Pub. L. 93-502; for section 1610.15, nonsearch or copy portions are issued under 31 U.S.C. 483a.

§ 1610.7 [Amended]

2. Section 1610.7, is amended by removing the words "Associate Legal Counsel, Legal Services" and inserting, in their place, "Deputy Legal Counsel".

§§ 1610.8, 1610.9, 1610.10, 1610.11, 1610.13 and 1610.14 [Amended]

3. Sections 1610.8, 1610.9, 1610.10, 1610.11, 1610.13 and 1610.14 are amended by removing the words "Associate Legal Counsel, Legal Services" and inserting, in their place, "Deputy Legal Counsel or designee".

§ 1610.11 [Amended]

4. Section 1610.11 (b), (c) and (e) are amended by inserting "or designee" after the words "Legal Counsel."

PART 1691—[AMENDED]

1. The authority citation for 29 CFR Part 1691 continues to read as follows:

Authority E.O. 12250, 45 FR 72995 (November 4, 1980) and E.O. 12067, 43 FR 28967 (June 30, 1978).

§ 1691.3 [Amended]

2. 29 CFR Part 1691 is amended by removing the words "Associate Legal Counsel for Legal Services, Office of Legal Counsel of EEOC" and inserting, in their place, "Deputy Legal Counsel, EEOC" in § 1691.3

[FR Doc. 87-3346 Filed 2-17-87; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3151-3]

Approval and Promulgation of Implementation Plans; Indiana

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

ACTION: Final rulemaking.

SUMMARY: USEPA is approving certain emissions limitations and compliance techniques contained in operating permits for three coke oven batteries located at Citizens Gas and Coke Utility (Citizens Gas) in Indianapolis (Marion County), Indiana, but is disapproving two limits for Coke Battery Number One. Citizens Gas is located in Center Township which is designated by USEPA as a primary nonattainment area for total suspended particulate (TSP) (40 CFR 81.315). Indiana submitted these

limits as a revision to the State Implementation Plan (SIP) for Marion County.

EFFECTIVE DATE: This final rulemaking becomes effective on March 20, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Steven D. Griffin, at (312) 353-3849, before visiting the Region V Office.)

U.S. Environmental Protection Agency,
Region V, Air and Radiation Branch,
230 South Dearborn Street, Chicago,
Illinois 60604

Indiana Department of Environmental
Management, Office of Air
Management, 105 South Meridian
Street, P.O. Box 6015, Indianapolis,
Indiana 46206-6015

Copies of this revision to the Indiana SIP are available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353-3849.

SUPPLEMENTARY INFORMATION:

I. Background

The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). For a TSP SIP revision to be acceptable in meeting the applicable requirements of Part D of the Clean Air Act (Act), unless a completely approvable modeled attainment demonstration is submitted, all emission points at industrial sources must be governed by approvable Reasonably Available Control Technology (RACT) emission limitations, and all other applicable requirements of section 110 of the Act must be met; e.g., test methods, inspection procedures, compliance schedules. Additionally, present emission limits in these areas cannot be relaxed without an attainment demonstration.

Specifically, for the coke batteries at Citizens Gas, two of the three units are currently federally regulated by SIP regulations only. However, the third unit, Battery Number One, is additionally regulated by a construction permit issued by the State and the City of Indianapolis in 1978. The

requirements in this construction permit are also federally enforceable.

On January 18, 1984, the State of Indiana submitted as a revision to the TSP SIP certain operating conditions and limits which were contained in Certificates of Operation (Numbers 06895, 06896 and 06897). These operating permits were applicable to the three coke oven batteries at Citizens Gas in Marion County, Indiana. The portion of the county in which these batteries are located is designated by USEPA as a primary TSP nonattainment area. The permits were issued by the City of Indianapolis Air Pollution Control Division on June 30, 1980, and on January 4, 1984, the Indiana Air Pollution Control Board adopted the special operating conditions and emission limits in these permits. The conditions and limits included limits on visible emissions from coke oven doors and coke pushing operations and a limit on the content of total dissolved solids (TDS) in makeup water for quenching operations.

On November 27, 1985 (50 FR 48796), USEPA proposed to approve emission limits and operating conditions for the three batteries with the exception of two conditions for Battery Number One which USEPA proposed to disapprove. However, prior to publication of this rulemaking action, the City of Indianapolis issued renewed Certificates of Operation (Numbers 08262, 08263 and 08264) for the three batteries. These permits were submitted to USEPA for informational purposes on March 27, 1985. The permit conditions were substantially the same as those for the expired permits with the addition of: (1) Sulfur dioxide emission limits for each battery's underfiring system; (2) a more stringent visible emissions limit for coke oven doors on Battery Number One; and (3) a lower allowable TDS content for the quench makeup water on Battery Number One. The new conditions for Battery Number One reflected the conditions specified in the State-issued 1978 construction permit for the battery with respect to coke oven door visible emissions and quench makeup water. This construction permit was issued pursuant to the regulatory requirements for Prevention of Significant Deterioration (PSD), as provided under Part C of the Act, and contained emission limits, as provided through the Lowest Achievable Emission Rate (LAER) requirements under Part D of the Act.

The following includes further discussion of the coke oven battery permit conditions, public comments on the November 27, 1985, proposed

rulemaking action, and a full description of today's rulemaking action, including its affect on related state regulations.

II. Permit Conditions

Citizens Gas operates three coke oven batteries, designated E, H and Number One. As stated previously, all three batteries were granted permits to operate in June 1980 by the City of Indianapolis. On September 12, 1983, the City of Indianapolis attached special conditions to the 1980 permits and on January 4, 1984, the State approved these conditions as revisions to Indiana's SIP. The conditions as specified on each permit included the following:

(a) Coke Oven Doors

Visible emissions were not permitted from more than 10 percent of the total coke oven doors plus four doors for ovens in service on any given battery.

(b) Pushing Operations

Visible emissions from coke pushing operations were not permitted to exceed 20 percent opacity (a measure of smoke density) as observed from the battery surface. Compliance with this limit was determined by averaging the opacity averages of six readings per push over four consecutive pushes.

(c) Quench Makeup Water

Makeup water for coke quenching operations was limited to a TDS content of 1500 milligrams per liter (mg/l). To determine compliance, a sample of makeup water was collected at the point where no further additions to the makeup water could be made and analyzed according to methods accepted by USEPA. Collection and analysis was on a quarterly basis. This sampling procedure was contingent on the continued, exclusive use of city water for makeup purposes. If the content of the makeup water was changed, Citizens Gas would need to collect a makeup water sample every 24 hours. Samples could be analyzed daily and averaged over a week or a five-day composite sample could be analyzed weekly.

III. Prior Rulemaking and Public Comments

As previously noted, on November 27, 1985 (50 FR 48797), USEPA proposed to approve the above conditions as being consistent with RACT requirements with the exception of two conditions for Battery Number One. Battery Number One was subject to PSD requirements for new major sources under Part C of the Act and LAER requirements for sources in applicable nonattainment

areas under Part D of the Act. The conditions concerning the visible emissions limit for coke oven doors and TDS content for quench makeup water were relaxations of the requirements stipulated in the battery's construction permit, issued to Citizens Gas by the State on February 10, 1978. The construction permit was consistent with Part C and Part D requirements. With respect to coke oven doors, the construction permit required a visible emission limit of 5 percent. Concerning quench makeup water, the permit included a limit of less than 1000 parts per million (or 1000 mg/l) of TDS.

Because the coke oven door visible emission limit and the limit on TDS content of quench makeup water for Battery Number One were less stringent in the operating permit than in the construction permit, USEPA proposed to disapprove the operating conditions as inconsistent with LAER requirements in the November 1985 notice. However, the notice recognized that the City of Indianapolis had issued revised permits to Citizens Gas for all three batteries on October 29, 1984. The revised Battery Number One permit essentially corrected the two deficient conditions from the previous permit on which USEPA was proposing rulemaking to disapprove. The notice acknowledged that the construction permit emission limits for Battery Number One, which were reflected in the revised operating permit, were approved limits and would be enforced by USEPA.

In conjunction with this notice, USEPA maintained a 60-day public comment period. During this period, the only written comments were submitted to USEPA on January 24, 1986, by legal counsel representing Citizens Gas. Citizens Gas contended that Battery Number One was producing "foundry" coke which should not be subject to the same visible emissions limit for doors as "furnace" coke. It was stated that the 5 percent LAER limit was based on furnace coke production. Citizens Gas maintained that foundry coke production requires a longer coking cycle and produces substantially less tar than furnace coke production, thereby increasing the sealing time for doors on Battery Number One. The increase in sealing time results in a greater possibility of visible door emissions and less likelihood of source compliance with the 5 percent LAER limit, according to Citizens Gas. They requested that USEPA reconsider an 8.8 percent limit (or 13 doors as opposed to 7 doors allowable) based on a longer sealing time for foundry coke oven doors and an analysis relating the quantity of

benzo-a-pyrene (BaP) coke oven emissions to the percentage of leaking doors. By comparing BaP emissions from foundry and furnace coke production, Citizens Gas claimed that the quantity of allowable emissions from the production of foundry coke with 8.8 percent leaking doors would be the same as the quantity of allowable emissions from furnace coke production with 5 percent leaking doors.

Citizens Gas had formerly proposed an 8.8 percent limit on coke oven doors in a variance request to the City of Indianapolis on August 26, 1985, which was an amended version of a variance request proposed by Citizens Gas on January 8, 1985. In the earlier proposal, Citizens Gas requested an exemption from the 5 percent limit for all ovens on Battery Number One which had been charged within two hours preceding the visible emissions inspection.

In a letter to the City of Indianapolis on December 11, 1985, USEPA questioned the validity of the technical assessments in these variance requests. USEPA contended that Citizens Gas had not adequately supported a relaxation of the 5 percent LAER limit, primarily because of a lack of technical evidence to substantiate the difference between foundry and furnace coking operations. USEPA had submitted similar comments to the City of Indianapolis on February 5, 1985, and on February 7, 1985.

USEPA maintains that Citizens Gas has failed to justify a relaxation of the 5 percent LAER limit for visible emissions from coke oven doors on Battery Number One. USEPA notes that the 5 percent limit was exceeded in fewer than 10 percent of nearly 300 door surveys of Battery Number One, as discussed in the February 7, 1985, response.

Concerning quenching makeup water for Battery Number One, which was the second item of disapproval in the November 27, 1985, notice, Citizens Gas had no disagreement with USEPA on the propriety of the construction permit TDS limit of 1000 mg/l, rather than the 1500 mg/l limit in the original operating permit.

IV. Today's Rulemaking and Its Affect on Marion County's Part D TSP SIP

USEPA is approving all but two of the operating permit conditions, as they appear on Certificate of Operation Numbers 06895, 06896 and 06897, for Batteries E, H and Number One. With the exception of the oven door visible emissions limit and the limit on TDS content in quench makeup water for Battery Number One, USEPA finds that all other operating conditions and limits for the three batteries and consistent

with part C and Part D requirements for TSP control. USEPA is disapproving the two limits discussed above. However, it is important to note that this disapproval will have no effect on the operation of Battery Number One, because a revised operating permit has been issued for the battery (Number 08264) by the City of Indianapolis, which corrects the two deficient conditions and conforms to the Act's Part C PSD and Part D LAER requirements.¹ In addition, USEPA will continue to enforce the conditions of the 1978 construction permit for Battery Number One, which are reflected in the battery's revised operating permit. (The original construction permit is Federally enforceable as a requirement of the SIP pursuant to USEPA regulations.) It also does not affect the ultimate lifting of the section 110(a)(2)(I) construction ban in Marion County, because the emission limits in the construction permit are better than RACT, i.e., LAER. A further discussion of Marion County's construction ban follows in this notice.

As proposed in the November 1985 rulemaking notice, the provisions for the sampling methodology of coke quench makeup water for the three batteries is approved by USEPA with the understanding, expressed in a September 7, 1983, letter from the City of Indianapolis, that the one sample to be analyzed quarterly will be a five-day composite sample comprised of daily grab samples for five consecutive days and that the Indianapolis Air Pollution Control Division will in fact request that one such sample of the quench makeup water be analyzed quarterly.

Marion County's TSP SIP still has two remaining deficiencies which must be resolved before USEPA can move forward to approve the TSP plan for the purposes of meeting Part D requirements. These deficiencies are discussed below.

On July 16, 1982 (47 FR 30972), USEPA conditionally approved Indiana's Part D TSP SIP for Marion County with the exception of regulations for coke batteries. USEPA's condition was that the State submit an industrial fugitive particulate regulation to USEPA by July 31, 1982. Such a regulation was submitted, however, USEPA proposed to disapprove the regulation on October 11, 1984 (49 FR 39869), due to the State's

¹Even though USEPA is disapproving these two limits through the SIP/Federal rulemaking process, it is recognized that the State's issuance of a revised construction permit would be the proper means of modifying the State's original construction permit limits. Any modification of original limits would require a demonstration that the TSP NAAQS would be protected and that the modified permit would still conform to Parts C and D of the Act.

failure to require RACT level controls. On January 7, 1986, Indiana submitted a revised version of the regulation. USEPA will propose rulemaking on this revised regulation in a future Federal Register notice.

Secondly, Indiana's opacity plan does not meet Part D requirements. On November 16, 1984 (49 FR 45178), USEPA proposed to approve Indiana's revised opacity regulation for most combustion and noncombustion sources following a U.S. Court of Appeals Seventh Circuit decision in *Bethlehem Steel Corporation v. Gorsuch*, 742 F.2d 1028 (1984). However, USEPA noted that the regulation did not constitute RACT for process fugitive particulate sources in nonattainment areas, including process sources in Marion County.

Section 110(a)(2)(I) imposes a construction ban on (primary) nonattainment areas which do not have approved Part D SIPs. The only two counties in Indiana which continue to have primary TSP nonattainment areas are Lake and Marion Counties, which currently have the ban in effect. For Marion County, the plan is still deficient in that it does not have a RACT level industrial fugitive particulate plan and a RACT opacity plan. Today's rulemaking action, including the element of disapproval and USEPA's continued enforcement of the construction permit limits for Battery Number One, does not affect the current ban on construction in Marion County. However, this rulemaking does remove one barrier to the approval of Marion County's TSP plan.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 20, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by Reference, Particulate matter, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 30, 1987.

Lee M. Thomas,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.770 is amended by adding paragraph (c)(60) to read as follows:

§ 52.770 Identification of plan.

(c) * * *

(60) On January 18, 1984, Indiana submitted a revision to the TSP SIP certain operating conditions and limits for three coke oven batteries at Citizens Gas and Coke Utility in Marion County. The operating permits included conditions and limits for Batteries E, H and Number One with respect to visible emissions from coke oven doors and pushing operations and allowable content of total dissolved solids in quench makeup water. EPA disapproves the limit on coke oven door visible emissions and total dissolved solids content for quench makeup water on Battery Number One, because the limits are inconsistent with that battery's Part C Prevention of Significant Deterioration requirements and Part D Lowest Achievable Emission Rate requirements. See subparagraphs (c)(34) and (c)(42) for further background on actions concerning coke oven batteries.

(i) Incorporation by reference.

(A) Certificates of Operation Numbers 06895, 06896, and 06897 for Citizens Gas and Coke Utility issued by the City of Indianapolis, dated June 30, 1980, with addition of operating conditions and emission limits, dated September 12, 1983, as adopted by the State on January 4, 1984, and transmitted on January 18, 1984.

(ii) Additional information.

(A) September 7, 1983, letter from the City of Indianapolis to the State concerning quarterly analysis of coke quenching makeup water.

3. Section 52.776 is amended by adding new paragraph (k) to read as follows:

§ 52.776 Control strategy: Particulate matter.

(k) On January 18, 1984, Indiana submitted a visible emission limit on

coke oven battery doors and a limit on total dissolved solids content of coke quench makeup water for Battery Number One at Citizens Gas and Coke Utility in Marion County. These limits are disapproved because they are impermissible relaxations of requirements for new major stationary sources, as provided at § 52.21(j)(2) and section 173 of the Clean Air Act. See § 52.770(c)(60).

[FR Doc. 87-3317 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300135A; FRL-3157-6]

Mineral Oil; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts mineral oil from the requirement of a tolerance when used as an inert ingredient diluent, carrier, and solvent in pesticide formulations. This regulation was requested by Malcolm Nicol and Co.

EFFECTIVE DATE: Effective on February 18, 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 28956), which announced that Malcolm Nicol and Co., Lyndhurst, NJ 07071, had requested that 40 CFR 180.1001(c) be amended by expanding the existing exemption from the requirement of a tolerance for mineral oil (U.S.P.) to provide for "Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a), (b)" and the additional use as a carrier in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

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.

The Witco Chemical Corp. commented on the proposal, objecting to the expansion of the current exemption from the requirement of a tolerance for mineral oil (U.S.P.) in 40 CFR 180.1001(c) to include technical mineral oil conforming to 21 CFR 178.3620(b). Witco noted that mineral oil, U.S.P. or conforming to 21 CFR 172.878 or 178.3620(a), is of the purest grade and as such is recognized as safe to the population and the environment. With regard to technical-grade mineral oil, Witco claims that this substance typically contains 3 to 5 percent unidentified aromatics, and could conceivably have higher concentrations of aromatics in the oil and be in conformity with 21 CFR 178.3620(b). Witco further noted that no direct food contact is permitted for technical mineral oils under 40 CFR 178.3620(b) and argued that the application of the technical mineral oil to crops could cause public health problems. In support of this conclusion, Witco referred to a Food and Drug Administration *Federal Register* Notice (48 FR 242; Dec. 15, 1983) which allowed the use of pure white mineral oil as a dust control agent for certain grains not to exceed 0.02 percent by weight of grain. In conclusion, Witco claimed that the use of technical-grade mineral oil for direct food contact on growing crops or raw agricultural commodities after harvest could pose a long-term health hazard to the population.

EPA agrees with the Witco comment that technical-grade mineral oil should not be permitted for direct food contact on growing crops or raw agricultural commodities after harvest. Therefore, this final rule for mineral oil will limit the exemption from the requirement of a tolerance for mineral oil (U.S.P.) to mineral oil (U.S.P.), conforming to 21 CFR 172.878 or 178.3620(a). Section 178.3620(a) is limited to white mineral oil meeting the specifications in 21 CFR 172.878. The final rule, as changed to exclude technical-grade mineral oil, will expand the entry in 40 CFR 180.1001(c) to read "Mineral oil, U.S.P., or

conforming to 21 CFR 172.878 or 178.3620(a)" and the additional use as a carrier in pesticide formulation applied to growing crops or to raw agricultural commodities after harvest.

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 amendment to 40 CFR Part 180 will protect the public health. Therefore, the regulation is established as set forth below.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: February 9, 1987.

Douglas D. Campt,
Director, Office of Pesticide Programs.

PART 40—[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(c) is amended by revising the entry "Mineral oil (U.S.P.)" to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a) (CAS Reg. No. 8012-95-1).		Diluent, carrier, and solvent.

[FR Doc. 87-3318 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3242, 5E3282/R863; FRL-3155-5]

Pesticide Tolerances for Cyano(3-Phenoxyphenyl)-Methyl-4-Chloro-Alpha-(Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the insecticide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on February 18, 1987.

ADDRESS: Written objections, identified by the document control number, [PP 5E3242, 5E3282/R863], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, 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. 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA issued proposed rules, published in the **Federal Register** of December 3, 1986 (51 FR 43643), which announced that 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 petitions (PP) as follows to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the named Agricultural Experiment Stations proposing the establishment of tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)-benzeneacetate in or on certain raw agricultural commodities.

1. **PP 5E3242.** Petition submitted on behalf of the Agricultural Stations of Maine, Michigan, New Jersey, North Carolina, Oregon, and Washington for blueberries, caneberries, currants, elderberries, gooseberries, and huckleberries at 3.0 parts per million (ppm).

2. **PP 5E3282.** Petition submitted on behalf of the Agricultural Stations of Arkansas, Florida, and North Carolina for okra at 0.1 ppm. The petitioner later proposed that residues of the pesticide on okra be limited to Florida 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.

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

The data submitted and relevant information have been evaluated and discussed in the proposed rules. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address

given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted 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, Reporting and recordkeeping requirements.

Dated: February 4, 1987.

Susan H. Weyland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.379 is amended by: (1) Designating the current paragraph and list of tolerances as paragraph (a); (2) adding and alphabetically inserting the following raw agricultural commodities to paragraph (a); and (3) adding a new paragraph (b) to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate; tolerances for residues.

(a) * * *

	Parts per million
Commodities:	
Blueberries.....	3.0
Caneberries.....	3.0
Currants.....	3.0
Elderberries.....	3.0
Gooseberries.....	3.0
Huckleberries.....	3.0

(b) Tolerances with regional registration are established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on the following raw agricultural commodities:

	Parts per million
Commodities:	
Okra.....	0.1

[FR Doc. 87-2974 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6639

[AK-960-07-4220-10; AA-8916]

Alaska; Partial Modification Public Land Order No. 5187

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies a public land order (PLO) insofar as it affects 29.98 acres of public land withdrawn for classification purposes. This action will also classify the land as suitable for selection by the State of Alaska, if such land is otherwise available. The land will remain closed to all other forms of appropriation and disposition under the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: February 18, 1987.

FOR FURTHER INFORMATION CONTACT:

Mary Jane Clawson, BLM Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, 907-271-5060.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and by subsection 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 708 and 709; 43 U.S.C. 1616(d)(1), it is ordered as follows:

1. Public Land Order No. 5187, dated March 15, 1972, which withdrew land for classification purposes, is hereby modified insofar as it affects the following described land:

Copper River Meridian

Lena Point, Alaska

T. 40 S., R. 64 E.,

Lot 1A of U.S. Survey No. 3808, Alaska, situated at Lena Point about seventeen miles northwesterly of Juneau, Alaska.

The area described contains approximately 29.98 acres.

2. Subject to valid existing rights, the land described above is hereby classified as suitable for and opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 72 Stat. 339, et seq.; 48 U.S.C. prec. 21, or subsection 906(b) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2437-2438.

3. As provided by subsection 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described above for a period of ninety-one (91) days from the date of publication of this order, if

the land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will continue to be subject to the terms and conditions of PLO 5187 and other withdrawals of record.

J. Steven Griles,

Assistant Secretary of the Interior.

February 6, 1987.

[FR Doc. 87-3284 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-JA-M

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Serianthes nelsonii* Merr. (Hayun Lagu or Tronkon Guafi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Serianthes nelsonii* (hayun lagu, tronkon guafi), to be an endangered species. This species is known from one mature tree located in the Territory of Guam and 64 known trees on the island of Rota, Commonwealth of the Northern Mariana Islands. The continued existence of this species is endangered by habitat degradation or destruction, typhoons and other natural or man-caused disasters, insect damage, and the cropping of seedlings by introduced deer and pigs. This determination that *Serianthes nelsonii* is an endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is March 20, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The earliest known collection of *Serianthes nelsonii* was that made on Guam by Alfred Marche, who botanically explored the Mariana Islands in the late 1880's. This material remained unstudied until 1947, when

F.R. Fosberg and M.-H. Sachet reported on it (Fosberg and Sachet 1957). In early 1918, Peter Nelson, of the Guam Experimental Station, received the first grant awarded from the Charles Budd Robinson, Jr., Memorial Fund of the New York Botanical Garden. This grant of 50 dollars was to assist him in field work on Guam. As stipulated by the grant, the first set of his collections was submitted to Elmer Merrill, a botanist at the Bureau of Science, Manila, to be identified. Merrill recognized the plant as new to science and in 1919 described it, naming it in Nelson's honor. The tree subsequently was discovered on Rota by R. Kanehira in the 1930's. It is believed to be endemic to those two islands.

There are two common names for the tree. On Guam it is called hayun lagu, which translates as "north wood." On Rota it is known as tronkon guafi (sometimes spelled trongkon) which means "fire tree."

Serianthes nelsonii is a large tree reaching a height of 60 feet or more and a trunk diameter of nearly six feet. The younger parts of the tree, the inflorescence, and the fruits are covered with rusty-brown hairs. The leaves are about ten inches long, doubly pinnate, and with 20 to 30 pairs of small, dark-green leaflets on each pinna. The flowers are shaped like small brushes, the petals nearly an inch long, pale greenish-white; the filaments extend about twice that length beyond the petals, and are white at the base, pink to maroon for most of their length, and tipped with a yellow anther. The fruit is a hard, dry pod, about 5 inches long by 1 inch wide, densely covered with rusty-brown hair.

It is not known if the tree was ever very common; however, large portions of native habitat on Guam and Rota have been destroyed by human activities, such as the recent clearing of native vegetation adjacent to one of the populations of this species on Rota. On Guam, trees are thought to have been destroyed in the past during land clearing on Andersen Air Force Base. Today, 65 individuals are estimated to be extant in the wild, all but one from Rota. The Guam tree is on Andersen Air Force Base and the Rota trees are on private and local government lands.

On December 14, 1981, Paul M. Calvo, then Governor of Guam, petitioned the Service to list *Serianthes nelsonii* as an endangered species. Subsequently, on February 15, 1983, the Service published a "Notice of findings on certain petitions and review of status" in the *Federal Register* (48 FR 6752), which included this species.

On November 28, 1983 (48 FR 53640), the Service published a supplementary notice of plant species under review for listing as endangered or threatened. *S. nelsonii* was included in that notice as a category-1 candidate, indicating that the Service then had sufficient information to propose listing it. On October 13, 1983, and again on October 12, 1984, the Service found that listing of the species was warranted, but precluded by other pending proposals, in accord with section 4(b)(3)(B)(iii) of the Endangered Species Act of 1973, as amended (Act). On October 25, 1985, the Service published a proposed rule in the *Federal Register* (50 FR 43423) based on information summarized in a detailed status report prepared by the Service (Herbst 1984). The Service now determines *Serianthes nelsonii* to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the October 25, 1985, proposed rule (50 FR 43423) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Territorial and Commonwealth agencies and governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Pacific Daily News* on November 23, 1985, which invited general public comment. Eight letters of comment were received, including those from the Governor of the Commonwealth of the Northern Mariana Islands, the Director of the Guam Department of Agriculture, the Director of the Waimea Arboretum and Botanical Garden, three other Federal agencies, and two individuals. All comments received have been considered in formulating this final rule.

All letters of comment strongly supported the listing of *Serianthes nelsonii* as an endangered species. Many of the letters contained additional information updating the data presented in the proposed rule. When appropriate, this information has been incorporated into this final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Serianthes nelsonii* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR

Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Serianthes nelsonii* Merr. (hayun lagu, tronkon guafi) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Large portions of native habitat on Guam and Rota have been degraded or destroyed as a result of human activities. It is not known if this species was ever common, but undoubtedly it existed in greater numbers than it does today. Some of the early Nelson specimens appear to have been collected in areas now on Andersen Air Force Base, since cleared for buildings and other facilities. Another tree is known to have been inadvertently destroyed during land clearing on the base. Recent clearing of land on Rota for agricultural purposes has destroyed the limestone forest vegetation adjacent to one of the *Serianthes* populations on that island. Some of the trees are visible from the agricultural land.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem. However, during Japanese occupation of the Northern Mariana Islands, many large trees were harvested. If *Serianthes* were present in the harvested areas, they probably were cut.

C. *Disease or predation.* Seedlings that have been transplanted from the wild into forest nursery plots have been very susceptible to mealy bug and scale insect damage. Although it is not known whether these insects affect plants in the wild, this may occur. Wild specimens are infested with an unidentified seed-boring insect, resulting in the destruction of much of their seed crop. A recent death of a tree on Guam is believed to have been at least partly due to termite infestation. At least three trees have produced seedlings, but, as no (Guam) or few (Rota) seedlings taller than 8 inches have been seen, it is believed that they are eaten by the introduced deer (Guam, Rota) and perhaps by wild pigs (Guam).

D. *The inadequacy of existing regulatory mechanisms.* *Serianthes nelsonii* was placed on the Guam Endangered Species List on September 24, 1981, and is thereby protected by the Endangered Species Act of Guam (Pub. L. 15-36), which prohibits trade in and import, export, and taking of listed species. Listing as endangered by the Federal Government under the

Endangered Species Act of 1973, as amended, provides additional protection through section 7 (interagency cooperation) and section 9 (prohibitions). Such action also facilitates cooperative efforts by the Service with the Government of Guam to protect the species and enhance its recovery (under section 6). The Commonwealth recognizes *S. nelsonii* as endangered, but has no protective regulations that apply to endangered plants. Nevertheless, the Commonwealth Government has indicated, in a letter of comment, its intention of working towards this species' conservation. In the Commonwealth, the U.S. Endangered Species Act also applies; however, a cooperative agreement under section 6 of the Act has not been completed.

E. Other natural or manmade factors affecting its continued existence. Typhoons are common in Micronesia. At least two of the few remaining trees have been damaged by the high winds of typhoons. The extremely small number of extant individuals coupled with a lack of seedlings contributes to this species' vulnerability. A single event such as a fire, a storm, or a natural fluctuation in the number of individuals could cause the demise of a significant percentage of the remaining members of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Serianthes nelsonii* as endangered. Endangered status reflects the destruction of native habitat that has occurred, the real and potential threats faced by the species and the low number of individuals extant. See the following "Critical Habitat" section for a discussion of why critical habitat is not being designated at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Such a determination would result in no known benefit to the species. The remaining mature tree known from Guam is on Federal property, where no current or known future activity by the U.S. Air Force would adversely affect it. Should any potential adverse effects develop, the involved agencies could be

informed by means other than a critical habitat determination. In addition, publication of detailed range information for such an easily identifiable species that occurs in such small numbers would expose it to potential vandalism. Therefore, it would not be prudent to determine critical habitat for *Serianthes nelsonii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Territorial, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States (including territories and commonwealths) and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The extant plant of *Serianthes nelsonii* on Guam is on Andersen Air Force Base. As the species is now listed as endangered, the Air Force is required to enter into consultation with the Service before undertaking or permitting any action that may affect the plant.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the

jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from an area under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and Territorial or Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Requests for trade permits for scientific purposes and for enhancing the propagation of the species, allowed under § 17.62, may result if an artificial propagation plan is pursued. Otherwise it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/234-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

References Cited

- Fosberg, F. R., and M.-H. Sachet. 1957. Plantes recoltées en Micronesie au XIX^e siècle. Bulletin du Museum d' Histoire Naturelle, Paris, Series 2, 29(5):428-438.
- Herbst, D. 1984. Unpublished status survey of *Serianthes nelsonii* Merr. U.S. Fish and Wildlife Service. 50 pp.

Author

The primary author of this final rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under

the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *
(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
FABACEAE—PEA FAMILY						
<i>Serianthes nelsonii</i>	Hayun Lagu (Guam) Tronkon guafi (Rota)	Western Pacific Ocean: U.S.A. (Guam, Rota).	257	NA	NA	

Dated: January 31, 1987.
P. Daniel Smith,
Deputy Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 87-3312 Filed 2-17-87; 8:45 am]
 BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 663
 [Docket No. 61111-7018]

Pacific Coast Groundfish Fishery

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

SUMMARY: NOAA issues this final rule to implement amendment 2 (amendment) to the Pacific Coast Groundfish Fishery Management Plan (FMP) which governs domestic and foreign fishing for groundfish in the exclusive economic zone off the coasts of Washington, Oregon, and California. The amendment (1) eliminates the special quota for sablefish in Monterey Bay; (2) provides a process for changing gear requirements without amending the FMP; and (3) imposes consistent, coastwide marking requirements on fixed gear. The intended effect is to make management of the groundfish resource more responsive and efficient in achieving the objectives of the FMP.

EFFECTIVE DATES: 0001 hours local time, March 15, 1987, except for § 663.26 (c) and (g) which will be effective at 0001 hours local time on August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115 (phone 206-526-6150); E. Charles

Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Steet, Terminal Island, California 90731 (phone 213-514-6196); or the Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, Oregon 97201 (phone 503-221-6352).

Copies of the amendment, combined with the environmental assessment and the regulatory impact review/regulatory flexibility analysis, are available from the Pacific Fishery Management Council.

SUPPLEMENTARY INFORMATION: Regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) were published October 5, 1982 (47 FR 43964), and were modified by regulations implementing amendment 1 to the FMP effective on July 29, 1984 (49 FR 27518). On December 1, 1986, proposed regulations were published in the **Federal Register** (51 FR 43219), with a request for public comment, to implement amendment 2 to the FMP as recommended by the Pacific Fishery Management Council (Council).

The regulations implementing amendment 2 to the FMP include: Deletion of the separate 2,500 metric ton optimum yield (OY) for sablefish caught in Monterey Bay, California; addition of a provision that would allow gear requirements to be changed, allowing full public involvement, without a time-consuming amendment to the FMP; and imposition of marking requirements for two types of fixed gear (set net and commercial vertical hook-and-line gear), consistent with Federal marking requirements for other types of fixed gear.

Comments

One comment was received during the 75-day public comment period of October 31, 1986, until January 10, 1987.

Comment. The U.S. Coast Guard disagreed that the framework provision

for making gear changes (Issue 2) would not affect enforcement procedures or costs, and requested recognition in the amendment of the need for analyzing impacts on enforcement each time a gear change is proposed.

Response. The framework procedure in itself has no impact on enforcement. For actions taken under this procedure to change gear restrictions, the framework provision already is designed to incorporate public review and analysis of issues relevant to the proposed action, including enforcement. Currently, the Council considers implications for enforcement each time it reviews a management measure. A representative of the U.S. Coast Guard sits on the Council and a special enforcement advisory committee consisting of State and Federal enforcement agents also comments on all management actions, including those anticipated under this provision.

Clarification

In approving amendment 2, the Secretary wishes to clarify the operation of the framework provision for changing gear restrictions at § 663.25. Because the changes which are possible under amendment 2 cover a wide range, analyses of biological and socioeconomic impacts will be considered at the time a particular change is proposed under this framework provision. As a result, the time required to process a gear change under this provision will vary depending on the nature of the action, its impacts on the fishing industry, the resource, the environment, the attendant review of these impacts by interested parties. Satisfaction of the legal requirements of other applicable law (e.g. the Administrative Procedure Act, Regulatory Flexibility Act, Executive Order 12291, etc.) for changes to gear restrictions under this framework will

require analysis and public comment before measures may be implemented by the Secretary. This appears to be consistent with the procedures proposed and the intent of the Council in its recommendation regarding the gear modification provision.

Phase-in of Gear Marking Requirements

In order to minimize the economic impact on the approximately 220 fishermen using set nets and commercial vertical hook-and-line gear in the Pacific coast groundfish fishery, the provisions at § 663.26 (c) and (g) requiring marking of these gears will not be effective until August 1, 1987.

Changes to Proposed Rule

Section 663.27(b)(3) was modified to describe the removal of the text referring to the geographic description of the Monterey subarea only so all of paragraph (b)(3) would not have to be republished again.

Classification

The Regional Director determined that the FMP amendment is necessary for the conservation and management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

The Council prepared an environmental assessment for this FMP amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the environmental assessment is available from the Council at the address given above.

The Administrator of NOAA determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The Council prepared a regulatory impact review for this amendment which explains the reason for this determination. A summary was published at 51 FR 43219. A copy of this review is available from the Council at the address listed above.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The regulatory flexibility analysis which was prepared in conjunction with the regulatory impact review states that the total impact of these proposed regulations is expected to be beneficial but minor. See the summary at 51 FR 43219.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agency of Oregon agreed with this determination. Washington and California did not comment; consequently their concurrence is presumed.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

Dated: February 11, 1987.

Carmen J. Blondin,

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

PART 663—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 663 is amended as follows:

1. The authority citation for 50 CFR Part 663 continues to read as follows:

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

2. The Table of Contents is amended by removing the title at § 663.25 "Season [Reserved]" and inserting a new title "Gear adjustments".

3. In § 663.23, paragraphs (a) and (b) are amended by adding the reference, "§ 663.25" after "663.22" where it occurs in the first sentence of both paragraphs.

§ 663.21 [Amended]

4. Section 663.21 is amended by removing paragraph (a)(2) in its entirety and redesignating paragraph (a)(3) as paragraph (a)(2).

5. A new § 663.25 is added to read as follows:

§ 663.25 Gear adjustments.

(a) *Changes to gear restrictions.* Except as otherwise provided by section 305(e) of the Magnuson Act, after receiving a recommendation and written report by the Pacific Fishery Management Council, the Secretary may publish one or more notices under § 663.23 at any time during the year to change domestic or foreign gear restrictions if it is determined that the change is consistent with the objectives of the FMP and would result in significant improvements in the groundfish fishery. Significant improvements may exist when:

(1) Sustainable landings are increased;

(2) The value of landings are increased;

(3) Gear conflicts are reduced;

(4) Fishing efficiency is increased; and

(5) Another condition exists which promotes achievement of the objectives of the FMP, which may be based on consideration of changes in catch composition, yield per recruit, cost to the fishing industry, impacts on other management measures and other fisheries, and any other relevant biological or socio-economic information.

(b) Changes to gear restrictions may include, but are not limited to, definitions of legal gear, mesh size specifications, codend specifications, marking requirements, and other gear specifications included in this part, 50 CFR 611.70, and the FMP.

(c) A public hearing will be held before any determination that a change to the gear restrictions is consistent with the objectives of the FMP and would result in significant improvements in the groundfish fishery, and before publishing any notice changing gear restrictions. Implementation of changes to the gear restrictions will be scheduled so as to minimize the costs to the fishing industry, insofar as this is consistent with achieving the goals of the change.

6. In § 663.26, paragraph (c) is revised and paragraph (g) is redesignated as paragraph (h), and a new paragraph (g) is added to read as follows:

§ 663.26 Gear restrictions.

* * * * *

(c) *Set nets.*

(1) Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00' N. latitude.

(2) Set nets must be marked at the surface at each terminal end with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

* * * * *

(g) *Commercial vertical hook-and-line (Portuguese longline).* Commercial vertical hook-and-line gear (Portuguese longline) must be marked at the surface with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

* * * * *

§ 663.27 [Amended]

7. In § 663.27, paragraph (b)(3) is amended by removing the text from the first sentence that reads "for that portion of the Monterey subarea between 37°00' N. latitude and 36°30' N. latitude, or for the fishery management area as a whole", which follows "of the OY will be reached"; by removing the

text from the first sentence that reads "applicable to the relevant area", which follows "a notice in accordance with the § 663.23"; by removing the text from the second sentence that reads "in the area to which the trip limit applies (between 37°00' N. latitude and 36°30' N. latitude, or", which follows "all trawl landings containing sablefish"; by removing the text from the second sentence that reads

"as a whole", which follows "the fishery management area"; by removing the text from the third sentence that reads "in the relevant area", which follows "trawl or fixed gear"; by removing from the third sentence the word "relevant" in the last four words that read "in the relevant area".

8. In § 663.27, paragraph (b)(3) is amended by adding to the second

sentence the word "from" between the text that reads "all trawl landings containing sablefish" and "the fishery management area"; and by adding to the third sentence the phrase "fishery management" before the last word "area".

[FR Doc. 87-3353 Filed 2-12-87; 4:46 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 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 AGRICULTURE

Farmers Home Administration

7 CFR Parts 1809, 1900, 1902, 1910, 1924, 1941, 1943, 1945, 1951, 1955, 1962, 1965, and 1980

General Revision of Farmer Program Regulations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The current 30 day comment period on the proposed rule that appeared at pages 1706-1804 in Volume 52 of the Federal Register on January 15, 1987 (FR Doc. 87-582) expires on February 17, 1987. That proposed rule would amend Farmers Home Administration's regulations to: (1) Provide for the use of ratios and standards and a preapplication for determining the degree of potential loan risk on insured loans; (2) remove appraisal regulations from the Code of Federal Regulations; (3) require each State to publish unit prices for farm commodities each year; (4) authorize the State Director to overturn a favorable County Committee decision; (5) prohibit loans for advance payment of cash leases; (6) require crop insurance; (7) restrict use of balloon payments; (8) restrict new loans to previously FmHA foreclosed borrowers and previous borrowers whose FmHA debts have been debt settled unless certain conditions are met; (9) provide for FO loans on leasehold interest in Hawaii; (10) remove obsolete and unfunded loan program regulations; (11) add more guidance on what is a nonfarm enterprise; (12) clarify the EM disaster designation procedure; (13) require financial information from all members of an entity and delete the reference to principal members; (14) clarify calculations for an EM actual loss, and

prevent duplication of benefits from other agencies; (15) protect historic sites and correct health or safety problems; (16) add provisions for farm debt restructure and conservation set aside conservation easements; (17) redefine a borrower; (18) clarify the use of the word character of the word character; (19) remove obsolete material and make other necessary clarifications and editorial changes; (20) further clarify the use of proceeds from the sale of chattel security and the release of chattel security. This document extends the comment period for that proposed rule for an additional 30 days to allow citizens ample time to comment on the proposed rule.

DATES: Comments on the proposed rule are being extended for a 30 day period from February 17, 1987, to March 19, 1987. Comments must be received on or before March 19, 1987 in order to be assured of consideration.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: William Krause, Director, Emergency Loan Division, Farmers Home Administration, USDA, Room 5420, Washington, DC 20250, Telephone: (202) 382-1632.

Dated: February 13, 1987.

Kathleen W. Lawrence,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-3557 Filed 2-17-87; 9:24 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 207

Admission of Refugees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Extension of comment period for notice of proposed rulemaking.

SUMMARY: The Service has extended from February 10, 1987, to March 3, 1987, the deadline for submitting comments in response to requests received from the public. The Amendments the Service proposed were published on December 12, 1986 at 51 FR 44795.

DATE: Comments are now due on or before March 3, 1987.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Daniel Solis, Immigration Inspector, Office of Refugee, Asylum and Parole, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633-5463.

SUPPLEMENTARY INFORMATION: The Service has extended the deadline for submitting written comments from February 10, 1987, to March 3, 1987, to allow the public additional opportunity to comment on proposed amendments published on December 12, 1986, at FR 44795.

SUMMARY: The proposed rule would modify the procedure to be used in determining eligibility to be considered for refugee admission under section 207 of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. The modification would require that applicants eligible for immigrant visas under the preference classes established in subsection 203(a) of the Act and for whom a visa number would be available within one year not be admitted as refugees unless it is in the public interest.

Dated: February 10, 1987.

Richard E. Norton,

Associate Commissioner, Examinations,
Immigration and Naturalization Service.

[FR Doc. 87-3288 Filed 2-17-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-09-AD]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to revise Airworthiness Directive (AD) 85-21-07, Amendment 39-5295, published in the Federal Register on May 2, 1986 (51 FR 16294), applicable to Beech Model 1900/1900C airplanes. The AD requires that in-service airplanes be operated in accordance with revised Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual (POH/AFM) material which reflects the performance achieved by production airplanes. Subsequent to the issuance of AD 85-21-07, the manufacturer developed a kit that enables the in-service airplanes to achieve the performance as published in the original POH/AFM. The proposed revision to AD 85-21-07 would limit the applicability of AD 85-21-07 to those airplanes which have not been modified by the installation of the kit.

DATES: Comments must be received on or before April 6, 1987.

ADDRESSES: Beech Letter 52-85-1948 dated October 21, 1985, applicable to this AD may be obtained from Mr. Lou Gollin, Beech Aircraft Service Engineering, Department 52, P.O. Box 85, Wichita, Kansas 67201; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-09-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Carlos Blacklock, ACE-160W, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801

Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4433.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-09-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive 85-21-07, Amendment 39-5295, published in the Federal Register on May 2, 1986 (51 FR 16294), applicable to Beech Model 1900, requires a revision to the Pilot's Operating Handbook and FAA-Approved Airplane Flight Manual (POH/AFM) to permit the airplane to achieve the requirements of FAR 135 Appendix A, paragraph 6(B)(2). Subsequent to that publication, Beech has developed modifications which improve the one-engine inoperative climb performance of Models 1900 and 1900C airplanes. Those modifications are defined by Beech Kit Part Number (P/N) 114-4013-1 S. The FAA has determined that the improvement in one-engine-inoperative climb performance for airplanes fitted with Kit P/N 114-4013-1 S is adequate to ensure that production airplanes so modified can achieve the levels of performance set forth in the basic POH/AFM P/N 114-590021-3. Accordingly, the additional operating restrictions set

forth in interim addendum to POH/AFM P/N 114-590021-03 dated October 21, 1985, and made mandatory by AD 85-21-07 are not warranted for those airplanes which have been modified by the installation of Kit P/N 114-4013-1 S.

Beginning with Beech Model 1900, Serial UA-4, and 1900C, Serials UB-61, UC-1 and UD-1, the basic design criteria was revised so that the components of Kit P/N 114-4013-1 S will be installed during the initial manufacturing process. For this reason, the provisions of this AD are revised to limit the applicability of airplanes to those manufactured prior to the above serials. Certain of the Beech Models 1900, Serials UA-1 through UA-3, and 1900C, Serials UB-1 through UB-60, will have Kit P/N 114-4013-1 S fitted during production. In addition, Beech has announced plans to retrofit in-service airplanes in the field. The revision therefore defines the AD as applicable only to specified serial-numbered airplanes, and identifies the Kit P/N 114-4013-1 S as an alternate means of compliance, and sets forth a procedure to be followed in recording compliance with this AD for those airplanes modified by Kit P/N 114-4013-1 S in the field. The kit relieves operators from applying the additional weight, altitude and temperature restrictions imposed by the interim addendum.

The FAA has determined there are approximately 63 airplanes affected by the proposed AD. Beech Aircraft Corporation is furnishing and installing the kits at no cost to the operators and owners; therefore, this action would not impose an adverse economic impact on the owners.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend § 39.13 of Part 39 of the FAR as follows:

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

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

§ 39.13 [Amended]

2. By revising AD 85-21-07,

Amendment 39-5295, as follows:

Revise the applicability statement to read as follows:

"Beech: Applies to Models 1900 (Serial Numbers UA-1 through UA-3) and 1900C (Serial Numbers UB-1 through UB-60) airplanes certificated in any category."

Revise paragraph (d) to read as follows:

"(d) The requirements of paragraphs (a), (b), and (c) do not apply to airplanes which have installed Beech Kit Part Number (P/N) 114-4013-1 S. Airplanes with this kit installed may operate in accordance with the limitations and procedures shown in Beech Model 1900/1900C Pilots's Operating Handbook and FAA-Approved Airplane Flight Manual (POH/AFM), P/N 114-590021-3."

Add paragraph (e):

"(e) An equivalent means of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mr. Lou Gollin, Beech Aircraft Service Engineering, Department 52, P.O. Box 85, Wichita, Kansas 67201; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106."

Issued in Kansas City, Missouri, on February 5, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-3263 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-CE-03-AD]

Airworthiness Directives: Mitsubishi Heavy Industries, Ltd., Models MU-2B-25, MU-2B-26 and MU-2B-35 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Mitsubishi Heavy Industries, Ltd., (MHI) Models MU-2B-25, -26, and -35 airplanes, which would require inspections, repairs

as necessary and removal of shield jumper wires that together form a ground circuit that parallels the generator ground cable. This proposed action is prompted by the report of one shield jumper that burned from overcurrent. The actions proposed by this AD would preclude the possibility of an electrical fire.

DATES: Comments must be received on or before April 21, 1987.

ADDRESSES: MHI MU-2 Service Bulletin (S/B) No. 201 dated December 27, 1985, and Amendment dated April 25, 1986, applicable to this AD, may be obtained from Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan; or Beech Aircraft Corporation (Licensee to Mitsubishi Heavy Industries, Ltd.), 9709 East Central, P.O. Box 85, Wichita, Kansas 67201; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of Regional Counsel, Attention: Rules Docket No. 87-CE-03-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8:00 a.m. and 4:00 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Herb Peters, Aerospace Engineer, Western Aircraft Certification Office, Systems & Equipment Section, ANM-173W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007; Telephone (213) 297-1367.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 87-CE-03-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Some Mitsubishi Models MU-2B-25, -26, and -35 airplanes, as defined in MU-2 S/B No. 201, have shield jumpers in series with generator shields forming an unwanted ground circuit paralleling the normal large gauge generator ground cable. The shield circuits use small gauge shield jumpers at each connector terminator and at each ground termination. On one aircraft, during a routine inspection, with no reported problem, shield jumper wire K56A20 connected to generator terminal "E" was found burned. The cause was determined to be false grounding to generator terminal "E". As a result, MHI has issued MU-2 S/B No. 201 dated December 27, 1985, with Amendment dated April 25, 1986, which indicates inspections, repairs and modification which will correct the problem circuit. The JCAB, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Japan, has classified this MHI Service Bulletin, as amended, and the actions recommend therein by the manufacturer as mandatory to assure continued airworthiness of the affected airplanes. Mitsubishi Aircraft International (U.S. built) airplanes are not affected.

On airplanes operated under Japanese registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the JCAB combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of the aforementioned service bulletin and the mandatory classification by the JCAB. Based on the foregoing, the FAA believes that the condition addressed by MHI MU-2 S/B No. 201 dated December 27, 1985, with Amendment dated April 25, 1986, is an unsafe condition that may exist on other products of this type design, certificated for operation in the United States.

Consequently, the proposed AD applicable to Models MU-2B-25, -26, and -35 airplanes would require accomplishment of the inspections, repairs and modifications to the wiring as described in the aforementioned S/B.

The FAA has determined there are approximately 123 airplanes affected by the proposed AD. The cost of inspecting, repairing, and modifying the wiring in accordance with the proposed AD is estimated to be \$160 per airplane. The total cost is estimated to be \$19,680 to the private sector.

The cost of compliance with the proposed AD is so small (\$160 per airplane) that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Mitsubishi Heavy Industries, Ltd. (MHI)
Applies to MHI Models MU-2B-25, MU-2B-26, and MU-2B-35 (Serial Numbers 264 through 312, 314 through 320, 586 through 651 and 653) airplanes certificated in any category.

Compliance

Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent burning of generator shield

jumper wires, accomplish the following:

(a) Inspect, repair (as necessary), and modify the generator circuit shield jumper wires in accordance with instructions contained in paragraphs 1. and 2. of the "Instructions" portion of MHI MU-2 Service Bulletin (S/B) No. 201 dated December 27, 1985, as amended April 25, 1986.

(b) Aircraft may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Western Aircraft Certification Office, ANM-17OW, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan; or Beech Aircraft Corporation, 9709 East Central, P.O. Box 85, Wichita, Kansas 67201; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 5, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-3264 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANM-28]

Proposed Alteration of Laramie, Wyoming, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the Laramie, Wyoming, Control Zone from full-time to part-time. A temporary reduction in personnel staffing of the Laramie Flight Service Station has resulted in weather observations not being available 24 hours a day.

DATES: Comments must be received on or before March 25, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 86-ANM-28, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

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

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

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal

Aviation Administration, Docket No. 86-ANM-28, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ANM-28". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to change the status of the Laramie, Wyoming, Control Zone from

full-time to part-time. A temporary reduction in personnel staffing of the Laramie Flight Service Station has resulted in weather observations not being available 24 hours a day.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Laramie, Wyoming, Control Zone [Amended]

Add "The control zone shall be effective during the specified dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory."

Issued in Seattle, Washington, on February 5, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-3285 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-13-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure; Simplified Proceedings

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes several amendments to the procedural rules governing simplified adjudicative proceedings before the Occupational Safety and Health Review Commission and its Administrative Law Judges. The most significant changes would strengthen the role of the Commission when the parties cannot agree on whether to use simplified proceedings or conventional proceedings in trying a case. The Commission's experience under its existing procedural rules has revealed that simplified proceedings are underutilized, primarily because the present rules give any party a veto over the use of simplified proceedings. Under the proposed rules, the Commission would decide whether to use simplified proceedings or conventional proceedings when the parties cannot agree. The proposed rules would therefore result in greater use of simplified proceedings, while preserving the right of a party to invoke conventional proceedings when they are necessary to assure due process.

DATE: Comments must be submitted on or before March 20, 1987.

ADDRESS: Comments may be mailed to—

Earl R. Ohman, Jr., General Counsel,
Occupational Safety and Health
Review Commission, Room 402-A,
1825 K Street, NW., Washington, DC
20006

FOR FURTHER INFORMATION CONTACT:
Earl R. Ohman, Jr., at 202-634-4015.

SUPPLEMENTARY INFORMATION:

Development of the Proposed Rules

Adjudications by the Occupational Safety and Health Review Commission and its Administrative Law Judges are governed by the regulations published at 29 CFR Part 2200—Rules of Procedure. Conventional proceedings are governed by Subparts A through G of Part 2200. Simplified proceedings are governed by Subpart M. The major differences between simplified proceedings and conventional proceedings are the following: (1) Pleadings generally are not required or permitted in simplified proceedings; (2) discovery is generally not permitted; (3) the Federal Rules of

Evidence do not apply, as they do in conventional proceedings; and (4) interlocutory appeals are not permitted.

Approximately two years ago, the Chairman of the Commission appointed a committee to study the Commission's rules and to recommend changes. The Commission, however, decided to consider separately the committee's recommendations for the rules governing simplified proceedings and those governing conventional proceedings. On June 25, 1986, the Commission published in the Federal Register a proposal to adopt a thorough revision of Subparts A through G of its Rules of Procedure. 51 FR 23184-23208. The Commission stated that it was not then proposing any changes in Subpart M but that it intended "to review Subpart M and to propose any needed changes shortly." 51 FR 23194. On September 8, 1986, the Commission completed its rulemaking procedures on Subparts A through G by adopting revised rules. 51 FR 32002-32030. The Commission then turned its attention to Subpart M.

Commencing Simplified Proceedings

The most significant changes proposed in this document relate to the procedures for commencing simplified proceedings. Under the present rules, any party may file a request for simplified proceedings within ten days of receiving notice that the case has been docketed. However, if any other party objects to the request, the case automatically continues under conventional proceedings. The objecting party is not required to state any reason for its objection.

The Rules Committee reported that, where the simplified procedures were used, they had worked well. The committee noted, however, that simplified proceedings were sparingly used, largely because of widespread use of the absolute veto the present rules accord any objecting party. The Rules Committee therefore recommended that Subpart M be changed to encourage greater use of simplified proceedings and to give the Commission and its Judges "the final word on whether the rules should be utilized in a particular case after an election is made by one of the parties."

The Decision to Order Simplified Proceedings or Conventional Proceedings Under the proposed rules, if the parties cannot agree on whether to use simplified proceedings or conventional proceedings, the Chief Administrative Law Judge or the Judge to whom the case is assigned would make this decision. Therefore, one of the

key issues to be resolved in this rulemaking proceeding is the appropriate test for determining whether to commence or to discontinue simplified proceedings when the parties cannot agree. Proposed paragraphs (b)(3) and (d) of § 2200.203 and proposed paragraphs (a) and (b) of § 2200.204 state a single criterion for parties and judges to apply when a party objects to simplified proceedings: that simplified proceedings would, "under the particular circumstances of the case," deny due process. The repeated use of the phrase "under the particular circumstances of the case" is deliberate. It is intended to discourage generalized objections to simplified proceedings. That the simplified proceedings rules do not permit discovery as of right, dispense with pleadings, forbid interlocutory review, and make inapplicable the Federal Rules of Evidence, does not necessarily mean that due process will not be afforded. Pleadings are useful but they are not generally necessary to due process; the fair notice of an allegation required by due process can be given by means other than pleadings. Formal rules of admissibility for evidence are desirable, but due process is not violated by the mere admission of evidence; due process is violated when a finding is not supported by substantial evidence, not when evidence that could be excluded is present in a record. Moreover, the duty imposed on agencies by section 7(c) of the Administrative Procedure Act, 5 U.S.C. 556(d), to exclude "irrelevant, immaterial, or unduly repetitious evidence" is met by proposed § 2200.207(c)(1), which would permit the exclusion of "irrelevant, unduly repetitious or unreliable evidence." The loss of an opportunity to seek interlocutory review places a party in the same position as one who has unsuccessfully sought interlocutory review: he must choose between complying with the interlocutory ruling and complaining later of prejudicial error, or violating the order and seeking reversal of any sanction on the ground that the order is invalid. Finally, discovery is not ordinarily necessary to due process. *Mister Discount Stockbrokers, Inc. v. S.E.C.*, 718 F.2d 875 (7th Cir. 1985). The proposed rules therefore contemplate that an objection to simplified proceedings will recite the specific facts peculiar to the case that show that simplified proceedings would deny due process.

Purpose of Subpart M

Paragraph (a) § 2200.200 states that the simplified proceedings rules have a dual purpose. The present rule defines

these goals as (1) saving time and expense and (2) "preserving fundamental procedural fairness." Under the proposed rule, the second goal would be restated more specifically as "assuring due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554."

Application of Subpart M

Section 2200.201 states the criteria for determining which cases are governed by Subpart M. Under the present rule, a case cannot be tried under simplified proceedings if any party objects to a request for simplified proceedings. Under the proposed rule, however, the Chief Administrative Law Judge or the Judge to whom the case has been assigned could overrule a party's objections and approve a contested request for simplified proceedings.

Eligibility for Simplified Proceedings

Section 2200.202 identifies certain cases that are ineligible for simplified proceedings, and therefore must be tried under conventional proceedings, because of the potential complexity of the legal issues that are presumed to be involved. Eligibility for simplified proceedings is determined according to the standard or statutory provision that the Secretary has cited in the contested citation. Under the proposed rule, the list of ineligible standards would be reorganized and updated (to reflect the Secretary's adoption of new occupational health standards in Subpart Z of Part 1910). More importantly, cases brought under section 5(a)(1), 29 U.S.C. 654(a)(1), the Act's "general duty clause," would be made eligible for simplified proceedings. Under the present rule, a case cannot be tried under simplified proceedings if a violation of section 5(a)(1) is alleged. However, the Commission believes that this categorical exclusion of all 5(a)(1) cases is unwarranted. While some 5(a)(1) cases are extremely complex and difficult to resolve, others are relatively simple and well suited to hearing under simplified proceedings.

Procedures for Commencing Simplified Proceedings

Section 2200.203 sets forth the procedures for commencing simplified proceedings. The Commission proposes several changes in this section.

Paragraph (a)(2) (When to request)—Under the present rule, a request for simplified proceedings must be filed within 10 days after the notice of docketing is received. Under the proposed rule, a later request could be considered upon a showing of good

cause justifying the late filing. The present rule appears to be unnecessarily stringent. In particular, the Commission is concerned that it may act as a bar to pro se employers, who are probably unaware in many instances that they are required to file a request for simplified proceedings so soon after the case is docketed.

Paragraph (a)(3) (How to request)—Under the present rule, a "simple statement" that simplified proceedings are requested is sufficient. Under the proposed rule, this "simple statement" is still sufficient, but it must be in writing.

Present paragraphs (a)(4) and (c)(1); proposed paragraph (b)(4) (When simplified proceedings go into effect)—The present rules contain two provisions that appear to be in conflict. Paragraph (a)(4) provides that simplified proceedings "are in effect" when no party files a timely objection to a request for simplified proceedings. However, paragraph (c)(1) provides for notice by the Commission that simplified proceedings are in effect; this notice is to be issued after the period for objection has expired, but no objection has been filed. Under the proposed rules, the provision at present paragraph (a)(4) would be deleted. The provision at present paragraph (c)(1) would be retained, but renumbered as paragraph (b)(4).

Paragraph (b)(2) (When to object)—Under the present rule, an objection must be filed within 15 days after the request for simplified proceedings is served. Under the proposed rule, this time period would be reduced to 10 days.

Paragraph (b)(3) (How to object)—Under the present rule, the mere statement by a party that it objects to simplified proceedings is sufficient. The party need not even state the basis of its objection. The Commission proposes to replace this objection as of right with a limited right to object on the ground that, under the particular facts of the case, simplified proceedings would deny it due process. The objecting party would be required to state its objection and the grounds for it in writing. The Commission believes that simplified proceedings will accord due process in the large majority of cases. Therefore, the Commission proposes to place the burden on the objecting party to show why the proceedings should not be simplified.

Present paragraphs (b)(4) and (c)(2); proposed paragraph (d) (Effect of objection)—Under the present rule, the filing of a timely objection precludes the institution of simplified proceedings. The Commission automatically issues a

notice that the case will continue under conventional proceedings. Under the proposed rules, these two provisions, currently found at paragraphs (b)(4) and (c)(2), would be deleted. A new rule, proposed paragraph (d), would establish procedures for resolving disputes over the use of simplified proceedings. The objecting party would be required to show that, under the particular circumstances of the case, it would be denied due process under simplified proceedings. If the objecting party meets its burden, the Judge would order that the case be conducted under the conventional rules. Otherwise, the case would be conducted in accordance with Subpart M. All parties would be notified of the Judge's determination, which will not be subject to interlocutory review.

Proposed paragraph (c) (Statements of position)—This is also a new rule. Under this rule, if any party filed an objection to simplified proceedings, every other party would have the right to file a statement of its position in the dispute.

Present paragraph (d); proposed paragraph (e) (Filing deadlines)—No substantive change is proposed. However, the rule would be renumbered, and references to other renumbered rules would be updated.

Discontinuance of Simplified Proceedings

Section 2200.204 sets forth the procedures for discontinuing simplified proceedings after the Judge has ordered them implemented. The Commission proposes several changes in this section, which largely parallel the changes proposed in the rule on commencing simplified proceedings. The Commission proposes to place the same burden on parties seeking to discontinue simplified proceedings and parties objecting to simplified proceedings when they are first requested. The proposed rules would formalize the procedures for discontinuing simplified proceedings.

Under the present rule, a motion to discontinue may be made at any time before the commencement of the hearing. Under the proposed rule, this motion could not be made less than 30 days before the hearing.

Under the present rule, simplified proceedings can be discontinued only upon motion of a party. Under the proposed rule, a Judge would be able to discontinue simplified proceedings on his own motion.

Under the present rule, the motion to discontinue will be granted if (1) all parties agree to discontinuance or (2) "sufficient reason is shown" for applying the conventional rules. Under the proposed rule this second ground

would be changed to conform to the test for denying a request for simplified proceedings. The motion to discontinue would be granted only if the party seeking discontinuance shows that application of the conventional rules is essential to assure due process.

Under the present rule, once a motion to discontinue is granted, the Judge determines whether it is necessary for the parties to file a complaint and answer; they are not required to do so unless ordered by the Judge. The Commission proposes to expand the Judge's discretionary authority in cases where simplified proceedings have been discontinued. Under the proposed rule, the Judge would be empowered to issue such orders as are necessary for the orderly continuation of the case under the Commission's conventional rules. This would include, but not be limited to, the present authority to order the filing of pleadings.

The Commission also proposes to provide that all other parties are given 5 days to respond to a motion to discontinue by stating their positions on the motion and their reasons.

Filing of Pleadings

No substantive change is proposed in § 2200.205. However, references in paragraph (a) to other renumbered rules would be updated.

Conference/Hearing

Various miscellaneous amendments are proposed in § 2200.207.

The Commission proposes to correct an error in paragraph (b). Present paragraph (b) refers to § 2200.205. However, the intended reference is to § 2200.206.

Present paragraph (c) provides that the hearing held during the course of simplified proceedings shall be in accordance with 5 U.S.C. 554 (section 5 of the Administrative Procedure Act). Under the proposed rule, the hearing would be in accordance with the Commission's conventional rules on hearings (Part 2200, Subpart E). However, proposed § 2200.212 would create two exceptions to the general applicability of Subpart E: §§ 2200.71 (Rules of Evidence) and 2200.73 (Interlocutory Review) would not be applicable to simplified proceedings.

Paragraph (c)(1) grants the Judge the authority to exclude certain evidence offered at the hearing. The Commission proposes to expand this authority. Under the proposed rule, the Judge would retain the authority he currently has to exclude "irrelevant" or "unduly repetitious" evidence. However, he would also be granted the authority to exclude "unreliable" evidence.

Paragraph (c)(2) requires a party to give notice that it wishes to present written arguments in a case using simplified proceedings. Under the present rule, this notice must be given to the Judge during the conference/hearing. Under the proposed rule, the requesting party would also be required to give this notice to all other parties during the conference/hearing.

Post-Hearing Procedures

No substantive change is proposed in § 2200.209. However, the Commission proposes a revision of paragraph (b) to clarify the present rule. The proposed rule states that any party may file a petition for review of the judge's decision under § 2200.91 and that Subpart F governs the posthearing procedures in cases tried under Subpart M.

Discovery

Section 2200.210 governs discovery in simplified proceedings. The present rule makes clear that the Judge determines whether discovery will be permitted, and if so, what type of discovery will be allowed. Under the proposed rule, the Judge would also have authority to establish the conditions and the time limits under which discovery would be permitted.

Applicability of the Commission's Conventional Rules

Section 2200.212 establishes which of the conventional rules in Subparts A through G are applicable to simplified proceedings. It includes a list of rules that are never applicable as well as a statement that other conventional rules may be inapplicable if they are inconsistent with the Subpart M rules. The Commission proposes several changes in the list of conventional rules that are inapplicable. These changes are necessary as a result of the Commission's recent revision of Subparts A through G.

Discovery rules—The Commission proposes to add the discovery rules in Subpart D to the list of inapplicable rules. Accordingly, discovery in simplified proceedings would be governed solely by § 2200.210, which would place the matter fully within the discretionary power of the Judge. The only rule in Subpart D that would still apply to simplified proceedings would be § 2200.57, which governs the issuance of subpoenas.

Pleadings rules—The Commission proposes to continue its policy of not applying the conventional pleading rules to simplified proceedings. However, the list of inapplicable rules would be

revised to reflect the fact that there are now three rules (§§ 2200.34-2200.36) rather than only one (former §2200.33) governing the filing of complaints and answers in conventional proceedings.

Renumbered rules—The list of inapplicable rules in § 2200.212 would be revised to reflect the recent renumbering of certain conventional rules.

Rules of evidence—In adopting the revised rule at § 2200.71, the Commission made the Federal Rules of Evidence applicable to conventional proceedings. The Commission proposes to retain the provision in present § 2200.207(c)(1) that states that the Federal Rules of Evidence are not applicable to simplified proceedings. Therefore, § 2200.71 is added to the list of Commission rules that are inapplicable to simplified proceedings.

Rules deleted from the list—The Commission proposes to delete three rules from the present list of inapplicable rules. Thus, these conventional rules would be made applicable to simplified proceedings. The rules are found at § 2200.6 (notification of record address), § 2200.39 (filing of statement of position), and § 2200.41 (failure to obey rules). In the recent revision of Subparts A through G, § 2200.41 replaced former § 2200.38 (failure to file), which was inapplicable to simplified proceedings.

List of Subjects in 29 CFR Part 2200

Hearing and appeal procedures, Administrative practice and procedure.

PART 2200—[AMENDED]

It is proposed to amend Subpart M of Part 2200 of Chapter XX of Title 29 of the Code of Federal Regulations as follows:

1. The authority citation for Part 2200 continues to read as follows:

Authority: 29 U.S.C. 661(g), unless otherwise noted.

2. Section 2200.200 paragraph (a) is revised to read as follows:

§ 2200.200 Purpose.

(a) The purpose of this subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so the parties before the Commission may save time and expense while assuring due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. The rules shall be construed and applied to accomplish these ends.

3. Section 2200.201 is revised to read as follows:

§ 2200.201 Application.

The rules in this subpart shall govern proceedings before an Administrative Law Judge in a case eligible for simplified proceedings under § 2200.202 upon the request of a party and, if there is objection, the approval of the Chief Administrative Law Judge or such other judge to whom he has assigned the case.

4. Section 2200.202 is revised to read as follows:

§ 2200.202 Eligibility for simplified proceedings.

A case is eligible for simplified proceedings unless it concerns an alleged violation of a standard listed below:

- § 1910.94
- § 1910.95
- § 1910.96
- § 1910.97
- §§ 1910.1000 through 1910.1200
- § 1926.52
- § 1926.53
- § 1926.54
- § 1926.55
- § 1926.57
- § 1926.800(c) and

Any occupational health standard that may be added to Subpart Z of Part 1910.

(All standards listed are found in title 29 of the Code of Federal Regulations)

5. Section 2200.203 is amended by revising paragraphs (a)(2), (a)(3), (b)(2), (b)(3), (b)(4), (c) and (d), by removing paragraph (a)(4), and by adding paragraph (e), as follows:

§ 2200.203 Commencing simplified proceedings.

(a) * * *

(2) *When to request.* After the Commission receives an employer's or employee's notice of contest or petition for modification of abatement, the Executive Secretary shall issue a notice indicating that the case has been docketed. Any request for simplified proceedings shall be filed within ten days after the notice of docketing is received, unless the notice of docketing states otherwise; a late-filed request may be considered only if good cause for the filing is shown.

(3) *How to request.* A simple statement is all that is necessary. For example, "I request simplified proceedings" will suffice. The request shall be in writing. The request shall be filed with the Executive Secretary and served on all of the following: (i) the employer, (ii) the Secretary of Labor, and (iii) any authorized employee representatives. The request also shall be posted for the benefit of any unrepresented affected employees. (To serve the Secretary of Labor, the request should be mailed to the Regional

Solicitor named in the notice of docketing.)

(b) * * *

(2) *When to object.* An objection shall be filed within 10 days after the request for simplified proceedings is served.

(3) *How to object.* The objection must be stated in writing and explain why due process would not be afforded, under the particular circumstances of the case, by simplified proceedings. An objection shall be filed with the Executive Secretary and served in the manner prescribed for requests for simplified proceedings in paragraph (a)(3) of this section.

(4) *No objection filed.* When the period for objecting to simplified proceedings expires and no objection has been filed, the Commission shall notify all parties that simplified proceedings are in effect.

(c) *Statements of position.* Any party may, within 10 days after an objection to simplified proceedings is served, file with the Executive Secretary a statement of position on the objection.

(d) *Judge's ruling on objection.* If the objecting party shows that, under the particular circumstances of the case, simplified proceedings would deny due process to the objecting party, the Judge shall order that the case be conducted under conventional rules. Otherwise, the Judge shall order the use of simplified proceedings. The order granting or denying the request shall not be subject to interlocutory review.

(e) *Time for filing complaint or answer under § 2200.34.* The times for filing a complaint or answer shall not run if a request for simplified proceedings is filed. If the Commission later notifies the parties under § 2200.203(d) that the case is to continue under conventional procedures, the periods for filing a complaint or answer shall begin upon receipt of the notice.

6. Section 2200.204 is revised to read as follows:

§ 2200.204 Discontinuance of simplified proceedings.

(a) *Procedure.* At any time, but no later than thirty days before the hearing, on his own motion or that of a party, the Administrative Law Judge to whom the case has been assigned may discontinue simplified proceedings. A motion to discontinue must be in writing and explain why due process would not be afforded under the particular circumstances of the case by simplified proceedings. All other parties shall have five days from the date of the motion to state their position on the motion and the reasons therefor.

(b) *Ruling*. Simplified proceedings shall be discontinued if all parties consent or if the party seeking discontinuance shows that, under the particular circumstances of the case, due process would not be afforded by simplified proceedings. If simplified proceedings are terminated, the Judge may issue such orders as are necessary for an orderly continuation under conventional rules.

7. Section 2200.205 paragraph (a) is revised to read as follows:

§ 2200.205 Filing of pleadings.

(a) *Complaint and answer*. There shall be no complaint or answer in simplified proceedings. If the Secretary has filed a complaint under § 2200.35, a response to an employee contest under § 2200.38, or a response to a petition under § 2200.37, no response to these documents shall be required.

8. Section 2200.207 is amended by revising paragraph (b) and (c) as follows:

§ 2200.207 Conference/Hearing.

(b) *Conference*. At the beginning of the conference, the Judge shall enter into the record all agreements reached by the parties as well as defenses raised during the discussion set forth in § 2200.206. The parties and the Judge then shall attempt to resolve or narrow the remaining issues. At the conclusion of the conference, the Judge shall enter into the record any further agreements reached by the parties.

(c) *Hearing*. The Judge shall hold a hearing on any issue that remains in dispute at the conclusion of the conference. The hearing shall be in accordance with Subpart E of these rules.

(1) *Evidence*. Oral, physical, or documentary evidence shall be received, but the Judge may exclude irrelevant, unduly repetitious or unreliable evidence. Testimony shall be given under oath or affirmation. The Federal Rules of Evidence shall not apply.

(2) *Oral and written argument*. Each party may present oral argument at the close of the hearing. At the conference/hearing, any party wishing to present written argument shall notify the judge and all other parties so that the Judge may set a reasonable period for the prompt filing of written argument.

9. Section 2200.209 paragraph (b) is revised to read as follows:

§ 2200.209 Decision of the Judge.

(b) Any party may petition for Commission review of the Judge's

decision as provided in § 2200.91. After the issuance of the Judge's decision, the case shall proceed in the conventional manner prescribed in Subpart F.

10. Section 2200.210 is revised to read as follows:

§ 2200.210 Discovery.

Discovery, including requests for admissions, shall not be allowed except under the conditions and time limits set by the Judge.

11. Section 2200.212 is revised to read as follows:

§ 2200.212 Applicability of Subparts A through G.

The provisions of Subpart D (except for § 2200.57) and §§ 2200.34, 2200.35, 2200.36, 2200.37(d)(4), 2200.38, 2200.71 and 2200.73 shall not apply to simplified proceedings. All other rules contained in Subparts A through G of the Commission's rules of procedure shall apply when consistent with the rules in this subpart governing simplified proceedings.

Dated: February 12, 1987.

E. Ross Buckley,
Chairman.

Dated: February 12, 1987.

John R. Wall,
Commissioner.

[FR Doc. 87-3308 Filed 2-17-87; 8:45 am]

BILLING CODE 7600-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3157-4]

Approval and Promulgation of Implementation Plans; Ohio

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

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On December 8, 1986 (51 FR 44081), USEPA proposed rulemaking to revise the sulfur dioxide designation for Pierce Township in Clermont County, Ohio from nonattainment to attainment of the National Ambient Air Quality Standards. At the time of the proposed rulemaking, a 30-day comment period was provided. The Natural Resources Defense Council requested an extension of the public comment period. USEPA is extending the public comment period 60 additional days to March 9, 1987, based upon this request.

DATE: Comments must be postmarked on or before March 9, 1987.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

Authority: 42 U.S.C. 7401-7642.

Dated: February 6, 1987.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 87-3319 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL-3157-7]

Approval and Promulgation of State Implementation Plans; Utah; Carbon Monoxide SIP Revision for Utah County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today is proposing to approve a revision to the Utah Carbon Monoxide (CO) State Implementation Plan (SIP). The revision affects the CO SIP for Utah County which was approved on December 21, 1983 (48 FR 56378) and which stated an attainment date of December 31, 1983. On July 11, 1984, 49 FR 28243, the attainment date was revised to February 1, 1986.

On December 12, 1985, the Governor of Utah submitted the above revision, regulations, and technical support document. The submittal defines several control strategies for CO in Utah County. The strategies are The Federal Motor Vehicle Control Program, Inspection/Maintenance with anti-tampering, and certain transportation Control Measures. The purpose of this revision is to attain the CO standard by December 31, 1987. The submittal is in response to a SIP Call dated December 19, 1984.

DATES: Comments are due March 20, 1987.

ADDRESSES: Written comments should be addressed to: Dean Gillam, Acting Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202.

Copies of the state submittal are available for public inspection between

8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:
Environmental Protection Agency,
Region VIII, Air Programs Branch, One
Denver Place, Suite 500, 999 18th Street,
Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT:

Lee Hanley, Air Programs Branch,
Environmental Protection Agency, One
Denver Place, Suite 500, 999 18th Street,
Denver, Colorado 80202, (303) 293-1757.

SUPPLEMENTARY INFORMATION:

Background

The Utah CO SIP for Utah County (hereafter called the Provo CO SIP) was originally approved on December 21, 1983 (48 FR 56378), with a revision concerning the attainment date published in the July 11, 1984 *Federal Register* (49 FR 28243). The approval was based on CO monitored levels for the base year 1980-1981 of a 2nd high 8-hour average of 12.5 ppm (14.4 mg/m³). According to the SIP, a 25% reduction in CO emissions was required with an attainment date of February 1, 1986. The SIP further stated that, based on Mobile 2 emission factors for typical winter conditions of 35° F and 25 mph for "all modes", a 40% reduction would be attained by 1987 under the Federal Motor Vehicle Emission Control Program. Transportation controls were expected to result in an additional 1% reduction.

Following approval of the SIP, EPA reviewed the monitoring data for calendar years 1982 and 1983. The analyses indicated increasing CO levels beyond that of the base year and that the existing control strategies were inadequate for attainment of standard. (See 50 FR 18245 for additional information.)

SIP Call

In a letter dated December 19, 1984, EPA advised the Governor of Utah of the inadequacies of the Provo CO SIP. This finding of inadequacy required Utah, pursuant to the provisions of section 110(a)(2)(H), to revise the SIP as necessary to assure timely attainment and maintenance of the CO NAAQS. The Governor of Utah responded, in a letter dated February 11, 1985, with a schedule for revision of the SIP for CO in Utah County. The schedule committee to a December 19, 1985 deadline for submittal of the required SIP revision.

Proposed SIP Revision

On December 12, 1985, the Governor of Utah submitted a revision to the Utah SIP containing the program strategies for CO attainment in Utah County.

The SIP revision contains a new section, Section 9.C.6, which describes the data history, emission inventory, control strategies, authority to implement an Inspection/Maintenance (I/M) program with anti-tampering and the Utah County Health Regulations. The SIP references the technical support document which contained the summarized analyses and conclusions underlying the control strategies listed in the SIP.

The inventory lists highway vehicles, point sources and space heating as the major emission categories of CO in the County. The SIP indicates that the winter weekdays are when high CO concentrations are typically observed. Monitoring data show these high concentrations to be in the urban areas; and, modeling, using meteorological data from high CO concentration days, indicated vehicle emissions as the major contributor. Point sources, which account for 14% in the overall county emission inventory, affect the high concentration areas by less than 1%. (The point sources are located in the outskirts of the city and the wind pattern from these point sources is away from the high concentration areas.) Space heating emissions are potentially greater during winter days but could not be easily monitored or "controlled" in the timeframe allowed for developing and implementing this SIP revision. Therefore, the reduction of CO emissions must come from vehicle emissions. Based on 1984 design value the SIP states a 40% reduction in vehicle CO emissions is necessary for attainment of the standard.

To obtain this reduction, the control strategies are: (1) Federal Motor Vehicle Control Program (FMVCP), (2) automobile I/M with anti-tampering, and (3) various transportation control measures (TCM).

The FMVCP requires vehicle manufacturers to certify that new vehicles meet federal vehicle emission standards. The replacement of older vehicles with newer models produces a reduction in CO emissions. This strategy is estimated to provide an 18% reduction in vehicle CO emissions.

The automobile I/M with anti-tampering program requires the inspection of model year 1968 and newer motor vehicles, prior to vehicle registration with the Utah State Tax Commission. The I/M portion of the program will test vehicle emissions with respect to the Utah County emission standards. (The emissions standards, known as cutpoints, are the percent carbon monoxide and parts/million hydrocarbon that a car or truck of a given model year must meet during the

vehicle exhaust gas test.) The anti-tampering portion of the program requires inspection of the air pollution control devices and the lead Plumbtesmo test of vehicles for model years 1977 and newer. Passage of the anti-tampering inspection is required of the 1968-1976 model-year vehicles if they do not pass the emission inspection. (The lead Plumbtesmo test uses lead sensitive paper to determine lead contamination in the exhaust system. Lead contamination indicates an inoperative catalytic converter which would be required to be replaced.)

The vehicle owner will receive a "Certificate of Compliance" upon successful completion of the I/M and anti-tampering inspection tests. The certificate is necessary for annual vehicle registration or annual renewal registration in Utah County.

Given qualifying conditions, a "Certificate of Waiver" can be issued when a vehicle fails to pass the I/M test. Failure to pass the anti-tampering test can void the certificate of waiver requirements. The County is allowing a one-year grace period, July 1, 1986 to June 30, 1987, for vehicle model year 1968 to 1980, in which a "Certificate of Waiver" can be issued even if the vehicle fails the tampering inspection. After June 30, 1987, the vehicle owner must correct the deficiencies before another inspection is performed on that vehicle.

The SIP states that the I/M with anti-tampering program is expected to reduce CO emission by 23%. It is designed to have a stringency factor of 30% (i.e., it is expected that 30% of the vehicles will fail the test, indicating that the vehicles are not properly maintained).

The I/M program officially began on July 1, 1986. It will operate under the requirements stated in the City-County Health Department of Utah County Health Regulations, Vehicle Emission-Inspection Maintenance Program. The program requires station operators to be certified by the County, to operate these stations, and issue "Certificates of Compliance or Waiver" according to the County Rules and Regulations for I/M and anti-tampering program.

The TCMs are designed to reduce and improve traffic flow within Provo. The TCMs are (1) ridesharing, (2) traffic improvements, and (3) transit improvements. The ridesharing program is a transportation brokerage that will operate in Utah County to construct and operate park-and-ride lots, promote car and van pooling programs, and coordinate other transportation needs. The traffic improvement program would affect five major roads in Provo that

would increase the average vehicle speed two to five miles per hour. These improvements were calculated to reduce automobile CO emissions by 3%. The transit improvements are being coordinated with the Utah Transit Authority for a mass transit system in Utah County; this effort is expected to reduce automobile CO Emissions by 1%.

The above described strategies are designed to provide for attainment of the CO standard by December 31, 1987.

Utah County has embarked on an aggressive program to reach attainment of the standard by year-end 1987. This program has allowed the County only 18 months to implement an inspection/maintenance with anti-tampering program and, along with the other elements of the revised SIP, achieve the CO standard. Under the interpretation of the Clean Air Act that EPA announced on November 2, 1983 (48 FR 50686), those nonattainment areas whose EPA approved SIPs were later found inadequate, must demonstrate attainment as expeditiously as practicable. The State (through the Utah Bureau of Air Quality) and the Environmental Protection Agency (EPA) have worked with the County to determine the reasonably available measures (RAM) necessary to achieve the standard. Had the County and State not presented RAM in the regulations and SIP revision, the potential of an EPA disapproval was highly probable. The EPA then would take further action to impose a construction ban under section 173(4) and funding restrictions under section 176(b).

The County initiated a public awareness program immediately after adoption of the regulations. This program includes (a) radio and television public information spots, (b) displays at the County Health Fair, (c) distributing program brochures, (d) free voluntary inspections prior to I/M program start-up, and (e) discussions with local news reporters. With these efforts, the County's goal is to reduce the public's anxiety toward the upcoming requirements.

EPA has four concerns with the I/M and anti-tampering credits that the County has presumed. First, the County in its calculations assumed a start date of January 1986 for the I/M and anti-tampering programs. Since the I/M with anti-tampering program officially began on July 1, 1986, the calculations should use this date. Second, the full anti-tampering program only applies to 1977 and later vehicles; the County included 1974 and overestimated the credit for catalyst replacement; the County assumed credit for catalyst replacement on vehicles with tampered fuel inlet

restrictors, when no such requirement exists in the program regulations. Finally, the County did not adjust the anti-tampering credits to reflect the one-year waivers for replacement of tampered equipment in the first year of the program; some of these waivers will postpone repairs beyond December 31, 1987 and thus provide no emission reductions toward attainment by then.

The County, however, did not take credit for other efforts that the EPA feels should be recognized. These efforts are: (1) The passage of anti-tampering inspection is required prior to waiver considerations for all 1968 and later vehicles and, (2) the I/M program includes heavy-duty vehicles (greater than 8500 lbs. gross vehicle weight rating (GVWR)) as well as all other vehicles (less than 8500 lbs. GVWR). (The County could not take credit for these efforts because EPA did not have quantifiable values of these effects on an anti-tampering or I/M program.)

EPA has conducted analyses of the CO emission reduction necessary for the 1984 design value utilized by Utah in this SIP, the 1982 design value utilized by EPA as the basis for the December 19, 1984 SIP Call, and the 1983 design value which requires the most emission reduction. As described in EPA's technical support document, EPA's analyses indicate that the Utah Plan will attain the CO standards as expeditiously as practicable.

On other issues of the State's submittal, EPA requested clarification to (1) parts of section 9.11, "Inspection Procedures", (2) programs reporting requirements to EPA and, (3) plan for maintenance of the standard once attainment is reached.

The State submitted additional information, dated May 8, 1986, in response to the EPA questions. Specifically, EPA was concerned with section 9.11.4, which allows waivers but does not specify under what conditions they will be granted. The State responded that the waiver option is to be used only in special circumstances, such as when an owner is unable to readily obtain a replacement part prior to registering his car. EPA understands the State will require ultimate compliance with the I/M requirements in such cases. On reporting requirements, EPA has been assured that the State will coordinate with the County to submit an annual status report to EPA.

EPA expressed concern that the legal mechanism for the I/M program, House Bill No. 21, automatically expires on attainment of the CO standard. EPA stressed to the State that ending the I/M program once the CO standard is

achieved may not allow for maintenance of the standard as required by the Clean Air Act. On May 16, 1986, the State responded that the Utah Air Conservation Committee, the governing body of the Utah Bureau of Air Quality, intends to seek a change in the Utah legislation to allow for retention of the I/M program after attainment status has been achieved. Subsequently, the State affirmed its understanding that no area has attained the standard until EPA's criteria for redesignating the area to attainment have been met. EPA policy would not allow redesignation of an area to attainment if the effect of such a redesignation would be for the I/M program to be abandoned with the consequence that the CO standard would again be violated.

EPA Action

EPA is today proposing to approve a revision to the Utah CO SIP for attainment of the standard in Utah County. The SIP commits to reduction of vehicle emissions through implementation of a vehicle inspection/maintenance with an anti-tampering program and use of various transportation control measures. The SIP has stated an attainment date of December 31, 1987. EPA believes the Utah CO SIP for Utah County will achieve the standard as expeditiously as practicable. Because there is some question whether the I/M program will continue after the area attains the standard, EPA cannot now approve the Plan as it pertains to maintenance of the CO standard in Utah County.

Under 5 U.S.C. section 605(b), I certify that this SIP approval does not have a significant economic impact on a substantial number of small entities.

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

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of sections 110(a)(2) (A)-(K) and 110(a)(3) of the Clean Air Act, as amended.

Authority: 42 U.S.C. 7401-7642.

Dated: June 25, 1986.

John G. Welles,

Regional Administrator.

Note—This document was received at the office of the Federal Register on February 12, 1987.

[FR Doc. 87-3320 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) have submitted Amendment 2 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (mackerels) (FMP) for review by the Secretary of Commerce. Comments are invited from the public on the

amendment and any other documents made available.

DATE: Comments will be accepted until Saturday, April 11, 1987.

ADDRESSES: Comments should be sent to Craig R. O'Connor, Acting Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of Amendment 2, the Environmental Assessment, and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis are available from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407-4699; and the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: William N. Lindall (Regional Plan Coordinator), 813-893-3722.

SUPPLEMENTARY INFORMATION:

Amendment 2 to the FMP was prepared under the Magnuson Fishery Conservation and Management Act.

This amendment proposes measures to minimize overfishing of the Spanish mackerel stock in the Gulf of Mexico and to rebuild and maintain the stock at a maximum sustainable yield level through flexible management procedures. On June 29, 1984 (49 FR 26809), the Environmental Protection Agency published a notice of availability of a draft environmental impact statement for the FMP.

Proposed regulations for this amendment will be published within 15 days.

(16 U.S.C. 1801 et seq.)

Dated: February 12, 1987.

Richard B. Roe,

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

[FR Doc. 87-3352 Filed 2-12-87; 4:33 pm]

BILLING CODE 3510-22-M

Notices

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

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Wythoughan Park—Yellow River Bank Erosion Critical Area Treatment RC&D Measure, Indiana; Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 40224, telephone 317-248-4350.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wythoughan Park—Yellow River Bank Erosion Critical Area Treatment RC&D Measure, Starke County, Indiana.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for Critical Area Treatment. The planned works of improvement include the straightening and shaping of approximately 455 linear feet of eroding Yellow River streambank.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data

developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single request at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: February 9, 1987.

Robert L. Eddleman,
State Conservationist.

[FR Doc. 87-3289 Filed 2-17-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 6-84; Foreign-Trade Zone 53]

Proposed Subzone for Tubular Corporation of America, Inc., Muskogee, OK; Application Withdrawn

The City of Tulsa-Rogers County Port Authority, grantee of Foreign-Trade Zone 53, has requested the withdrawal of its application to the Foreign-Trade Zones Board for a subzone at the steel tube manufacturing plant of Tubular Corporation of America, Inc. (TCA) in Muskogee, Oklahoma. The application was filed March 2, 1984 (49 FR 9245, 3/12/84).

The withdrawal is being requested because of changed circumstances.

The request is approved, without prejudice, and FTZ Board Docket 6-84 is closed.

Dated: February 11, 1987.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 87-3372 Filed 2-17-87; 8:45 am]

BILLING CODE 3510-DS-M

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 1987

International Trade Administration

President's Export Council; Open Meeting

A meeting of the President's Export Council will be held March 4, 1987, 9:30 a.m. to 12:05 p.m. and 2:00 p.m. to 3:30 p.m., in the Executive Chambers of the Madison Hotel, 15th and M Streets, N.W., Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda: Opening remarks; subcommittee reports and panel discussions on LDC Debt, U.S. Competitiveness, Export Controls.

The delay in publication of this notice is due to difficulty in finding a location for the meeting.

For further information or copies of the minutes contact Sylvia Lino (202) 377-1125, Room 3213, U.S. Department of Commerce, Washington, DC 20230.

Dated: February 13, 1987.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 87-3537 Filed 2-13-87; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Marine Mammals: Return of Modification Request

On April 15, 1986, notice was published in the *Federal Register* (51 FR 12726) that a request to modify Permit No. 292 had been filed by the Dolphins Plus, Inc., P.O. Box 2114, Key Largo, Florida 33037, to authorize open ocean work with four captive Atlantic bottlenose dolphins (*Tursiops truncatus*).

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), after having considered all pertinent information and facts, the National Marine Fisheries Service has determined that the request to modify Permit No. 292 submitted by Dolphins Plus, Inc., should be returned. The Applicant was notified on February 12, 1987.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Species and Habitat Conservation, 1825 Connecticut Ave., NW., Suite 805, Washington, DC 20235; and

Director, Southwest Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: February 12, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-3351 Filed 2-17-87; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 70221-7021]

National Fish and Seafood Promotional Council; Request for Nominations

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

ACTION: Notice of request for Council nominations.

SUMMARY: The Fish and Seafood Promotion Act of 1986 creates a fifteen (15) member National Fish and Seafood Promotional Council. The National Council will develop annual plans and budgets for generic marketing and promotion of fisheries products, including consumer education, research, and other appropriate activities. Members of the Council are to be appointed by the Secretary of Commerce. Therefore, NOAA issues this notice for all interested parties to submit the names of nominees with biographical data.

EFFECTIVE DATE: Nominations and biographical information should be submitted to the NMFS Washington Office by March 20, 1987. For the address, see the Supplementary Information Section.

FOR FURTHER INFORMATION CONTACT:

Phyllis S. Bentz, Office of Industry Services, National Marine Fisheries Service, Washington, DC 20235. Telephone: (202) 673-5497.

SUPPLEMENTARY INFORMATION: On November 14, 1986, Pub. L. 99-659 was enacted. Title II, the "Fish and Seafood Promotion Act of 1986," (FSPA) provides for the establishment of a National Fish and Seafood Promotional Council. The Council's objectives are to develop annual plans and budgets to generically market and promote fisheries products, including consumer education, research, and other activities of the Council, such as funding referenda to establish any product-specific councils formed under Section 210 of the Act, and coordinating their activities. Legislative authority for

the National Council expires on October 1, 1990. Funding for the Council will come from the Fisheries Promotional Fund established in the U.S. Treasury. The Fund will be capitalized primarily through monies transferred from the Saltonstall-Kennedy Fund; \$750,000 in fiscal year 1987, \$3,000,000 each in fiscal years 1988 and 1989, and \$2,000,000 in fiscal year 1990 were authorized in the FSPA.

Eligibility Requirements: The Council will consist of the Secretary of Commerce or his designee, who shall be a non-voting member, and fifteen voting members to be appointed by the Secretary for a term of four years. Those appointed will include three voting members from each of the Northeast, Southeast, Pacific, and Alaska regions. Of the three members from each region, one shall be a "harvester," one shall be a "processor" or a "receiver," and one shall be a "marketer." For the purpose of appointment eligibility, "harvester" means any individual with experience in the business of catching or growing fish for purposes of sale; a "processor" means any person with experience in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale; a "receiver" means any person with experience in owning fish processing vessels and any person with experience in the business of acquiring fish directly from harvesters; a "marketer" means any person with experience in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not nor has been the processing or packaging of fish or fish products in preparation for sale. To be eligible for appointment, nominees must also reside in or do substantial fishing industry business in one of the Northeast, Southeast, Pacific or Alaska regions. The States making up these regions follow:

Northeast Region (Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia).

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Commonwealth of Puerto Rico, and territory of the Virgin Islands).

Alaska Region (Alaska).

Pacific Region (Idaho, Washington, Oregon, California, Hawaii, territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands).

Also to be appointed are two

members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries, but who are not residents of the states of the Northeast, Southeast, Pacific, and Alaska regions. Finally, one member-at-large, who is either a person with current or previous professional experience in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products, or a person who is or has been a member of an organized labor union and has expertise in the United States fisheries, will be appointed.

The members of the Council will receive no salary but will be reimbursed for reasonable travel costs and expenses incurred in performing their duties as Council members.

For more detailed information regarding the Council refer to Pub. L. 99-659, Title II.

Selection Criteria: In addition to the eligibility requirements defined above for the various memberships, appointments will be based upon: (1) Length, breadth, and recent experience in particular sector(s) or category(ies) for which membership is prescribed; (2) general knowledge of fisheries and the industry of the particular region(s); (3) overall knowledge of U.S. fisheries and the industry; and (4) other special qualifications, e.g., experience in and/or knowledge of market research and promotion, product development, public relations, and consumer education; positions of leadership in the fishing industry; relevant education, etc.

Submission of Nominations

Nominations for membership should be accompanied by biographical information relevant to the above considerations. Nomination of qualified women and minorities is encouraged. Security clearances will be required for all individuals appointed. This collection has been approved by OMB under the Paperwork Reduction Act, control number 0605-0003. Nominations should be submitted by March 20, 1987 to the following address: Director, Office of Industry Services, National Marine Fisheries Service, Washington, DC 20235.

Dated: February 12, 1987.

Carmen J. Blondin,

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

[FR Doc. 87-3354 Filed 2-17-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Bio-Rad Laboratories

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bio-Rad Laboratories having a place of business in Richmond, CA, an exclusive right in the United States to manufacture, use and sell products embodied in the invention entitled "Process for Site-Specific Mutagenesis without Phenotypic Selection," U.S. Patent Application Serial Number 6-623,923. The patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.9. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87-3290 Filed 2-17-87; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a Seminar on Implementation of the Special Access Program Under the Caribbean Basin Initiative on February 27, 1987, in Miami, FL

February 13, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), announces that CITA will conduct a seminar on implementation of the Special Access Program under the Caribbean Basin Initiative on Friday, February 27, 1987 at 10 a.m. to 1 p.m. at the Radisson Mart Hotel, 711 North West 72 Avenue, Miami, Florida, 33126 (telephone 305-261-3800). The seminar is open to all persons interested in obtaining

additional information regarding administration of the Program by each of the agencies concerned, the bilateral agreements negotiated under the Special Access Program, and Form ITA-370P. Representatives of CITA and the U.S. Customs Service, responsible for implementation of the Special Access Program, will conduct the seminar. Representatives of the Caribbean Basin beneficiary nations with whom guaranteed access levels have been negotiated are being invited to attend.

Background

On February 20, 1986, the President announced a special program to guarantee access to the U.S. market for Caribbean-produced textile products assembled from fabric formed and cut in the United States. CITA was instructed to establish procedures to implement the program and to invite Caribbean governments to enter into bilateral agreements with the United States under which guaranteed levels of access would be permitted for exports of qualifying assembled textile products from participating countries.

On June 11, 1986, CITA published a Federal Register notice announcing the requirements for participation in the Special Access Program under the Caribbean Basin Initiative. See 51 FR 21208. That notice announced that firms participating in the Special Access Program must complete a Special Access Program CBI Export Declaration, Form ITA-370P, for each qualifying shipment.

Since that time, bilateral agreements establishing guaranteed access levels have been negotiated and implemented with the Governments of Jamaica, the Dominican Republic, Haiti, Trinidad and Tobago, and Barbados. In addition, the U.S. Customs Service has issued a Directive to its field offices establishing procedures for the presentation of Form ITA-370P to the Customs ports. See U.S. Customs Service Directive 3500-12, September 2, 1986.

In the interest of educating interested firms and ensuring the smooth implementation of the Program, CITA has decided to hold a half-day seminar. Miami, Florida was chosen as the seminar site because the vast majority of shipments under the Program have been through the Port of Miami.

There is a \$10 contribution per person for the seminar. Persons interested in attending the seminar should reserve a seat by forwarding their \$10 contribution to the FCBF Association (the Florida Customs Brokers and Forwarders Association), P.O. Box 522022, Miami, Florida 33152, telephone 305-871-7177.

For additional information: U.S. Department of Commerce, Office of Textiles and Apparel, Washington, DC 20230, (202) 377-3400.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-3538 Filed 2-13-87; 4:49 pm]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 17 March 1987.

Time of Meeting: 0830-1600 hours.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board panel on the Effectiveness Review of the Human Engineering Laboratory will meet at the Pentagon for the purpose of reviewing the draft report covering the review. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-3287 Filed 2-17-87; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS) for the Confined Disposal of Polluted Sediments Dredged From the Cleveland Harbor Commercial Navigation Project at Cleveland, OH

AGENCY: U.S. Army Corps of Engineers, Buffalo District, DOD.

ACTION: Notice of Intent to prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS).

SUMMARY: 1. *Description of Action:* The proposed action involves raising the dike of an existing Federal confined disposal facility (CDF) located east of the Cuyahoga River on the shoreline of Lake Erie at Gordon Park. The original FEIS for the project was completed in December 1975 and filed with the U.S. Environmental Protection Agency on 20 February 1976. In November 1986, a draft Letter Report was prepared to examine alternatives for continued

confined disposal of heavily polluted sediment dredged from Cleveland, Ohio. The alternatives studied include the possibility of extending the life of the present CDF (Dike 14) by raising the dike. The purpose of the Draft Supplement to the FEIS is to address the environmental impacts associated with the project.

2. *Alternatives:* A wide range of alternatives were addressed in the original FEIS and project Letter Report. Potential alternatives to the proposed action consist of no-action, extending the life of the existing CDF, and constructing a new CDF at another location.

3. *Scoping Process:* An initial scoping meeting was held with the Cleveland Port Authority and concerned resource agencies on 29 March 1985. Additional coordination will be accomplished during preparation of the Draft Supplement to the FEIS. The participation of concerned Federal, State, and local agencies, and other interested private organizations and parties is invited. Significant issues to be analyzed in the Draft Supplement to the FEIS include sediment and water quality, fish and wildlife impacts, and commercial shipping.

4. *Scoping Meeting:* No additional scoping meeting is currently scheduled.

5. *Availability:* The Draft Supplement is scheduled to be available for review in April 1987.

ADDRESS: Questions about the proposed action and DEIS can be answered by William F. MacDonald, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207, telephone (716) 876-5454, extension 2175 or FTS 473-2175.

Dated: February 9, 1987.

Daniel R. Clark,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 87-3307 Filed 2-17-87; 8:45 am]

BILLING CODE 3710-GP-M

DEPARTMENT OF EDUCATION

Office of Management

Federal Education Data Acquisition Council

AGENCY: Department of Education.

ACTION: Notice of availability of data acquisition activities approved prior to February 15, 1987.

SUMMARY: The Secretary publishes this notice to advise interested persons that they may obtain information regarding a list of approved education-related data acquisition activities that Federal

agencies will use to collect data during school year 1987-88. The list includes all data acquisition activities approved before February 15, 1987.

DATE: The listing of approved data acquisition activities will be available February 15, 1987.

FOR FURTHER INFORMATION CONTACT:

For information about the list or copies of the list, contact Mrs. Margaret B. Webster, U.S. Department of Education, Office of Management, Information Management and Compliance Division, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202. Telephone: (202) 426-7304.

SUPPLEMENTARY INFORMATION: Under section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and coordinating the collection of information and data acquisition activities of Federal Agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Under section 400A the Secretary also informs the public of data acquisition activities that were approved by February 15, 1987. These data acquisition activities are considered information collection requests under the Paperwork Reduction Act of 1980. Under that Act and Office of Management and Budget (OMB) implementing regulations, proposed information collection requests must be published in the *Federal Register* on or before submission to OMB for final approval. Thus, the list announced by this notice includes each data acquisition activity for which the following requirements have been met prior to February 15, 1987: approval by the Secretary for use in the 1987-1988 school year; publication in the *Federal Register* as a proposed information collection request; and approval by OMB.

Interested persons may obtain a copy of the list of approved information collection requests, or information regarding that list from Mrs. Margaret B. Webster at the address and telephone number listed at the beginning of this notice.

Dated: February 12, 1987.

Mary M. Rose,

Deputy Under Secretary for Management.

[FR Doc. 87-3373 Filed 2-12-87; 10:24 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Challenge Under the Near Term Intertie Access Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of comment period on proposed BPA response to challenges under BPA's near term intertie access policy (NTIAP).

SUMMARY: By letter of April 17, 1986, the National Marine Fisheries Service (NMFS) notified BPA that it was challenging the access of power from two Pacific Northwest hydroelectric projects to the BPA-owned portion of the Pacific Northwest/Pacific Southwest Intertie (Intertie) transmission lines. NMFS stated that injuries to anadromous fish were unacceptably high at the Portland General Electric Company's (PGE) Sullivan Plant at Oregon City, Oregon, and consequently power from the plant should be denied access to the BPA portion of the Intertie pursuant to the fish protection provisions of the NTIAP. Additionally, NMFS challenged the Sheep Creek hydroelectric projects near Joseph, Oregon, whose power is purchased by Pacific Power and Light (PP&L), claiming that these projects began operation after September 7, 1984, and therefore should be denied access to the BPA portion of the Intertie. The NTIAP prohibits access to the BPA Intertie for resources beginning operation after September 7, 1984. (Exceptions to this prohibition were made for two resources that BPA knew would be coming on line within the term of the NTIAP: Colstrip 4 and Valmy 2.)

Pursuant to the NTIAP, BPA notified project owners of the NMFS challenge and analyzed the NMFS claims. BPA's preliminary decision is that power generated from the challenged projects was not transmitted over the BPA-owned portion of the Intertie during the period analyzed, June 1985 to April 1986. Because BPA's Intertie was not used by these projects, provisions within the NTIAP are not applicable. BPA is seeking public comment on its proposed response.

DATE: Public comments will be accepted until close of business March 30, 1987.

ADDRESS: Written comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Roy B. Fox, Environmental Coordinator, at the address listed above, 503-230-4261. Or call BPA's Public Involvement office. Telephone numbers, voice/TTY, for the Public Involvement office are: 230-3478 in Portland; Oregon callers may call toll-free 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may call toll-free 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terry Esvelt, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Room 376, 550 West Fort Street, Boise, Idaho 83724, 208-334-9137.

SUPPLEMENTARY INFORMATION: The Intertie is the high-voltage transmission system that connects the Pacific Northwest with the Pacific Southwest. BPA owns most of the capacity of these lines in the Pacific Northwest. In the summer of 1983, BPA's Administrator began to explore the development of an Intertie Access Policy to enhance BPA's power marketing efforts and ability to recover revenues, and to provide certainty with respect to BPA's and others' firm and nonfirm transactions with Southwest utilities. An Interim IAP was implemented in September 1984. In June 1985, upon completing an Environmental Assessment and Finding of No Significant Impact, BPA implemented its NTIAP. This policy will continue in effect until superseded by a long-term policy or until June 30, 1987, whichever comes first.

Under the NTIAP, in subsection A.7., BPA defines existing Pacific Northwest resources as those Pacific Northwest utility resources that were operational on September 7, 1984, and in subsection C.2. prohibits access to non-federal resources that were not operational on that date. In subsection C.7., BPA presumes that existing Pacific Northwest resources scheduled for transmission over the BPA-owned portion of the Intertie are being operated consistent with applicable licenses, permits, and other State and Federal laws. Also, BPA presumes that operation of these resources is not adversely impacting the Administrator's obligation under the Pacific Northwest Electric Power Planning and Conservation Act to protect, mitigate, and enhance fish and wildlife.

However, subsection C.7. provides an opportunity for any person who wishes to challenge those presumptions. The NTIAP further provides that BPA will accept public comment before making a final determination as to whether fish and wildlife, for which the Administrator has responsibilities, are being adversely impacted by the operation of the challenged resource. If a resource is found to adversely affect the Administrator's fish and wildlife efforts, access will not be provided unless the operator of the resource agrees to: (1) modify operation so that further adverse impact does not occur, or (2) take actions consistent with the Northwest Power Planning Council's Fish and Wildlife Program to offset the adverse impact.

Pursuant to provisions in the NTIAP, NMFS notified BPA of its challenge of PGE's Sullivan Plant. NMFS stated that injuries to anadromous fish were unacceptably high at the Sullivan Plant at Oregon City, Oregon. NMFS also challenged the Sheep Creek hydroelectric projects near Joseph, Oregon, claiming that they began operating after September 7, 1984, the implementation date of the Interim IAP, and therefore do not qualify as existing Pacific Northwest resources eligible for access.

Analyses Conducted

To begin its analyses of the NMFS challenges, BPA first examined whether access to the BPA portion of the Intertie had been scheduled for PGE and PP&L from the time the NTIAP was implemented, June 1985, to the time of the NMFS challenge, April 1986. During that period of time, PGE scheduled an average of 65.6 megawatts (MW) monthly on BPA's portion of the Intertie, while PP&L had scheduled an average of 386.3 MW monthly. Given that both

utilities were using the BPA-owned Intertie, BPA next examined whether power from PGE's Sullivan Plant was transmitted over the BPA-owned Intertie and the date operation of the Sheep Creek projects began. The results of the analyses follow.

A. Sullivan Plant (PGE)

Power from the Sullivan Plant enters the regional electrical grid and could be sold to the Pacific Southwest. However, economic and regulatory criteria established by the Oregon Public Utility Commissioner dictate that power from the Sullivan Plant should not serve load in the Southwest.

PGE operates the Sullivan Plant as a baseload power source because its variable costs (operation and maintenance costs) are essentially 0 mills/kilowatt-hour. The fixed costs of the plant also are very low given its age (the plant was built in the early 1900's). The Oregon Public Utility Commissioner requires that such economically efficient resources serve only local loads for the benefit of regional ratepayers. PGE's surplus sales to the Southwest are thereby supported with other, higher cost resources, such as the Centralia, Colstrip, and Boardman coal plants, and power purchases from British Columbia Hydro and Power Authority, BPA, and other Northwest utilities. Additionally, the first 700 MW of PGE's sales to the Southwest flow over its own portion of the Intertie. Use of BPA's Intertie by PGE occurs only when PGE's sales exceed its 700-MW line capacity.

Given that (1) the economics of the Sullivan Plant operation dictate regional consumption of its power and consequent operation of the resource regardless of any access to BPA's portion of the Intertie, and (2) PGE owns 700 MW of its own Intertie capacity, BPA hereby proposes to determine that the output of the plant is not being transmitted over the BPA-owned Intertie. Therefore, the provisions of the NTIAP relevant to fish and wildlife protection are not applicable to the power generated by the Sullivan Plant.

B. Sheep Creek Projects (PP&L)

The Sheep Creek projects, (FERC Nos. 5572, 5573, and 6621) began generating power in November 1984, after the effective date of the NTIAP (September 7, 1984). Subsection II.C.2. of the NTIAP prohibits access to non-federal resources that were not operational on the effective date of the NTIAP. The projects, therefore, do not meet the definition of "Existing Pacific Northwest Resources" as specified in the NTIAP.

The Sheep Creek projects are located in a remote area of the Willowa Mountains near Joseph in northeastern Oregon. Under Public Utilities Regulatory Policies Act regulations, PP&L purchases the projects' electrical output at one point of interconnection, and utilizes PP&L's distribution lines to serve its local loads.

The Sheep Creek projects are connected to PP&L's 20.8-kilovolt (kV) local feeder line which, with other 20.8-kV feeder lines, serves PP&L's local customers. Since the maximum generation of the Sheep Creek projects is only about one-half of PP&L's average load in the local area, it is unlikely that any power from these projects could be surplus to the local area. Output from the projects under normal conditions is absorbed by the 20.8-kV feeder in and around the Enterprise and Joseph area. During periods of peak generation from the projects and low loads in the local area, some power may flow into the 69-kV transmission line which serves other isolated areas near Enterprise. This 69-kV transmission line also connects with PP&L's 230-kV transmission line between Enterprise, Oregon, and Walla Walla, Washington. Remaining power, if any, would flow to Walla Walla where PP&L serves loads totaling approximately 140,000 kilowatts. PP&L's Walla Walla area system is remotely interconnected with the terminus of the Intertie. The projects' power therefore serves PP&L's local customers.

Given the use of the Sheep Creek projects power to serve PP&L's local load in the vicinity of the plant, BPA hereby proposes to determine that Sheep Creek power does not flow over the BPA-owned portion of the Intertie in violation of the NTIAP's restriction to resources existing on the effective date of the policy.

Issued in Portland, Oregon, on February 5, 1987.

Steven G. Hickok,
Acting Administrator.

[FR Doc. 87-3322 Filed 2-12-87; 3:30 pm]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Final Consent Order With Patton Oil Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and

Patton Oil Company (Patton) shall be made a final order of the DOE. The Consent Order resolves issues of compliance by Patton with the federal petroleum price and allocation regulations concerning the production and sale of crude oil for the period June 1979 through April 1980. Patton will pay to DOE the sum of \$1,100,742.17, as prescribed in the Consent Order, and DOE will deposit these funds in a suitable account for appropriate disposition. The decision to make the Patton Consent Order final was made after a review of all written comments received.

FOR FURTHER INFORMATION CONTACT: Gregory Lattimer, Office of the Solicitor (RG-43), Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4803.

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Comments Received.
- III. Decision.

I. Introduction

ERA previously issued a notice announcing a proposed consent order between DOE and Patton which would resolve matters relating to compliance by the firm with the federal petroleum price and allocation regulations for the period June 1979 through April 1980. 51 FR 42,285 (November 24, 1986). The proposed consent order required Patton to pay \$988,742.17 upon the effective date of the Consent Order, and \$112,000, plus interest, within one (1) year of the Consent Order's effective date. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received two comments, which addressed the question of the ultimate disposition of the funds to be paid by Patton pursuant to the settlement, but which did not question the basis of the settlement or the adequacy of the settlement amount. These comments were submitted by the Controller of the State of California, and the Attorneys General of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia. These comments, although formulated differently and differing in the nature and amount of supporting analysis, are devoted exclusively to establishing the dispositionary method for the monies received under the Patton Consent Order. The Attorneys General stated that the refunds received should be distributed in accordance with the Modified Statement of Restitutionary

Policy, 51 FR 27899 (August 4, 1986). The Controller of California, while supportive of the use of the special refund procedures in Subpart V, takes the position that the refund monies should be distributed directly to the States and the Federal Government.

The Consent Order contains no substantive determination as to the disposition of the funds paid under the Consent Order, but does state that ERA will petition the Office of Hearings and Appeals to implement special refund procedures pursuant to 10 CFR Part 205, Subpart V to distribute the funds. This is consistent with the modified statement of Restitutionary Policy, *supra*. That statement was announced by DOE as a result of the Settlement Agreement in the Department of Energy Stripper Well Exemption Litigation. M.D.L. 378 (D. Kan.). Neither the Agreement nor the Policy Statement requires that the funds be made immediately available to the States and the Federal Government without administrative proceedings. In fact, the Agreement contemplates that funds obtained by ERA will be submitted to the OHA, paragraph IV.B.4., and that OHA will set a 20 percent reserve in order to allow that "amounts in excess of the reserve shall be distributed while awaiting the completion of the first stage refund proceedings." Paragraph IV.B.6. Accordingly, it appears that there is not only no prohibition on the use of the Subpart V process in the distribution of funds to the States and DOE, it may be required. In any event, DOE has determined that the administrative responsibilities for the distribution can be managed better through OHA and the use of Subpart V. Such a proceeding will identify the appropriate recipients of the Consent Order monies, and include a determination as to whether and to what extent particular persons have been injured by the alleged overcharges by Patton. Thus, the comments by the States concerning distribution of the funds to be paid by Patton are at best premature at this time.

For the foregoing reasons, and for the reasons set forth in the notice of the proposed Consent Order, ERA has decided to finalize the Consent Order with Patton.

III. Decision

By this Notice, and pursuant to 10 CFR 205.199j, the proposed Consent Order between Patton and DOE shall become a final order of the DOE. DOE will issue a notice to Patton of the agency's decision to make the Consent Order final, and the Consent Order shall

become final upon delivery of that notice.

Issued in Washington, DC, on February 3, 1987.

Marshall Staunton,
Administrator, Economic Regulatory
Administration.

[FR Doc. 87-3323 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-04-NG]

Home Oil Resources Ltd.; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 27, 1987, of an application from Home Oil Resources Ltd. (Home Oil) for blanket authorization to import Canadian natural gas for short-term and spot market sales to customers in the United States or to act as an agent for such sales. Authorization is requested to import up to 125 MMcf per day and a maximum of 73 Bcf over a two-year term beginning on the date of first delivery of the import. The applicant is a Delaware corporation that has its principal place of business in Calgary, Alberta, Canada. Home Oil proposes to purchase the volumes of natural gas from its Canadian parent company, Home Oil Company Ltd., and a variety of other Canadian suppliers. The gas would be sold to customers that are expected to include gas distribution companies, pipelines, and commercial and industrial end-users. The specific terms of each import and sale would be individually negotiated, including the price and volumes, and would be responsive to current market conditions. Home Oil intends to use existing pipeline facilities to transport the gas, and proposes to submit quarterly reports to the ERA, on a confidential basis, describing the import transactions.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than March 20, 1987.

FOR FURTHER INFORMATION CONTACT: P.J. Fleming, Natural Gas Division, Economic Regulatory Administration,

Forrestal Building, Room GA-076,
1000 Independence Avenue, SW.,
Washington, DC 20585, (202) 586-9482.

Diane Stubbs, Office of General
Counsel, Natural Gas and Mineral
Leasing, U.S. Department of Energy,
Forrestal Building, Room 6E-042, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures: In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulation in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, Washington, DC, 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., March 20, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a

trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Home Oil's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC February 9, 1987.

Robert L. Davies,
Director, Office of Fuels Programs, Economic
Regulatory Administration.

[FR Doc. 87-3324 Filed 2-17-87; 8:45am]

BILLING CODE 6450-01-M

[86-61-NG]

Natural Gas Imports; Minnegasco Inc., a Company of Diversified Energies, Inc.; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 17, 1986, of an application filed by Minnegasco Inc., a Company of Diversified Energies Inc. (Minnegasco) to import up to 160,000 Mcf of Canadian natural gas per day over a ten year period beginning November 1, 1987, or such later date as the necessary regulatory approvals and required facilities are made available to Minnegasco. 50,000 Mcf per day of the Canadian natural gas would be

imported on a firm basis and 110,000 Mcf per day on an interruptible basis to the extent that such volumes are both needed and available for Minnegasco's South Dakota and Nebraska markets. The pricing formula for the gas would set the commodity rate at the border 7 percent below the equivalent rate charged by Northern Natural Gas Company, a Division of Enron Corporation (Northern Natural), while maintaining the demand charges at or below that of Northern Natural's for comparable service. The planned transportation route for the gas requires the construction of an intrastate connecting pipeline between Midwestern Gas Transmission Company's (Midwestern) interstate pipeline and Minnegasco's facilities.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on March 20, 1987.

FOR FURTHER INFORMATION:

Stanley C. Vass, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: The applicant is a Minnesota corporation engaged in the local distribution of natural gas in the states of Minnesota, Nebraska, and South Dakota. Minnegasco currently gets most of its gas supplies from Northern Natural through Northern Natural's interstate pipeline, the only pipeline presently connected to Minnegasco's facilities. However, Minnegasco does purchase some gas from KN Energy, Inc. for its Nebraska market.

In its application, Minnegasco proposes to import up to 50,000 Mcf per day of Canadian natural gas on a firm contract basis and 110,000 Mcf per day on an interruptible basis pursuant to a Precedent Agreement executed on September 10, 1986, between Minnegasco and TransCanada Pipelines Ltd. by its marketing agent, Western Gas Marketing, Ltd. (TransCanada). Minnegasco also proposes to execute a

gas purchase agreement with TransCanada setting forth the specific terms of the gas supply import arrangement. The gas would be imported via the point of interconnection between the pipelines of TransCanada and Midwestern near Emerson, Manitoba, and transported through Midwestern's pipeline and a new connecting pipeline to be built between Midwestern's facilities at Cambridge, Minnesota, and Minnegasco's facilities near Coon Rapids, Minnesota.

The proposed Minnegasco-TransCanada gas purchase contract contains a pricing formula which, according to the applicant, provides for an automatic price adjustment mechanism setting TransCanada's commodity charge at a level 7 percent below the equivalent Northern Natural rate and preventing the total demand charges which Minnegasco must pay to TransCanada and Midwestern from exceeding Northern Natural's demand charges for comparable service. The proposed contract would not obligate Minnegasco to take or pay for any gas but Minnegasco would have to pay a monthly demand charge consisting of the lesser of TransCanada's demand charge plus the demand charge of NOVA, an Alberta Corporation (currently, the total of these demand charges is \$4.06 per Mcf) and the amount by which 99 percent of Northern Natural's monthly demand charge exceeds that of Midwestern after Midwestern begins transporting the imported gas.

Minnegasco states that the commodity charge applicable to firm and interruptible gas will be adjusted monthly under a pricing formula which automatically tracks changes in the commodity charges by Northern Natural for firm service in the Minneapolis area and the variable costs associated with transportation through Midwestern's pipeline and the proposed intrastate connecting pipeline. Under the pricing formula, a base price of \$2.65 per MMBtu would be adjusted monthly by multiplying it by a fraction, the numerator of which is the then-current Northern Natural commodity charge and the denominator of which is \$2.85. The resulting adjusted base price is then reduced by an amount equal to the variable charges incurred by Minnegasco in transporting the gas through Midwestern's pipeline and the yet-to-be-built intrastate connecting pipeline. According to Minnegasco, if the gas were now flowing, the current monthly commodity charge would be \$1.75 per MMBtu.

The proposed gas purchase contract also provides for negotiation at any time of reductions in the commodity charge (but not increases) to enable Minnegasco to purchase more gas. In addition, the proposed gas purchase contract provides for annual renegotiation of all the pricing terms upon written notice by either party to the contract in order to achieve a price that is competitive with the price of competing energy sources in Minnegasco's market area. Minnegasco states that the immediate and the annual renegotiation provisions of the gas purchase contract would provide two avenues of relief in the event that the automatic price adjustment mechanism fails to accurately reflect competition.

In support of its application, Minnegasco states that the additional firm volumes applied for will be needed to meet Minnegasco's firm demand on peak days after its contracted volumes with Northern Natural are reduced in a rate proceeding now before the Federal Energy Regulatory Commission. In addition, Minnegasco anticipates further reductions in its contract demand level with Northern Natural. Minnegasco urges that the flexibility provided by the automatic price adjustment mechanism and the price renegotiation provisions will permit the imported gas to be competitive and that the imported gas would represent a second, secure source of supply to compete in Minnegasco's primary markets.

The decision on the application to import natural gas will be made consistent with the DOE's import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment procedures

In response to the notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to

this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m., March 20, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Minnegasco's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday except Federal holidays.

Issued in Washington, DC., January 31, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-3325 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-62-NG]

Ocean State Power; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 19, 1986, of an application filed by Ocean State Power (Ocean State), for authorization to import up to 100,000 Mcf per day of Canadian natural gas over an approximate 20-year period beginning on the date of first delivery. The gas imported would be for use as fuel in Ocean State's combined cycle electrical generating plant to be constructed in Burrillville, Rhode Island.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on March 20, 1987.

FOR FURTHER INFORMATION CONTACT:

Norman Breckner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1657
Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: On November 19, 1986, Ocean State filed an application with the ERA to import up to 100,000 Mcf per day of Canadian natural gas over an approximate 20-year term beginning on the date of first delivery. Ocean State proposes to import the gas from ProGas Limited (ProGas) with which it entered into a precedent agreement on April 17, 1986. This agreement will be executed only after receipt and acceptance of all government authorizations. The

agreement is subject to cancellation by either party if Ocean State has not started construction of its combined cycle electrical generating plant by September 30, 1988.

Ocean State asserts that the gas would be imported at a point near Niagara, Ontario. Transportation in the United States would be provided from the international border by Tennessee Gas Transmission Company (Tennessee). Tennessee has applied to the Federal Energy Regulatory Administration (FERC) for authority to transport the natural gas and to construct additional facilities necessary for such transportation.

The natural gas sale and purchase agreement between Ocean State and ProGas provides that the price of gas to Ocean State will be indexed in accordance with the New England Power Pool fossil fuel index (NEPOOL fossil fuel index). The negotiated border price of \$3.35/Mcf at 100 percent load factor is based on the NEPOOL fossil fuel index for calendar year 1985. The negotiated price will be adjusted based on changes in the NEPOOL fossil fuel index to ensure that the price remains competitive through the life of the purchase contract. The purchase contract calls for a two-part demand/commodity charge for each MMBtu delivered, but does not impose any take-or-pay obligations. ProGas' sole remedy if minimum volumes are not taken is to seek a reduction in the daily contract quantity. Provisions for renegotiation and arbitration of any contract terms are a further assurance that the gas would remain competitive during the term of the import.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for

any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. March 20, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to the decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Ocean State's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, (202) 586-9478, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30

p.m., Monday through Friday, except on Federal holidays.

Issued in Washington, DC, on February 9, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-3326 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-15; OFP Case No. 61065-9336-29-24]

Order Granting Oxy-Alkali Cogeneration Corporation; An Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.* ("FUA" or the "Act"), to Oxy-Alkali Cogeneration Corporation (Oxy-Alkali). The permanent cogeneration exemption permits the use of natural gas as the primary energy source, for the proposed cogeneration facility to be operated in LaPorte, Texas. The final exemption order and detailed information are provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on April 20, 1987. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-093, Washington, DC 20585. Telephone (202) 586-9624

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue SW., Washington, DC 20585. Telephone (202) 586-6749

SUPPLEMENTARY INFORMATION: The facility for which Oxy-Alkali is

requesting a permanent cogeneration exemption is a combined cycle facility consisting of two gas turbines and one heat recovery steam generator. The facility, located in LaPorte, Texas, will burn natural gas and will be capable of utilizing #2 oil as a back-up fuel.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the Federal Register on December 19, 1986, (51 FR 45512), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by Section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing.

The comment period closed on February 2, 1987; no comments were received and no hearing was requested.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Oxy-Alkali has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Oxy-Alkali to permit the use of natural gas as the primary energy source for its cogeneration facility.

Pursuant to section 702(c) of the Act of 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the Federal Register.

Issued in Washington, DC on February 9, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-3328 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-16; OFP Case No. 61065-9337-20-24]

Order Granting Oxy-Alkali Cogeneration Corporation; An Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or the "Act"), to Oxy-Alkali Cogeneration Corporation (Oxy-Alkali). The permanent cogeneration exemption permits the use of natural gas as the primary energy source, for the proposed cogeneration facility to be operated in Deer Park, Texas. The final exemption order and detailed information are provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on April 20, 1987. The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-093, Washington, DC 20585. Telephone (202) 586-9624

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building-Room 6A-113, 1000 Independence Avenue SW., Washington, DC 20585. Telephone (202) 586-6749

SUPPLEMENTARY INFORMATION: The facility for which Oxy-Alkali is requesting a permanent cogeneration exemption is a combined cycle facility consisting of one gas turbine generator, one heat recovery steam generator, and three non-condensing steam turbines. The facility, located in Deer Park, Texas, will burn natural gas and will be capable of utilizing #2 oil as a back-up fuel.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the *Federal Register* on December 19, 1986, (51 FR 45513), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded

an opportunity to request a public hearing.

The comment period closed on February 2, 1987; no comments were received and no hearing was requested.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Oxy-Alkali has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Oxy-Alkali to permit the use of natural gas as the primary energy source for its cogeneration facility.

Pursuant to section 702(c) of the Act of 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the *Federal Register*.

Issued in Washington, DC, on February 3, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-3327 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. C186-425-000]

Application of Energy Marketing Exchange, Inc. To Amend Blanket Certificate of Public Convenience and Necessity and for an Order Approving Pre-Granted Abandonment

February 12, 1987.

Take notice that on February 12, 1987, Energy Marketing Exchange, Inc. ("EME") pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA) and Part 157 of the regulations of the Federal Energy Regulatory Commission ("Commission"), 18 CFR Part 157 (1984), applied for a two (2) year extension (terminating March 31, 1988) of the limited-term sales and abandonment authority granted in this proceeding. EME states that such an extension is in the public interest as it will allow a smooth transition into the abandonment procedures established in Order No. 436.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said

application should on or before February 20, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3308 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C178-57-001 and C187-242-000]

Application for Limited-Term Abandonment and Limited-Term Blanket Certificate With Pre-Granted Abandonment; Mobil Oil Corp.

February 12, 1987.

Take notice that on January 27, 1987, as supplemented on February 6, 1987, Mobil Oil Corporation (Mobil), 9 Greenway Plaza, Suite 2700, Houston, Texas 77046, filed as application in Docket Nos. C178-57-001 and C187-242-000. In this application, Mobil requests a limited-term abandonment of the service obligation authorized in Docket No. C178-57 and a blanket limited-term certificate of public convenience and necessity, with pre-granted abandonments, all for a term of three years. Mobil also requests a waiver of the Commission's Regulations concerning the establishment of rate schedules under Part 154 for sales under the blanket certificate authority requested, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Mobil is currently selling gas from the Tip Top and Hogsback Fields, Lincoln and Sublette Counties, Wyoming, to Northwest Pipeline Corporation (Northwest) under the authority granted in Docket C178-57. Mobil proposes to

abandon this sale for a period of three years in order to sell to new markets. By the terms of a Settlement Agreement dated October 1, 1986, a copy of which is on file with the Commission as a supplement to Mobil's FERC Gas Rate Schedule No. 540, Mobil and northwest resolved certain issues under the gas sales contract between Mobil and Northwest, including the settlement of take-or-pay issues. Northwest also agreed not to oppose an abandonment of this gas. Gas is currently being sold under the terms of the Settlement Agreement, but the contract may be terminated upon written notice by either party after March 31, 1987. It is currently contemplated that termination would be effective on April 1, 1987.

Upon abandonment, Mobil proposes to sell the gas to alternative markets, as yet unidentified, under a blanket certificate, with pre-granted abandonments, during the three year term. Estimated deliverability under the contract is 60MMcf/d, of which 50.5 MMcf/d is NGPA § 106(a) gas, 3.0 MMcf/d is § 104-Biennium, 3.0 MMcf/d is § 104-Post 1974, 3.5 MMcf/d is § 103 gas (not subject to this application) and a negligible amount is § 108 gas. Mobil states that without the authority requested it will be subject to substantially reduced takes without payment on and after April 1, 1987 since Northwest has only agreed to take gas on a best-efforts basis after March 31, 1987.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a

petition to intervene in accordance with the Commission's rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3359 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST85-947-001 et al.]

Panhandle Gas Company et al.; Extension Reports

February 12, 1987.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.¹

The table below lists the name and addresses of each company selling

¹ Notice of these extension reports does not constitute a determination that a continuation of service will be approved.

EXTENSION LIST

[January 1-15, 1987]

Docket No.	Transporter/ Seller	Recipient	Date filed	Part 284 sub- part	Effective date	Expiration date ²
ST85-947-001 ¹	Panhandle Gas Co. P.O. Box 1188 Houston, TX 77001.	Philadelphia Electric Co..	1-12-87	D	3-13-87	4-12-87
ST85-992-001 ¹	Panhandle Gas Co. P.O. Box 1188 Houston, TX 77001.	Baltimore Gas and Electric Co..	1-12-87	D	3-12-87	4-12-87
ST85-994-001 ¹	Panhandle Gas Co. P.O. Box 1188 Houston, TX 77001.	Transwestern Pipeline Co..	1-12-87	D	3-12-87	4-12-87
ST85-1146-001	Panhandle Gas Co. P.O. Box 1188 Houston, TX 77001.	Enron Industrial Natural Gas Co. (formerly HNG Industrial Natural Gas Co.).	1-12-87	D	4-22-87

¹ This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.

² The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 87-3360 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension reports should on or before March 3, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. SA87-32-000]

Petro-Lewis Funds, Inc.; Petition for Adjustment

February 11, 1987.

On December 3, 1986, Petro-Lewis Funds Inc. (Petitioner) filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399-A,¹ Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),² and Subpart K of the Commission's Rules of Practice and Procedure.³ Petitioner seeks a waiver of that portion of its Btu refund obligation attributable to royalties paid to the State of Louisiana for sales of gas made to Southern Natural Gas Company (Southern) from certain state-owned leases. Under Order No. 399, these refunds were due by November 5, 1986.⁴

Petitioner bases its request for waiver on the grounds that the Louisiana State Mineral Board adopted a resolution in October 1985 which prohibited producers from recovering Btu refund amounts attributable to state royalty payments by deductions from current royalty payments. Petitioner alleges that it made a total refund payment to Southern in October 1984, which included amounts attributable to royalty payments made to the State of Louisiana. Petitioner states that it has sought to recoup those amounts from Southern and that while Southern has permitted Petitioner to recoup the interest attributable to the Louisiana royalty portion of the Btu refund, Southern declined payment of the principal in the absence of a Commission waiver of that portion of Petitioner's refund obligation.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment

proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3361 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA87-28-000]

Samedan Oil Corp.; Petition for Adjustment

February 11, 1987.

On November 5, 1986, Samedan Oil Corporation filed with the Federal Energy Regulatory Commission a petition for waiver pursuant to Commission Order No. 399-A,¹ section 502(c) of the Natural Gas Policy Act of 1978,² and Subpart K of the Commission's Rules of Practice and Procedure.³ Samedan seeks waiver of that portion of its Btu refund obligation attributable to certain royalties paid by it to federal and state royalty interest owners.⁴ Under Order No. 399, these refunds were due by November 5, 1986,⁵ but this deadline has been postponed.⁶

¹ Refunds Resulting from Btu Measurement Adjustments, 49 FR 46353 (November 26, 1984); FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,612.

² 15 U.S.C. 3412(c) (1982).

³ 18 CFR 385.1101-1117 (1986).

⁴ By a petition filed August 26, 1985, in Docket No. GP85-47-000, Samedan requested that the Commission determine by rulemaking that royalties paid to royalty interest owners for sales of natural gas are subject to the jurisdiction of the Commission, and direct that such royalty interest owners make refunds of Btu-related overcharges. In the alternative, Samedan asked the Commission to waive any Btu refunds that it and other similarly situated producers are unable to collect from royalty owners. Samedan designated its November 5, 1986 petition (the subject of this notice) as a Docket No. GP85-47-000 filing. However, the relief requested in this petition is an adjustment from Samedan's specific refund obligation under Order No. 399, while the relief sought in Docket No. GP85-47-000 is generic relief for all producers. Therefore, the November 5, 1986 petition has been assigned a new docket number, SA87-28-000.

⁵ 49 FR 37735 at 37740 (September 28, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,597 at 31,150. In Order No. 399, the Commission established refund procedures for charges for natural gas that exceeded NGPA ceilings as a result of Btu measurements based on the water vapor content of the gas "as delivered," rather than on a water saturated basis. In so doing, the Commission was implementing the decision in *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission*, 716 F.2d 1 (D.C. Cir. 1983), cert. denied, 465 U.S. 1108 (1984).

⁶ In Order No. 399-C, issued November 5, 1986, the Commission postponed the November 5, 1986 deadline for payment of Btu refunds attributable to royalty payments for any first seller that has a petition on file with the Commission seeking waiver of or postponement of the deadline to pay Btu refunds attributable to royalty payments.

Samedan states that it has been unable to collect approximately \$1.6 million by Btu refunds from federal and state royalty interest owners and that it should be granted waiver because attempts by it to collect such funds through its continuing contractual relationships with these royalty owners would jeopardize its present and future ability to hold federal and state leasehold interests. It further states that payment of the \$1.6 million refund would constitute a financial hardship and an inequitable and harsh penalty.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3362 Filed 2-7-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-19-004]

Amoco Production Co.; Application

February 11, 1986.

Take notice that on February 3, 1987, Amoco Production Company (Amoco), filed an application pursuant to section 7 of the Natural Gas Act (NGA), 15 U.S.C. 717f, and Parts 154 and 157 of the Federal Energy Regulatory Commission's Regulations thereunder (18 CFR Parts 154 and 157) for the Commission to modify Paragraph (A) of its Order Permitting and Approving Limited-Term Abandonments And Granting Certificates issued November 1, 1985 as amended March 28, 1986 by substituting March 31, 1988 for March 31, 1987 therein and by terminating the price floor conditions prescribed in subparagraphs (A)(1) and (A)(2) in Docket No. CI86-19-003.

Amoco submits that many of the circumstances that called forth Amoco's application filed on October 16, 1985 and supported issuance of the Commission's November 1, 1985 Order will continue to at least until March 31, 1988 past the March 31, 1987 termination date prescribed in Paragraph (A) of the November 1, 1985 Order as modified by the March 28, 1986 Order. If the limited-term abandonment and certificate authorized granted by the November 1, 1985 and March 28, 1986 Orders is extended past March 31, 1987, Amoco

¹ Refunds Resulting from Btu Measurement Adjustments, 49 FR 46,353 (Nov. 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,612.

² 15 U.S.C. 3412(c) (1982).

³ 18 CFR 385-1101-1117 (1986).

⁴ 49 FR 37,735 at 37,740 (Sept. 28, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,597 at 31,150. In order No. 399, the Commission established refund procedures for charges for natural gas that exceed NGPA ceilings as a result of Btu measurements based on the water vapor content of the gas "as delivered", rather than on a water saturated basis. In so doing, the Commission was implementing the decision in *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission*, 716 F.2d 1 (D.C. Cir. 1983), cert. denied, 465 U.S. 1108 (1984). In Order 399-C, issued on November 5, 1986, the Commission postponed the November 5, 1986 deadline for certain first sellers. 37 FERC ¶ 61,091 (1986).

could make additional spot market sales.

Amoco states that in its Order Permitting And Approving Limited-Term Abandonment and Issuing Limited-Term Blanket Certificates With Pre-Granted abandonment issued January 21, 1987 in *ANR Pipeline Co. et al.*, Docket No. CI86-637-000, *et al.*, rather than continuing the price floor conditions prescribed in subparagraphs (A)(1) and (A)(2) of the November 1, 1985 Order here, the Commission allowed each involved pipeline and producer to determine which price vintages of gas are to be released for sale to third parties. Amoco considers the January 21, 1987 Order to be clear recognition that the price conditions imposed in subparagraphs (A)(1) and (A)(2) of the November 1, 1985 Order should not be continued.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3363 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST87-648-000, et al.]

Arkla Energy Resources, et al.; Self-implementing Transactions

February 12, 1987.

Take notice that the following

transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).¹

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the

Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to section 284.222 and a blanket certificate issued under Section 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before March 3, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

¹ Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No. ¹	Transporter/seller	Recipient	Date filed	Subpart	Expiration date ²	Transportation rate (¢/MMBtu)
ST87-0648	Arkla Energy Resources.....	Arkansas Louisiana Gas Co.....	12-01-86	B		
ST87-0649	Arkla Energy Resources.....	Arkansas Louisiana Gas Co.....	12-01-86	B		
ST87-0650	Arkla Energy Resources.....	Arkansas Louisiana Gas Co.....	12-01-86	B		
ST87-0651	Arkla Energy Resources.....	Arkansas Louisiana Gas Co.....	12-01-86	B		
ST87-0652	Arkla Energy Resources.....	Arkansas Louisiana Gas Co.....	12-01-86	B		
ST87-0653	Natural Gas Pipeline Co. of America.....	Central Illinois Light Co.....	12-01-86	B		
ST87-0654	Natural Gas Pipeline Co. of America.....	Iowa-Illinois Gas & Electric Co.....	12-01-86	B		
ST87-0657	Natural Gas Pipeline Co. of America.....	NGC Intrastate Pipeline.....	12-01-86	B		
ST87-0658	Panhandle Eastern Pipe Line Co.....	Consumers Power Co.....	12-02-86	B		
ST87-0659	Panhandle Eastern Pipe Line Co.....	Consumers Power Co.....	12-02-86	B		
ST87-0660	Trunkline Gas Co.....	Consumers Power Co.....	12-02-86	B		

Docket No. ¹	Transporter/seller	Recipient	Date filed	Subpart	Expiration date ²	Transportation rate (¢/MMBtu)
ST87-0661	United Gas Pipe Line Co.	Consumers Power Co.	12-02-86	B		
ST87-0662	United Gas Pipe Line Co.	Lgs intrastate, Inc.	12-02-86	B		
ST87-0663	United Gas Pipe Line Co.	Clajon Industrial Gas, Inc.	12-02-86	B		
ST87-0664	Louisiana Intrastate Gas Corp.	Transcontinental Gas Pipe Line Corp.	12-02-86	C	05-01-87	12.40
ST87-0665	Arkla Energy Resources	Arkansas Louisiana Gas Co.	12-01-86	B		
ST87-0666	United Gas Pipe Line Co.	City of Alexander	12-02-86	B		
ST87-0667	Transamerican Gas Transmission Corp.	Transcontinental Gas Pipeline Corp.	11-20-86	C		
ST87-0668	United Gas Pipe Line Co.	KM Texas Pipeline Corp.	12-03-86	B		
ST87-0669	Texas Eastern Transmission Corp.	Texas Southeastern Gas Co.	12-03-86	B		
ST87-0670	Texas Eastern Transmission Corp.	Bayou Industrial Gas Corp.	12-03-86	B		
ST87-0671	Texas Eastern Transmission Corp.	East Ohio Gas Co.	12-03-86	B		
ST87-0672	Texas Eastern Transmission Corp.	Hope Gas, Inc.	12-03-86	B		
ST87-0673	Texas Eastern Transmission Corp.	Tennessee River Intrastate Gas, Co.	12-03-86	B		
ST87-0674	ONG Transmission Co.	Natural Gas Pipeline Co. of America	12-03-86	C	05-02-87	10.00
ST87-0675	United Gas Pipe Line Co.	Victoria Gas Corp.	12-04-86	B		
ST87-0676	United Gas Pipe Line Co.	Endevco Pipeline Co.	12-04-86	B		
ST87-0677	United Gas Pipe Line Co.	Shreveport Intrastate Gas Trans., Inc.	12-04-86	B		
ST87-0678	Valero Transmission Co.	Humble Gas Transmission Co.	12-04-86	C		
ST87-0679	Northern Natural Gas Co.	Houston Pipe Line Co.	12-04-86	B		
ST87-0680	Northern Natural Gas Co.	Power-Tex Joint Venture	12-04-86	B		
ST87-0681	Trunkline Gas Co.	Consumers Power Co.	12-04-86	B		
ST87-0682	El Paso Natural Gas Co.	Humble Gas Transmission Co.	12-04-86	B		
ST87-0683	Taft Pipeline Co.	Northern Natural Gas Co.	12-04-86	C		
ST87-0684	United Texas Transmission Co.	Humble Gas Transmission Co.	12-05-86	C		
ST87-0685	Texas Gas Transmission Corp.	Evangeline Gas Co.	12-05-86	D		
ST87-0686	Northern Natural Gas Co.	Bishop Pipeline Corp.	12-05-86	B		
ST87-0687	Northern Natural Gas Co.	Eastex Gas Transmission	12-05-86	B		
ST87-0688	Northern Natural Gas Co.	Southern California Gas Co.	12-05-86	B		
ST87-0689	Northern Natural Gas Co.	Valero Transmission Co.	12-05-86	B		
ST87-0690	Northern Natural Gas Co.	Wisconsin Gas Co.	12-05-86	B		
ST87-0691	Texas Gas Transmission Corp.	LaFourche Gas Corp.	12-05-86	B		
ST87-0692	Equitable Gas Co.	Equitable Gas Co.	12-01-86	B		
ST87-0693	Texas Gas Transmission Corp.	Mountaineer Gas Co.	12-08-86	B		
ST87-0694	Consolidated Gas Transmission Corp.	East Ohio Gas Co.	12-08-86	B		
ST87-0695	Consolidated Gas Transmission Corp.	East Ohio Gas Co.	12-08-86	B		
ST87-0696	Consolidated Gas Transmission Corp.	East Ohio Gas Co.	12-08-86	B		
ST87-0697	Consolidated Gas Transmission Corp.	Hope Gas, Inc.	12-08-86	B		
ST87-0698	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0699	Consolidated Gas Transmission Corp.	Peoples Natural Gas Co.	12-08-86	B		
ST87-0700	Texas Gas Transmission Corp.	Memphis Light, Gas and Water Division	12-08-86	B		
ST87-0701	Texas Gas Transmission Corp.	Switzerland County Natural Gas Co.	12-08-86	B		
ST87-0702	Texas Gas Transmission Corp.	Indiana Gas Co.	12-08-86	B		
ST87-0703	Texas Gas Transmission Corp.	City of Elizabethtown	12-08-86	B		
ST87-0704	Tennessee River Intrastate Gas Co.	Alabama-Tennessee Natural Gas Co.	12-08-86	C		
ST87-0705	Northern Natural Gas Co.	Mountain Fuel Supply Co.	12-08-86	B	05	
ST87-0706	Consolidated Gas Transmission Corp.	North Penn Gas Co.	12-08-86	B		
ST87-0707	Consolidated Gas Transmission Corp.	East Ohio Gas Co.	12-08-86	B		
ST87-0708	Consolidated Gas Transmission Corp.	Corning Natural Gas Corp.	12-08-86	B		
ST87-0709	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0710	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0711	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0712	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0713	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0714	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0715	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-08-86	B		
ST87-0716	Louisiana Intrastate Gas Corp.	Texas Eastern Transmission Corp.	12-08-86	C	05-07-87	27.40
ST87-0717	Oasis Pipe Line Co.	Northern Illinois Gas Co.	12-08-86	C		
ST87-0718	Houston Pipe Line Co.	Northern Illinois Gas Co.	12-08-86	C		
ST87-0719	Valero Transmission Co.	El Paso Natural Gas Co.	12-08-86	C		
ST87-0720	Transcontinental Gas Pipe Line Corp.	South Carolina Electric and Gas Co.	12-08-86	B		
ST87-0721	Transcontinental Gas Pipe Line Corp.	Cincinnati Gas and Electric Co.	12-08-86	B		
ST87-0722	Transcontinental Gas Pipe Line Corp.	Philadelphia Electric Co.	12-08-86	B		
ST87-0723	Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	12-08-86	B		
ST87-0724	Transcontinental Gas Pipe Line Corp.	Mississippi Valley Gas Co.	12-08-86	B		
ST87-0725	Consolidated Gas Transmission Corp.	East Ohio Gas Co.	12-08-86	B		
ST87-0726	Houston Pipe Line Co.	Florida Gas Transmission Co.	12-08-86	C		
ST87-0727	Panhandle Eastern Pipe Line Co.	Yankee Pipeline Co.	12-09-86	B		
ST87-0728	Mountain Fuel Resources, Inc.	Illinois Power Co, et al	12-09-86	B		
ST87-0729	Mountain Fuel Resources, Inc.	Illinois Power Co, et al	12-09-86	B		
ST87-0730	Panhandle Eastern Pipe Line Co.	Indiana Gas Co.	12-09-86	B		
ST87-0731	Panhandle Eastern Pipe Line Co.	Central Illinois Light Co.	12-09-86	B		
ST87-0732	Lawrenceburg Gas Transmission Corp.	Cincinnati Gas and Electric Co.	12-09-86	B		
ST87-0733	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-09-86	B		
ST87-0734	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-10-86	B		
ST87-0735	Trunkline Gas Co.	Consumers Power Co.	12-10-86	B		
ST87-0736	Trunkline Gas Co.	Consumers Power Co.	12-10-86	B		
ST87-0737	Trunkline Gas Co.	Consumers Power Co.	12-10-86	B		
ST87-0738	Trunkline Gas Co.	Consumers Power Co.	12-10-86	B		
ST87-0739	PGC Pipeline	Arkansas Louisiana Gas Co.	12-10-86	D	05-09-87	21.50
ST87-0740	Transcontinental Gas Pipe Line Corp.	North Carolina Natural Gas Corp.	12-10-86	B		
ST87-0741	Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	12-10-86	B		
ST87-0742	United Gas Pipe Line Co.	Eastex Gas Transmission	12-10-86	B		
ST87-0743	United Gas Pipe Line Co.	Clarke-Mobile Counties Gas District	12-10-86	B		
ST87-0744	United Gas Pipe Line Co.	Llano, Inc.	12-10-86	B		
ST87-0745	Panhandle Eastern Pipe Line Co.	Illinois Power Co.	12-10-86	B		
ST87-0746	Valero Transmission Co.	El Paso Natural Gas Co.	12-10-86	C		
ST87-0747	Panhandle Eastern Pipe Line Co.	Central Illinois Light Co.	12-10-86	B		
ST87-0748	Natural Gas Pipeline Co of America	Llano, Inc.	12-10-86	B		
ST87-0749	Northern Natural Gas Co.	Lloyd V. Crum	12-10-86	B		
ST87-0750	Northern Natural Gas Co.	Peoples Natural Gas Co.	12-10-86	B		
ST87-0751	Transcontinental Gas Pipe Line Corp.	Public Service Co of N. Carolina	12-10-86	B		
ST87-0752	Producer's Gas Co.	Natural Gas Pipeline Co of America	12-10-86	C	05-09-87	25.20

Docket No. ¹	Transporter/seller	Recipient	Date filed	Subpart	Expiration date ²	Transportation rate (¢/MMBtu)
ST87-0753	Producer's Gas Co.	El Paso Natural Gas Co.	12-10-86	C	05-09-87	25.20
ST87-0754	Ohio River Pipeline Corp.	Indiana Gas Co.	12-11-86	B		
ST87-0755	Ohio River Pipeline Corp.	Indiana Gas Co.	12-11-86	B		
ST87-0756	Valero Transmission Co.	El Paso Natural Gas Co.	12-11-86	C		
ST87-0757	Valero Transmission Co.	Transcontinental Gas Pipe Line Corp.	12-11-86	C		
ST87-0758	Ohio River Pipeline Corp.	Indiana Gas Co.	12-11-86	B		
ST87-0759	Valero Transmission Co.	Texas Eastern Transmission Corp.	12-11-86	C		
ST87-0760	Lawrenceburg Gas Transmission Corp.	Cincinnati Gas and Electric Co.	12-12-86	B		
ST87-0761	Houston Pipe Line Co.	Northern Illinois Gas Co.	12-12-86	C		
ST87-0762	Panhandle Gas Co.	Niagara Mohawk Power Corp.	12-12-86	D		
ST87-0763	Arkla Energy Resources.	Shreveport Intrastate Gas Trans., Inc.	12-12-86	B		
ST87-0764	Natural Gas Pipeline Co of America	Northern Illinois Gas Co.	12-12-86	B		
ST87-0765	Natural Gas Pipeline Co of America	Victoria Gas Corp.	12-12-86	B		
ST87-0766	Arkla Energy Resources.	Arkansas Louisiana Gas Co.	12-12-86	B		
ST87-0767	Panhandle Eastern Pipe Line Co.	Energy Pipeline, Inc.	12-12-86	B		
ST87-0768	Panhandle Eastern Pipe Line Co.	Dayton Power and Light Co.	12-12-86	B		
ST87-0769	Trunkline Gas Co.	Consumers Power Co.	12-12-86	B		
ST87-0770	Trunkline Gas Co.	Michigan Gas Utilities	12-12-86	B		
ST87-0771	Trunkline Gas Co.	Consumers Power Co.	12-12-86	B		
ST87-0772	Trunkline Gas Co.	Consumers Power Co.	12-12-86	B		
ST87-0773	Trunkline Gas Co.	Consumers Power Co.	12-12-86	B		
ST87-0774	Trunkline Gas Co.	Consumers Power Co.	12-12-86	B		
ST87-0775	Panhandle Eastern Pipe Line Co.	Ohio Gas Co.	12-12-86	B		
ST87-0776	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0777	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0778	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0779	Panhandle Eastern Pipe Line Co.	Indiana Gas Co.	12-12-86	B		
ST87-0780	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0781	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0782	Panhandle Eastern Pipe Line Co.	Battle Creek Gas Co.	12-12-86	B		
ST87-0783	Panhandle Eastern Pipe Line Co.	Michigan Power Co.	12-12-86	B		
ST87-0784	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-12-86	B		
ST87-0785	Arkla Energy Resources.	Arkansas Louisiana Gas Co.	12-12-86	B		
ST87-0786	El Paso Natural Gas Co.	Pacific Gas and Electric Co.	12-12-86	B		
ST87-0787	El Paso Natural Gas Co.	Southern California Gas Co.	12-12-86	B		
ST87-0788	Superior Offshore Pipeline Co.	Enron Gas Marketing	12-12-86	G-EU		
ST87-0789	Natural Gas Pipeline Co of America	Northern Indiana Public Service Co.	12-15-86	B		
ST87-0790	Columbia Gulf Transmission Co.	Bishop Pipeline Corp.	12-15-86	B		
ST87-0791	Columbia Gulf Transmission Co.	Hadson Gas Systems, Inc.	12-15-86	G-EU		
ST87-0792	United Gas Pipe Line Co.	Gulf Eastern Gas Pipeline, Inc.	12-16-86	B		
ST87-0793	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co.	12-16-86	B		
ST87-0794	Natural Gas Pipeline Co of America	Northern Illinois Gas Co.	12-16-86	B		
ST87-0795	Transcontinental Gas Pipe Line Corp.	Orange and Rockland Utilities, Inc.	12-16-86	B		
ST87-0796	Transcontinental Gas Pipe Line Corp.	City of Roanoke	12-16-86	B		
ST87-0797	Transcontinental Gas Pipe Line Corp.	City of Wadley	12-16-86	B		
ST87-0798	Transcontinental Gas Pipe Line Corp.	Baltimore Gas and Electric Co.	12-16-86	B		
ST87-0799	Transcontinental Gas Pipe Line Corp.	Dayton Power and Light Co.	12-16-86	B		
ST87-0800	Transcontinental Gas Pipe Line Corp.	Dayton Power and Light Co.	12-16-86	B		
ST87-0801	Transcontinental Gas Pipe Line Corp.	East Ohio Gas Co.	12-16-86	B		
ST87-0802	Consolidated Gas Transmission Corp.	River Gas Co.	12-16-86	B		
ST87-0803	Consolidated Gas Transmission Corp.	Hope Gas, Inc.	12-16-86	B		
ST87-0804	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-16-86	B		
ST87-0805	Consolidated Gas Transmission Corp.	Niagara Mohawk Power Corp.	12-16-86	B		
ST87-0806	Texas Eastern Transmission Corp.	Baltimore Gas and Electric Co.	12-17-86	B		
ST87-0807	Texas Eastern Transmission Corp.	Public Service Electric and Gas Co.	12-17-86	B		
ST87-0808	Texas Eastern Transmission Corp.	Washington Gas and Light Co.	12-17-86	B		
ST87-0809	Northern Natural Gas Co.	Delhi Gas Pipeline Corp.	12-17-86	B		
ST87-0810	Texas Gas Transmission Corp.	Humboldt Utilities	12-18-86	B		
ST87-0811	Natural Gas Pipeline Co of America	Illinois Power Co.	12-18-86	B		
ST87-0812	Natural Gas Pipeline Co of America	Wisconsin Southern Gas Co., Inc.	12-18-86	B		
ST87-0813	Natural Gas Pipeline Co of America	Northern Illinois Gas Co.	12-18-86	B		
ST87-0814	Trunkline Gas Co.	Consumers Power Co.	12-18-86	B		
ST87-0815	Trunkline Gas Co.	Western Kentucky Gas Co.	12-18-86	B		
ST87-0816	Trunkline Gas Co.	Danex Pipeline Co.	12-18-86	B		
ST87-0817	Trunkline Gas Co.	Consumers Power Co.	12-18-86	B		
ST87-0818	Northern Natural Gas Co.	Houston Pipe Line Co.	12-18-86	B		
ST87-0819	Texas Gas Transmission Corp.	Michigan Consolidated Gas Co., et al.	12-18-86	B		
ST87-0820	Texas Gas Transmission Corp.	Indiana Gas Co.	12-18-86	B		
ST87-0821	Texas Gas Transmission Corp.	City of Hamilton	12-18-86	B		
ST87-0822	Texas Gas Transmission Corp.	Town of Mamou	12-18-86	B		
ST87-0823	Texas Gas Transmission Corp.	City of Brownsville—Utility Dept.	12-18-86	B		
ST87-0824	Texas Gas Transmission Corp.	Indiana Gas Co.	12-18-86	B		
ST87-0825	El Paso Natural Gas Co.	Los Alamos County	12-18-86	B		
ST87-0826	El Paso Natural Gas Co.	Southern California Gas Co.	12-18-86	B		
ST87-0827	Transwestern Pipeline Co.	Southern California Gas Co.	12-19-86	B		
ST87-0828	Transwestern Pipeline Co.	Energas Co.	12-19-86	B		
ST87-0829	Transwestern Pipeline Co.	City of Long Beach	12-19-86	B		
ST87-0830	Transwestern Pipeline Co.	Northern Illinois Gas Co.	12-19-86	B		
ST87-0831	Louisiana Intrastate Gas Corp.	Tennessee Gas Pipeline Co.	12-19-86	C	05-18-87	22.40
ST87-0832	Columbia Gas Transmission Corp.	Union Gas Co.	12-19-86	B		
ST87-0833	Columbia Gas Transmission Corp.	South Jersey Gas Co.	12-19-86	B		
ST87-0834	Columbia Gas Transmission Corp.	Racine Gas & Service Co.	12-19-86	B		
ST87-0835	Columbia Gas Transmission Corp.	Nashville Gas, Div. of Piedmont Nat. Gas	12-19-86	B		
ST87-0836	Columbia Gas Transmission Corp.	Interstate Utilities Co.	12-19-86	B		
ST87-0837	Columbia Gulf Transmission Co.	Texas Gas Transmission Corp.	12-19-86	G		
ST87-0838	Houston Pipe Line Co.	Texas Eastern Transmission Corp.	12-19-86	C		
ST87-0839	Texas Gas Transmission Corp.	Boonville Natural Gas Corp.	12-19-86	B		
ST87-0840	Texas Gas Transmission Corp.	Chandler Natural Gas Corp.	12-19-86	B		
ST87-0841	Northern Natural Gas Co.	Westar Transmission Co.	12-19-86	B		
ST87-0842	Northern Natural Gas Co.	Midwest Gas Co.	12-19-86	B		
ST87-0843	Louisiana Intrastate Gas Corp.	Creole Gas Pipeline Corp.	12-22-86	C	05-21-87	22.40
ST87-0844	Delhi Gas Pipeline Corp.	ANR Pipeline Co.	12-22-86	C	05-21-87	61.70

Docket No. ¹	Transporter/seller	Recipient	Date filed	Subpart	Expiration date ²	Transportation rate (¢/MMBtu)
ST87-0845	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0846	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0847	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0848	Panhandle Eastern Pipe Line Co.	Ohio Gas Co.	12-22-86	B		
ST87-0849	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0850	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0851	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0852	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0853	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0854	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0855	Panhandle Eastern Pipe Line Co.	Consumers Power Co.	12-22-86	B		
ST87-0856	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0857	Panhandle Eastern Pipe Line Co.	Delhi Gas Pipeline Corp.	12-22-86	B		
ST87-0858	Panhandle Eastern Pipe Line Co.	Northern Indiana Public Service Co.	12-22-86	B		
ST87-0859	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0860	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0861	Trunkline Gas Co.	Consumers Power Co.	12-22-86	B		
ST87-0862	Panhandle Eastern Pipe Line Co.	Citizens Gas and Coke Utility	12-22-86	B		
ST87-0863	Panhandle Eastern Pipe Line Co.	12-2Indiana Gas Co.	12-22-86	B		
ST87-0864	Natural Gas Pipeline Co. of America	Illinois Power Co.	12-22-86	B		
ST87-0865	Natural Gas Pipeline Co. of America	North Shore Gas Co.	12-22-86	B		
ST87-0866	Northern Natural Gas Co.	El Paso Hydrocarbons Co.	12-22-86	B		
ST87-0867	Northern Natural Gas Co.	Wisconsin Gas Co.	12-22-86	B		
ST87-0868	Delhi Gas Pipeline Corp.	Tennessee Gas Pipeline	12-22-86	C		
ST87-0869	Texas Gas Transmission Corp.	Cincinnati Gas and Electric Co.	12-22-86	B		
ST87-0870	Texas Gas Transmission Corp.	Hoosier Gas Corp.	12-22-86	B		
ST87-0871	Texas Gas Transmission Corp.	Town of Jena	12-22-86	B		
ST87-0872	Texas Gas Transmission Corp.	Lawrenceburg Gas Co.	12-22-86	B		
ST87-0873	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	12-22-86	B		
ST87-0874	Colorado Interstate Gas Co.	Public Service Co of Colorado	12-23-86	B		
ST87-0875	Colorado Interstate Gas Co.	Public Service Co of Colorado	12-23-86	B		
ST87-0876	Northern Natural Gas Co.	Quivira Gas Co.	12-23-86	B		
ST87-0877	Northern Natural Gas Co.	Fremont Utilities	12-23-86	B		
ST87-0878	Transcontinental Gas Pipe Line Corp.	South Jersey Gas Co.	12-23-86	B		
ST87-0879	Transcontinental Gas Pipe Line Corp.	Leon County Transmission Co.	12-23-86	B		
ST87-0880	Transcontinental Gas Pipe Line Corp.	Lynchburg Gas Co.	12-23-86	B		
ST87-0881	Transcontinental Gas Pipe Line Corp.	Public Service Co of N. Carolina	12-23-86	B		
ST87-0882	Transcontinental Gas Pipe Line Corp.	Summit Pipeline & Producing Co.	12-23-86	B		
ST87-0883	Transcontinental Gas Pipe Line Corp.	Clinton Newberry Nat. Gas Authority	12-23-86	B		
ST87-0884	Transcontinental Gas Pipe Line Corp.	Public Service Electric and Gas Co.	12-23-86	B		
ST87-0885	Transcontinental Gas Pipe Line Corp.	Lone Star Gas Co.	12-23-86	B		
ST87-0886	Transcontinental Gas Pipe Line Corp.	North Carolina Natural Gas Corp.	12-23-86	B		
ST87-0887	Southern Gas Pipeline Co.	Texas Eastern Transmission Corp.	12-23-86	C	05-22-87	27.50
ST87-0888	El Paso Natural Gas Co.	Bay State Gas Co, et al.	12-24-86	B		
ST87-0889	Oasis Pipe Line Co.	Northern Natural Gas Co.	12-24-86	C		
ST87-0890	Houston Pipe Line Co.	Northern Natural Gas Co.	12-24-86	C		
ST87-0891	Natural Gas Pipeline Co of America	Rochester Gas & Electric Corp, et al.	12-24-86	B		
ST87-0892	Pentax Pipeline Co., Inc.	Columbia Gas Transmission Corp.	12-24-86	C	05-23-87	2.50
ST87-0893	ANR Pipeline Co.	Wisconsin Gas Co.	12-24-86	B		
ST87-0894	ANR Pipeline Co.	North Central Public Service Co.	12-24-86	B		
ST87-0895	ANF Pipeline Co.	North Central Public Service Co.	12-24-86	B		
ST87-0896	ANR Pipeline Co.	Illinois Power Co.	12-24-86	B		
ST87-0897	Transok, Inc.	Northern Illinois Gas Co.	12-29-86	C	05-28-87	21.75
ST87-08	Texas Gas Transmission Corp.	City of Brownsville—Utility Dept.	12-29-86	B		
ST87-0899	Texas Gas Transmission Corp.	City of Brownsville—Utility Dept.	12-29-86	B		
ST87-0900	Texas Gas Transmission Corp.	Ohio Valley Gas Corp.	12-29-86	B		
ST87-0901	Texas Gas Transmission Corp.	Switzerland County Natural Gas Co.	12-29-86	B		
ST87-0902	Texas Gas Transmission Corp.	Dome Gas Co.	12-29-86	B		
ST87-0903	Arkia Energy Resources	Shreveport Intrastate Gas Trans., Inc.	12-29-86	B		
ST87-0904	Texas Gas Transmission Corp.	City of Olive Branch	12-29-86	B		
ST87-0905	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co.	12-30-86	B		
ST87-0906	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co.	12-30-86	B		
ST87-0907	Northern Natural Gas Co.	Watertown Municipal Utility	12-30-86	B		
ST87-0908	Northern Natural Gas Co.	City of Rolfe	12-30-86	B		
ST87-0909	Northern Natural Gas Co.	West Texas Gas, Inc.	12-30-86	B		
ST87-0910	Northern Natural Gas Co.	Iowa Public Service Co.	12-30-86	B		
ST87-0911	El Paso Natural Gas Co.	Power-Tex Joint Venture	12-30-86	B		
ST87-0912	Valero Transmission Co.	Northern Natural Gas Co.	12-31-86	C		
ST87-0913	Valero Transmission Co.	Trunkline Gas Co.	12-31-86	C		
ST87-0914	Valero Transmission Co.	Texas Eastern Transmission Corp.	12-31-86	C		
ST87-0915	Seagull Shoreline System	Northern Natural Gas Co.	12-31-86	C	05-30-87	12.00
ST87-0916	Colorado Interstate Gas Co.	Public Service Co of Colorado	12-31-86	B		
ST87-0917	Northern Natural Gas Co.	Delhi Gas Pipeline Corp.	12-31-86	B		
ST87-0918	Northern Natural Gas Co.	Andrews Gas Co.	12-31-86	B		
ST87-0919	Intrastate Gathering Corp.	Consumers Power Co.	12-31-86	C		
ST87-0920	El Paso Natural Gas Co.	City of Safford	12-31-86	B		
ST87-0921	El Paso Natural Gas Co.	City of McLean	12-31-86	B		
ST87-0922	El Paso Natural Gas Co.	Midwest Gas Companies, et al.	12-31-86	B		
ST87-0924	Northern Natural Gas Co.	Iowa Public Service Co.	12-31-86	B		

Below are six petitions for rate approval. They are noticed at this time to give interested parties the appropriate 150-day comment period.

ST86-2272	Taft Pipeline	Michigan Power Co.	12-05-86	C	05-04-87	9.60
ST86-2273	Taft Pipeline	Northern States Power Co.	12-05-86	C	05-04-87	9.60
ST86-2274	Taft Pipeline	Iowa Public Service Co.	12-05-86	C	05-04-87	9.60
ST86-2275	Taft Pipeline	North Central Public Services Co.	12-05-86	C	05-04-87	9.60
ST86-2276	Taft Pipeline	Iowa Public Co.	12-05-86	C	05-04-87	9.60

Docket No. ¹	Transporter/seller	Recipient	Date filed	Subpart	Expiration date ²	Transportation rate (¢/MMBtu)
ST86-2277	Taft Pipeline	Iowa Public Service Co.	12-05-86	C	05-04-87	9.60

¹ Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

² The Intrastate Pipeline has sought commission approval of its transportation rate pursuant to section 284.123(B)(2) of the commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the commission does not take action by the date indicated.

[FR Doc. 87-3355 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-56-001]

Citizens Energy Corporation et al; Application

February 11, 1987.

Take notice that on February 10, 1987, Citizens Energy Corporation, Citizens Resources Corporation, and Citizens Gas Supply Corporation (jointly, Citizens) filed to amend the application to amend in Docket No. CI86-56-001 for an extension of blanket abandonment and sales authority granted by the Commission on December 5, 1985 in Docket No. CI86-56-000. Citizens' amendment on February 10, 1987, requests that the term of its authority be extended through March 31, 1990 and that the authority apply to supplies priced at or below the Natural Gas Policy Act Section 109 price, and provides certain information concerning Citizens Gas Supply Corporation. Citizens states that its amendments are consistent with orders previously issued by the Commission.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before February 19, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3364 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-173-000 et al.]

Columbia Gas Transmission Corporation et al.; Natural gas certificate filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP87-173-000]

February 11, 1987.

Take notice that on January 23, 1987, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP87-173-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain facilities and points of delivery under authorization issued in Docket No. CP83-76-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia requests authorization for the abandonment of approximately 3.8 miles of pipeline ranging in size from 2-inch through 12-inch, 103 points of delivery (POD's) to existing wholesale customers and certain related facilities. It is said that the facilities and points of delivery proposed for abandonment are no longer used or useful in Columbia's operations and would not result in the loss of any gas supply or the termination of service to any existing wholesale customers. Columbia states that it has been advised by its wholesale customers that the proposed abandonments would not result in the termination of service to any existing retail consumers.

It is stated that in relationship to the abandonment of these POD's and facilities, Columbia would establish five POD's pursuant to § 157.212 due to

changes in existing interconnections between Columbia's facilities and the distribution facilities of its existing wholesale customers. Columbia states that these additional POD's would not result in any additional deliveries or entitlements and that the additional interconnections are permitted under Columbia's existing tariff. It is further stated that Columbia would acquire 0.3 mile of 3-inch pipeline from Columbia Gas of Kentucky, Inc., pursuant to Section 157.208 of the Natural Gas Act.

Comment date: March 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Central Pipeline Corporation

[Docket No. CP87-168-000]

February 11, 1987.

Take notice that on January 20, 1987, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP87-168-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate two sales taps and other related jurisdictional facilities necessary to replace two town border settings for the City of Neodesha, Kansas, which obsolete facilities concurrently are proposed to be abandoned by relcaim under the certificate issued in Docket Nos. CP82-479-000 and CP82-479-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Northwest Central proposes to replace the obsolete, oversized west main, and water and power plant #2 town border settings together with the related laterals which serve the City of Neodesha, all of which are located in Wilson County, Kansas. It is explained that the existing 4-inch meter settings would be replaced with 3-inch meter settings; 156 feet of 6-inch pipe would be replaced with 6-inch pipe capable of being operated at higher pressures; and 280 feet of 6-inch pipe would be replaced with 3-inch pipe. Northwest Central states that the volume of delivery through the

replacement facilities is expected to remain constant at 42,573 Mcf per year and 117 Mcf on a peak day at the west main setting and 1,967 Mcf per year and 5 Mcf on a peak day at the water and power plant #2 setting. It is stated that Northwest Central and the City of Neodesha do not anticipate increased deliveries through the replacement facilities. It is further stated that even though the replacement facilities are smaller, they are more than adequate to serve the current load and allow for additional growth if needed. Northwest Central estimates that the cost of reclaiming the existing facilities would be \$5,430 and the related salvage value would be \$320. Further, Northwest Central estimates the total cost of constructing the new facilities would be \$63,830. It is stated that such costs would be paid from treasury cash.

Comment date: March 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. Arkla Energy Resources

[Docket No. CP87-43-000]

February 12, 1987.

Take notice that on October 28, 1986, Arkla Energy Resources (Applicant), P. O. Box 21734, Shreveport, Louisiana 71151 filed in Docket No. CP87-43-000 an application, as supplemented on January 27, 1987, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Transmission Corporation (Texas Eastern) and authorizing the operation of existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the firm transportation of up to 300 billion Btu equivalent of natural gas per day. Applicant further proposes to transport excess volumes on an interruptible basis. On behalf of Texas Eastern, Applicant also proposes that Texas Eastern be authorized to track in its rates, on a current as-billed basis, the transportation charges incurred by Texas Eastern for the proposed transportation services.

Applicant states it would receive natural gas from Texas Eastern at points throughout Applicant's transmission and gathering systems and transport the gas on firm and interruptible bases to two existing interconnections between their pipeline systems near Bald Knob, Arkansas (Bald Knob), and at Texas Eastern's Monroe, Louisiana, compressor station (Monroe). Applicant indicates that at this time Texas Eastern

has not identified any of the points where gas would be delivered to Applicant for transportation.

Applicant explains that the maximum firm transportation volume would initially be 50 billion Btu equivalent per day and that the maximum firm transportation quantity would be in accordance with the following schedule:

For the period commencing	Maximum contract quantity (billion btu equivalent per day)
Jan. 1, 1987	up to 125
Jan. 1, 1988	up to 175
Jan. 1, 1989	up to 250
Jan. 1, 1990	up to 300

and thereafter Applicant further explains that at least 3 months prior to the relevant period Texas Eastern would nominate a contract quantity, and that Applicant would thereafter advise Texas Eastern of the extent to which firm capacity is available. If sufficient capacity is not then available it is stated Applicant would either install additional firm service capacity or allow Texas Eastern, at its own cost and expense, to construct the firm service capacity. It is also stated that in the event Texas Eastern is unable to secure and maintain gas supplies at a level equal to the established contract quantity, Texas Eastern would be provided the opportunity to reduce the contract quantity. Applicant asserts that after the initial authorization any such increases or decreases in the contract quantity would not require further authorization from the Commission.

The transportation rates proposed by Applicant are as follows:

Gathering and Transmission:

Reservation charge...\$2.4761/MMBtu of contract quantity
Commodity charge......2609/MMBtu received
Interruptible charge......3424/MMBtu received
Deficiency rate......0815/MMBtu

Transmission Only:

Reservation charge...\$2.0321/MMBtu of contract quantity
Commodity charge......1883/MMBtu received
Interruptible charge......2551/MMBtu received
Deficiency rate......0668/MMBtu

Gathering Only:

Reservation charge...\$0.8898/MMBtu of contract quantity
Commodity charge......1450/MMBtu received
Interruptible charge......1743/MMBtu received
Deficiency rate......0293/MMBtu

It is stated that in order to compensate for operational considerations, variations from the contract quantity of five percent on a daily basis and 2 percent on a monthly basis would be permitted without further payment by Texas Eastern. If

Texas Eastern is unable to balance its deliveries within these variances, Texas Eastern, it is stated, would be charged one of the following excess balancing rates:

Daily excess (percent)	Monthly excess (percent)	Rate/MMBtu equivalent
5.01—10.00.....	2.01—5.00.....	\$ 0.736
10.01—20.00.....	5.01—10.00.....	5.0000
above 20.00.....	above 10.00.....	10.0000

It is further stated that in the event Texas Eastern desires to tender to Applicant for receipt on Applicant's transmission system gas from sources that would preclude Texas Eastern's takes from remaining within the authorized variances, Texas Eastern may elect to receive and pay for optional transportation only service with respect to such service. It is stated that election of this optional service would enable Texas Eastern to increase the authorized daily and monthly variances to 30 percent and 10 percent, respectively. The charges applicable to such optional service, it is stated, are as follows:

Reservation charge...\$2.3549/MMBtu of contract quantity
Commodity charge......2513/MMBtu received
Interruptible charge......3288/MMBtu received
Deficiency rate......0775/MMBtu

Applicant states that when the receipt of volumes from Texas Eastern would require the construction of new transmission, gathering or receipt facilities, Applicant would undertake such construction if, in its opinion, the resulting cost in view of the increased throughput would not ultimately serve to increase Applicant's otherwise applicable rates for gathering and transmission service and such construction is otherwise economical. It is further stated that if Applicant elects not to construct such additional receipt facilities, Texas Eastern may do so at its own cost and expense.

Applicant asserts that as Texas Eastern adds and deletes different sources of gas, the receipt points would be changed from time to time, and that in order to accommodate the need for such changes, Applicant requests that the Commission grant it blanket authority to add and delete receipt points in accordance with its contract provisions, subject to whatever reasonable reporting requirements the Commission may deem appropriate.

Applicant proposes the use of facilities constructed pursuant to Section 311 of the Natural Gas Policy Act of 1978 for the proposed transportation. Applicant states that the

facilities at Bald Knob were constructed pursuant to Section 311 and the interconnection at Monroe is currently being constructed pursuant to Section 311.

Applicant claims that this proposal would provide it with the opportunity to increase its system load factor and to decrease its unit service costs and would provide an incentive for exploration near its gathering and transmission systems.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Florida Gas Transmission Company

[Docket No. CP87-166-000]

February 12, 1987.

Take notice that on January 16, 1987, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251, filed in Docket No. CP87-166-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, and construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT proposes to transport up to 100 billion Btu equivalent of natural gas per day on an interruptible basis for Enron Industrial Natural Gas Company (Industrial). FGT states that it would receive natural gas for Industrial's account at an existing point of interconnection between FGT and Houston Pipe Line Company (HPL) in Orange County, Texas, and would redeliver such gas at a proposed point of interconnection between HPL and FGT near Texas City in Galveston County, Texas. The volumes redelivered would be reduced by an amount equal to Industrial's *pro rata* share of any gas vented and lost for any reason from that portion of FGT's facilities being used for Industrial at the time of such loss, it is explained.

FGT also proposes to install a tap and related facilities in Galveston County in order to make deliveries to HPL for the account of Industrial. FGT states that the estimated cost of these facilities is \$45,000. The cost of these facilities would be borne by Industrial, it is explained.

FGT proposes to charge Industrial for this service a facility charge of 12.6 cents per MMBtu plus the GRI surcharge of 1.48 cents per MMBtu.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Louisiana-Nevada Transit Company

[Docket No. CP87-193-000]

February 12, 1987.

Take notice that on February 3, 1987, Louisiana-Nevada Transit Company (Applicant), P.O. Box 488, Hope, Arkansas 71801, filed in Docket No. CP87-193-000 an application pursuant to section 7(c) of the Natural Gas Act and §§ 284.211, *et seq.*, of the Commission's Regulations thereunder, for a blanket certificate authorizing transportation on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to become a transporter of natural gas pursuant to the Commission's Order No. 436 series issued in Docket No. RM85-1. Applicant advises that it would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations, which paragraph references the conditions in Subpart A of Part 284 of such regulations. Applicant further advises that it would comply with the terms and conditions applicable to transportation on behalf of other interstate pipeline companies, as set forth in § 284.222 of the Commission's Regulations, and the terms and conditions applicable to transportation on behalf of shippers other than interstate pipelines, as set forth in § 284.223 of the Commission's Regulations.

Applicant also states that, pursuant to § 284.7(a) of the Commission's Regulations, it is concurrently filing herewith new Rate Schedules FTS-1 and ITS-1 to establish firm and interruptible rates for the proposed transportation services. Finally, Applicant advises that such transportation rates are based upon the rates approved by the Commission's letter order dated August 22, 1985, in settlement of the proceedings in Docket No. RP85-142-000 and are scheduled to become effective on March 5, 1987.

Comment date: March 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

6. Mississippi River Transmission

[Docket No. CP87-191-000]

February 12, 1987.

Take notice that on February 2, 1987, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP87-191-000 an application pursuant to sections 7(b) and (c) of the Natural Gas Act for authorization to abandon existing jurisdictional gas sales service to the City of Altheimer, Arkansas (Altheimer), and for certificate

authority to provide similar jurisdictional gas sales service to Arkansas Louisiana Gas Company (ALG) for service to the City of Altheimer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Altheimer and ALG have agreed to the sale and transfer of the natural gas distribution system from Altheimer to ALG, and that ALG has requested that Applicant continue to provide jurisdictional gas sales service to such location. Applicant presently serves ALG at numerous other small communities, and Applicant has therefore agreed to an amendment of ALG's existing service agreement to provide for the additional volumes, totaling 375 Mcf per day, required to serve the City of Altheimer. It is stated such amount is the same volume contained in Applicant's existing service agreement with Altheimer. Following the requested abandonment, Altheimer would no longer be a sales customer of Applicant, it is stated. Applicant states further that no changed or additional facilities would be required with respect to the proposed abandonment and related certificate authority. Applicant states that the Arkansas Public Service Commission is expected to grant ALG a certificate of convenience and necessity whereupon ALG will commence service to Altheimer.

Comment date: March 5, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Northwest Central Pipeline Corporation

[Docket No. CP87-172-000]

February 12, 1987.

Take notice that on January 23, 1987, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP87-172-000 an application pursuant to section 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity and abandonment authorizing Northwest Central to revise its sales rate structure and related rate schedules and other tariff provisions so as to replace its traditional full requirements base/excess, volumetric F, C, I, LVS-2, IRG and E rate schedules with a new General Service (GS) rate schedule, with a demand-commodity rate design, and a new Small General Service (SGS) rate schedule, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Central states that its application is conditional in nature. Northwest Central states that it does not believe the requested authorizations are required, but the subject application is nonetheless being filed solely to assure that the rate structure and tariff changes proposed in Northwest Central's general rate filing, also filed on January 23, 1987, in Docket No. RP87-33-000 can be placed in effect as requested so as to permit an Order No. 436 open access mode of operation on its system.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

8. Sea Robin Pipeline Company

[Docket No. CP87-187-000]

February 12, 1987.

Take notice that on January 30, 1987, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas, 77251-1478 (Applicant), filed in Docket No. CP87-187-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing transportation of natural gas for Texas Eastern Transmission Corporation (Texas Eastern) under the gas transportation agreement dated October 28, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin indicates that the agreement provides for Texas Eastern to cause delivery of up to 7,000 Mcf of natural gas per day to Sea Robin at a subsea tap on Sea Robin's pipeline located in the South Marsh Island Area, Block 127, offshore Louisiana. Sea Robin states that from this point, Sea Robin would transport and redeliver such gas on a firm basis for Texas Eastern to the outlet side of Sea Robin's measuring station at or near the terminus of Sea Robin's offshore pipeline near Erath, Louisiana. Sea Robin states that it would redeliver gas at such point to United Gas Pipe Line Company for the account of Texas Eastern.

Sea Robin indicates that no new facilities need be constructed to implement the transportation service. Sea Robin proposes to provide the transportation service for a period of five years from the date Sea Robin accepts any certificate authorization issued in this docket and from year to year thereafter until cancelled by either party by at least six months' written notice.

Sea Robin proposes to charge Texas Eastern a monthly demand charge as well as a commodity charge for each Mcf of gas transported as provided for

on Sheet No. 4-A of Sea Robin's FERC Gas Tariff, Original Volume No. 1. Sea Robin indicates that the currently effective demand charge is \$3.90 per Mcf of contract demand and the currently effective commodity charge is 3.15 cents per Mcf of gas transported.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

9. Shell Offshore, Inc., Petitioner—Black Marlin Pipeline Company, Respondent

[Docket No. CP87-189-000]

February 12, 1987.

Take notice that on January 27, 1987, Shell Offshore Inc. (SOI), One Shell Plaza, Room 4858, P.O. Box 2463, Houston, Texas 77252-2463, filed in Docket No. CP87-189-000 a petition for the institution of proceedings pursuant to Rule 207 of the Commission's rules of practice and procedure (18 CFR 385.207) and sections 5(e) and 5(f) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1334 (e) and (f)) to determine the appropriate proportionate amounts of natural gas produced from Blocks A-6, 135, 136, 160, 161 and 201 in the High Island Area (HI Blocks), offshore Texas, which should be transported on behalf of producers and their purchasers by Black Marlin Pipeline Company (Black Marlin),¹ all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

SOI states that it is presently selling natural gas out of its working interest in HI Blocks A-6 and 201 to Enron Industrial Gas Corporation (Industrial),² under a contract which has been amended to provide that on any day that Industrial takes less than 85 percent of the delivery capacity, SOI shall have the right to sell to another buyer, on such day, up to a volume of gas equal to the difference between the quantity of gas taken by Industrial and the 85 percent delivery capacity. The contract further provides that any gas so taken and sold by SOI shall apply to and be credited against Industrial's annual take-or-pay obligations.

SOI states that Black Marlin also transports gas produced by SOI from HI Blocks 135, 136, 160 and 161 for delivery to Union Carbide Corporation (Union Carbide) at its Texas City, Texas, petrochemical plant, which gas Union Carbide is willing to release for sale to another purchaser.

¹ Black Marlin is said to be a wholly-owned subsidiary of Houston Natural Gas Corporation (HNG) which is a subsidiary of Enron Corp. (Enron).

² Industrial is also said to be a wholly-owned subsidiary of HNG.

SOI states that Black Marlin has entered into a letter agreement with SOI under which Black Marlin has agreed to transport HI Block A-6 and 201 gas for SOI and/or a person purchasing gas from SOI upon request from SOI to Black Marlin. However, SOI alleges, it has made repeated requests to Black Marlin to secure the requisite authorization to transport the gas not taken by Industrial and Union Carbide to other purchasers but Black Marlin has failed to obtain such authorizations.

SOI adds that at the same time that Black Marlin is refusing to provide transportation services for SOI for gas produced from HI Blocks A-6, 135, 136, 160, 161 and 201, Black Marlin is seeking authorization in Docket Nos. CP84-354-003 and CP66-333-001 to transport and deliver to Industrial and Union Carbide, respectively, additional gas to be purchased from Pelto Oil Company, *et al.* (Pelto), Cities Service Oil and Gas Corporation (Cities) and/or Conoco from the same lease blocks and other blocks in the High Island Area. SOI asserts that such actions are a violation of sections 5(e) and 5(f) of the OCSLA and requests the Commission to institute proceedings to determine the reasonable proportionate amounts of natural gas produced from HI Blocks A-6, 135, 136, 160, 161 and 201 which should be transported by Black Marlin on behalf of SOI and its purchasers other than Union Carbide and Industrial.

Comment date: March 5, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

10. Southern Natural Gas Company

[Docket No. CP87-177-000]

February 12, 1987.

Take notice that on January 28, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama, 35202-2563, filed in Docket No. CP87-177-000 an application pursuant to section 7 of the Natural Gas Act and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the construction, installation, and operation of approximately 50 miles of 20-inch loop pipeline, a meter station, the modification of a regulator station and certain piping changes to enable Southern to increase its ability to receive gas from its Bear Creek Storage Company (Bear Creek), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to construct, install and operate the following: approximately 50 miles of 20-inch

pipeline that will loop its Logansport Line between the Bienville Compressor Station (Bienville) in Bienville Parish, Louisiana, and the Perryville Compressor Station, (Perryville) in Ouachita Parish, Louisiana; a meter station at Bienville consisting of two 10-inch meter runs; the reconstruction and enlargement of its existing regulator station near Perryville by the addition of two regulators; and a 24-inch meter run and certain piping modifications to permit certain gas back-flow operations at its Louisville Compressor Station (Louisville) in Winston County, Mississippi. Southern states the proposed construction and operation of these facilities are required to enable it to increase its ability to receive gas from its Bear Creek facility at an interconnection between Bear Creek and Southern in Bienville Parish, Louisiana. Southern estimates the construction of the above described facilities and modifications will cost an estimated \$14,484,000, which includes filing fees.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

11. Superior Offshore Pipeline Company

[Docket No. CP87-184-000]

February 12, 1987.

Take notice that on January 29, 1987, Superior Offshore Pipeline Company (SOPCO), 1250 Poydras Building, New Orleans, Louisiana 70113, filed in Docket No. CP87-184-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to transport natural gas on behalf of Mobil Exploration and Producing North America, Inc. (Mobil E&P), under the authorization issued in Docket No. CP86-357-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

SOPCO states that pursuant to a transportation agreement dated October 1, 1986, it proposes to transport natural gas on behalf of Mobil E&P with Mobil E&P acting on behalf of Consolidated Fuel Supply Company of Texas which in turn would act as a shipper on behalf of certain end users in Michigan. It is further stated that the term of the agreement runs from October 1, 1986 to September 30, 1988. SOPCO, it is indicated, would receive the gas into its offshore system for Mobil E&P's account in West Cameron Blocks 71 and 101 (and such receipt points as may be added from time to time) and would redeliver the gas to Mobil E&P at Mobil

E&P's Lowry gas processing plant in Cameron Parish, Louisiana. SOPCO states that peak day volumes to be transported under this agreement would not exceed 18 billion Btu equivalent per day and 6,570 billion Btu equivalent Btu per year. It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provisions of Section 284.223(a)(1) of the Regulations. However, SOPCO notes that the 120-day self implemented service will terminate prior to any authorization which may result from the subject application.

Comment date: March 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

12. Texas Eastern Transmission Corporation

[Docket No. CP87-169-000]

February 12, 1987.

Take notice that on January 20, 1987, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP87-169-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to transport natural gas on an interruptible basis for Columbia Gas Transmission Corporation (Columbia) up to a maximum daily quantity (MDQ) of 20,000 dt equivalent, and such additional daily quantities in excess of the MDQ as Applicant, in its sole judgement, determines it is able to transport, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide such transportation service for a primary period of 5 years and from year to year thereafter unless the underlying agreement is terminated by either party upon one year prior written notice to the other party.

Applicant proposes to transport Columbia's natural gas reserves attributable to Ship Shoal Blocks 247 and 248 from Eugene Island Block 278 to the Blue Water pipeline system in Ship Shoal Block 198, all offshore Louisiana. Applicant asserts that it was requested to provide this interruptible transportation service to enable Columbia to continue to receive its gas supplies located in Ship Shoal Blocks 247 and 248 which Applicant has transported for Columbia pursuant to Applicant's blanket transportation certificate in Docket No. CP80-156 and Subpart G of Part 284 of the Commission's Regulations. Applicant states that this grandfathered

transportation service commenced on January 21, 1985 in Docket No. ST85-620-000 and terminated on January 20, 1987.

Applicant further states that Columbia would pay Applicant each month a charge equal to the product of Applicant's posted TS-3 rate in effect during such month times the quantity of gas delivered by Applicant during such month.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

13. United Gas Pipe Line Company

[Docket No. CP87-180-000]

February 12, 1987.

Take notice that on January 28, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-180-000, an application for a certificate of public convenience and necessity authorizing transportation necessary to implement a direct interruptible sale of natural gas to Courtaulds North America Inc. (Courtaulds), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

United states that it was authorized under Docket No. G-13,142 to render direct service to Courtaulds on a firm basis. However, on September 16, 1986, United filed in Docket No. CP86-724-000 an application under the blanket certificate prior notice procedure to abandon firm sales service to certain direct industrial sales customers, one of which was Courtaulds. It is stated that such abandonment was effective on November 8, 1986. Now United is requesting Commission certification for interruptible service, at a reduced volumetric level, to Courtaulds. United would utilize existing facilities in serving Courtaulds, as further explained in the application.

Comment date: March 5, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with referenced to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in

determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3356 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-237-000]

**Diamond Shamrock Exploration Co.;
Application for Order Permitting and
Approving Abandonment of Service
and Cancelling Rate Schedule**

February 11, 1987.

Take notice that on January 20, 1987, Diamond Shamrock Exploration Company (referred to as "Diamond

Shamrock") filed an Application pursuant to section 7 of the Natural Gas Act for authorization to abandon service, as described herein.

The circumstances presented in the application meet the criteria for consideration on an expedited basis pursuant to § 2.77 of the Commission's rules as promulgated by Order 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, as more fully described in the application which is on file with the Commission and open to public inspection.

Diamond Shamrock states that the two wells covered by the application have a combined daily deliverability of approximately 250 Mcf. Diamond Shamrock states that one of the wells is a Section 108 well (formerly Section 104-Post 1974) and the other is a Section 104-1973-74 Biennium well. It is further stated that upon receipt of abandonment authorization, Diamond Shamrock intends to use the gas internally for fuel. Diamond Shamrock finally states that the existing gas contract has been terminated by the purchaser effective January 31, 1987, and that upon such termination it will be subject to substantially reduced takes without payment.

Any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3357 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

**Federal Energy Regulatory
Commission**

[Docket No. ER87-97-001]

**Pacific Gas and Electric Company;
Filing**

February 13, 1987.

Take notice that on February 13, 1987,

Pacific Gas and Electric Company tendered for filing information requested by the Commission, after a finding that the proposed agreement for experimental rates in the Western Systems Power Pool was deficient with respect to the Commission's regulations.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 and Rule 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before February 25, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-3510 Filed 2-17-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

**Special Research Grant Program
Notice 87-4**

AGENCY: Department of Energy.

ACTION: Notice inviting grant application.

SUMMARY: The Office of Energy Research of the Department of Energy (DOE) announces its interest in receiving applications for Special Research Grants that will support fundamental research into the mechanisms of biological damage and repair from exposure to radon, radon daughters and other high LET radiation. Research must be directed toward providing broadly applicable principles which allow quantification of the risk to humans from indoor radon exposure. Research into the radiological and toxicological interactions of radon with other agents including tobacco smoke and other household contaminants will be emphasized. Additionally, fundamental research applications in understanding factors affecting radon entry, radon decay product behavior, and mitigation effectiveness are sought.

Specific areas of interest include: identification and study of bronchial epithelial cell transformations using

modern biological techniques; identification of genetic loci associated with alpha particle induced cell transformation; epidemiological studies of residential radon exposure; dosimetry at the cellular and molecular level for radon daughter deposition and distribution; physical and chemical investigations of aerosol behavior, deposition and retention; and geophysical studies to quantify the mobilization and transport of radon in bedrock, soils and groundwater as well as in soil-vegetation.

DATE: To permit timely consideration for award in Fiscal Year 1988, applications submitted in response to this Notice should be received by the Division of Acquisition and Assistance Management by April 16, 1987.

ADDRESS: Applications should be forwarded to: U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, Room G-236, Washington, DC 20545, ATTN: Program Notice 87-4.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Rose, Office of Health and Environmental Research, ER-73, Washington, DC 20545, (301) 353-5355.

SUPPLEMENTARY INFORMATION: A limited number of initial awards will be funded from approximately 4 million dollars expected to be available for this research during Fiscal Year 1988. Future funding will depend on availability of funds. Information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures may be found at 10 CFR Part 605. Application kits and copies of 10 CFR Part 605 are available from the U.S. Department of Energy, Division of Acquisition and Assistance Management (see above for address). Telephone requests may be made by calling (301) 353-5544. Instructions for preparation of an application are included in the kit. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC, on February 5, 1987.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 87-3329 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of November 28 Through December 5, 1986

During the Week of November 28 through December 5, 1986, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.
February 9, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 28 through December 5, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Jul. 10, 1984	San Joaquin Oil Company, Washington, DC	KEZ-0050	Interlocutory. If granted: Any Economic Regulatory Administration or Office of General Counsel official who participated in the remedial order proceedings involving San Joaquin Oil Company or West Oil Company (Case Nos. HRO-0071 and HRO-0087) would be excused from participating in the San Joaquin Oil Co. exception proceeding (Case No. HEE-0097).
Jul. 10, 1984	West Coast Oil Company, Los Angeles, CA	KEZ-0051	Interlocutory. If granted: Any Economic Regulatory Administration or Office of General Counsel official who participated in the remedial order proceedings involving West Coast Oil Company or San Joaquin Oil Company (Case Nos. HRO-0087 and HRO-0071) would be excused from participating in the West Coast Oil Co. exception proceeding (Case No. HEE-0098).
Dec. 1, 1986	Horizon Petroleum Company, Washington, DC	KEF-0084	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with a May 23, 1986 Consent Order entered into by the Department of Energy and Horizon Petroleum Company.
Dec. 1, 1986	The Spokesman-Review, Spokane, WA	KFA-0065	Appeal of an Information Request Denial. If granted: The September 15, 1986 Freedom of Information Request Denial issued by the Office of Conservation of the Bonneville Power Administration would be rescinded and The Spokesman-Review would receive access to names and/or addresses of any persons whose residences were weatherized or monitored for radon.
Dec. 3, 1986	Coline, National Helium, Palo Pinto, Belridge, Perry Gas & Amoco/Connecticut, Hartford, CT.	RM2-57, RM3-58, RM5-59, RM6-60, RM183-61, and RQ251-340	Request for Modification/Rescission in the Coline, National Helium, Palo Pinto, Belridge, Perry Gas and Amoco Second Stage Refund Proceedings. If granted: The November 14, 1986 Decision and Order (Case Nos. RM2-39, RM3-40, RM5-41, RM6-42, RM183-43 and RQ251-329) issued to Connecticut would be modified regarding the state's application for refund submitted in the Coline, National Helium, Palo Pinto, Belridge, Perry Gas and Amoco second stage refund proceedings.
Dec. 3, 1986	Eastern Oil Company, Washington, DC	KEF-0085	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with a February 5, 1986 Consent Order which the Department of Energy entered into with Eastern Oil Company.

REFUND APPLICATIONS RECEIVED

[Week of November 28, through December 5, 1986]

Date	Name of refund proceeding/name or refund applicant	Case No.
Nov. 20, 1986	Conono/Vicksburg Petroleum Products, Inc.	RF220-461
Do	BTV Energy Corporation	RF208-13
Nov. 25, 1986	Amees Gift Shop	RF276-1
Nov. 26, 1986	Neptune-Benson, Inc.	RF276-2
Do	A. Tarricone/Spino Fuel Company	RF155-5
Do	Jackson Walstad Oil Co.	RF40-3487
Do	Layland's L.P. Gas	RF40-3588
Do	Burtonsville Fuel Oil	RF40-3589
Nov. 28, 1986	Gibson Thermogas	RF108-26
Do	Anthony & Mafaldo Caliri	RF276-3
Do	George W. Linnane	RF276-4
Do	Denny's Service Station	RF280-1
Do	Sno-King Red Barn	RF279-1
Nov. 28, 1986 to Dec. 3, 1986	Surface Transporters Applications Received	RF270-863 thru RF270-1337
Do	Rail & Water Transporters Applications Received	RF271-108 thru RF271-141
Do	Crude Oil Overcharge Applications Received	RF272-49 thru RF272-102
Dec. 1, 1986	D & D Oil Company	RF225-10446 thru RF225-10449
Do	LaGloria/Park Oil Company	RF263-12
Do	Amoco/ West Virginia	RQ251-339
Do	Conoco/Potlatch Corporation	RF220-460
Dec. 5, 1986	Marathon Refund Applications Received	RF271-108 thru RF271-141
Dec. 2, 1986	Consolidated Rail Corporation	RF225-10471
Do	Frances Cunningham	RF276-5
Do	Consolidated Rail Corporation	RF213-216
Dec. 3, 1986	Chevron Inc./Gulf Oil Corp.	RF264-14
Do	Savings Oil Company	RF263-13
Do	Martin Oil Marketing, Ltd.	RF278-1
Dec. 4, 1986	Amoco/Alabama	RQ251-341
Do	Frank M. Capace	RF276-6
Do	Indiana Gas Company, Inc.	RF263-14
Do	Dedham Oil Company	RF265-46
Do	Hill Top Skelly	RF265-45
Do	Bob's Skelly	RF265-44
Do	Dyersville	RF265-43
Do	Calfee Oil Company, Inc.	RF40-3591
Do	Illinois Valley Supply Company	RF40-3592
Do	Hentz Gulf	RF40-3593
Do	Melton Gulf	RF40-3594
Do	Pappas Gulf	RF40-3595
Do	Pitre's Gulf	RF40-3596
Do	Compton's Gulf	RF40-3597
Apr. 29, 1986	T.K. Dismuke	RF225-10452
May 2, 1986	Farr Bros.	RF225-10453
Apr. 3, 1986	Jake O. David	RF225-10454
Jul. 31, 1986	Hirsch Fuels, Inc.	RF225-10455
Jun. 29, 1986	Lathrop's Mobil	RF225-10456
Jul. 31, 1986	R.D. Rogers	RF225-10457
Do	R.D. Rogers	RF225-10458
Apr. 28, 1986	Braswell's Grocery	RF225-10459
May 2, 1986	Charles W. Agar, Inc.	RF225-10460
Apr. 22, 1986	Hermitage Hills Mobil	RF225-10461
Do	Morelli's Mobil	RF225-10462
Do	Terru Service Station	RF225-10463
Feb. 18, 1986	Femia's Winthrop Mobil	RF225-10464
Do	Landwhere Mobil	RF225-10465
Mar. 31, 1986	Avon Service Station	RF225-10466
Apr. 3, 1986	James Petrozello Co., Inc.	RF225-10467
Apr. 7, 1986	Richard M. Burns Service	RF225-10468
Apr. 8, 1986	Ro Jo Company, Inc.	RF225-10469
Mar. 31, 1986	Dois E. Wilkinson	RF225-10470

[FR Doc. 87-333 Filed 2-17-87; 8:45]

BILLING CODE 6450-01-M

Cases Filed; Week of December 12 Through December 19, 1986

During the Week of December 12 through December 19, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of

Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of

the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,
Director, Office of Hearings and Appeals,
February 9, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 12 through Dec. 19, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 13, 1986	National Helium, Webster & Vickers/Missouri Jefferson City, Missouri.	RM3-45, RM48-46 and RM1-47	Request for modification/rescission of a second stage refund application. If granted: The March 3, 1985, February 5, 1985 and January 16, 1985 Decision and Order (Case Nos. HQF-0501, HFX-0114 and HQF-0487) issued to Missouri would be modified regarding the state's application for refund submitted in the National Helium, Webster and Vicker's second stage refund proceedings.
Dec. 12, 1986	Echo Drilling Company, Columbus, Ohio	KEE-0105	Application for exception. If granted: Echo Drilling Company would receive an exception from 10 C.F.R. §§212.31, 212.93, 212.10 and 212.183 with respect to the prices charged for crude oil transported by Echo Drilling Company.
Dec. 15, 1986	Barbara Sue Dalton, Oak Ridge, Tennessee	KFA-0068	Appeal of an information request denial. If granted: The November 5, 1986 Freedom of Information Request Denial issued by the Office of Organization and Personnel would be rescinded, and Barbara Sue Dalton would receive access to information concerning the suspension of her security clearance.
Dec. 16, 1986	Mobil/Resources Extraction & Processing Company, Fairfax, Virginia.	RR228-1	Request for modification/rescission in the Mobil second stage refund proceeding. If granted: The November 26, 1986 Decision and Order (Case No. RF228-1) issued to Resources Extraction & Processing would be modified regarding the firm's application for refund submitted in the Mobil refund proceeding.
Dec. 18, 1986	Shell Oil Company, Washington, D.C.	KRS-0005	Request for stay. If granted: An enforcement proceeding involving Shell Oil Company (Case No. HRO-0271) would be stayed for 90 days to permit finalization of a consent order signed by Shell and the Economic Regulatory Administration.

REFUND APPLICATIONS RECEIVED

[Week of Dec. 12 to Dec. 19, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
12/15/86	Amoco/Wisconsin	RQ21-342
12/12/86	Marathon Refund Applications	RF250-2653
12/19/86	thru	thru
12/12/86	Surface Transporters Applications	RF250-2682
12/19/86	thru	RF270-2375
12/12/86	Crude Oil Overcharge Applications	RF270-2455
12/19/86	thru	RF272-222
12/12/86	John M. Taylor	RF272-342
12/16/86	Cascade Gulf Service Station	RF258-12
12/16/86	Wisconsin Barge Line, Inc.	RF40-3602
12/15/86	American Commercial Barge	RF40-3603
04/14/86	Peacock Oil Co.	RF225-10477
06/16/86	Blick Oil Co.	RF225-10478
06/16/86	North Stop, Inc.	RF225-10479
05/23/86	Donald Schultz Oil Co.	RF225-10480
10/08/86	Baker Oil Co.	RF225-10482
05/23/86	Reliable Oil Co.	RF225-10483
05/23/86	Bilger & Sons, Inc.	RF225-10484
05/23/86	Herkimer Petroleum Products	RF225-10485
05/07/86	Ivey Oil Co.	RF225-10486
05/07/86	Loch's Oil, Inc.	RF225-10487

REFUND APPLICATIONS RECEIVED—Continued

[Week of Dec. 12 to Dec. 19, 1986]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
05/07/86	Geils Oil Co.	RF225-10488
05/07/86	Fisher Oil & Services, Inc.	RF225-10489
05/07/86	Rector Oil Company, Inc.	RF225-10490
12/15/86	The Celotex Corp.	RF225-10491
12/15/86	Reinauer Transportation Co.	RF271-223
12/15/86	Duntap Towing Co.	RF271-224
12/12/86	Gallatin Oil Co., Inc.	RF282-1
12/12/86	Giant Oil Co. of Kentucky	RF263-16
12/12/86	Highway Oil, Inc.	RF263-17
12/15/86	Baker Oil Co.	RF263-18
12/12/86	Franko Oil Co.	RF259-16
12/11/86	SOS Truck Stop	RF281-1
12/11/86	Northbrook Getty	RF265-48
12/12/86	Voss Oil Co.	RF265-49
12/15/86	Bill's Auto Sales	RF280-2
12/15/86	Conrad Zeigler	RF261-12
12/15/86	Wynn-Fowler Trading Co., Inc.	RF108-27
12/15/86	Wynn-Fowler Trading Co., Inc.	RF108-28
12/15/86	Wynn-Fowler Trading Co., Inc.	RF108-29
12/15/86	Wynn-Fowler Trading Co., Inc.	RF108-30
12/15/86	J.J. Ferguson Ready Mix-Hot Co.	RF191-8
12/15/86	Ferguson Bros. Construction	RF191-9
12/15/86	J.J. Ferguson Sand & Gravel	RF191-10
12/15/86	Thumbek Farms	RF283-1

[FR Doc. 87-3332 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of December 19 through December 26, 1986

During the Week of December 19 through December 26, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 19 through December 26, 1986]

Date	Name and Location of applicant	Case No.	Type of submission
Dec. 22, 1986	Hometown Oil Co., Inc. Baytown, Texas	KEE-0106	Exception to the reporting requirements. If granted: Hometown Oil Co., Inc. would not be required to file Form EIA-782B, "Reseller/Retailer Monthly Petroleum Products Sales Report."

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of December 19 through December 26, 1986]

Date	Name and Location of applicant	Case No.	Type of submission
Dec. 22, 1986	Natural Resources Defense Council, Washington, DC	KFA-0069	Appeal of an information request denial. If granted: The November 18, 1986 Freedom of Information Request Denial issued by the Office of Clean Coal, Combustion and Conversion Systems would be rescinded, and the Natural Resources Defense Council would receive full access to the "Pre-Selection Programmatic Environmental Impact Analysis" & "Project-Specific Environmental Review."

REFUND APPLICATIONS RECEIVED

Date received	Name of firm	Case No.
12/12/86	Franko Oil Company	RF258-11
12/12/86	Arcadia Limestone Company	RF270-2456
12/15/86	L.K. Trucking Inc.	RF270-2464
12/18/86	Super Service Fuels, Inc.	RF7-167
12/18/86	Penn Central Transportation	RF213-217
12/18/86	Service Petroleum, Inc.	RF275-2
12/18/86	W.R. Grace & Company	RF271-226
12/18/86	L.R. Haase Oil Company	RF40-3804
12/18/86	Central Ohio Transit	RF40-3605
12/18/86	Eastern Fuels, Inc.	RF40-3606
12/18/86	Moore's Fuel Service	RF40-3607
12/19/86	Winston Oil Company	RF259-17
12/19/86	Allen Oil Company, Inc.	RF282-2
12/22/86	Al Bolser Tire Stores, Inc.	RF260-15
12/22/86	Al Bolser Tire Stores, Inc.	RF259-18
12/22/86	Bona's Garage, Inc.	RF280-13
12/22/86	Home Petroleum Corporation	RF253-11
12/22/86	Tolver Oil Products	RF263-19
12/22/86	Ray Marchand Oil Company, Inc.	RF284-1
12/22/86	Emory J. McEntyre	RF40-3608
12/22/86	Amoco/Georgia	RQ251-348
12/23/86	Wildor Oil Company, Inc.	RF263-20
12/23/86	Christian County Gas Company	RF273-3
12/23/86	Wadleigh's Inc.	RF264-15
12/23/86	Strand Aviation, Inc.	RF112-203
12/23/86	Fearless Farris Wholesale, Inc.	RF112-204
12/23/86	Merchants Oil, Inc.	RF112-205
12/23/86	Newcomer Service Company	RF112-206
12/23/86	Rouse Oil Company	RF112-207
12/23/86	Simons Petroleum	RF112-208
12/23/86	A&A Fuel Oil Company	RF220-464
12/23/86	Wallace Oil Company of Texas	RF265-55
12/23/86	A.C. Wagley, Inc.	RF40-3621
12/23/86	Independent Oil & Coal Co.	RF191-11
12/23/86	Stuckey Oil Company, Inc.	RF191-12

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of firm	Case No.
12/23/86	Internat'l Drilling & Energy	RF40-3609
12/23/86	D.L. Adams	RF40-3610
12/23/86	Braden's Flying Service, Inc.	RF40-3611
12/23/86	Lenkard Aircraft Services, Inc.	RF40-3612
12/23/86	Crabtree Oil Company	RF40-3613
12/23/86	Dunkirk Aviation Sales & Serv.	RF40-3614
12/23/86	R. McAllister	RF40-3615
12/23/86	Mid Island Air Service, Inc.	RF40-3616
12/23/86	Jonathan BD	RF40-3617
12/23/86	Ronald H. Royer	RF40-3618
12/23/86	Statewood, Inc.	RF40-3619
12/23/86	Timbercreek Oil Company, Inc.	RF40-3620
12/23/86	E.R. Carsther's	RF220-465
12/23/86	J.B. Dewar, Inc.	RF220-446
12/23/86	Eono Oil Company	RF220-467
12/23/86	Grady Stone Aviation, Inc.	RF220-468
12/23/86	Gray Oil Company, Inc.	RF220-469
12/23/86	Pabe Oil, Inc.	RF220-470
12/23/86	Scott's L. P. Gas Inc.	RF220-471
12/23/86	Texas Propane Co., Inc.	RF220-472
12/23/86	Step-N-Fetcher, Inc.	RF83-159
12/23/86	Stockton Oil Company	RF83-160

[FR Doc. 87-3333 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed: Filed; Week of December 26 Through January 2, 1987

During the Week of December 26 through January 2, 1987, the applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 9, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 26 through January 2, 1987]

Date	Name and Location of Applicant	Case No.	Type of Submission
Nov. 14, 1983	Conoco, Inc., Houston, TX	KFX-0027	Supplemental order. If granted: The Office of Hearings and Appeals would issue a supplemental order implementing special refund procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with the July 2, 1982 Consent Order entered into with Conoco, Inc.

REFUND APPLICATIONS RECEIVED

Date Received	Name of Firm	Case Number
11/13/86	Vickers/Missouri	RQ1-349
12/29/86	Mt. Puleski Products, Inc.	RF237-10
12/29/86	Tri County Oil Company	RF265-50
12/29/86	Tri County Oil Company	RF265-51
12/29/86	Hy-Grade Oil Company	RF265-52
12/29/86	Madaline Norton	RF276-8
12/29/86	John Pell	RF276-9
12/29/86	John Kline Eastey	RF260-16
12/29/86	Transamerica Airlines, Inc.	RF269-8
12/30/86	Thriftyman, Inc.	RF263-21
12/30/86	Thomas P. Reidy, Inc.	RF263-22
12/30/86	Pacer Oil Company	RF263-23
12/31/86	Gagnon's Market	RF265-53
12/31/86	New Park Ave. Service Station	RF265-54
01/02/87	N. Bernstein & Sons	RF284-2
01/02/87	Lake Fork Grain Company	RF237-11
01/02/87	Inland Energy, Inc.	RF263-24
01/02/87	Maxwell Oil Company, Inc.	RF259-19
01/02/87	Maxwell Oil Company, Inc.	RF260-17

[FR Doc. 87-3334 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of January 16, Through January 23, 1987

During the Week of January 16 through January 23, 1987, the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of

service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 9, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 16 through January 23, 1987]

Date	Name and Location of Applicant	Case No.	Type of Submission
Jan. 16, 1987	Hy-Test Oil, Inc., Johnston, RI	KEE-0114	Exception to the reporting requirements. If Granted: Hy-Test Oil, Inc. would not be required to file Form EIA-782B, "Resellers/Retailers' Monthly Petroleum Products Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of January 16 through January 23, 1987]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/21/87	National Helium/Nevada	RQ3-356
1/16/87	Vic's Exterior Car Wash	RF265-228
1/16/87	Main Street Garage	RF265-229
1/20/87	Hadland & Osterud, Inc.	RF265-230
1/20/87	Hadland & Osterud, Inc.	RF265-231
1/20/87	H & J Auto Parts, Inc.	RF265-232
1/20/87	Ram Auto Supply	RF265-233
1/20/87	Cedar Service Station, Inc.	RF265-234
1/20/87	Security Oil Company	RF265-235
1/20/87	Jim & Car's Automotive Service	RF265-236
1/20/87	Dumont Cooperative Association	RF265-237
1/20/87	Dumont Cooperative Association	RF265-238
1/20/87	Acito Service Station	RF265-239
1/20/87	Carter-Binley Gas & Appliance	RF265-240
1/16/87	Earls Service Station	RF265-222
1/16/87	E.C. Ricker & Sons	RF265-223
1/16/87	Princeton Skelly Truck Stop	RF265-224
1/16/87	Princeton Skelly Truck Stop	RF265-225
1/16/87	Midway Truckstop	RF265-226

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 16 through January 23, 1987]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/16/87	Midway Truckstop	RF265-227

[FR Doc. 87-3335 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of January 23 Through January 30, 1987

During the Week of January 23 through January 30, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington DC 20585.

Dated: February 9, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 23 through January 30, 1987]

Date	Name and Location of Applicant	Case No.	Type of Submission
Jan. 27, 1987	Natural Resources Defense Council, Washington, DC	KFA-0071	Appeal of an information request denial. If granted: The Information Request Denial issued by the DOE Office of Military Application would be rescinded and the Natural Resources Defense Council would receive access to a complete version of "A History of Nuclear Weapons Stockpile."
Jan. 28, 1987	Par-Mar Oil Company, Center, TX	KEE-0116	Exception to the reporting requirements. If granted: Par-Mar Oil Company would not be required to file Form EIA-782B, "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Jan. 28, 1987	South Dakota, Pierre, SD	KEG-0004	Request for special redress. If granted: The Office of Hearings and Appeals would review the proposed expenditures for Stripper-Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.
Jan. 28, 1987	Tex-Oil, Inc., Salem, IN	KEE-0115	Exception to the reporting requirements. If granted: Tex-Oil, Inc. would not be required to file Form EIA-782B, "Resellers/Retailers' Monthly Petroleum Products Sales Report."
Jan. 30, 1987	Sweley Oil, Inc., Sidney, MT	KEE-0118	Exception to the reporting requirements. If granted: Sweley Oil, Inc. would not be required to file Form EIA-782B, "Resellers/Retailers' Monthly Petroleum Product Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of January 23 through January 30, 1987]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/21/87	Northwest Orient	RF269-22
1/21/87	Boling Commercial Airplane	RF269-23
1/21/87	Research Fuels, Inc.	RF250-2695
1/21/87	New England Telephone, Telegraph	RF270-2467
1/21/87	Fassetts Bakery, Inc.	RF272-354
1/21/87	Hank's Service Center, Inc.	RF40-3633
1/21/87	Eshenauers Fuels, Inc.	RF40-3634
1/20/87	William Paverse	RF285-1
1/20/87	E. C. McMillan	RF285-2
1/20/87	Norman Kruckow FCSI	RF285-3
1/20/87	Ethel Kruckow	RF285-4
1/20/87	Paul Ogden	RF285-5
1/20/87	Martin Buck	RF285-6
1/20/87	Theodore R. Breunich	RF285-7
1/20/87	Joseph & Marie McDonald	RF285-8
1/23/87	Greer Blvd, Gulf	RF40-3635

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 23 through January 30, 1987]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/23/87	John's Gulf	RF40-3636
1/23/87	Gaddus-Tate Oil Company Inc.	RF40-3637
1/23/87	Farmers Gas Company	RF40-3638
1/23/87	Shelton Butane	RF40-3639
1/23/87	Hugh Boyle's Gulf	RF40-3640
1/23/87	Roshong's Gulf	RF40-3641
1/27/87	Peter Covello	RF289-9
1/27/87	Malcolm Pitt	RF285-10
1/27/87	A-1 Oil Company	RF259-27
1/28/87	Onyx Oil Corporation	RF257-19
1/28/87	Municipality of Anchorage	RF272-354
1/22/87	Trimble Oil Company, Inc.	RF220-475
1/23/87	Carricut Service Station	RF220-476
1/23/87	Harry's Conoco	RF220-477
1/23/87	Harvey's Conoco	RF220-478
1/23/87	Peter's Conoco	RF220-479

REFUND APPLICATIONS RECEIVED—Continued

[Week of January 23 through January 30, 1987]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/23/87	Oregon Trail Garage	RF220-480
1/27/87	V-1 Oil Company	RF204-12
1/27/87	Holmes Transportation, Inc.	RF270-2468
1/23/87	Smith Tank Lines	RF235-78
1/23/87	Kent Oil & Trading	RF233-44
1/21/87	Dulles Shell Service Center	RF287-1
1/28/87	Pilato's Graymont Gulf Service	RF40-3642
1/30/87	John Cirillo Gulf Service	RF40-3643
1/30/87	Sabine Towing, Inc.	RF40-3644
2/2/87	Anderson Standard	RF40-3645
1/27/87	Acme Tire Hardware	RF232-428
1/27/87	L. H. McCoy Enterprises	RF242-23
1/27/87	Gordon Marathon	RF250-2696
1/28/87	Waci Service Station	RF250-2697
1/29/87	Merle E. Schoon & Son	RF250-2698
1/29/87	Merle E. Schoon & Son	RF250-2699

REFUND APPLICATIONS RECEIVED—Continued

(Week of January 23 through January 30, 1987)

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
1/30/87	Chuck's Marathon Service.....	RF250-2700
1/28/87	Jasco Trucking Company, Inc.	RF270-2469
1/29/87	Dobbs Ferry Bus Company.....	RF272-355
2/2/87	City of West Allis.....	RF272-356
1/28/87	Vanguard Petroleum Company.	RF273-5
1/28/87	Whitehorse Mercantile.....	RF279-2
1/30/87	John H. Halpin.....	RF285-11
2/2/87	Catanzaro Oil & Heating.....	RF285-12
1/28/87	Jacques A. Roy.....	RF285-13
2/2/87	W.A. Krueger Company.....	RF270-2470
1/28/87	Maritime Overseas Corporation.	RF271-227
1/23/87 to 1/30/87	Getty Oil Refund Applications Received.	RF265-241 thru RF265-296
1/23/87 to 1/30/87	Mobil Oil Refund Applications Received.	RF225-10559 thru RF225-10574

[FR Doc. 87-3336 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Appeals; Week of November 17 through November 21, 1986

During the week of November 17 through November 21, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Vincent J. Kiernan, 11/21/86; KFA-0062

Vincent J. Kiernan filed an Appeal from a denial by the Director of Classification and Technical Information of the Albuquerque Operations Office of the Department of Energy (DOE) of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that no documents existed which were responsive to Mr. Kiernan's request. Therefore, the Appeal was denied.

Remedial Orders

Edwin Milton Jones, Jr., Dennis Van Matthew, 11/20/86; HRO-0235

Edwin Milton Jones, Jr. and Dennis Van Matthew (Respondents) objected to a Proposed Remedial Order which the Economic Regulatory Administration issued to them jointly on April 24, 1984. In the PRO, the ERA found that during the period January 1, 1978 through February 29, 1980, the Respondents as major shareholders and acting as "central figures" of Southwest Petrochem, Inc., violated the layering regulation, 10 CFR 212.186. ERA also alleged that the Respondents' activities of applying markups in crude oil sales without providing

any services or performing functions historically and traditionally performed by crude oil resellers violated the normal business practices and anticircumvention rules, 10 CFR 205.202, 210.62(c).

In considering the Respondents' Statements of Objections, the DOE rejected their arguments that the layering regulation was invalidly promulgated, was substantively ambiguous and lacked a rational basis, and that they actually performed traditional and historical reseller functions through Petrochem. Accordingly, the DOE found that the Respondents' reselling activities violated the layering regulation. The DOE also dismissed without prejudice ERA's findings of liability under §§ 205.202 and 210.62(c) for administrative efficiency. Finally, the DOE denied the Respondents' claim for attorney fees under the Equal Access to Justice Act on the ground, *inter alia*, that the Act does not apply to PRO proceedings. Accordingly, the Respondents were directed to remit \$12,848,982.53 plus interest to the DOE to compensate for their violations. The DOE specified that the funds will be distributed pursuant to Subpart V and the DOE's Modified Restitutionary Policy.

Tootle Petroleum, Inc., Iron R. Tootle, 11/20/86; HRO-0232

Tootle Petroleum, Inc. and Iron R. Tootle objected to a Proposed Remedial Order which was issued to them jointly on May 11, 1984. In the PRO, the Economic Regulatory Administration alleged that Tootle's crude oil reselling activities had violated the layering rule, 10 CFR 212.186, which prohibited crude oil resellers from applying a markup in any crude oil sale in which they did not perform any service or function that was historically and traditionally performed by crude oil resellers.

The DOE found no merit to Tootle's arguments that the layering regulation was not validly promulgated and that DOE enforcement actions against crude oil resellers were discriminatory. In addition, the DOE found that the layering rule required crude oil resellers to provide some tangible service which facilitated the movement of crude oil from the producer to the refiner or which provided some other function of economic benefit to the crude oil market, and that Tootle had not provided such a service or function. Accordingly, the DOE found that Tootle's crude oil reselling activities had violated the layering regulation. The DOE further found, as alleged in the PRO, that Tootle Petroleum, Inc. and Iron R. Tootle are jointly and severally liable for the full amount of the overcharges arising from Tootle's layering violations. Based on the foregoing, the PRO was issued as a final Remedial Order of the DOE.

Request for Exception

Wondrack Distributing Inc., 11/18/86; KEE-0053

Wondrack Distributing Inc. filed an Application for Exception in which it sought relief from the requirement that it prepare and file Form EIA-782B with the DOE Energy Information Administration. According to the firm, its bookkeeping methods and limited staff make completion of the monthly EIA

form costly and burdensome. In considering the request, the DOE found that the firm had failed to document the alleged costs involved in its completion of the form, and also that it had not demonstrated that it was unduly burdened as a result of the reporting requirement. Accordingly, the Application was denied.

Motion for Discovery

Southwestern States Marketing Corporation/Economic Regulatory Administration, 11/21/86; KR-0013; KRH-0013; KRZ-0046

The Trustee for the estate in bankruptcy of Southwestern States Marketing Corporation filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with the Proposed Remedial Order issued jointly to Southwestern and Kenneth Walker. The Economic Regulatory Administration (ERA) filed a request to amend the PRO in connection with the same proceeding. In considering these submissions, the DOE first determined that the Trustee's discovery motion should be granted in part. The DOE directed the ERA to provide the Trustee with all audit related workpapers that are not already in his possession and which evidence the computational underpinnings of the PRO. In addition, the DOE required the ERA to furnish the Trustee with those documents which were in Southwestern's possession at the time the DOE conducted its audit of the firm and upon which the ERA relied in formulating the PRO. The DOE specifically excepted from this directive any predecisional or deliberative memoranda or any notes that the ERA may have generated before, during or after Southwestern's audit. Next, the DOE decided that the Trustee could submit any additional evidence generated from discovery which might assist the DOE in reaching a final determination in this case. As for the Trustee's Motion for Evidentiary Hearing, the DOE determined that it failed to meet the regulatory requirements set forth in 10 CFR 205.199. Notwithstanding this determination, the DOE decided that the discovery process might reveal one or more genuine factual disputes, the effective resolution of which might be made through an evidentiary hearing. Accordingly, the DOE dismissed the Trustee's Motion for Evidentiary Hearing without prejudice to refiling. With regard to the ERA's request to amend the PRO, the DOE determined that the request should be granted in part. First, the DOE allowed the PRO to be amended to withdraw allegations of liability against Southwestern for the period prior to January 1, 1978, since no prejudice to the firm would result. Second, the DOE permitted the remedial provisions of the PRO to be amended so that interest on any principal violation amount for which Walker is found liable will accrue until such time as Walker makes full restitution for the overcharges adjudicated in the proceeding. Because of the overriding statutory prohibition against the accrual of interest after the initiation of a bankruptcy proceeding, however, the DOE denied the ERA's request to amend the PRO to provide for the accrual of interest until such time as Southwestern makes full

payment of principal and interest to the DOE. As a final matter, the DOE modified the remedial provisions of the PRO *sua sponte* to provide that interest on any principal amount for which the debtor, Southwestern, is found liable will only accrue until October 8, 1982, the date on which an involuntary bankruptcy petition was filed against the firm.

Refund Applications

Crystal Oil Co./Jack Chancellor H & R Oil Co., 11/20/86; RF233-42; RF233-43

The DOE issued a Decision and Order concerning Applications for Refund filed in the Crystal Oil Co. special refund proceeding by two resellers of refined petroleum products. Both applicants presented evidence that they purchased refined petroleum products from Crystal during the consent order period, and both claims fell below the \$5,000 small claims threshold for resellers. According to the methodology set forth in Crystal Oil Co., 13 DOE ¶ 85,381 (1986), each applicant is eligible for a refund from the Crystal consent order fund based on the volume of its purchases times the volumetric refund amount. The refunds approved in this Decision total \$2,275.

Gulf Oil Corporation/Beckham Brothers, Distributors, et al., 11/19/86; RF40-3542, et al.

The DOE issued a Decision and Order revising *Gulf Oil Corp./Knight Oil Co., 15 DOE ¶ 85,017 (1986) (Knight)* with respect to three of the 54 claimants. The Appendix to the *Knight* Decision listed incorrect interest amounts for Case Nos. RF40-1001, RF40-1002, and RF40-1003. To correct this error, the DOE will remit additional refunds totaling \$513 to the three firms.

Gulf Oil Corporation/Preston's Gulf, et al., 11/17/86; RF40-3265, et al.

In accordance with the procedures outlined in *Gulf Oil Corp., 12 DOE ¶ 85,048 (1984)*, the DOE issued a Decision and Order concerning 17 Applications for Refund filed by retailers and end-users from the Gulf Oil Corporation escrow account. After examining the evidence and supporting documentation submitted by the 17 purchasers of Gulf refined petroleum products, the DOE determined that each of the applicants was entitled to a refund. The refunds granted total \$47,668 (\$38,260 in principal and \$9,408 in interest).

Hicks Oil and Hicks Gas Co./W.E. Stoll Coal and Gas Co., 11/17/86; RF237-9

The DOE issued a Decision and Order concerning an Application for Refund filed in the Hicks Oil and Hicks Gas Co. special refund proceeding. The applicant, W. E. Stoll Coal and Gas Company, was a reseller of propane purchased from Rocket Supply Company, a subsidiary of Hicks. The firm applied for the threshold amount of \$5,000 in lieu of making a detailed showing of injury. In its Decision, the DOE granted the application under the standards specified in *Hicks Oil and Hicks Gas Co., 13 DOE ¶ 85,400 (1986)*. The refund granted in this proceeding totals \$6,760 (\$5,000 in principal and \$1,760 in interest).

Howell Oil Corp. and Quintana Refinery Co./Ashland Petroleum Co., 11/20/86; RF245-3

The DOE denied an Application for Refund filed by Ashland Petroleum Co. in connection with a fund obtained through a consent order that the DOE entered into with Howell Oil Corp. and Quintana Refinery Co. Ashland, a reseller of refined petroleum products, submitted data showing that it had a "negative" cost bank subsequent to the period in which it purchased product from Howell/Quintana. In view of this fact, the DOE determined that any overcharges Ashland may have experienced as a result of its purchases of Howell/Quintana product were passed through to the firm's customers. Accordingly, the DOE determined that Ashland was not eligible to receive a refund in the Howell/Quintana special refund proceeding.

Howell Oil Corp. and Quintana Refinery Co./Mrs. Karl Amelung Ultramar Petroleum, Inc., 11/20/86; RF245-1, RF245-9

The DOE issued a Decision concerning two Applications for Refund filed in connection with the fund obtained through a consent order that the DOE entered into with Howell Oil Corp. and Quintana Refinery Co. One application was filed by an end-user, Mrs. Karl Amelung. Amelung has documented all of her purchases of Howell/Quintana heating oil. According to the procedures outlined in *Howell Oil Corp. and Quintana Refinery Co., 14 DOE ¶ 85,129 (1986) (Howell/Quintana)*, an end-user is presumed to have been injured and need only document its volumes of purchased product. Accordingly, Amelung was granted a refund based upon her purchase volumes times the volumetric refund amount. The refund totals \$15.

The second application concerns a reseller, Ultramar Petroleum, Inc. During the consent order period, Ultramar made only one purchase from Howell/Quintana. According to the procedures outlined in *Howell/Quintana*, a spot purchaser is presumed not to have been injured by any Howell/Quintana overcharges. Ultramar attempted to rebut this presumption by claiming that during the consent order period it maintained banks of unrecouped costs, and was unable to pass along any overcharge. The firm, however, failed to submit any evidence to substantiate this claim. Accordingly, the DOE determined that Ultramar had not rebutted the spot purchases presumption and was not eligible to receive a refund in the Howell/Quintana special refund proceeding.

Inland U.S.A., Inc./Site Oil Company, Flash Oil Corporation, 11/20/86; RR176-2, RR176-3.

The DOE issued a Decision and Order concerning Motions for Reconsideration in response to a June 5, 1986 Decision and Order granting in part Applications for Refund filed by Site Oil Company and Flash Oil Corporation in the Inland U.S.A., Inc. special refund proceeding. Site had requested a refund of \$41,440 plus interest, and Flash had requested a refund of \$114,132 plus interest. In order to receive such a refund, each firm was obligated to show that it maintained banks of unrecouped increased product costs through the date of termination of the reseller

banking regulations, and that market conditions would not allow the firm to pass the alleged overcharges through to customers. Upon consideration of the additional material submitted by the firms in connection with their Motions for Reconsideration, the DOE found that each firm had made an adequate showing of cost banks and that Site and Flash had suffered a competitive disadvantage on 16.1 percent and 21.9 percent of their Inland purchases, respectively. Accordingly, Site received an additional refund of \$2,517 (\$1,672 in principal and \$845 in interest), and Flash received an additional refund of \$30,104 (\$19,995 in principal and \$10,109 in interest).

Joc Oil, Inc./New England Power Company, 11/18/86; RF109-4

The DOE issued a Decision and Order granting a refund from the JOC Oil, Inc. escrow fund to New England Power Company, a regulated public utility. New England Power documented its purchase volume of JOC product, and certified that any refund it received would be passed through to its customers. Accordingly, New England Power was granted a refund of \$87,509 (\$64,434 in principal and \$23,075 in interest).

MAPCO, Inc./Kennedy Lumber Company, Inc., 11/17/86; RF108-21

The DOE issued a Decision and Order concerning an Application for Refund filed by Kennedy Lumber Company, Inc., a retailer of MAPCO propane. Although the firm's purchase of propane from MAPCO during the consent order period exceeded the threshold refund level established in *Peoples Energy Corp., 12 DOE ¶ 85,129 (1984)*, Kennedy elected to file its refund application in accordance with procedures for filing small claims and based upon the presumption of injury outlined in the *Peoples* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Kennedy should receive a refund of \$7,516.36 (\$5,000 in principal and \$2,516.36 in accrued interest).

Marathon Petroleum Company/Schroeder's Marathon, 11/17/86; RF250-1492, RF250-1493

The DOE issued a Decision and Order concerning an Application for Refund filed by Schroeder's Marathon, an indirect purchaser of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The applicant demonstrated the volume of its indirect Marathon purchases, and did not request a refund greater than the \$5,000 small claims refund amount. The refund approved in this Decision is \$680 (\$643 in principal and \$37 in interest).

Marathon Petroleum Company/Super-GO Marketers, et al., 11/17/86; RF250-1626, et al.

The DOE issued a Decision and Order concerning eight Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and each requested a refund of 35 percent of its allocable share.

The sum of the refunds approved in this Decision is \$40,452 (\$38,265 in principal and \$2,187 in interest).

Marathon Petroleum Company/Villa Park Fuel Oil, C & C Oil Company Inc., 11/20/86; RF250-1277, RF250-1290

The DOE issued a Decision and Order concerning two Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and neither requested a refund greater than the \$5,000 small claims refund amount. The sum of the refunds approved in this Decision is \$2,354 (\$2,222 in principal and \$132 in interest).

Mobil Oil Corporation/A.C. Peterson Co., Inc., et al., 11/19/86; RF225-5969, et al.

The DOE granted 46 Applications for Refund from a fund obtained through a consent order which the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable share based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was \$8,147 (\$6,781 in principal and \$1,366 in interest).

Mobil Oil Corporation/Amsterdam Oil Heat Corp., et al., 11/18/86; RF225-8238, et al.

The DOE issued a Decision and Order granting 54 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totaling \$47,316 (\$39,464 in principal and \$7,852 in interest).

Mobil Oil Corporation/Bernath's Service Center, et al., 11/20/86; RF225-3353, et al.

The DOE issued a Decision and Order granting 35 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totaling \$41,730 (\$34,731 in principal and \$6,999 in interest).

Mobil Oil Corporation/Defense Logistics Agency, 11/20/86; RF225-2607

The DOE granted an Application for Refund filed by the Defense Logistics Agency (DLA) from a fund obtained through a consent order which the DOE entered into with Mobil Oil Corporation. The DLA was an end-user that purchased both directly and indirectly from Mobil. For its direct purchases, the DLA was eligible for a refund equivalent to its full allocable share based on the volumetric methodology set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). For its indirect purchases, the DLA was eligible for a refund equivalent to 80 percent of the volumetric refund amount. See *Mobil*. The total amount of the refunds granted was

\$1,074,243.03 (\$894,090.48 in principal and \$180,152.55 in interest).

Mobil Oil Corporation/Snowdon Place Oil Co., 11/19/86; RF225-88, RF225-89

The DOE issued a Decision and Order denying an Application for Refund filed by Snowdon Place Oil Co. from the Mobil Oil Corporation escrow account. Snowdon Place had purchased the product from Pennzoil Company as the result of an exchange agreement between Pennzoil and Mobil. Because of this exchange agreement, the product was sold by Pennzoil, not Mobil; as a result, the volumetric presumption, which is based on the volume of product sold by Mobil, does not apply. Accordingly, the DOE concluded that the Application should be denied.

Navajo Refining Company/Roberts Oil Company, Plateau, Inc./Roberts Oil Company, 11/18/86; RF203-2, RF204-2

Roberts Oil Company, a reseller of refined petroleum products, filed Applications for Refund seeking portions of the funds remitted to the DOE by Navajo Refining Company and Plateau, Inc. Due to a fire in its warehouse, Roberts was unable to determine its total purchase volume with respect to either firm. Using partial records provided by the applicant, along with information contained in the Navajo and Plateau audit files, the DOE estimated Roberts' total purchases from each firm, and calculated a volumetric amount based on those figures. In each case, Roberts' volumetric share exceeded \$5,000. However, because the firm did not have sufficient records to attempt an injury demonstration, the DOE found it appropriate to limit Roberts' refund in each case to the small claims threshold, plus appropriate interest. The total refund granted Roberts was \$15,754 (\$10,000 in principal and \$5,754 in interest).

OKC Corporation/Jones Oil Company, 11/20/86; RF13-45

The DOE issued a Decision and Order concerning an Application for Refund filed by Jones Oil Company. Jones sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation. Jones is a motor gasoline and diesel fuel reseller which purchased these products from OKC during the consent order period. The DOE granted Jones' refund application based upon standards established in *Office of Enforcement: In the Matter of OKC Corp.*, 9 DOE ¶ 82.51 (1982). The refund granted to Jones totals \$17,246 (\$10,092 in principal and \$7,154 in interest).

Dismissals

The following submissions were dismissed:

Name	Case No.
Beaulier Oil Co.	RF225-422, RF225-8166, RF225-8166
Frank Newman	RF225-225, RF225-7452
Kasch Oil Co.	RF225-232, RF225-8367, RF225-8368, RF225-10184
Martin A. Cohen	RF225-8952
Midwest Service Co.	RF225-9043

Name	Case No.
Miears & Associates, Inc.	RF225-9369, RF225-9370
Nicholas H. Carouba	RF225-10310
Richard Hinkle	RF225-3594
Schaper's Service Center	RF225-1592, RF225-1593
Sierra Petroleum Co., Inc.	KEF-0074
South Bend Public Transportation Corp.	RF270-269
Texaco Inc.	RF6-86, RF6-67, RF6-68
Union Texas Petroleum	RF189-13
W.D. Oil Co.	RF250-1694, RF250-1278
Ziegler Oil Co.	RF225-8487, RF225-8488

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 2, 1987.

[FR Doc. 87-3337 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 22 Through December 26, 1986

During the week of December 22 through December 26, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of hearings and Appeals.

Appeal

S.D. Vanover, 12/24/86, KFA-0066

S.D. Vanover filed an Appeal from a denial by the Inspector General of the Department of Energy of a Request for Information that Vanover had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the requested document was not yet in existence and therefore the request was properly denied.

Remedial Order

Brazoria Energy, Inc., Gerald W. Collum, Carl L. Counts, 12/23/86, HRO-0259

Brazoria Energy, Inc. and Gerald W. Collum objected to a Proposed Remedial Order issued to them by the Economic Regulatory Administration on September 25, 1984. In the PRO, the ERA alleges that from September 1978 through December 1980 (the audit period), Brazoria engaged in "layered" transactions in violation of 10 CFR 212.186 by charging prices for crude oil in excess of its purchase price while performing no service or other function traditionally associated with

crude oil reselling. In rejecting Brazoria's and Collum's objections to the PRO, the DOE found that they failed to show that Brazoria performed any economically valuable function in its transactions which would justify a markup. In addition, the DOE found that Collum can be held personally liable for Brazoria's overcharges since he was the animating force behind Brazoria and he personally benefitted from Brazoria's pricing practices. Carl L. Counts, who was also named a respondent to the PRO, did not file any objections to the PRO. Accordingly, the DOE determined that Brazoria, Collum, and Counts should remit \$5,306,129.63 to the DOE. The DOE additionally determined that interest should accrue on the overcharge amount until payment is made and that the funds should be distributed according to the procedures set forth in 10 CFR Part 205, Subpart V.

Requests for Exception

Belcher Oil Company, 12/24/86, KEE-0065

Belcher Oil Company filed an Application for Exception from the filing requirements of Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." The firm sought relief from its obligation to complete and file the Form in order to adjust to the departure of its general manager. In considering the request, the DOE found that limited exception relief was necessary. Accordingly, the firm was granted an extension of time in which to file the Form. The important issue discussed in the Decision and Order is the effect of personnel difficulties upon a firm's requirement to file Form EIA-782B.

E.E. Tullos, 12/23/86, KEE-0073

On September 18, 1986, E.E. Tullos filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Resellers/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm had not shown that it was more adversely affected by the reporting requirement than other similarly situated reporting firms. Accordingly, exception relief was denied.

Request for Modification and/or Recession

Kenneth Walker, 12/23/86, KRR-001, KRR-0012, KRZ-0047, KRZ-0048, KRZ-0052

Kenneth Walker filed the following motions and requests in connection with the Proposed Remedial Order (PRO) proceeding involving Mr. Walker and Southwestern States Marketing Corporation (Southwestern): (1) A Motion to Amend his Statement of Objections to plead two additional affirmative defenses; (2) a Motion to Adopt the Statement of Objections and attendant motions of Walker's co-respondent, Southwestern, and other PRO respondents in unrelated enforcement actions; (3) a Motion for Reconsideration of the Decision and Order that rejected Walker's defenses of laches and estoppel in the PRO proceeding; (4) a Motion for Reconsideration of the Decision and Order that disposed of Walker's Discovery and Evidentiary Hearing Motions; (5) a Motion to Compel the Economic Regulatory Administrative (ERA) to collect

and preserve all evidence responsive to those discovery requests which the Office of Hearings and Appeals (OHA) has denied in the PRO proceeding. In considering Walker's first motion, OHA first found that the introduction to two legal defenses into the record of the proceeding would not create any factual disputes which might precipitate extensive briefing, possible hearings and additional fact-finding. OHS further determined that the burden on the ERA to respond to the amendments, while palpable, was not onerous. Moreover, OHA attached particular significance to the fact that Walker's co-respondent was afforded eleven months more than Walker to formulate a Statement of Objections. For all these reasons, OHA decided to grant Walker's Motion to Amend.

With respect to Walker's second motion, OHA found that it should be granted in part. OHA permitted Walker to adopt Southwestern's Statement of Objections and the firm's general Request or Production of Documents II only. OHA stated that its decision in this regard was based primarily on its recognition that the staggered nature of the PRO proceeding, caused principally by Southwestern's bankruptcy, had allowed one respondent to develop its case more fully than the other. As for Walker's request to selectively adopt pleadings filed by other PRO respondents in unrelated enforcement proceedings, OHA decided to deny the request. OHA explained that the burden on the ERA to respond to a plethora of new arguments at this stage of the proceeding would be substantial and that the ERA's litigation interests might be seriously prejudiced. In addition, OHA stated as a general proposition that if it were to grant the relief that Walker sought, the office might be encouraging carelessness in the preparation of submissions and facile circumvention of orders designed to promote efficiency in the litigation.

Next, OHA denied Walker's Motion for Reconsideration of the Decision which rejected his defenses of estoppel and laches. OHA found that Walker had failed to address all of the infirmities that OHA had previously noted with respect to those two defenses.

OHA then granted in part Walker's second Motion for Reconsideration. OHA decided that Walker should not be restricted to submitting documentation which addresses certain criteria set forth in the interlocutory order, *Kenneth Walker*, 13 DOE ¶ 84,040 (1985). Rather, Walker may submit any additional evidence to OHA which demonstrates that Southwestern facilitated the movement of crude oil from producers to refiners or provided some other tangible function of economic benefit to the crude oil market. In addition OHA determined that Walker could submit evidence concerning Southwestern's status as broker.

Finally, OHA determined that Walker's Motion to Compel should be denied because Walker had not convinced the office that any evidence in the ERA's possession is at risk for loss. Without some showing to this effect, explained OHA, it would not direct the ERA to undertake the onerous task of compiling and cataloguing documentary and testimonial

evidence responsive to the discovery requests that OHA had denied in this case.

Refund Applications

Marathon Petroleum Company/Central Michigan Petroleum, Inc., 12/23/86, RF250-1592

The DOE issued a Decision and Order concerning an Application for Refund filed by Central Michigan Petroleum, Inc., a purchaser and reseller of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Under the refund procedures established for Marathon applicants, Central Michigan's purchase volume corresponded to a volumetric share exceeding the \$5,000 small claims threshold level. However, because the firm did not attempt to demonstrate that it absorbed the alleged Marathon overcharges, Central Michigan was eligible for refund of either \$5,000 or 35% of its volumetric share. In this case, 35% of the firm's volumetric share was less than the small claims threshold. Accordingly, the DOE granted Central Michigan a refund of \$5,000 in principal and \$321 interest.

National Helium Corp./Illinois, Standard Oil Co. (Indiana)/Illinois, Standard Oil Co. (Indiana)/Illinois, Belridge Oil Co./Illinois, 12/22/1986, RQ-285, RQ21-286, RM21-18, RM8-19

The DOE issued a Decision granting partial approval to the second-stage refund applications and Motions for Modification submitted by the State of Illinois. Illinois will use \$928,149 from the National Helium Corp. funds for ten programs. The approved projects assist the residential, transportation, commercial and agricultural sectors. DOE denied funding for the proposed Driver Energy Conservation Awareness Training program because the primary beneficiaries would have been high school students, who were not motorists during the period 1973-1981 and were therefore not injured by the oil overcharges. Illinois will use \$100,000 from Standard Oil Co. (Indiana) (Amoco), as well as funds reallocated from a prior Amoco and Belridge Oil Co. Decision, for four programs. DOE approved three energy education programs and an agricultural conservation program but denied additional funding for energy emergency planning.

St. James Resources Corporation/Joseph Ingle and Sons, Inc., 12/23/86, RF180-29

The DOE issued a Decision and Order concerning an Application for Refund filed by Joseph Ingle and Sons, Inc. (Ingle), a purchaser of St. James Resources Corporation No. 2 heating oil. Ingle applied for a refund based on the procedures outlined in *St. James Resources Corporation*, 13 DOE ¶ 85,112 (1985), governing the disbursement of settlement funds received from St. James pursuant to a March 20, 1980 Consent Order. According to those procedures, applicants claiming refunds greater than \$5,000 are required to demonstrate that they were injured by St. James' alleged overcharges. Ingle's share of the St. James settlement totaled \$8,590.07. However, the firm neither submitted evidence demonstrating its injury nor limited its claim to \$5,000. Instead, Ingle

stated that "the effects of overpricing by the said [St. James Resources Corporation] were recovered by Joseph Ingle and Sons in its sales to retail customers." Since Ingle was not injured, its Application for Refund was denied.

Vickers Energy Corp./Arizona, Coline Gasoline Corp./Arizona, National Helium Corp./Arizona, Palo Pinto Oil and Gas/Arizona, Belridge Oil Co./Arizona, Standard Oil Co. (Indiana)/Arizona, Perry Gas Processors, Inc./Arizona, 12/22/86, RQ1-305, RQ2-306, RQ3-307, RQ5-308, RQ8-309, RQ21-310, RQ183-311,

The State of Arizona filed proposed second-stage refund plans with the Office of Hearings and Appeals (OHA) pursuant to Decisions and Order establishing procedures for the disbursement of funds obtained under consent orders with Vickers Energy Corp., Coline Gasoline Corp., National Helium Corp., Palo Pinto Oil and Gas, Belridge Oil Co., Standard Oil Co. (Indiana) and Perry Gas Processors, Inc. Arizona proposed to use the refunds to expand its existing rideshare program and the number of car care clinics it offers during October Car care Month. The state also proposed to enlarge its Driver Energy Conservation Awareness Training (DECAT) program. In a fourth program, Arizona proposed to update the State Energy Emergency Plan and, in a fifth plan, the state proposed to print 25,000 additional copies of a brochure designed to provide drivers with reliable information on reducing their energy consumption. In its sixth proposal, Arizona would provide additional fleet management assistance to public and private organization managers. The OHA partially approved Arizona's proposed refund plans. The ridesharing program car care clinic brochures and State Energy Emergency plans were approved. The DECAT and fleet management programs were not approved. The total amount of the second-stage refunds released to Arizona in this decision was \$103,566.

Dismissals

The following submissions were dismissed:

Name	Case No.
A & B DIE CASTING.....	RF225-6961, FR225-6962.
A.L. & W. Moore Trucking Co., Inc.....	RF153-33.
A.L. & W. Moore Trucking Company.....	RF154-33.
A.O. Smith Corp.....	RF225-6973, RF225-6974, RF225-6896.
Aamco Transmissions.....	RF6-31.
American Petrofina, Inc.....	RF225-6866.
B.F. Nelson Folding Carton, Inc.....	RF242-13.
Barbour Bros., Inc.....	RF225-6883.
BELL AEROSPACE TEXTRON.....	RF225-6873.
BROADERSON MFG. CORP.....	RF225-6892.
BROYHILL FURNITURE INDUSTRIES, INC.....	RF191-6.
Cauthen Oil, Inc.....	RF6-13.
Champlin Petroleum Co.....	RF225-6880.
Champion Machine Co., Inc.....	RF6-37.
City of Los Angeles.....	RF154-29.
Clark Equipment Company.....	RF153-36.
Clark Equipment Company.....	RF6-44.
Clark Oil & Refining Co.....	RF242-15.
Cudd Enterprises.....	RF153-31.
Culverhouse Station & Bait.....	RF154-31.
Culverhouse Station & Bait.....	RF225-6887.
Dept. of Correctional Services.....	RF6-50.
Dorchester Gas Corp.....	RF225-6897.
Farr Company.....	RF225-6874.
Fumio Ozaki.....	

Name	Case No.
General Electric Company.....	RF225-2722, RF225-2723.
H&R Oil Company.....	RF154-32.
H&R Oil Company.....	RF153-32.
Hibbs Trucking Co.....	RF242-12.
Howell Corp.....	RF6-47.
Independent Refining Corp.....	RF6-14.
Industrial Electronic Engineers, Inc.....	RF225-6890.
Jim & Jack's Service.....	RF225-10140.
Jim & Jack's Service.....	RF225-10260.
Jim & Jack's Service.....	RF225-10261.
Kerr-McGee Corp.....	RF6-45.
Koch Industries, Inc.....	RF6-4.
Lester Lines, Inc.....	RF225-6885.
Lonc Star Bldg. Centers, Inc.....	RF225-6871.
McCarthy Well Co.....	RF225-6951, RF225-6952.
McCoy Enterprises.....	RF242-14.
Medlock Produce.....	RF154-27.
Nestle Co., Inc.....	RF225-6881.
North Little Rock Soft Water, Inc.....	RF153-34.
North Little Rock Soft Water, Inc.....	RF154-34.
Owens-Illinois.....	RF225-2249, RF225-2250.
Parker Solvents Company.....	RF154-28.
Parker Solvents Company.....	RF153-28.
Powerline Oil Co.....	RF6-5.
Pride Refining, Inc.....	RF6-41.
Rockwell International Corp.....	RF225-6888.
Scallop Petroleum Co.....	RF6-34.
Seaview Petroleum Co.....	RF6-22.
Shell Oil Co.....	KRS-0005.
Shirley Gulf.....	RF40-3407.
Sonoco Products Co.....	RF225-6903, RF225-6904.
Standard Oil Co. (IN).....	RF6-2.
Tenneco Oil Company.....	RF6-48.
Tension Envelope Corp.....	RF225-6870.
The Okonite Co.....	RF225-6962, RF225-6963.
Tosco Corp.....	RF6-42.
U.S.A. Petroleum Corp.....	RF6-28.
United Refining Co.....	RF6-40.
Vibra Screw Inc.....	RF225-6889.
Wehman, Inc.....	RF242-16.
Wilkereson Diesel, Inc.....	RF153-30.
Wilkereson Diesel, Inc.....	RF154-30.
Witco Chemical Corp.....	RF6-15.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

January 29, 1987.
George B. Breznay,
Director, Office of Hearings and Appeals.
[FR Doc. 87-3338 Filed 2-17-87; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 29, 1986 Through January 2, 1987

During the week of December 29, 1986 through January 2, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a

list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

The Spokesman-Review, 12/29/86, KFA-0065

On December 1, 1986, The Spokesman Review/Spokane Chronicle (The Spokesman) filed a Freedom of Information Act (FOIA) Appeal from a determination issued by the Upper Columbia Area Manager (Manager) of the Bonneville Power Administration on November 14, 1986. The determination, which was issued in response to a Request for Information which the Spokesman had submitted under the FOIA, withheld certain documents pursuant to Exemptions 4 and 6. In considering the Appeal, the DOE found that the Manager's determinations to withhold pursuant to Exemption 6 the names of persons who received federal weatherization subsidies whose homes were subsequently monitored for the presence of radon had been made in full compliance with the FOIA and the DOE's implementing regulations. Specifically, release of the withheld material would constitute an unwarranted invasion of privacy not outweighed by any public interest in disclosure. Since the DOE determined that Exemption 6 was properly used to withhold the requested documents, the DOE did not consider the Manager's withholding under Exemption 4. Accordingly, the DOE denied the The Spokesman's Appeal.

Request for Exception

Kennedy & Mitchell, Inc., 12/31/86, KEE-0032

Kennedy & Mitchell, Inc. filed an Application for Exception seeking relief from its obligation to submit Form EIA-23, entitled "Annual Survey of Domestic Oil and Gas Reserves." In considering Kennedy & Mitchell's request, the DOE found that, though given the opportunity to do so, the firm failed to demonstrate that it was particularly adversely affected by the requirement that it file Form EIA-23. Accordingly, the firm was denied exception relief.

Interlocutory Order

*Economic Regulatory Administration,
12/29/86 HRZ-0268*

The Economic Regulatory Administration (ERA) filed a Motion to Join three individuals as respondents to two Proposed Remedial Orders (PROs) issued to Hal Musco d/b/a Clean Machine, Inc. In a prior Decision and Order, the Office of Hearings and Appeals (OHA) had granted a motion of the ERA to make the corporation Clean Machine, Inc. the sole respondent in the proceeding and to remove the corporation's sole shareholder during the ERA audit period, Hal Musco, as a party. In the present motion, the ERA claimed that there were significantly changed circumstances which justified rejoining Musco as a respondent and that there was also good cause to join two individuals who, according to Musco, had purchased the corporation. After considering the arguments presented, the OHA found that the factual basis underlying the previous Decision was not accurate and that the ERA had established a prima facie case that Musco

would be personally liable for any regulatory violations that might be found in the enforcement proceeding. The OHA also determined that, in view of the uncertainty concerning the sale of the corporation, the two putative purchasers should not be joined. Accordingly, the ERA motion was granted in part and Musco was joined as a respondent to the PROs.

Refund Applications

Arapaho Petroleum, Inc./Warren Petroleum, Inc., 12/30/86, RF119-1

Warren Petroleum, Inc. filed an Application for Refund, seeking a portion of funds remitted by Arapaho Petroleum, Inc., pursuant to a consent order that Arapaho entered into with the DOE. Warren purchased 7,432,072 gallons of propane, butane and natural gasoline from Arapaho during the consent order period. The DOE found that Arapaho's prices exceeded market average prices for over 95 percent of the butane and natural gasoline, and approximately 53 percent of the propane that the firm sold to Warren. The DOE therefore granted Warren a refund of \$68,510.61, which consisted of \$56,822.02 calculated on a volumetric basis for butane and natural gasoline, and \$11,688.59 for the Arapaho propane which was priced above market levels. Warren also received interest on the refund of \$27,366.39.

Gulf Oil Corporation/Bourland Gulf Distributor, 12/30/86, RF40-2124

The DOE issued a Decision and Order concerning the Application for Refund filed by Bourland Gulf Distributor in the Gulf Oil Corporation refund proceeding. Bourland failed to demonstrate that it had been injured in its role as a consignee of Gulf motor gasoline, middle distillates, aviation fuel, or kerosene during the consent order period. Accordingly, its Application was denied.

Gulf Oil Corporation/George M. Tribble, Jr., Inc., 12/29/86, RF40-2793

The DOE issued a Decision and Order concerning an Application for Refund filed by George M. Tribble, Jr., Inc. in connection with the Gulf Oil Corporation special refund proceeding. In accordance with the procedures set forth in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), the applicant certified that it would not have been required to pass through to its customers a cost reduction equal to the refund amount claimed. Therefore, the DOE determined that Tribble should receive a total refund of \$2,805, consisting of \$2,281 in principal and \$524 in interest.

Gulf Oil Corporation/Hawkeye Oil Company, et al., 12/31/86, RF40-2032 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by Hawkeye Oil Company and seven other firms. Each firm was a reseller of Gulf motor gasoline and/or middle distillates during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it purchased and resold a certain amount of product from Gulf, and that

it would not have been required to reduce its selling prices to pass through the amount of the refund claimed. The total amount of refunds approved in this Decision is \$78,489 on principal and \$18,013 in interest.

Gulf Oil Corporation/Hugh C. Davis, Jr., et al., 12/29/86, RF40-975 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by Hugh C. Davis, Jr. and six other firms in connection with the Gulf Oil Corporation special refund proceeding. Each of the firms was both a purchaser and a consignee of Gulf product during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it purchased and resold a certain amount of Gulf product, and that it would not have been required to reduce its selling prices to pass through the amount of the refund claimed. None of the applicants, however, was able to demonstrate that it had been injured in its role as a consignee of Gulf product. The total amount of refunds approved in this Decision is \$14,960 in principal and \$3,434 in interest.

Gulf Oil Corporation/J. W. Pritchard Company, et al., 12/30/86, RF40-995 et al.

The DOE issued a Decision and Order concerning the Applications for Refund filed by J. W. Pritchard Company and three other consignees in connection with the Gulf Oil Corporation refund proceeding. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), each applicant demonstrated that it had lost potential sales of motor gasoline and therefore had been injured as a result of Gulf's alleged pricing practices. None of the applicants, however, demonstrated injury with respect to consigned middle distillates. Accordingly, refunds totaling \$10,872 in principal and \$2,496 in interest were approved for consigned motor gasoline.

Gulf Oil Corporation/Reston Gulf Service Center et al., 12/31/86, RF225-3401, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed by retailers of Gulf refined petroleum products. The claimants applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). After examining the evidence and supporting documentation submitted by the applicants, the DOE concluded that the claimants should receive refunds totaling \$13,092 (\$10,648 principal plus \$2,444 interest).

Gulf Oil Corporation/State of Delaware et al., 12/30/86, RF40-796 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed in the Gulf Oil Corporation special refund proceeding. All of the applicants were end-users of petroleum products purchased directly from Gulf. In its Decision, the DOE granted the applications under the standards specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted total \$22,095, representing \$17,970 in principal and \$4,125 in interest.

Gulf Oil Corporation/Venta, Inc., 12/31/86, RF40-1668

The DOE issued a Decision and Order concerning an Application for Refund filed by Venta, Inc. in connection with the Gulf Oil Corporation special refund proceeding. Venta sold Gulf product at several retail stations. The firm attempted to make the showing required of Gulf applicants that they would not have had to reduce selling prices to pass through the amount of the refund claimed by submitting records of cost banks from two stations. The DOE determined that Venta's limited documentation was not sufficient to support allegations concerning the operation of the firm as a whole. However, the DOE found that Venta's records from the two stations did demonstrate that, with respect to the product marketed there, Venta would not have been required to pass through to its customers a cost reduction equal to the refund amount claimed. Accordingly, the DOE determined that Venta should receive a refund of \$2,065, its volumetric share for the Gulf product it purchased to sell at the two stations, plus \$474 in interest.

Gulf Oil Corporation/Wm. Johnson-Solomon Oil Co., 12/31/86, RF40-2756

The DOE issued a Decision and Order concerning the Application for Refund filed by Wm. Johnson-Solomon Oil Co. (WJS), a reseller of Gulf motor gasoline and middle distillates during the Gulf consent order period. Following the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), WJS demonstrated that it purchased 1,663,023 gallons of covered product from Gulf, and that it would not have been required to reduce selling prices to pass through the amount of the refund claimed. The total amount of the refund approved in this Decision is \$2,029 in principal and \$466 in interest.

H.C. Lewis Oil Company/English Shell, et al., 12/29/86, RF266-10 et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by purchasers of refined petroleum products sold by H.C. Lewis Oil Company. Each customer filed for a refund based upon the small claims procedures outlined in *H.C. Lewis Oil Company*, 14 DOE ¶ 85,326 (1986). After examining the applications, the DOE concluded that all six applicants should receive refunds based on the volumetric refund amount established in *H.C. Lewis*. The total amount of refunds granted was \$4,025.

Howell Oil Corp. and Quintana Refinery Corp./Odessa L.P.G. Transport, 12/30/86, RF245-11

Odessa L.P.G. Transport filed an Application for Refund in which it sought a portion of the fund obtained by the DOE through a consent order entered into with Howell Oil Corp. and Quintana Refinery Co. The DOE found that Odessa paid above-market average costs for the natural gas liquids it purchased from Howell/Quintana (a butane/propane mix) and, using a three-step competitive disadvantage methodology, the DOE determined that Odessa should receive a refund of \$68,413, representing \$34,100 in principal and \$34,313 in accrued interest.

Marathon Petroleum Company/B.B. Oil Co., et al., 1/2/87, RF250-2053, et al.

The DOE issued a Decision and Order concerning 43 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the \$5,000 small claims refund amount. The sum of the refunds approved in this Decision is \$47,334 in principal and \$3,152 in interest.

Marathon Petroleum Company/Central Illinois Public Service Company et al., 12/30/86, RF250-1901, et al.

The DOE issued a Decision and Order concerning 23 Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The Applications were evaluated in accordance with the procedures set forth in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986). The sum of the refunds approved in this Decision is \$53,124, representing \$49,803 in principal and \$3,321 in interest.

Mobil Oil Corporation/A.B.C. Fuel Oil Co., Inc., et al., 12/31/86, RF225-10419, et al.

The DOE issued a Decision granting 72 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totaling \$83,838 (\$69,345 principal plus \$14,493 interest).

Standard Oil Co. (Indiana)/Alabama, 12/30/86, RQ251-341

The DOE issued a Decision and Order approving the second-stage refund application submitted by the State of Alabama for use of funds from the Standard Oil Co. (Indiana) escrow account. Alabama stated that it planned to use \$525,947 plus accrued interest to upgrade traffic synchronization, help weatherize the homes of several hundred low income Indian families, and improve mass transportation throughout the state. The DOE found that Alabama's plan would make restitution to injured consumers of refined petroleum products. Accordingly, Alabama's refund application was granted.

Dismissals

The following submissions were dismissed:

Name	Case No.
Ashland Oil, Inc.	RF6-27.
Atlantic Richfield Co.	RF6-73.
Bronco Refining Co., Inc.	RF6-6.
Celeron Oil and Gas Co.	RF6-51.
Cities Service Co.	RF6-61.
Commonwealth Oil Ref. Co.	RF6-52.
Consumers Power Co.	RF6-78.
Exxon Company	RF6-65.
Farmers Union Central Exchange	RF6-76.
Farmland Industries, Inc.	RF6-64.
Giant Industries	RF6-75.
Goulding Refining, Inc.	RF6-70.
Gulf States Oil & Ref. Co.	RF6-53.

Name	Case No.
Indiana Farm Bureau Coop	RF6-72.
Kent Oil & Trading Co.	RF245-14.
Kern Oil & Refining Co.	RF6-7.
Linton Plywood Assn	RF225-7207.
	RF225-7208.
Marathon Petroleum Co.	RF6-46.
Mobil Oil Corp.	RF6-24.
National Cooperative Refinery	RF6-62.
Pappas Gulf, Inc.	RF40-3595.
Phillips Petroleum Co.	RF6-54.
South Hampton Refining Co.	RF6-59.
Suburban Propane Gas Corp.	RF6-56.
Union Oil Co. of Calif.	RF6-57.
Wyoming Refining Co.	RF6-29.
	RF6-71.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
February 9, 1987.
[FR Doc. 87-3339 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed During Week of December 8 Through December 12, 1986

During the week of December 8 through December 12, 1986, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals,

Department of Energy, Washington, DC 20585.
February 5, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.
McWhirter Distributing Company, Inc., San Francisco, California; KRO-0380 Gasoline

On December 8, 1986, McWhirter Distributing Co., Inc., 6622 Valjean Ave., Van Nuys, California 91406 filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on November 20, 1986. In the PRO, the ERA found that during April 1979 to September 1979, McWhirter's wholesale sales of motor gasoline were in excess of the company's lawful selling prices.

According to the PRO, pricing violations resulted in \$191,072 of overcharges.

[FR Doc. 87-3342 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed During Period of December 15 Through December 26, 1986

During the Period of December 15 through December 26, 1986, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.
January 29, 1987.

George B. Breznay,
Director, Office of Hearings and Appeals.
La Jet Inc., Washington, D.C.; KRO-0390

On December 23, 1986, La Jet, Inc., 1601 Elm Street, Dallas, Texas 75201 (Ct. Corp. Systems, Registered Agent) filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory

Administration issued to the firm on October 9, 1986. In the PRO the ERA found that during the period May through November 1977, La Jet violated DOE regulations regarding the Entitlements Program.

According to the PRO, these actions resulted in a violation amount of \$5,558,048.

[FR Doc. 87-3343 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01

Issuance of Proposed Decision and Order During Week of December 29, 1986 Through January 2, 1987

During the week of December 29, 1986 through January 2, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

January 29, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dickerson Oil Co., Murphysboro, Illinois,
Kee-0082

Wilson Oil Co. Harrisburg, Illinois, Kee-0088
Reporting Req'mts

Dickerson Oil Co. and Wilson Oil Co. filed Applications for Exception in which each firm sought relief from its obligation to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Produce Sales Report." In considering both Applicants' requests, the DOE found that the firms failed to demonstrate that they were particularly adversely affected by the requirement that they file the Form. Accordingly, on December 31, 1986, the Department of Energy issued a Proposed Decision and Order which tentatively determined that the exception requests be denied.

[FR Doc. 87-3340 Filed 2-7-87; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed During Period of December 29, 1986 Through January 9, 1987

During the period of December 29, 1986 through January 9, 1987, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

February 9, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

T.E. Reserve Corp./James G. Allison,
Houston, Texas; KRO-0400, Crude oil.

On January 7, 1987, T.E. Reserve Corporation, 811 Dallas Avenue, Houston, Texas 77002, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on December 10, 1986. In the PRO the ERA Dallas District found that during the period October 1, 1979 through January 28, 1981, the corporation violated the provisions of 10 CFR 212.86, the layering regulation.

According to the PRO the violation resulted in \$111,529,620.17 of overcharges.

[FR Doc. 87-3344 Filed 2-17-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order During Week of January 5 Through January 9, 1987

During the week of January 5 through January 9, 1987, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director Office of Hearings and Appeals.

January 29, 1987.

Parish Oil Company, Inc., Montrose, CO.,
KEE-0098 Reporting Requirements

Parish Oil Company, Inc. (Parish) filed for relief from the requirement to submit Form EIA-782B, entitled "Reseller Retailers' Monthly Petroleum Product Sales Report." Parish asserts that it is experiencing serious computer installation problems, and is unable to retrieve the data needed to prepare Form

EIA-782B. The Office of Hearings and Appeals (OHA) found that requiring Parish to prepare the Form without use of its computer would impose a substantial hardship on the firm. Therefore, on January 8, 1987, the OHA issued a Proposed Decision and Order granting Parish temporary exception relief to allow Parish time to resolve its computer difficulties.

[FR Doc. 87-3341 Filed 2-17-87; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Intent To Prepare an Environmental Impact Statement; Charlie Creek-Belfield 345-KV Transmission Line Project, North Dakota

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969 (NEPA), the Western Area Power Administration (Western) intends to prepare an environmental impact statement (EIS) regarding a proposed action to construct, operate, and maintain a new high voltage 345-kilovolt (kV) electric transmission line from Basin Electric Power Cooperative's Charlie Creek Substation south to a new substation near Belfield, in the counties of Billings, McKenzie, and Stark, North Dakota. The project would consist of 30 to 40 miles of new transmission line and the new substation near Belfield.

The objectives of the subject EIS and related environmental activities will be to study and assess the potential of locating structures within floodplains or wetlands, impacting Federal or State listed or proposed threatened or endangered species or critical habitats, aesthetic impacts, crossing irrigated or irrigable land, effects on agriculture, and the possibility of causing adverse effects on historic or cultural properties that are included or eligible for historic or cultural properties that are included or eligible for inclusion on the National Register of Historic Places.

DATES: Initial public scoping meetings were held during January 1987. Landowners in the project area were contacted directly by letter informing them of the public scoping meetings, and appropriate notices were placed in local newspapers. Further public input will be solicited in at least two public planning workshops and a public hearing to be held during the course of the planning process. Landowners will again be contacted by letter, and notices published in the local news media at

least 15 days in advance of the meetings. Federal, State, and local government agencies will be requested to provide their issues and concerns to Western which will be addressed in the EIS.

A draft EIS is tentatively scheduled to be released to the public for review and comment in January 1988. The final EIS is tentatively scheduled for release in November 1988.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Harris, Assistant Area Manager for Engineering, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, (406) 657-6042.

Issued at Golden, Colorado, January 30, 1987.

William H. Clagett,
Administrator.

[FR Doc. 87-3330 Filed 2-17-87; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180717; FRL-3156-7]

New Jersey Department of Environmental Protection; Receipt of Applications for Emergency Exemptions To Use Pursuit™; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUBJECT: EPA has received requests for two emergency exemptions from the New Jersey Department of Environmental Conservation (hereafter referred to as the "Applicant") to use the active ingredient (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid (Pursuit™) to control broadleaf weeds on 2,000 acres of lima beans and 10,000 acres of snap beans in New Jersey. Pursuit™ contains an unregistered active ingredient and, therefore, in accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant these exemptions.

DATE: Comments must be received on or before March 5, 1987.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180717" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide

In person, bring comments to: Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does 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 room 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION:

By mail: Libby Pemberton, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue two specific exemptions to permit the use of an unregistered herbicide, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid (CAS 81335-77-5), manufactured as Pursuit™, by American Cyanamid Company, on lima beans and snap beans in New Jersey. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

Late in 1986 all labeled uses of the herbicide dinoseb were suspended. According to the Applicant, dinoseb was used to control annual broadleaf weeds on almost all the acreages of lima beans and snap beans grown in New Jersey. The Applicant states that other products that are labeled either do not control a broad spectrum of broadleaf weeds consistently or cannot be used in New Jersey without causing crop injury.

The Applicant indicates that weeds in bean fields reduce yields by competing with the crop and cause additional problems. Weeds reduce harvest efficiency and result in field

Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

abandonment when weed problems are severe. Weeds interfere with insecticide applications and may result in increased insect problems or additional insecticide applications.

The Applicant indicates that without adequate control a 25% value loss due to weeds will occur. This would amount to approximately \$1.36 million. Losses in the past two years, with use of dinoseb have not exceeded 5%.

Pursuit™ will be applied preplant incorporated or preemergence to the crop at a rate of 0.03125 pounds active ingredient per acre. A single application will be made sometime between March 1 and July 31, 1987 to approximately 10,000 acres of snap beans and 2,000 acres of lima beans.

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before March 5, 1987, and should bear the identifying notation "OPP-180717." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the New Jersey Department of Environmental Protection.

Dated: February 5, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-3107 Filed 2-17-87; 8:45 am]

BILLING CODE 6580-50-M

[OPP-180719; FRL 3157-5]

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 Office of the Governor of Illinois, the Arkansas State Plant Board, and the Missouri Department of Agriculture and hereafter referred to individually by State or collectively as "Applicants") for use of the unregistered product Harmony to control wild garlic in wheat. 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)amin]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA is soliciting comment before making the decision whether or not to grant these specific exemption requests.

DATE: Comments must be received on or before March 5, 1987.

ADDRESS: Three copies of written comments, bearing the indentifying notation "OPP-180719," 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 from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION:

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 provision 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. 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 two-leaf and boot stage of wheat when wild garlic is 6 to 12 inches high. A maximum of 0.5 ounce of product is proposed to be applied per acre in Illinois and Arkansas and a maximum of 0.67 ounce of product is proposed to be applied per acre in Missouri. A maximum of 960,000 acres of wheat is proposed to be treated in Illinois, a maximum of 100,000 acres in Arkansas, and a maximum of 600,000 acres in Missouri. If all of the acreage were treated, a maximum of 30,000 pounds of product would be needed in Illinois, a maximum of 3,125 pounds of product would be needed in Arkansas, and a maximum of 18,750 pounds of product in Missouri.

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. Illinois and Arkansas have requested authorization to make treatments through April 1987 and Missouri has requested that the exemption be effective through January 1988.

The Applicants claim that emergency conditions exist due to the presence of wild garlic bulbets in harvested wheat. Grain sold with garlic bulbets present is docked generally on a per-bulbulet 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 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.

The Applicants claim that the registered alternatives currently available do not provide a sufficient level of control of wild garlic. The Applicants claim that wheat growers have traditionally used 2,4-D and dicamba to control this weed.

Specifically, the Applicants claim that these pesticides only provide 20 to 75 percent control of wild garlic.

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 March 5, 1987, and should bear the identifying notation "OPP-180719." 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 exemptions requested by the Office of the Governor of Illinois, the Arkansas State Plant Board, and the Missouri Department of Agriculture.

Dated: February 10, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-3321 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-62006; FRL-3157-9]

Hearing Concerning Application To Modify the Final Suspension Order for Pesticide Products Containing Dinoseb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Hearing Under Subpart D of 40 CFR Part 164.

SUMMARY: On January 20 and January 29, 1987, the Agency received evidentiary submissions from the American Dry Pea and Lentil Association (ADPLA) in support of its request that the final order suspending all use of pesticide products containing dinoseb be modified to permit use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho. Subsequently, on February 10, 1987, the Departments of Agriculture of the States of Washington and Idaho submitted applications for emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to permit use of pesticide products containing dinoseb on peas, lentils, and chickpeas. Under

Subpart D of 40 CFR Part 164, these submissions and applications collectively constitute a petition to reconsider the final suspension order concerning dinoseb products. Such a petition may not be granted without a formal adjudicatory hearing. EPA has concluded that the submissions by ADPLA, if substantiated in a hearing, may provide a basis for modification of the order suspending dinoseb products. This Notice announces that EPA has decided to hold a hearing to reconsider that order as it applies to use of dinoseb on dry peas, lentils, and chickpeas in Washington and Idaho, specifies the issues of fact and law to be considered at that hearing, and establishes a schedule for the hearing.

DATE: Requests to participate in the hearing announced by this notice must be received by the Office of the Hearing Clerk at the address given below by February 24, 1987. A pre-hearing conference will be held and the evidentiary hearing will commence as soon thereafter as practicable.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Information supporting the Administrator's decision to hold a hearing will be available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Information Services Section, Management and Program Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail:

Michael McDavit, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 1014A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1787).

SUPPLEMENTARY INFORMATION:

I. Legal Authority

A. Standards for Maintaining a Registration

Before a pesticide product may be lawfully sold or distributed in either intrastate or interstate commerce, the product must be registered by the Environmental Protection Agency. FIFRA sections 3(a) and 12(a)(1). A registration is a license allowing a pesticide product to be sold and distributed for specified uses in

accordance with specified use instructions, precautions, and other terms and conditions. A pesticide product may be registered or remain registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment." FIFRA section 3(c)(5). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use [the] pesticide." FIFRA section 2(bb). The burden to demonstrate that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration. *Industrial Union Dept. v. American Petroleum Institute*, 448 U.S. 607, 653 n.61 (1980); *Environmental Defense Fund v. Environmental Protection Agency*, 510 F.2d 1292, 1297, 1302 (D.C. Cir. 1975).

Under FIFRA section 6, the Agency may issue a notice of intent to cancel the registration of a pesticide product whenever it determines that the product no longer satisfies the statutory criteria for registration. The Agency may specify particular modifications in the terms and conditions of registration, such as deletion of particular uses or revisions of labeling, as an alternative to cancellation. If hearing is requested by an adversely affected person, the final order concerning cancellation of the product is not issued until after a formal administrative hearing.

B. Suspension of a Pesticide Product

The suspension provisions in FIFRA section 6(c) give the Administrator authority to take interim action until completion of the time-consuming procedures which may be required to reach a final cancellation decision. Under this section, the Administrator may suspend the registration of a product and prohibit its distribution, sale, or use during cancellation proceedings upon a finding that the pesticide poses an "imminent hazard" to humans or the environment. "Imminent hazard" is defined by FIFRA section 2(l) as:

A situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Pub. L. 91-135.

As noted above, "unreasonable adverse effects on the environment" means that the risks associated with use of a pesticide outweigh the benefits of

its use. Thus, in order to find an "imminent hazard," the Agency must determine that the risks associated with continue registration during the period likely to be necessary to complete a cancellation proceeding appear to outweigh the benefits. The Agency may not suspend the registration of a pesticide unless it has previously issued, or simultaneously issues, a notice of intent to cancel the registration or change the classification of that pesticide.

Suspension is an interim remedy which enables the Agency to abate potential risks in advance of the full analysis of risks and benefits in a cancellation hearing. The function of suspension "is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues." *Environmental Defense Fund v. Environmental Protection Agency*, 465 F.2d 528, 537 (D.C. Cir. 1972). The courts have emphasized that suspension does not require a "crisis." Rather, "it is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process." *Environmental Defense Fund v. Environmental Protection Agency*, 510 F.2d 1292, 1297 (D.C. Cir. 1975), quoting *Environmental Defense Fund v. Environmental Protection Agency*, 465 F.2d 528, 540 (D.C. Cir. 1972).

A notice of intent to suspend (unlike an emergency suspension order) does not take effect immediately. Registrants are notified and afforded 5 days from the date of receipt of the notification to request an expedited hearing on the question of imminent hazard. If no hearing is requested for a product, or a hearing request is submitted but subsequently withdrawn, the suspension of that product becomes final and is not reviewable by any court. If a hearing is requested, the final order concerning suspension of the product is not issued until after the completion of an expedited hearing.

C. Emergency Suspension

If the Administrator determines that (1) a pesticide poses an imminent hazard, and (2) that "an emergency exists that does not permit him to hold a hearing before suspending," FIFRA section 6(c)(3) provides that he may issue an emergency order immediately suspending registration of the pesticide.

The term "emergency" is not defined by FIFRA. The Agency interprets FIFRA section 6(c)(3) to mean that, if the threat of harm to humans or the environment associated with continued sale,

distribution, or use of a pesticide is sufficiently serious and immediate that the risks would be likely to outweigh the benefits during the time required for a suspension hearing, the registration of that pesticide may be suspended immediately. Thus, the determination whether an emergency exists is even more preliminary than the determination concerning the question of imminent hazard, and an emergency order is analogous to a temporary restraining order issued by a court while it is determining whether to issue a preliminary injunction. *Dow Chemical Company v. Blum*, 469 F.Supp. 892, 901 (E.D. Mich. 1979).

An emergency suspension order may be issued without prior notice to affected registrants and is effective immediately upon issuance. Registrants are notified that an emergency order has been issued and may request an expedited hearing by submitting a valid hearing request within five days from receipt of the notification. If a registrant does not request an expedited hearing concerning a particular product, but does request a hearing concerning cancellation of that product, the emergency order becomes a final suspension order with respect to that product and the suspension of the product remains in effect until the completion of the cancellation proceeding. If an expedited hearing is held concerning any product, the hearing is confined solely to the question of imminent hazard, and the emergency order remains in effect during the pendency of the expedited hearing. When an expedited hearing is held following issuance of an emergency order, only registrants and the Agency may actively participate. However, other adversely affected parties such as users may file briefs. Following the expedited hearing, the Administrator issues a final order which may either retain, modify, or rescind the suspension during subsequent cancellation hearings.

D. Subpart D Proceedings

When the Agency receives an application to permit use of a pesticide in a manner inconsistent with a prior final suspension or cancellation decision, that application constitutes a petition to the Administrator to reconsider the final suspension or cancellation order. Because of the opportunity for notice and a formal adjudicatory hearing which precedes entry of a final suspension or cancellation order concerning a pesticide product, EPA has determined that such an order should not be modified or rescinded without affording interested parties a similar notice and

opportunity for hearing concerning such modification or rescission. The procedures governing all applications to modify or reverse a previous final suspension or cancellation order are set forth in Subpart D of 40 CFR Part 164, 40 CFR 164.130 through 164.133.

When all opportunities for hearing and review with respect to an Agency decision to suspend or cancel a pesticide product have either been exercised or waived, and a final suspension or cancellation order has been entered, the Agency is entitled to rely on the finality of the order and the validity of the evidentiary rationale supporting it. Applicants seeking reconsideration of a final order should not be afforded a new adjudicatory hearing concerning the same matters which were considered or could have been considered during a prior hearing. Thus, 40 CFR 164.131(a) provides that the Administrator will grant a hearing to reconsider a prior final suspension or cancellation order when he finds that:

(1) The applicant has presented substantial new evidence which may materially affect the prior cancellation or suspension order and which was not available to the Administrator at the time he made his final cancellation or suspension determination and (2) such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension proceeding prior to the issuance of the final order.

In deciding whether to initiate a hearing, the Administrator does not need to determine that the evidence submitted by the petitioner would in fact justify modification of the prior order. Rather, a decision to initiate a hearing means only that the Administrator has determined that the evidence submitted, if substantiated on the record in the hearing, may "materially affect" the evidentiary rationale upon which the prior order was based. On the other hand, if the evidence submitted, even if substantiated on the record, would be unlikely to provide a basis for modification of the prior order, then a hearing would serve no purpose.

If the Administrator determines that a petitioner has met the criteria for a Subpart D hearing, he then publishes a notice in the *Federal Register* setting forth his determination, the rationale for that determination, a description of the issues of fact and law to be adjudicated in the hearing, and a schedule for the hearing. The purpose of the hearing is to determine whether: (1) Substantial new evidence exists and (2) such substantial new evidence requires reversal or modification of the existing cancellation

or suspension order. For purposes of any decision in the hearing, those portions of the substantive rationale for the existing order concerning which the petitioner did not submit substantial new evidence are assumed to be correct. Thus, the scope of any Subpart D hearing is intrinsically narrower than the proceeding which was held or could have been held concerning the order to be reconsidered.

In a Subpart D hearing, as in a suspension or cancellation hearing, the Administrative Law Judge transmits a recommended decision to the Administrator, who then issues a final decision retaining, modifying, or reversing the existing order.

II. Procedural History

On October 7, 1986, I issued a decision and emergency suspension order immediately prohibiting all further sale, distribution, and use of pesticide products containing dinoseb (2-sec-butyl-4,6-dinitrophenol) in the United States. (51 FR 36634, October 14, 1986). My decision to issue that order was based on my determination that applicators and other populations with substantial dinoseb exposure would otherwise be at significant risk for teratogenic and other adverse health effects. The information and analysis upon which that determination was based is set forth in detail in the text of my decision. As required by FIFRA section 6(c)(1), I issued on the same day a notice announcing the Agency's intent to cancel and deny all registrations for pesticide products containing dinoseb.

Four registrants subsequently submitted timely requests for an expedited suspension hearing on the question of whether or not sale, distribution, or use of dinoseb would pose an imminent hazard during the time required to conduct a cancellation hearing. These four registrants and two others also submitted timely requests for a cancellation hearing. All dinoseb products for which the registrants requested neither a suspension nor a cancellation hearing were subsequently cancelled by operation of law.

The expedited suspension hearing concerning dinoseb products commenced on October 20, 1986. On October 29, 1986, the FIFRA Science Advisory Panel met pursuant to FIFRA section 25(d) to consider the Agency's analysis of the impact of dinoseb use on health and the environment. On October 30, 1986, the four registrants who had requested an expedited hearing on the question of imminent hazard withdrew their hearing requests, resulting in the immediate entry pursuant to the terms of my October 7 decision of a final order

suspending the registrations of their dinoseb products during the pendency of the cancellation hearing. On November 26, 1986, the Administrative Law Judge closed the docket in the expedited suspension hearing, thereby affirming that no valid requests for a hearing concerning the suspension of dinoseb products were still pending.

After the registrants withdrew their requests for a suspension hearing, the American Dry Pea and Lentil Association (ADPLA) wrote to the Agency seeking a decision which would permit continued use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho. Because any direct communication with me concerning the registrability of dinoseb, except on the record of the pending cancellation hearing, would be an *ex parte* communication prohibited by 5 U.S.C. 557(d), all communications from the ADPLA were directed to appropriate officials in the Office of Pesticides and Toxic Substances. The ADPLA and its representatives were informed that any decision to permit the requested uses of dinoseb would be contrary to the final suspension decision concerning dinoseb products and would require the Agency to hold an adjudicatory hearing under Subpart D. On January 20 and January 29, 1987, the Agency received evidentiary submissions from the ADPLA in support of its request that the Agency reconsider the suspension of dinoseb as applied to use on dry peas, lentils, and chickpeas in the States of Washington and Idaho. On February 10, 1987, the Departments of Agriculture of the States of Washington and Idaho submitted applications for emergency exemptions under FIFRA section 18 to permit use of dinoseb products on peas, lentils, and chickpeas. Taken together, these submissions and applications constitute a petition under Subpart D to reconsider the final suspension of dinoseb as it applies to use on dry peas, lentils, and chickpeas in the States of Washington and Idaho.¹

Based on the information and applications submitted, Assistant Administrator for Pesticides and Toxic Substances John A. Moore decided to recommend to me that I issue this Notice initiating a Subpart D proceeding. In order to comply with the separation of functions requirements set forth in 5 U.S.C. 554(d), his recommendation and the information and record underlying

¹ Although the emergency exemption application submitted by the State of Washington also requests that dinoseb be approved for use on green peas as well as dry peas, the application does not include substantial new evidence concerning the green pea use beyond that available to the Agency at the time of the final suspension decision.

that recommendation were filed in the cancellation hearing record and served on each party to that proceeding at the same time they were transmitted to me for decision. After considering the Assistant Administrator's recommendation and the information supporting it, I decided to issue this notice initiating a Subpart D hearing to reconsider the final suspension of dinoseb as it applies to use on dry peas, lentils, and chickpeas in Washington and Idaho.

III. Analysis of the ADPLA Submission

A. Risk Issues

The ADPLA has not submitted any new information which would affect the validity of the Agency's analysis of the toxicity of dinoseb or the methodology used by the Agency to estimate exposure to dinoseb. The ADPLA did submit information concerning use practices such as application rates, number of acres treated, equipment used, etc., and concerning additional use restrictions such as closed loading systems and enclosed cabs which its members would be willing to accept. When the exposure assessment methodology underlying the suspension decision is applied to this use information, the resultant margins-of-safety for teratogenic effects are greater than many of, but within the same range as, the margins-of-safety upon which the Agency based the emergency suspension order. For example, the margin-of-safety for a farmer applying dinoseb by ground boom to 100 acres at a rate of 1.5 pounds/acre, and utilizing a closed loading system and an enclosed cab, is 33. Accordingly, although information on prior dinoseb use practices for dry peas, lentils, and chickpeas and on the practicality of additional use restrictions will be helpful in making a decision whether to modify the suspension order for these uses, and will be considered in the hearing, the information on risk issues submitted by the ADPLA does not itself constitute substantial new evidence of the sort required to initiate a Subpart D proceeding.

B. Benefits Issues

The ADPLA submission includes information and evidence on the benefits of dinoseb use on dry peas, lentils, and chickpeas which was not available to or considered by the Agency prior to entry of a final suspension order. The benefits claimed by the ADPLA for these uses are much greater than indicated by the

information available to the Agency at that time.

The ADPLA estimates that without dinoseb, growers will suffer yield losses of 31 percent for dry peas, 37 percent for lentils, and 50 percent for chickpeas. These estimates are based on data from weed control trials conducted at Washington State University. These test plot data indicated that dinoseb used at 1.5, 2.25, and 3 pounds active ingredient per acre provided yields substantially greater than unweeded control plots. The 3 pound rate provided the highest yields on an absolute basis. Data were not provided to demonstrate that yield differences between application rates were statistically significant. These trials did not consider the relative efficacy of other registered pesticides or any other weed control practice as compared to dinoseb.

The ADPLA claims that alternative chemicals such as metribuzin are not effective on the weeds which are a problem on dry peas, lentils, and chickpeas in Washington and Idaho. According to the ADPLA, this is because application rates for the alternatives necessary to control problem weeds are also toxic to the crop. The ADPLA also claims that mechanical alternatives are not practical. Although no test data were provided to support any of these claims, the evidence available to the Agency at this time does not contradict these claims.

The ADPLA estimated that the total economic losses to all producers of dry peas, lentils, and chickpeas would be about \$33 million, including losses of \$15.1 million for dry peas, \$16.5 million for lentils, and \$1.4 for chickpeas. These aggregate economic impacts were calculated by reducing the value of 1986 production of the subject crops in direct proportion to estimated yield losses. While this method is straightforward, it does not consider a number of factors. Further analysis will be required to determine whether any of these factors are significant. For example, the estimated yield losses reflect an implicit assumption that no alternative to dinoseb would be used. The effects of reduced treatment costs, changes in land use, alternative cropping practices, and commodity price adjustments were neither discussed or evaluated. Some growers might shift into production of alternative lower income producing crops such as wheat rather than sustain losses as great as those indicated. Growers that choose to remain in production may receive at least some offsetting price increase attributable to a reduction in supplies.

While the total economic losses sustained by all dry pea, lentil, and

chickpea growers as a result of the unavailability of dinoseb may not be as great as for some major crops, the impact on individual growers could be unusually severe. Individual dry pea and lentil producers were facing financial strain in the production of these crops even before the suspension actions on dinoseb. Growers were realizing net returns of up to \$30 per acre. Yield losses as great as those claimed by the ADPLA would result in net losses of \$20-\$50 per acre. Losses in this range would likely force many growers out of production of these crops and might put some growers out of business.

If the economic impacts of the unavailability of dinoseb on individual dry pea, lentil, and chickpea growers are as great as the ADPLA claims, the effect on individual growers would be more severe than the losses which the Agency projected for the major uses of dinoseb (e.g. peanuts, soybeans, potatoes, and cotton) in the emergency suspension decision. Growers of these other crops appear to be able to produce profits even without dinoseb because they have either lower projected losses (on a per acre basis), have other chemical, non-chemical, or cultural weed and disease control methods available to replace dinoseb, or have higher per acre profitability. Although the ADPLA has not fully substantiated some of its key assertions, the information on the benefits of dinoseb use for dry pea, lentil, and chickpea growers in Washington and Idaho in the ADPLA submission appears to be substantial new evidence not available to the Agency at the time of the final suspension decision.

C. Subpart D Determination

Under 40 CFR 164.131(a), the Administrator is to provide a hearing to reconsider a prior final suspension decision only if he determines that certain criteria have been met. Having concluded that the ADPLA has presented substantial new evidence concerning the use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho which was not available to the Agency when the final suspension order went into effect, I must now determine whether that evidence "may materially affect" that order. I have concluded that, if the evidentiary record in a hearing substantiates the ADPLA assertions concerning the short-term benefits of dinoseb use on dry peas, lentils, and chickpeas and the practicality of additional use restrictions, I might consider modifying the suspension decision to permit use on these crops while the cancellation hearing is pending. Thus, the first

criterion in 40 CFR 164.131(a) has been met.

On the face of the ADPLA submission, it is questionable whether the second criterion in 40 CFR 164.131(a), that the parties in the suspension proceeding could not have discovered the new evidence "through the exercise of due diligence," has been met. Arguably, ADPLA could have provided the evidence in question to the parties in the suspension hearing, or the parties could have otherwise discovered it, prior to the entry of the final suspension order. However, given the particular circumstances at hand, including the fact that the ADPLA had no right to actively participate in the expedited suspension hearing and the short period of time in which the information in question could have been presented to the parties prior to the withdrawal of the registrants from the hearing, I have concluded that the "due diligence" requirement is not apposite to these circumstances.

Based on the above analysis, I have decided to hold a hearing under Subpart D to reconsider the final suspension order for pesticide products containing dinoseb as it applies to use on dry peas, lentils, and chickpeas in the States of Washington and Idaho.

IV. Hearing Procedures

A. Issues to be Adjudicated

Pursuant to 40 CFR 164.131(c), I am specifying those issues of fact and law to be adjudicated in the hearing convened pursuant to this notice. Because the purpose of such a hearing is only to reconsider certain aspects of my prior suspension decision and because a prompt conclusion to the hearing is a requisite of meaningful relief for the petitioners, the evidentiary presentation in the hearing shall be strictly confined to the issues of fact and law which I have determined are presented by the ADPLA submission.

The issues of fact to be adjudicated are:

1. How efficacious are dinoseb products in controlling target pests in dry peas, lentils, and chickpeas in the States of Washington and Idaho, as compared to pesticidal or other alternative methods which are available or could be made available during the pendency of the dinoseb cancellation hearing?

2. What will the economic impacts on growers, processors, distributors, and consumers be if dinoseb products remain unavailable for use on dry peas, lentils, and chickpeas in the States of Washington and Idaho during the

pendency of the dinoseb cancellation hearing?

3. What have been the prior use practices for application of dinoseb products to dry peas, lentils, and chickpeas in the States of Washington and Idaho, including factors such as application method, application rate, number of acres treated per day, and equipment used, and how practical would it be to impose additional use restrictions for these uses in these locations during the pendency of the dinoseb cancellation hearing?

4. Assuming the validity of the analysis of the toxicity of dinoseb and the methodology for analysis of exposure to dinoseb upon which the suspension of dinoseb was based, what quantitative effect would adoption of particular use practices or use restrictions during the pendency of the dinoseb cancellation hearing have on the margins-of-safety for developmental toxicity associated with use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho?

The issues of law to be adjudicated are:

1. Has substantial new evidence been presented pertaining to use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho during the pendency of the dinoseb cancellation hearing?

2. Assuming the validity of the analysis of the toxicity of dinoseb and the methodology for analysis of exposure to dinoseb upon which the suspension of dinoseb was based, does the evidence presented demonstrate that the benefits of use of dinoseb on dry peas, lentils, and chickpeas in the States of Washington and Idaho during the pendency of the dinoseb cancellation hearing are likely to outweigh the risks of such use? (i.e., Based on the evidence presented, should the Agency revise its prior determination that such use would constitute an imminent hazard?)

The sole objective of this hearing is to determine whether or not the order suspending all sale, distribution, and use of pesticide products containing dinoseb should be modified to permit use, and sale and distribution for use, on dry peas, lentils, and chickpeas in Washington and Idaho while the cancellation hearing is pending. The ultimate registrability of dinoseb products for these uses and in these locations will be determined exclusively in the cancellation hearing. Thus, this hearing will not consider evidence concerning long-term changes in the benefits of dinoseb use which may be associated with introduction of new alternatives or other factors. In addition, many generic risk issues which are

beyond the scope of this proceeding will be subject to full examination on the record in the cancellation hearing.

B. Burden of Proof

As provided by 40 CFR 164.132, the burden of proof in this proceeding shall be on the proponent(s) of modification of the final suspension order and the petitioners shall proceed first. As in all formal adjudication, all testimony must be presented and documents sponsored by a witness competent to be cross-examined on the material. It is the petitioners rather than the Agency who must make an evidentiary record substantiating the assertions in the ADPLA submission. Of course, Agency counsel may also present testimony concerning the issues of fact and law to be adjudicated.

C. Hearing Requests

The petitioners ADPLA and the States of Washington and Idaho and the Agency shall automatically be parties in the hearing. Any other person or party who seeks to participate in the hearing must submit a written hearing request describing the interest of that person or party in the proceeding and the nature and purpose of the participation sought. All requests for a hearing must be received by the Office of the Hearing Clerk within 5 calendar days from the date of publication of this Notice in the **Federal Register**. Any request received after that time will be denied. Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

D. Scheduling

As required by 40 CFR 164.131(c), I am specifying a schedule for this hearing. Any relief which the Agency may determine that the petitioners should receive would only be meaningful if my final decision is entered before the 1987 spring planting season. In recognition of the need for a prompt decision and of the narrow scope of the proceeding, I am establishing the following expedited schedule.

The Chief Administrative Law Judge shall appoint an Administrative Law Judge to preside at this proceeding within 5 calendar days from date of publication of this Notice in the **Federal Register**. The hearing shall commence as soon thereafter as practicable but in no event later than 10 calendar days from the date of publication of this Notice in the **Federal Register**. The presiding Administrative Law Judge shall transmit recommended findings of fact and conclusions of law and the hearing record to me within 30 calendar days

from the date of publication of this Notice in the **Federal Register**. The parties shall submit any objections to the recommended findings of fact and conclusions of law to me within 3 business days after issuance, and I will enter a final order as soon thereafter as practicable.

I recognize that the Subpart D hearing initiated pursuant to this Notice could result in delays in, or divert resources from, the pending dinoseb cancellation hearing. *In re: Cedar Chemical Company, et al.*, FIFRA Docket Nos. 590, et al. Accordingly, I hereby authorize the Administrative Law Judge in that proceeding, in the exercise of her discretion, to extend the deadline for transmission of a recommended decision to me by up to 45 days.

E. Separation of Functions

EPA's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of EPA in this proceeding: the Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate office of the Administrator, and Deputy Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

Dated: February 11, 1987.

Lee M. Thomas,
Administrator.

[FR Doc. 87-3449 Filed 2-18-87; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-553]

Final Action Approval of Conversion Application; Ameriana Savings Bank, New Castle, IN

Dated: February 10, 1987.

Notice is hereby given that on January 13, 1987, the Office General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Ameriana Savings Bank, New Castle, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, Post Office Box 60, Indianapolis, Indiana 46206-0060.

By the Federal Home Loan Bank Board,
Nadine Y. Washington,
Acting Secretary.
[FR Doc. 87-3272 Filed 2-17-87; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-555]

Final Action Approval of Conversion Application; Bristol Federal Savings Bank, Bristol, CT

Dated: February 10, 1987.

Notice is hereby given that on January 27, 1987, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Bristol Federal Savings Bank, Bristol, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, Post Office Box 9106, Boston, Massachusetts 02205.

By the Federal Home Loan Bank Board,
Nadine Y. Washington,
Acting Secretary.
[FR Doc. 87-3273 Filed 2-17-87; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-554]

Final Action Approval of Conversion Application; Federated Financial Savings and Loan Association, Wauwatosa, WI

Dated: February 10, 1987.

Notice is hereby given that on December 11, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority

delegated to the General Counsel or his designee, approved the application of Federated Financial Savings and Loan Association, Wauwatosa, Wisconsin for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, DC 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board,
Nadine Y. Washington,
Acting Secretary.
[FR Doc. 87-3274 Filed 2-17-87; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Decoquinatone for Use in Goats; Availability of Data

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of environmental information to be used in support of a new animal drug application (NADA) for use of decoquinatone in the feed of goats. The information, contained in Public Master File (PMF) 5012, was compiled under Interregional Research Project No. 4 (IR-4), which is a national agriculture program for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's or supplemental NADA's to Document Control Section (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: The use of decoquinatone in feed for goats is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug it is subject to section 512 of the act (21 U.S.C. 360b) requiring that its uses be the subject of an approved NADA. Rutgers University, IR-4 Project, Cook College, New

Brunswick, NJ 08903, has provided an environmental assessment to support the use of decoquinatone in the feed of goats for the prevention of coccidiosis. The environmental assessment concerning possible impacts at the site of use of the animal drug product is contained in PMF 5012. Sponsors of NADA's or supplemental NADA's may reference without further authorization the PMF to support approval. An NADA or supplemental NADA should include, in addition to a reference to the PMF, drug labeling and other information needed for approval, such as data concerning target animal safety and effectiveness; human food safety; manufacturing methods, facilities, and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contact Adriano R. Gabuten (address above).

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a copy of the environmental assessment concerning possible impacts at the site of use of the new animal drug product may be seen in PMF 5012 and in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: February 10, 1987.

Gerald B. Guest,
Director, Center for Veterinary Medicine.
[FR Doc. 87-3270 Filed 2-17-87; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 87M-0010]

Paragon Optical, Inc.; Premarket Approval of PARAPER E.W.* (Pasifocon C) Rigid Gas Permeable Contact Lens

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Paragon Optical, Inc., Mesa, AZ, for premarket approval, under the Medical Device Amendments of 1976, of the spherical PARAPER E.W.* (pasifocon C) Rigid Gas permeable Contact Lens (clear and tinted). After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH)

notified the applicant of the approval of the application.

DATE: Petitions for administrative review by March 20, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On January 23, 1986, Paragon Optical, Inc., Mesa, AZ 85201, submitted to CDRH an application for premarket approval of the PARAPERME E.W.* (pasifocon C) Rigid Gas Permeable Contact Lens (clear and tinted). The spherical lens is indicated for daily wear and extended wear from 1 to 7 days between removals for cleaning and disinfection as recommended by the eye care practitioner. The lens is indicated for the correction of visual acuity in non-aphakic persons with nondiseased eyes that are myopic or hyperopic and for the correction of corneal astigmatism of 4.00 diopters (D) or less that does not interfere with visual acuity. The lenses range in powers from -20.00 D to +12.00 D and are to be disinfected using a chemical lens care system only. The tinted lens contains the color additive D&C Green No. 6 in accordance with the color additive listing provisions of 21 CFR 74.3206.

On July 18, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 31, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the PARAPERME E.W.* (pasifocon C) Rigid Gas Permeable Contact Lens states that the lens is to be used only with certain solutions for

disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41-56), as amended. Accordingly, whenever CDRH publishes a notice in the Federal Register of approval of a new solution for use with an approved lens, each contact lens manufacturer or PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 20, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 10, 1987.

James S. Benson,

Acting Director, Center for Devices and Radiological Health.

[FR Doc. 87-3311 Filed 2-17-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87M-0008]

Precision-Cosmet Co., Inc.; Premarket Approval of Kelman™ Omnifit II Anterior Chamber Intraocular Lens, Model 2100

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval, under the Medical Device Amendments of 1976, of the Kelman™ Omnifit II Anterior Chamber Intraocular Lens, Model 2100, sponsored by Precision-Cosmet Co., Inc., Minnetonka, MN. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by March 20, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

SUPPLEMENTARY INFORMATION: On August 15, 1985, Precision-Cosmet Co., Inc., Minnetonka, MN 55345, submitted to CDRH an application for premarket approval of the Kelman™ Omnifit II Anterior Chamber Intraocular Lens, Model 2100. The device is indicated for patients 60 years of age and older where a cataractous lens has been removed by primary intracapsular cataract extraction; or primary extracapsular

cataract extraction where there is a structural reason that the anterior chamber lens is the preferred one; or other primary extracapsular cataract extraction provided that this be performed only after the physician has compared the published results of the anterior chamber lens with posterior chamber lenses; or in a secondary implant procedure. The device is available in a range of powers from 11 diopters (D) through 24 D in 0.5 D increments.

On May 22, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 31, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate

in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 20, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 10, 1987.

James S. Benson,

Acting Director, Center for Devices and Radiological Health.

[FR Doc. 87-3310 Filed 2-17-87; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Notice of Hearing; Reconsideration of Disapproval of a Missouri State Plan Amendment

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

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on March 18, 1987 in Kansas City, Missouri to reconsider our decision to disapprove Missouri State Plan Amendment 86-1.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk March 5, 1987.

FOR FURTHER INFORMATION, CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove a Missouri State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs

the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Missouri SPA 86-1 violates Federal Regulations at 42 CFR 435.725(c), 435.733(c) and 435.832(c). Missouri SPA 86-1 contains a Medicaid post-eligibility policy for the treatment of court-ordered attorney fees, guardian commissions, and other related court costs. This policy would provide that these costs be deducted from an institutionalized Medicaid individual's income when calculating the individual's liability for the cost of the institutional care.

HCFA has determined that the proposed deduction violates regulations at 42 CFR 435.725(c), 435.733(c) and 435.832(c). These regulations provide only for certain specific categories of deductions when computing the individual's liability for the cost of his or her institutional care. Court-ordered attorney fees, guardian commissions, and other related court costs are not among the categories specified in the regulations.

The State submitted the proposed amendment because of a decision by the Missouri Court of Appeals in the case of *Missouri Division of Family Services v. Barclay* 705 S.W.2d 518 (Mo. App. 1985). In its decision, the court found that court-ordered attorney fees, guardianship fees and related court costs should be considered remedial care costs and, therefore, deducted from a recipient's income on that basis.

While remedial care costs are an existing deductible category in the regulations (42 CFR 435.725(c)(4), 435.733(c)(4), and 435.832(c)(4)), HCFA does not believe that court-ordered attorney fees, guardianship fees, and related court costs are remedial care costs under the regulations. These expenses do not benefit a recipient medically and are not health care

expenses. They are not necessary for or a part of, an individual's remedial care.

The notice to Missouri announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Michael V. Reagen, Ph.D.,
Director, Department of Social Services, P.O.
Box 1527, Jefferson City, Missouri 65102-
1527

Dear Dr. Reagen: This is to advise you that your request for reconsideration of the decision to disapprove Missouri State Plan Amendment (SPA) 86-1 was received on December 31, 1986.

Missouri SPA 86-1 contains a Medicaid post-eligibility policy for the treatment of court ordered attorney fees, guardian commissions, and other related court costs. This policy would provide that these costs be deducted from an institutionalized Medicaid individual's income when calculating the individual's liability for the cost of the institutional care.

You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issue to be considered at the hearing is whether court-ordered attorney fees, guardianship fees and related court costs should be considered expenses for remedial care and, therefore, deducted under 42 CFR sections 435.725(c)(4), 435.733(c)(4), or 435.832(c)(4).

I am scheduling a hearing on your request to be held on March 18, 1987 at 10:00 a.m. in Room 215, Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,

William L. Roper, M.D.,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: January 28, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-3298 Filed 2-17-87; 8:45 am]

BILLING CODE 4120-03-M

Privacy Act of 1974; Systems of records

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a system of records, "Health Care Financing Administration (HCFA) Correspondence Handling and Processing System," HHS/HCFA/OMB No. 09-70-3003. We have provided background information about the system in the "Supplementary Information" section below. HCFA invites public comments by March 20, 1987, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Executive Office of Management and Budget (EOMB), on February 11, 1987. The system of records, including routine uses, will become effective April 13, 1987, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Mr. Richard A. DeMeo, Privacy Act Office, Office of Management and Budget, Health Care Financing Administration, Room G-A-1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert F. Webb, Division of Medicare Operations Support, Health Care Financing Administration, Room A-1, 1717 Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone: 301-594-7210.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a system of tracking correspondence under authority of 42 CFR 401.101 to 401.148, "Confidentiality and Disclosure," and section 1106(a) of the Social Security Act, 42 U.S.C. 1306(a).

These regulations and directives establish under what conditions Medicare information shall be made available to the public as well as Freedom of Information Act rules that apply to such disclosure of information.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosure for purposes that are compatible with the purposes for which

we collect the information. The proposed routine uses in the system meet the compatibility criteria since the information is collected for answering and tracking correspondence dealing with Medicare beneficiaries.

We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: February 10, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

09-70-3003

SYSTEM NAME:

Health Care Financing Administration (HCFA) Correspondence Handling and Processing System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration
Office of Management and Budget
Office of Administrative Services
Division of Medicare Operations
Support
Room A-1, 1717 Equitable Building
6325 Security Boulevard
Baltimore, Maryland 21207

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any beneficiary or group of beneficiaries who writes directly to HCFA, and also persons who write on behalf of beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

CHAPS (Correspondence Handling and Processing System)

MBCCS (Master Beneficiary Case Control System)

Information in the record includes the following:

1. Beneficiary Name
2. Beneficiary social security number or railroad retirement number
3. Branch to which case is assigned
4. Correspondence control number
5. Date of initial entry and any subsequent updating
6. Subject of request
7. Technician's identification number
8. Location of case
9. To whom or where case released
10. Date record accessed
11. Due date
12. Type(s) of information required
13. Cross reference

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 CFR 401.101 to 401.148.

Section 1106(a) of the Social Security Act, 42 U.S.C. 1306(a).

PURPOSE OF THE SYSTEM:

This system is used to track, control, and respond to correspondence from the public, other government agencies, contractors, and members of the Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosures may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

2. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereof; or
(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

4. To the Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

5. Third-party contracts (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is reasonably expected to have information relating to the individual's capability to manage his or her affairs or

to his or her eligibility for an entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: When there is a reasonable basis to conclude that the individual is of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual,) or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in magnetic media (e.g., magnetic tape and computer discs) and in paper form.

RETRIEVABILITY:

The data in this system are retrieved by name, social security number, or correspondence control number.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the Department of HHS' Automated Data Processing Manual, "Part 6, ADP System Security." This includes maintaining the records in a secure enclosure.

Access to specific records is limited to those who have a need for them in the performance of their official duties.

Paper records are maintained in locked files or in buildings which are secured after normal business hours.

RETENTION AND DISPOSAL:

Records are maintained on-line in the system from the time of control until 3 months after the final response is released.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Medicare Operations Support, Office of Management and Budget, Health Care Financing Administration, Room A-1,

1717 Equitable Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the system manager at the address indicated above and specify name or SSN.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should reasonably specify the records content being sought. You may also request an accounting of disclosures that have been made of your records, if any. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.5 (a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested, and state the corrective action sought and your reasons for requesting the correction, along with information to show how the record is inaccurate, incomplete, untimely, or irrelevant. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

Incoming correspondence and responses to such correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87-3376 Filed 2-17-87; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Addition of Certain Lands to the Nisqually Indian Reservation

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1. Notice is hereby given that under the authority of Section 7 of the Act of June 18, 1934 (25 U.S.C. 467; 48 Stat. 986), the hereinafter described land located in Thurston County was proclaimed a part of the Nisqually Indian Reservation effective January 26, 1987, for the exclusive use of Indians entitled by enrollment or tribal membership to residence at such reservation.

Willamette Meridian Thurston County, Washington

Township 18 North, Range 1 East, Section 34: that portion of Government Lot 6, (outside

the Indian Reservation) lying south of Secondary State Highway No. 5-1, and that portion of the northwest quarter of the southwest quarter lying south of Secondary Highway No. 5-1, EXCEPT from said northwest quarter of the southwest quarter the west 1000 feet as measured along the south line thereof.

Said land being subject to all valid rights, reservations, rights-of-way and easement of record.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 87-3282 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's Information Collection Clearance Officer at the phone number listed below. Comments on and suggestions for the requirements should be made directly to the Bureau's clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: 25 CFR Part 38, Subchapter E, Education Personnel (Volunteer Application Form for Bureau of Indian Affairs Schools).

Abstract: The information required of a volunteer applicant is needed to allow the school board and school supervisor to determine an applicant's eligibility, contact applicants, and interview, screen, and select applicants for appropriate volunteer assignments. The information collection will involve individuals and volunteer organizations.

Bureau form No.: BIA-62121.

Frequency: On occasion.

Description of respondents:

Individuals and volunteer organizations.

Annual Responses: 218.

Annual burden hours: 145.3.

Bureau clearance officer: Cathie Martin (202) 343-3577.

Nancy C. Garrett,

Acting Deputy to the Assistant Secretary/
Director—Indian Affairs (Indian Education Programs).

[FR Doc. 87-3283 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Co-940-07-4220-11; C-027843]

Colorado; Proposed Continuation of Withdrawal of Lands for Use as an Area for Scientific Study and Observation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for use as an area for scientific study and observation, be modified and the withdrawal be continued for 20 years insofar as it affects 2,896.73 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received by May 19, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office (303) 236-1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 1960, dated August 24, 1959, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. This order affects lands in T. 40 N., R. 16 W., and Tps. 39 and 40 N., R. 17 W., New Mexico Principal Meridian, Colorado. This area aggregates approximately 2,896.73 acres of land in the San Juan National Forest, Dolores County, Colorado.

The purpose of this withdrawal is for the administration and protection of the Narraguinnep Natural Area. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration

by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Richard D. Tate,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-3291 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-JB-M

[CO-940-07-4220-11; C-024415]

Colorado; Notice of Proposed Continuation of Withdrawal of Lands for Use as Recreation Areas and Campgrounds

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for use as recreation areas and campgrounds, be modified and the withdrawal be continued for 20 years insofar as it affects 90.00 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received by May 19, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 236-1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 1873, dated June 4, 1959, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following identified lands:

New Mexico Principal Meridian—San Juan National Forest

North Canyon Campground Site

T. 36 N., R. 6 W.,

Sec. 16, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
and SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Vallecito Dam Area

T. 36 N., R. 6 W.,

Sec. 20, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate 90.00 acres in La Plata County.

The purpose of this withdrawal is for the administration and protection of the North Canyon Campground Site and the Vallecito Dam Area. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. Notice of the final determination will be published in the *Federal Register*. The existing withdrawal will continue until such determination is made.

Richard D. Tate,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 87-3303 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-JB-M

[CO-940-07-4220-11; C-023760]

Colorado; Proposed Continuation of Withdrawal of Lands for Use as an Administrative Site and Campground

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for use as an administrative site and campground, be modified and the withdrawal be continued for 20 years insofar as it affects 32.50 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received by May 19, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office (303) 236-1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 2284, dated February 28, 1961, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following identified lands:

Sixth Principal Meridian

Gunnison National Forest, Dorchester Administrative Site

T. 12 S., R. 83 W.,

Sec. 28, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

White River National Forest, Osgood Campground

T. 10 S., R. 88 W.,

Sec. 9, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 32.50 acres in Gunnison and Pitkin Counties.

The purpose of this withdrawal is for the administration and protection of the Dorchester Administrative Site and the Osgood Campground. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. Notice of the final determination will be published in the *Federal Register*. The existing withdrawal will continue until such determination is made.

Richard D. Tate,
Chief, Branch of Lands and Minerals
Operations

[FR Doc. 87-3304 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-JB-M

[OR-030-7-4322-02; GP7-116]

Vale District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: The Vale District Grazing Advisory Board will meet Wednesday, March 11 in the Vale District Office. The meeting agenda will include discussion of remanded grazing decisions, the district policy regarding non-renewable use, the status of allotment evaluations, the Whitehorse Ranch allotment management plan, and an update on Oregon BLM's organization study.

DATES: The meeting will be held Wednesday, March 11 in the Vale District Office conference room.

ADDRESS: The Vale District Office is located at 100 East Oregon Street, Vale, Oregon, 97918.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Public Affairs Specialist, Vale District Office, 503-473-3144.

William C. Calkins,
District Manager.

[FR Doc. 87-3296 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-33-M

[NM NM 30737]

New Mexico; Proposed Reinstatement of Termination Oil and Gas Lease

AGENCY: United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2-3, John A. Yates, petitioned for reinstatement of oil and gas lease NM NM 30737 covering the following described lands located in Chaves County, New Mexico:

T. 5 S., R. 23 E., NMPM, New Mexico

Sec. 15, All;
Sec. 22, All;
Sec. 27, All;
Sec. 34, S $\frac{1}{2}$;
Sec. 35, N $\frac{1}{2}$.

Containing 2,560.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$5.00 per acre per year and royalties shall be at the rate of 16 $\frac{1}{2}$ percent.

Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, September 1, 1986.

Dated: January 29, 1987.

Tessie R. Anchondo,
Chief, Adjudication Section.

[FR Doc. 87-3294 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-FB-M

[OK NM 46287]

New Mexico; Proposed Reinstatement of Termination Oil and Gas Lease

AGENCY: United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of Pub. L. 97-451, Ratliff Exploration Company and Mustang Production Company, petitioned for reinstatement of oil and gas lease OK NM 46287 covering the following described lands located in Major County, Oklahoma:

T. 21 N., R. 14 W., I.M., Oklahoma Sec. 3, S $\frac{1}{2}$ SW $\frac{1}{4}$.

Containing 80.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$10.00 per acre per year and royalties shall be at the rate of 18 $\frac{1}{2}$ percent, computed on a sliding scale 4 percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, October 1, 1985.

Dated: January 29, 1987.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 87-3295 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-FB-M

Off-Road Vehicle Designation Decisions, Ridgecrest Resource Area; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Decision to update and revise off-road vehicle route designations which open, close, or limit vehicle use of routes of travel on public lands in the Ridgecrest Resource Area which are shown on the Jawbone-Dove Springs Desert Access Guide.

SUMMARY: Final decisions to update and revise off-road vehicle designations have been made for an area in eastern Kern County in order to protect the resources of the area, to promote safe use of the lands, and to minimize conflicts among users. The designations were prepared following the designation criteria defined in 43 CFR 8342.1 and with the authority of 43 CFR 8000.0-6, 8340, 8341, 8342 and 8354. Public comments concerning these off-road

vehicle route designation revisions in the Ridgecrest Resource Area were received during December 1985, and August 1986. The California Desert Conservation area has been mapped using a series of 21 maps called the Desert Access Guides. These guides show vehicle route of travel designations which were made in the California Desert Conservation Area Plan. The route designations are now being updated and revised as new information becomes available regarding needed changes to improve use opportunities or protect resource values.

This notice serves to inform the public that 22 decisions to revise route designations have been completed for the Jawbone-Dove Springs Desert Access Guide in the Ridgecrest Resource Area. The area of this guide encompasses approximately 500,000 acres of BLM administered public land in the desert portion of eastern Kern County and includes such locations as Kelso Valley, Jawbone Canyon, Dove Springs Canyon and Middle Knob.

DATE: This amendment is effective upon publication of this notice and will remain in effect until rescinded or modified by the authorized officer. Enforcement of these routes will be implemented as routes are signed or as maps are printed and become available to the public.

ADDRESSES: Send inquiries to District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507 or the Area Manager, Ridgecrest Resource Area, 112 East Dolphin Avenue, Ridgecrest, California 93555. Route decision records and maps showing vehicle designations are available for public review at the Ridgecrest Resource Area Office from 7:30 am to 4:00 pm on Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dave Mensing, District Outdoor Recreation Planner at (714) 351-6401, or Steve Smith, Ridgecrest Resource Area Chief of Resource Protection and Visitor Management at (619) 375-7125.

SUPPLEMENTARY INFORMATION: These vehicle route designations are enforceable under the authority provided in the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), the Endangered Species Act (16 U.S.C. 1701 et seq.), E.O. 11644 (Use Of Off-Road Vehicle On The Public Lands), and 3 CFR 74.332 as amended by E.O. 11989, 421 FR 26959 (May 27, 1977). Any person who violates or fails to comply with the vehicle route designations as governed by 43 CFR Part 8341 is subject to arrest, conviction and punishment pursuant to

appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000.00 and/or imprisonment for not longer than twelve months.

Dated: February 3, 1987.

H.W. Riecken,

Acting District Manager.

[FR Doc. 87-3297 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-010-07-4322-02]

Bakersfield District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 and 43 CFR Part 1780 that the Bakersfield District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally March 20 and 21, 1987 in Hollister, California. The Friday meeting will begin at 9 a.m. at the Hollister Women's Club, 1149 Powell Street, Hollister, California. The meeting on Saturday will consist of a field trip to the Clear Creek Management Area and to the site of the Silver Creek Land Acquisition Proposal, departing at 8 a.m. from the BLM Hollister Resource Area Office, 402 Parkhill, Hollister.

SUPPLEMENTARY INFORMATION: The District Advisory Council meeting agenda on Friday will include updates on the Walker Pass Coordinated Resource Management Plan and the Eastern Sierra Transmission Corridor Study, evaluation of the implementation of the Clear Creek Management Plan, and an overview of the Silver Creek Land Acquisition Proposal.

The public is invited to address the Council regarding any BLM land management issue on Friday, March 20, from 1 p.m. to 2 p.m.

Members of the public are welcome to attend any portion of the two-day meeting. Participants in the Saturday tour must meet at 8 a.m. at the BLM Hollister Resource Area Office, 402 Parkhill, and must provide their own meals and four-wheel-drive transportation.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marta Witt, Public Affairs Officer,

Bakersfield District Office, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301; (805) 861-4191.

Nancy J. Cotner,
Associate District Manager.
February 12, 1987.

[FR Doc. 87-3450 Filed 2-17-87; 12:50 pm]
BILLING CODE 4310-40-M

Fish and Wildlife Service

Notice of Receipt of Applications for Permits; Memphis Zoological Gardens

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-714961

Applicant: Memphis Zoological Gardens, Memphis, TN.

The applicant requests a permit to export one male lowland gorilla (*Gorilla gorilla gorilla*) to the Chapultepec Park Zoo, Mexico City, Mexico. The applicant contends that the gorilla is sterile, thus surplus to the U.S. breeding program, and that the recipient will use the animal for conservation education purposes. Mexico is not a party to the Convention on International Trade in Endangered Species (CITES).

PRT-714959

Applicant: Memphis Zoological Gardens, Memphis, TN.

The applicant requests a permit to export one pair of orangutans (*Pongo pygmaeus*) to the Chapultepec Park Zoo, Mexico City, Mexico. The applicant contends that these orangutans are not desirable for use in the U.S. breeding program because they are subspecific hybrids, and that the recipient will use the animals for conservation education purposes. Mexico is not a party to the Convention on International Trade in Endangered Species (CITES).

PRT-715024

Applicant: Worldwide Primates, Inc., Miami, FL.

The applicant requests a permit to purchase in interstate commerce and export two male and two female ringtailed lemurs (*Lemur catta*) and two male and two female black lemurs (*Lemur macaco*) to Ichikawa Municipal Zoological and Botanical Gardens, Ichikawa, Japan for the purposes of propagation of the species and conservation education. The four ringtailed lemurs were born in captivity at, and would be purchased from, Louisiana Purchase Gardens, Monroe,

LA; the four black lemurs were born in captivity at, and would be purchased from, Duke University Primate Center.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: February 9, 1987.

R.K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-3299 Filed 2-17-87; 8:45 am]
BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 7, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 5, 1987.

Carol D. Shull,
Chief of Registration, National Register.

CALIFORNIA

Napa County

Pope Valley, *Aetna Springs Resort*, 1600 Aetna Springs Rd.

CONNECTICUT

Fairfield County

Redding (also in Wilton), *Georgetown Historic District*, Roughly bounded by US 7, Portland, CT 107, and Norwalk River

Harford County

Bristol, *Bristol Girls' Club*, 47 Upson St. Burlington, *Hart's Corner Historic District*, 247 Monce Rd., 102, and 105 Stafford Rd.

KENTUCKY

Jefferson County

Louisville, *Merriwether House* (Jefferson County MRA), 6421 Upper River Rd.

Louisville, *Nock, Samuel, House* (Boundary Increase) (Jefferson County MRA), 1401 Elm Rd.
Louisville, *Stitzel, Arthur P., House* (Jefferson County MRA), 9707 Shelbyville Rd.

MASSACHUSETTS

Barnstable County

Barnstable, *Baker, Benjamin Jr., House* (Barnstable MRA), 1579 Hyannis Rd.

Bristol County

Fall River, *Sacred Heart School* (Fall River MRA), 90 Linden St.

Hampden County

Springfield, *Ethell Apartment House*, 70 Patton St.
Springfield, *Laurel Hall*, 72-74 Patton St.

Worcester County

Westminster, *Wood, Ahijah, House*, 174 Worcester Rd.
Westminster, *Wood, Nathan, House*, 164 Worcester Rd.

NEW JERSEY

Burlington County

Roebling vicinity, *Providence Presbyterian Church of Bustleton*, Jct. of Old York and Burlington-Bustleton Rds.

Hudson County

Hoboken, *Buildings at 1200-1206 Washington Street*, 1200-1206 Washington St.

Morris County

Morristown vicinity, *Glynallen*, Canfield Rd.

Somerset County

McDonald's-Kline's Mill

NORTH CAROLINA

Alamance County

Mebane vicinity, *Henderson Scott Farm Historic District*, Jct. of NC 119 and SR 2135

OREGON

Hood River County

Hood River, *Copple, Simpson, House*, 911 Montello Ave.

Josephine County

Grants Pass, *Lundburg, George H., House*, 404 NW A St.

Marion County

Salem, *Ladd and Bush Bank Architectural Cast Iron*, 302 State St.

Multnomah County

Portland, *Durham-Jacobs House*, 2138 SW Salmon St.
Portland, *Pipes, Martin Luther House*, 2675 SE Vista Ave.
Portland, *Portland Fire Station No. 17*, 824 NW 24th Ave.
Portland, *Town Club, The*, 2115 SW Salmon St.

Yamhill County

Dayton, *Avery House* (Dayton MRA), 403 Church St.
Dayton, *Baptist Church* (Dayton MRA), 301 Main St.

Dayton, *Baxter House (Dayton MRA)*, 407 Church St.

Dayton, *Brookside Cemetery (Dayton MRA)*, S end of Third St.

Dayton, *Cain House (Dayton MRA)*, 208 Alder St.

Dayton, *Carter—Goodrich House (Dayton MRA)*, 521 Church St.

Dayton, *Commercial Club—Stuckey, S.C., Building (Dayton MRA)*, 304 Ferry St.

Dayton, *Courthouse Square (Dayton MRA)*, bounded by Third, Fourth, Ferry, and Main Sts.

Dayton, *Dayton Auto and Transfer Company Building (Dayton MRA)*, 411 Ferry St.

Dayton, *Dayton Common School (Dayton MRA)*, 504 Fourth St.

Dayton, *Dayton High School (Dayton MRA)*, 801 Ferry St.

Dayton, *Dayton Methodist Episcopal Church (Dayton MRA)*, 302 Fourth St.

Dayton, *Dayton Opera House (Dayton MRA)*, 318 Ferry St.

Dayton, *Diehl—Seitters House (Dayton MRA)*, 527 Church St.

Dayton, *Evangelical United Brethren Church (Dayton MRA)*, 302 Fifth St.

Dayton, *Fischer, Carl, Meats (Dayton MRA)*, 400 Ferry St.

Dayton, *Fletcher—Stretch House (Dayton MRA)*, 401 Oak St.

Dayton, *Foster Oil Company (Dayton MRA)*, 216 Ferry St.

Dayton, *Free Methodist Church (Dayton MRA)*, 411 Oak St.

Dayton, *Gabriel—Filer House (Dayton MRA)*, 525 Church St.

Dayton, *Gabriel—Will House (Dayton MRA)*, 401 Third St.

Dayton, *Harrington House (Dayton MRA)*, 212 Mill St.

Dayton, *Harris Building (Dayton MRA)*, 302 Ferry St.

Dayton, *Hibbert, W.S., House (Dayton MRA)*, 426 Fifth St.

Dayton, *Hole House (Dayton MRA)*, 623 Ferry St.

Dayton, *House at 700 Church Street (Dayton MRA)*, 700 Church St.

Dayton, *Jessen—Goodrich House (Dayton MRA)*, 324 Sixth St.

Dayton, *Kreitz House (Dayton MRA)*, 627 Church St.

Dayton, *Lewis—Shippy House (Dayton MRA)*, 421 Sixth St.

Dayton, *Londershausen House (Dayton MRA)*, 402 Main St.

Dayton, *Londershausen House (Dayton MRA)*, 309 Main St.

Dayton, *Mabee—Mayberry House (Dayton MRA)*, 309 Seventh St.

Dayton, *McNamar Building (Dayton MRA)*, 310-312 Ferry St.

Dayton, *McNish House (Dayton MRA)*, 1005 Ferry St.

Dayton, *Mellinger House (Dayton MRA)*, 414 Fifth St.

Dayton, *Mellinger—Ponnay House (Dayton MRA)*, 603 Palmer Lane

Dayton, *Methodist Episcopal Church (Dayton MRA)*, 202 Fourth St.

Dayton, *Monahan House (Dayton MRA)*, 120 Fifth St.

Dayton, *Morse House (Dayton MRA)*, 409 Oak St.

Dayton, *Morse House (Dayton MRA)*, 101 Fifth St.

Dayton, *Nichols House (Dayton MRA)*, 303 Main St.

Dayton, *Oregon Mutual Merchant Fire Insurance Association Office (Dayton MRA)*, 308 Ferry St.

Dayton, *Palmer House (Dayton MRA)*, 800 Ferry St.

Dayton, *Powell, Curtis W., House (Dayton MRA)*, 524 Ash St.

Dayton, *Rippey House (Dayton MRA)*, 533 Ash St.

Dayton, *Smith, Andrew, House No. 1 (Dayton MRA)*, 404 Main St.

Dayton, *Smith—Jones House (Dayton MRA)*, 306 Fifth St.

Dayton, *Stuart, Dr., House (Dayton MRA)*, 103 Ferry St.

Dayton, *Turner House (Dayton MRA)*, 521 Ferry St.

PENNSYLVANIA

Allegheny County

Wilmerding, *Westinghouse Air Brake Company General Office Building*, Marguerite and Bluff Sts.

Chester County

Phoenixville, *Phoenixville Historic District*, Roughly bounded by Penn St., RR tracks, Fourth Ave., and Wheatland St.

Erie County

Erie, *Modern Tool Company*, NE jct. of State and Fourth Sts.

SOUTH CAROLINA

Greenville County

Greer, *Greer Depot*, 311 Trade St.

Richland County

Columbia, *Claussen's Bakery (Columbia MRA: Supplement IX)*, 2001-2003 Green St.

York County

Fort Mill vicinity, *White, William Elliott, House*, North White St.

SOUTH DAKOTA

Brookings County

Brookings, *Fishback House (Boundary Increase)*, 501 Eighth St.

TENNESSEE

Davidson County

Nashville, *Lebanon Road Stone Arch Bridge (Omohundro Waterworks System TR)*, Over Brown's Creek at Lebanon Rd.

Nashville, *Omohundro Water Filtration Complex District (Omohundro Waterworks System TR)*, NE of Omohundro Dr.

Fentress County

Allardt, *Gernt, Bruno, House*, Base Line Rd.

Hamilton County

Chattanooga, *East Side Junior High School*, 2220 E. Main St.

Shelby County

Collierville vicinity, *Greenlevel*, 853 Collierville-Arlington Rd. S.

Memphis, *Union Avenue Methodist Episcopal Church, South*, 2117 Union Ave.

[FR Doc. 87-3266 Filed 2-17-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on March 5 and 6, 1987 at the One Washington Circle Hotel, One Washington Circle NW., Washington, DC, Conference Center. The Committee will discuss research policy questions related to the Agriculture Program of the Science and Technology Bureau.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Curtis Jackson, Director, Office of Research and University Relations, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Jackson, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235-8929.

Dated: February 9, 1987.

Curtis Jackson,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 87-3366 Filed 2-17-87; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30972]

Delaware and Hudson Railway Company; Lease and Trackage Rights Exemption; Springfield Terminal Railway Company; Exemption

Delaware and Hudson Railway Company (D&H) and Springfield Terminal Railway Company (ST) filed a notice of exemption for D&H to lease to ST the following lines of railroad in the vicinity of Fort Edward, NY:

(1) The Lake George Branch between a connection with the D&H Canadian Main Line at M.P. A-55.87 (Fort Edward) and M.P. A-62.91 (end of track), a distance of approximately 7.04 miles;

(2) The Coolidge Branch between a connection with the Lake George Branch

at M.P. 59.57 and M.P. 61.86 (end of track), a distance of approximately 2.29 miles; and

(3) All yard, industry lead and side tracks in Fort Edward Yard on both sides of the D&H Canadian Main Line between M.P. A-53.78 and M.P. A-57.98.

In order to facilitate ST's operations on these lines, D&H will grant trackage rights to operate over its Canadian Main Line between Albany, NY, and Canada as follows:

(1) Track No. One, Track No. Two and Single Track between M.P. A-59 and M.P. A-53.78; and

(2) Between M.P. 53.78 (CPC 54) and M.P. 38.2 (CPC 38).

D&H and ST will interchange traffic at a mutually agreeable location. The purpose of these transactions is to enable ST to carry on operations now performed by D&H.

D&H and ST are wholly-owned subsidiaries of Guilford Transportation Industries, Inc. (GTI). GTI also owns the Maine Central Railroad Company and the Boston and Maine Corporation. As a result of the proposed transaction, it is anticipated that ST will provide a more responsive and efficient service to rail customers than D&H is now providing. D&H will improve its financial viability by eliminating operations which are costly to perform in relation to the revenues which are realized. With its lower cost structure, ST should be able to perform these operations on a profitable basis.

Since D&H and ST are members of the same corporate family, both the lease and the assignment of trackage rights fall within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(3). The transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The assignment of trackage rights also falls within another category of exempt transactions. See 49 CFR 1180.2(d)(7).

Any employees affected by the lease transaction will be protected by the labor protective conditions set forth in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978), and 360 I.C.C. 653 (1980).

Any employees affected by D&H's grant of trackage rights to ST will be protected by the conditions set forth in *Norfolk & Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast, supra*, 360 I.C.C. 653 (1980). These conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2) for the respective transactions.

However, in connection with the lease transaction, the Railway Labor Executives' Association (RLEA), by petition filed January 29, 1987, requests the imposition of the labor protective conditions developed by the Commission in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). Drawing an analogy to *Union Pacific—Control—Missouri Pacific; Western Pacific*, 366 I.C.C. 459 (1982), RLEA contends that the *New York Dock* conditions should also apply to this lease transaction because it is allegedly just another transaction to further the control benefits attributable to the original acquisition of D&H by GTI. The *New York Dock* conditions were also imposed in that acquisition. See *Guilford Transp. Industries, Inc.—Control—D&H Ry. Co.*, 366 I.C.C. 396, 425 (1982). A separate Commission decision will follow to consider which conditions should be imposed.¹

Decided: February 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-3301 Filed 2-17-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30983]

Edward L. Addison; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Edward L. Addison from the requirements of 49 U.S.C. 11322 to permit him: (a) To sit on the Boards of Directors of Phelps Dodge Corporation and Southwest Forest Industries, Inc.; and (b) also to hold the position of director of the CSX Corporation.

¹ RLEA requests that the consummation of this lease transaction be delayed until a decision is served establishing the appropriate level of labor protection. RLEA argues that prior consummation will irrevocably harm affected employees because they will be denied certain *New York Dock* benefits that may subsequently be found applicable (particularly the requirement that an implementing agreement must be reached before operations are changed). However, this argument does not by itself justify this requested relief. The parties may consummate the transaction at their own risk. However, if the parties do consummate the lease transaction on the basis of the *Mendocino* conditions and the Commission subsequently determines that the *New York Dock* conditions apply, the parties will then be in possible violation of those conditions, and affected employees could seek to enforce the conditions through the arbitration process.

DATES: This exemption is effective on February 12, 1987. Petitions to reopen must be filed by March 10, 1987.

ADDRESSES: Send pleadings referring to Finance Docket No. 30983 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) John D. McLanahan, Suite 1400, Candler Building, 127 Peachtree Street NE., Atlanta, GA 30043

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: February 10, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-3300 Filed 2-17-87; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[87-14]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATE AND TIME: March 3, 1987, 9 a.m. to 5:30 p.m., and March 4, 1987, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Federal Building 6, Room 7002, 400 Maryland Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Mr. Nathaniel B. Cohen, Code LB, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8335.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J.

Fink and is composed of 25 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities.

This meeting will be closed to the public from 4:30 p.m. to 5:30 p.m. on March 3 for a discussion of the qualifications of candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open—except for a closed session as noted in the agenda below.

AGENDA:

March 3, 1987

- 9 a.m.—Introductory Remarks.
- 9:15 a.m.—Review of FY 1988 President's Budget.
- 10:15 a.m.—Reports of NAC Committees and Task Forces.
- 1:15 p.m.—NASA Organization and Management Changes.
- 2 p.m.—NASA Strategic Planning.
- 2:45 p.m.—Recommendations of NAC Goals Task Force.
- 3:30 p.m.—Discussion of Planning, Goals, and Program Implications.
- 4:30 p.m.—Closed Session.
- 5:30 p.m.—Adjourn.

March 4, 1987

- 8:30 a.m.—Office of Aeronautics and Space Technology Automation and Robotics Program.
- 9:15 a.m.—Report of the NAC Space Systems and Technology Advisory Committee Automation and Robotics Task Force.
- 10 a.m.—Discussion of Automation and Robotics.
- 10:30 a.m.—Status of Space Transportation System Recovery and Launch Vehicle Planning.
- 11:30 a.m.—Recommendations of NAC Expendable Launch Vehicle Task Force.
- 12:15 p.m.—Discussion of Launch Vehicle Issues.
- 1:30 p.m.—Other Business.
- 2 p.m.—Council Report to NASA.

3 p.m.—Adjourn.

Richard L. Daniels,
Advisory Committee Management Officer,
National Aeronautics and Space
Administration.

February 10, 1987.

[FR Doc. 87-3267 Filed 2-17-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Records Schedules; Availability

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules, request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which will reduce the records retention period for records already authorized for disposal. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records that lack archival value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before April 16, 1987.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the title of the requesting agency. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this

period. Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the value of the records for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules. This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records to be scheduled for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending Approval

1. Department of the Army, Army Records Management Operations Office (N1-AU-86-59). Records relating to health and hospitalization statistical data (Army-wide medical statistical data is permanent).
2. Administrative Office of the U.S. Courts, Legislative Affairs Office (N1-116-87-1). Records relating to legislation affecting the judicial system.
3. Department of Agriculture, National Agricultural Statistics Service (N1-355-86-1). Update of agency's comprehensive records schedule.
4. Environmental Protection Agency, Office of the Comptroller (NC1-412-85-1). Comprehensive schedule covering administrative records maintained by the Resources System Staff.
5. General Accounting Office, General Services and Controller, Records Management Staff (N1-217-87-1). Reduction in retention period of Division/Office numerical forms case files.
6. Department of Labor, Office of Pension and Welfare Benefit Programs (NC1-317-85-3). Records relating to private pension and welfare benefit plans.
7. National Archives and Records Administration, Office of Records Administration (N1-GRS-87-5). Revision of General Records Schedule 20, Machine-readable Records, retitled as Electronic Records.
8. National Mediation Board (NC1-13-81-3). Budget policy and budget estimates and justification files.
9. Tennessee Valley Authority, Maps and Survey Division (N1-142-87-5). The Set-Up, a monthly employee newsletter.

published from July 1943 to November/December 1945.

Dated: February 9, 1987.

Frank G. Burke,

Acting Archivist for the United States.

[FR Doc. 87-3367 Filed 2-17-87; 8:45 am]

BILLING CODE 7517-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on March 4-5, 1987, from 9:00 a.m.-5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 5, 1987, from 4:30 p.m.-5:30 p.m. for a discussion of policy issues.

The remaining sessions of this meeting on March 4, 1987, from 9:00 a.m.-5:30 p.m., and on March 5, 1987, from 9:00 a.m.-4:30 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 87-3285 Filed 2-17-87; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be

held on March 4-5, 1987, from 9:00 a.m.-5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 5, 1987, from 1:00 p.m.-3:00 a.m. for a discussion of guidelines and policy issues.

The remaining sessions of this meeting on March 4, 1987, from 9:00 a.m.-5:00 p.m., and on March 5, 1987, from 9:00 a.m.-12:00 p.m. and from 3:00 p.m.-5:00 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 10, 1987.

[FR Doc. 87-3286 Filed 2-17-87; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public meeting of the National Commission for Employment Policy at the Radisson Gunter Hotel, 205 E. Houston, San Antonio, Texas.

DATE: Thursday, March 12, 1987: 9:00 A.M. to 5:00 P.M.

Status: The meeting is open to the public.

Matters To Be Discussed: The Commissions' research agenda, legislative matters, and progress reports on current staff activities.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mahaffey, Public Affairs Officer, National Commission for Employment Policy, 1522 K. St. NW.

Suite 300, Washington, DC 20005, 202-724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Copies of the minutes and materials prepared for the meeting will be available for public inspection at the Commission's offices, 1522 K St. NW, Suite 300, Washington, DC 20005.

Signed this 5th day of February, 1987.

Scott W. Gordon,

Director.

[FR Doc. 87-3276 Filed 2-17-87; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or canceled since the last list of proposed meetings published January 21, 1987 (52 FR 2324). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the *Federal Register* approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 A.M. and Subcommittee meetings usually begin at 8:30 A.M. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the March 1987 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 8:15 A.M. and 5:00 P.M. Eastern Time.

ACRS Subcommittee Meetings

Human Factors, February 18, 1987, Washington, DC. The Subcommittee will review the "Safety Conscience" concept at utilities.

Waste Management, February 19 and 20, 1987, Washington, DC. The Subcommittee will review the following nuclear waste management topics: (1) Rulemaking for the definition of high level wastes (HLW), (2) Implementation of the HLW Five Year Plan, (3) HLW Geologic repository performance allocation, (4) Assessing compliance with the EPA standard for a HLW Geologic Repository, (5) Hydrology of geologic repositories (domestic and international programs), (6) NRC's waste package corrosion research program, (7) Guidance documents for low level waste (LLW) Shallow Land Burial (Standard Review Plan, and Standard Format and Content Guide), and (8) Long range plans for LLW Program through 1993.

Regional and I&E Programs, March 12, 1987, Washington, DC. The Subcommittee will continue its review of the activities of the Office of Inspection and Enforcement.

Metal Components, April 2, 1987, Washington, DC. The Subcommittee will discuss: (1) Beaver Valley, Unit 2 Whipjet Program, first application of GDC 4 broad scope rules, (2) NUREG-0313, Revision 2 with public comments, (3) other related matters, e.g., presentation on double-ended-guillotine-break by Savannah River Lab.

Babcock & Wilcox Reactor Plants, April 8, 1987, Washington, DC. The Subcommittee will continue its review of the long-term safety review of B&W reactors. This effort was begun during the summer of 1986; initial Committee comments offered on July 16, 1986 in a letter to V. Stello, EDO.

Advanced Reactor Designs, Date to be determined (April), Washington, DC. The Subcommittee will review DOE advanced non-LWR designs regarding the treatment of severe accidents and source terms.

Advanced Reactor Designs, Date to be determined (April), Washington, DC. The Subcommittee will review DOE advanced non-LWR designs regarding the containment issue.

AC/DC Power Systems Reliability, Date to be determined (April), Washington, DC. The Subcommittee will review the proposed Station Blackout rule (USI A-44).

Severe Accidents, Date to be determined (April/May), Washington, DC. The Subcommittee will discuss the research plan intended to resolve the source term uncertainty areas and

review the Expert Panels assessment of these programs.

Severe Accidents, Date to be determined (April/May), Washington, DC. The Subcommittee will continue the review of the proposed generic letter for Individual Plant Examinations (IPEs) as part of the NRR Implementation Plan for Severe Accident Policy Statement.

Thermal Hydraulic Phenomena, Date to be determined (2-day meeting, April/May), INEL, Idaho Falls, ID. The Subcommittee will review: (1) the Final ECCS Rule and associated documentation, (2) uncertainty methodology to be applied to review the new BE ECCS code models, and (3) TIC activities at INEL.

Decay Heat Removal Systems (tentative), Date to be determined (April/May), Washington, DC. The Subcommittee will continue its review of the NRR Resolution Position for USI A-45.

Standardization of Nuclear Facilities, Date to be determined (May), Washington, DC. The Subcommittee will discuss requirements of the EPRI Advanced Light Water Reactors Program.

Regional and I&E Programs, Date to be determined (May), Region IV, Arlington, TX. The Subcommittee will continue its review of the activities under the control of the Region IV Office.

Regulatory Policies and Practices, Date to be determined, Washington, DC. The Subcommittee will continue its current review of the nuclear regulatory process, and will review the NRR policy for nuclear plant license renewal.

Joint Seabrook/Occupational and Environmental Protection Systems/Severe Accidents, Date to be determined, Washington, DC. The Subcommittee will review Brookhaven National Laboratory's draft report of the Seabrook Emergency Planning Sensitivity Study.

Seabrook Unit 1, Date to be determined, Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook Unit 1.

ACRS Full Committee Meeting

March 5-7, 1987: Items are tentatively scheduled.

*A. *Quantitative Safety Goals (Open)*—Discuss proposed NRC plan for implementation of NRC quantitative safety goals.

*B. *Tennessee Valley Authority (Open)*—Discuss proposed TVA corporate nuclear performance plan.

*C. *Safety Responsibility at Nuclear Facilities (Open)*—Discuss proposed ACRS report to NRC regarding the

responsibility for safety at nuclear power plants.

*D. *Fitness for Duty (Open)*—Briefing regarding application of NRC rule on fitness for duty of nuclear power plant operations personnel.

*E. *Nuclear Power Plant License Renewal (Open)*—Briefing regarding proposed NRC policy regarding extension of nuclear power plant licenses.

*F. *Radwaste Management and Disposal (Open)*—Discuss proposed ACRS participation in the NRC regulation of radioactive waste management and disposal.

*G. *Radwaste Risk (Open)*—Discuss proposed ACRS comments regarding comparison of the risks associated with radwaste management and disposal compared to other nuclear related risks.

*H. *Safety Features in Foreign Nuclear Power Plants (Open/Closed)*—Discuss safety features in foreign nuclear power plants which are different from those in facilities licensed by NRC.

*I. *Pressure Suppression Containments (Open)*—Discuss proposed NRC resolution of steam relief valve discharge line failures in the airspace of Mark I and Mark II type containments and other methods of suppression pool by-passing.

*J. *GE Advanced Boiling Water Reactor (Open/Closed)*—Discuss proposed licensing basis agreement for the review of the standardized advanced boiling water reactor being proposed by the General Electric Company.

*K. *Improved Light-Water Reactors (Open)*—Discuss features proposed in the EPRI requirements for improved standardized LWRs compared to the ACRS report dated January 15, 1987 on Improved Safety for Future Light Water Reactor Design.

*L. *Future ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

M. *New ACRS Members (Closed)*—Discuss qualifications of candidates proposed for consideration as nominees for appointment to the Committee (tentative).

April 9-11, 1987—Agenda to be announced.

May 7-9, 1987—Agenda to be announced.

Dated: February 11, 1987.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 87-3350 Filed 2-17-87; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 40-8348]

Environmental Statements; Minerals Exploration Co.

In the matter of draft finding of no significant impact regarding termination of source material license SUA-1223 for the Minerals Exploration Company R&D in Situ Leach Facility located in Sweetwater County, WY.

AGENCY: United States Nuclear Regulatory Commission.

ACTION: Notice of draft finding of no significant impact.

(1) Proposed Action

The U.S. Nuclear Regulatory Commission (the Commission) is proposing to terminate Source Material License SUA-1223 for the Minerals Exploration Company's A-3 R&D in situ leach facility located in Sweetwater County, Wyoming.

(2) Reasons for the Draft Finding of No Significant Impact

The Commission's Uranium Recovery Field Office has reviewed the Minerals Exploration Company's final closure plan and decommissioning activities which were performed in accordance with the requirements of Source Material License SUA-1223. The plan for final closure was approved by the Commission on June 12, 1986. Based on a review of the decommissioning activities, the Commission has determined that no significant environmental impact has resulted.

The following statements support the finding of no significant impact and summarize the decommissioning activities:

(a) Two test patterns were utilized in the A-3 R&D in situ leach project. Test pattern A was operated for eight days beginning on August 2, 1976 using an ammonium bicarbonate lixiviant. After a ten day pump out, aqueous carbonic acid was used with hydrogen peroxide or oxygen as the oxidant. Injection/production terminated on March 23, 1978. Restoration of Test Pattern A was completed in September of 1978 using a group-water sweep. Post restoration stability monitoring continued through 1984. The Commission accepted the restoration on April 28, 1986.

Test Pattern B was operated from October 15, 1976, to March 23, 1978, utilizing aqueous carbonic acid. Restoration was completed in September of 1978 by performing a ground-water sweep. Post restoration stability monitoring continued through 1984. The Commission accepted the restoration on April 28, 1986.

(b) Well field abandonment was performed in accordance with the Wyoming State Engineer's Office permit requirements. Wells were filled with bentonite or drilling mud, and with dry dirt near the top. Each well casing was cut two feet below the ground surface and the tops were capped. The wellfield area was cleaned and later backfilled.

All process tanks, columns, pipes and associated equipment were removed and disposed of at a nearby licensed tailings impoundment. Area gamma surveys indicated contaminated soil which was subsequently removed and disposed of in the licensed tailings impoundment.

Soil samples were collected to a 15 centimeter depth and from 15 to 30 centimeters deep from each former well pattern site, the discharge channel, and the evaporation area. Radium-226 concentrations did not exceed the limits specified in 10 CFR Part 40.

Environmental monitoring for airborne radionuclides and for direct gamma radiation were performed during operation of the R&D facility. The monitoring results indicated that radionuclide concentrations were well below the respective maximum permissible concentrations for unrestricted areas, and the direct gamma exposure rates were within the range of normal background for the area.

(c) Final decontamination tasks were completed in July of 1986. No structures remain on site; all were removed prior to the performance by the licensee of final gamma exposure rate measurements and soil sampling. Independent verification of site cleanup was performed by the Commission on August 12, 1986. The Commission confirmed that the residual soil Radium-226 concentration did not exceed the limits specified in 10 CFR Part 40.

Accordingly, the Commission's Uranium Recovery Field Office has determined that the decommissioning activities did not have a significant effect on the quality of the human environment. This determination is based on the fact that decontamination to within regulatory limits has been achieved at the licensed site.

In accordance with 10 CFR Part 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a Draft Finding of No Significant Impact and to accept comments on the draft finding for a period of 30 days after issuance in the Federal Register. Comments should be addressed to the U.S. Nuclear Regulatory Commission, Uranium Recovery Field Office, P.O. Box 25325, Denver, Colorado 8025.

This finding, together with the reports setting forth the basis for the finding, are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Denver, Colorado, this 6th day of February, 1987.

For the Nuclear Regulatory Commission,
Harry J. Pettengill,
Chief, Licensing Branch 2, Uranium Recovery Field Office, Region IV.
[FR Doc. 87-3347 Filed 2-17-87; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-261]

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

On January 29, 1987, the Commission published in the *Federal Register* a Denial of Amendment of Facility Operating License and Opportunity for a Hearing to Carolina Power & Light Company for the H.B. Robinson Steam Electric Plant, Unit No. 2 (52 FR 2964). In the second paragraph, line 10, the date and citation should read "May 5, 1985 (50 FR 29972)" instead of "September 10, 1986 (51 FE 32265)."

Dated at Bethesda, Maryland, this 11th day of February, 1987.

For the Nuclear Regulatory Commission,
Lester S. Rubenstein,
Director, PWR Project Directorate No. 2, Division of PWR Licensing-A.
[FR Doc. 87-3348 Filed 2-17-87; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-67 for operation of the St. Lucie Plant, Unit No. 1, located in St. Lucie County, Florida.

The proposed amendment would increase the steam generator tube plugging limit from 40% of the nominal tube wall thickness to 54% for all regions except for locations at or above the top partial support plate for tube rows 117 through 120, inclusive, where the limit would be 50%. The tube plugging limit is

defined as the imperfection depth at or beyond which the tube shall be removed from service because it may become unservicable prior to the next inspection. The primary method of removing a tube from service is to plug it such that reactor coolant system water cannot flow through it.

The proposed amendment was submitted to the Commission by Florida Power and Light Company letter dated December 12, 1986.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By March 20, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first

prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a 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 Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esq., Newman and Holtzinger, 1615 L. Street, NW., Washington, D.C., 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 12, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Indian River Junior

College Library, 3209 Virginia Avenue, Fort Pierce, Florida, 33450.

Dated at Bethesda, Maryland, this 9th day of February 1987.

For the Nuclear Regulatory Commission,
Ashok C. Thadani,

Director, PWR Project Directorate No. 8,
Division of PWR Licensing-B.

[FR Doc. 87-3349 Filed 2-7-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15572; 812-6502]

Bankers Life Assurance Co. of Nebraska et al.; Application for Exemption

February 10, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Bankers Life Assurance Company of Nebraska ("Bankers"); Bankers Life Assurance Company of Nebraska Separate Account V ("Account"); and BLN Investment Corp. ("BLN").

Relevant 1940 Sections: Exemption requested under section 6(c) from sections 2(a)(32), 22(c), 26(a)(1), 27(c)(2) and 27(d), and Rules 6e-3(T)(b)(12), 6e-3(T)(b)(13) and 22c-1 thereunder.

Summary of Application: Applicants seek an order to permit a charge for state premium taxes incurred in connection with the premiums paid under certain flexible premium variable life insurance contracts and any successor contracts ("contracts") during the first contract year, to be deducted from the amount otherwise payable upon surrender or lapse of the contract prior to the eighth contract anniversary.

Filing Date: The application was filed on October 16, 1986, and amended on December 22, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants 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.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Bankers, Account, c/o Julian H. Hopkins, Esq., 5900 "O" Street, Lincoln, Nebraska 68510. BLN, Suite 200, Greentree Court, 210 Gateway, Lincoln, Nebraska 68505.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Margaret Warnken (202) 272-2058 or Special Counsel Lewis B. Reich (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application for a fee from within the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Bankers was incorporated under the laws of Nebraska on June 22, 1983, and is a wholly-owned subsidiary of Bankers Life Insurance Company of Nebraska ("Bankers Life Nebraska"). Bankers Life Nebraska is a mutual life insurance company domiciled in Nebraska since 1887.

(2) The Account is registered under the 1940 Act as a unit investment trust. There are currently 12 subaccounts of the Account, 8 of which invest only in a corresponding portfolio of the Variable Insurance Products Fund or the Zero Coupon Bond Fund.

3. BLN, a wholly-owned subsidiary of Bankers Life Nebraska and an affiliated company of Bankers, is the principal underwriter for the contracts. BLN is a registered broker-dealer and is a member of the national Association of Securities Dealers.

4. Applicants represent that if a contract is surrendered prior to the eighth anniversary, a cash surrender charge will be assessed upon percentages of premiums actually paid during the first contract year. A portion of the cash surrender charge includes a charge for state premium taxes of no greater than 2.5% of the premiums paid in the first contract year. There is no additional cash surrender charge attributable to any increase in the Specified Amount of the contract and no cash surrender charge assessed upon decreases in the Specified Amount of the contract or partial withdrawals of cash value.

5. Applicants submit that imposition of the contingent deferred charge for premium taxes is more favorable than a charge that is deducted entirely from premiums or from cash value in the first

contract year. The amount of the contractowner's investment in the Account is not reduced as it is when this charge is taken in full in the first contract year. The total amount charged to any contractowner is no greater than if this charge is taken in the first contract year.

6. Bankers does not anticipate making a profit on the deferred premium tax charge. The amount of the charge is the same as if it was designed as a front-end or periodic charge. The charge does not take into account the time value of money (which would increase the charge to factor in the investment cost to Bankers of deferring the charge) or the obvious fact that not all contractowners will surrender or lapse their contracts in the first seven contract years (which would increase the charge for those surrendering or lapsing in those years to cover the costs attributable to contractowners who do not surrender or lapse in those years).

7. Accordingly, Applicants request an exemption from sections 2(a)(32), 22(c), 26(a)(2), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act and Rules 6e-3(T)(b)(12), 6e-3(T)(b)(13), and 22c-1 thereunder to the extent necessary to permit the charge for premium taxes to be deducted upon surrender or lapse. Applicants submit that the exemption requested is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

Applicants represent in connection with the relief requested that, if Rule 6e-3(T) is amended, they either will comply with the rule as amended or seek additional appropriate exemptive relief.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 87-3279 Filed 2-17-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No.34-24084; File No. SR-MSTC-87-1]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.; 1987 Fee Schedules; Notice of Filing and Immediate Effectiveness

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1987, the Midwest Securities Trust Company filed with the Securities and Exchange Commission

the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the Midwest Securities Trust Company's Fee Schedule for 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSTC Board of Directors annually reviews MSTC's fee schedules to insure that service fees fairly cover the cost of providing services. In order to keep a proper balance between fees and the costs of providing clearing and depository services, MSTC is proposing a revised fee schedule for 1987. Where MSTC has experienced increased costs associated with manual processing, such as physical movements or deposits, or call, redemption and maturity processing, service fees have been increased accordingly. When costs associated with automated services decreased on a unit or transaction basis, such as Depository Delivery Instructions and CNS Interactivity, fees have been reduced to reflect costs recouped through increased volume.

The proposed fee schedule is consistent with section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that the proposed fee schedule will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 11, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1987.

Jonathan G. Katz,
Secretary.

EXHIBIT A

[Schedule of fee changes for 1987]

	(Per month)	
	Old	New
1. Basic participant account maintenance fee.....	\$160	\$175
Corporate equity debt service.....	105	105
Municipal issues service (for those in muni bonds).....	105	105
Total service charge.....	370	385

This fee covers the basic cost of computer facilities and staff support for a participant. The increase represents the overhead which is required to provide basic services including upgrades to computers, increases in the cost of support staff and general accounting and administrative costs. (For Participants not using municipal bond services the total monthly Service Charge will be \$280 in 1987 versus \$265 in 1986).

	Old	New
2. Settlement services (reduction): CNS interactivity fees, interactivity volume discounts.....	\$0.88	\$0.85

Range	(Per item)			
	Old discount	Old fee	New discount	New fee
1 to 1,500.....	0	\$.88	0	\$.85
1,501 to 2,000.....	\$.17	.71	\$.15	.70
2,001 to 3,000.....	.37	.51	.35	.50
3,001 to 4,000.....	.57	.31	.55	.30
over 4,000.....	.77	.11	.75	.10

Depository Delivery Instructions (DDI) (reduction):

	Old	New
Inter-participant delivery/receipt.....	\$0.72/mvmt.	\$0.68/mvmt.
Intra-participant delivery.....	.72/mvmt.	.68/mvmt.
Third party DDI.....	.72/mvmt.	.68/mvmt.
Pledge movement/release.....	.72/mvmt.	.68/mvmt.
Paper/manual input additional fee.....	.10/item	.15/item

The additional charge for manual or paper input reflects the cost of providing a data entry department to handle such transactions.

3. Depository Services (increase)

	Old	New
Deposits: R ¹ system		
7:30 am to 11:00 am CST.....	\$ 1.10/item	\$ 0.40/item
11:00 am to 11:30 am CST.....	10.00/item	12.00/item
11:30 am to 4:00 pm CST.....	.90/item	.95/item
Deposit Reclamation Charge.....	6.00/item	7.50/item

The fee increase will cover the labor cost allocation required to cover deposit activities. Reclamations require special handling and the fee is intended to avoid penalizing participants who have few reclamations and therefore need not share in the cost of reclamation processing overhead.

Withdrawals	Old	New
Registered system:		
Street Withdrawals.....	\$ 6.00/req.	\$ 8.00/req.
Demand Street Withdrawals.....	12.00/req.	15.00/req.
Manual Pull Withdrawals.....	27.00/req.	30.00/req.
Bearer system:		
Withdrawals.....	6.00/req.	7.50/req.
	.04/\$1,000/val. over \$50,000.	.05/\$1,000/val. over \$50,000

Physical withdrawal of securities involves manual procedures and special processing which have steadily increased in cost. In order to provide a trained and efficient staff to provide this service the depository incurs extra cost. The normal organization and procedures are designed to provide safekeeping and withdrawal by transfer services which makes physical withdrawal increasingly an exception to normal procedures.

4. Safekeeping (increase):

	Old	New
Overnight safekeeping.....	\$5.00/night .50/cert.	\$6.00/night .75/cert.

Overnight Safekeeping fees will be increased to cover the cost of providing facilities and staff to accommodate this service.

Bearer Municipal Safekeeping:

	Old	New
Position fees:		
CUSIP with one participant.....	\$0.065/day	\$0.06833/day
CUSIP with two participants and three or more participants.....		No change

[FR Doc. 87-3278 Filed 2-17-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting from 10:00 A.M. to 4:00 P.M., Friday, March 27, 1987, in the Holiday Inn South, 3233 Emerson Street, Jacksonville, Florida 32207, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending. For further information, contact Douglas E. McAllister, District Director, U.S. Small Business Administration, Box 35067, 400

West Bay Street, Jacksonville, Florida 32202; telephone (904) 791-3103.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 11, 1987.

[FR Doc. 87-3314 Filed 2-17-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0354]

Cogeneration Capital Fund; Surrender of License

Notice is hereby given that Cogeneration Capital Fund, 300 Tamal Plaza, Suite 190, Corte Madera, California 94925 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Cogeneration Capital Fund was licensed by the Small Business Administration on January 3, 1985.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on January 16, 1987, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001. Small Business Investment Companies)

Dated: February 11, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-3313 Filed 2-17-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of Commercial Space Transportation

[Notice No. 87-1]

Expendable Launch Vehicle Commercialization Agreement; Comments on Air Force Model Agreement Draft

AGENCY: Office of Commercial Space Transportation, DOT.

ACTION: Notice that Industry Advisory Committee comments on draft Air Force model agreement are available for public review.

SUMMARY: The Commercial Space Transportation Advisory Committee has provided to DOT's Office of Commercial Space Transportation its comments on the Air Force's draft Expendable Launch Vehicle Commercialization Agreement. This agreement sets out the terms and conditions governing the use by private launch firms of government launch property and services to support commercial launch activities. The agreement addresses activities that will be conducted at Federal launch ranges operated by the Air Force, in particular, Cape Canaveral Air Force Station and Vandenberg Air Force Base. The Office is making the report of the advisory committee available for public review. All statements made and views expressed in the report are those of the advisory committee members and do not necessarily reflect the views of the Office of Commercial Space Transportation. Interested persons may review this document at the Documentary Services Division, room 4107, 400 Seventh Street, SW., Washington, DC 20590, Monday through Friday 9:00 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Gerald Musarra, Office of the General Counsel, C-50, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-9305.

Dated: February 12, 1987.

Courtney A. Stadd,

Director, Office of Commercial Space Transportation.

[FR Doc. 87-3371 Filed 2-17-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 10, 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.

U.S. Customs Service

OMB No.: 1515-0087

Form No.: CF 255

Type of Review: Revision

Title: Declaration for Unaccompanied Articles

Clearance Officer: Lynn Winingham (202) 566-2491, U.S. Customs Service, Room 6333, 1301 Constitution Avenue NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Internal Revenue Service

OMB No.: 1545-0199

Form No.: IRS Form 5306-SEP

Type of Review: Revision

Title: Application for Approval of Prototype Simplified Employee Pension—SEP

OMB No.: 1545-0806

Form No.: None

Type of Review: Extension

Title: EE-12-78 FINAL: Nonbank Trustees of Pension and Profit-Sharing Trusts Benefiting Owner-Employees

OMB No.: 1545-0814

Form No.: None

Type of Review: Extension

Title: EE-44-78 FINAL: Cooperative Hospital Service Organizations

OMB No.: 1545-0819

Form No.: None

Type of Review: Extension

Title: Instructions for Requesting Rulings and Determination Letters (26 CFR 601.201)

OMB No.: 1545-0820

Form No.: None

Type of Review: Extension

Title: LR-291-81 NPRM: Incentive Stock Options

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Office.

[FR Doc. 87-3275 Filed 2-17-87; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 52, No. 31, Tuesday, February 17, 1987.

PREVIOUS ANNOUNCEMENT TIME AND DATE OF MEETING: 1:30 PM (Eastern Time) Monday, February 23, 1987.

CHANGE IN THE MEETING: The following item has been added to the open portion of the meeting:

"Policy Statement on Relationship of Title VII to the Immigration Reform and Control Act of 1986"

CONTACT PERSON FOR MORE

INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

Date: February 13, 1987.

Cynthia C. Matthews,
Executive Officer.

This Notice Issued February 13, 1987.

[FR Doc. 87-3394 Filed 2-13-87; 8:45 am]

BILLING CODE 6750-06-M

FEDERAL COMMUNICATIONS COMMISSION

February 11, 1987.

The following items have been deleted from the list of agenda items scheduled for consideration at the February 12, 1987, Open Meeting, and previously listed in the Commission's Notice of February 5, 1987.

Agenda, Item No., and Subject

Common Carrier—1—Title: Implementation and Scope of the International Settlements Policy for Parallel International Communications Routes—Order on Reconsideration. CC Docket No. 85-204. Summary: The Commission will consider whether petitions for modification of certain aspects of its Report and Order on the International Settlements Policy should be granted. Specifically, the Commission will consider the policy's application to voice, indirect, and enhanced services, and the concomitant procedural requirements.

Common Carrier—2—Title: Reconsideration of RCA Global Communications Inc. vs. The Western Union Telegraph Company, File No. E-83-24. Summary: The Commission will consider two petitions for reconsideration, one from RCAGC regarding a Bureau order, and one from Western Union regarding a Commission order. The proceeding concerns the

application of the international settlements policy to indirect traffic with various Central American administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-3406 Filed 2-13-87; 1:22 pm]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

February 10, 1987.

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, February 12, 1987 at 1919 M Street, NW., Washington, DC

Agenda Item No. and Subject

Hearing—1—Title: Further action in the RKO General, Inc. proceedings (Docket Nos. 84-1212, et al.) Summary: The Commission will consider the Final Report on the outcome of settlement negotiations in the series of comparative renewal proceedings involving broadcast stations owned by RKO General, Inc.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission February 10, 1987. Commissioners Fowler, Chairman; Quello, Dawson, Patrick and Dennis voting to consider this item.

Additional information concerning this item may be obtained from Sarah Lawrence, FCC Office of Congressional and Public Affairs, telephone number (202) 632-5050.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-3421 Filed 2-13-87; 1:11 pm]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

FCC Announces Decision to Close an Item Previously to be Considered in Open Meeting

The Federal Communications Commission previously announced on February 10, 1987 its intention to hold an Open Meeting on Further action in the RKO General, Inc. proceedings (Docket Nos. 84-1212 et al.), on February 12, 1987 at 1919 M Street, NW., Washington, DC. This meeting was rescheduled as a Closed Meeting to be held following the Open Meeting.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

This meeting was closed to the public because it concerned adjudication matters (See 47 CFR 0.603 (j)).

The following persons were in attendance:

Commissioners and members of their staffs;

Managing Director and members of his staff;

General Counsel and members of her staff;

Chief, Office of Congressional and Public Affairs.

Action by the Commission February 12, 1987. Commissioners Fowler, Chairman; Quello, Dawson, Patrick and Dennis voting to consider this matter in Closed Session.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of Congressional and Public Affairs, telephone number (202) 632-5050.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 87-3483 Filed 2-13-87; 3:22 pm]

BILLING CODE 6712-01-M

FEDERAL ENERGY REGULATORY COMMISSION

February 11, 1987.

TIME AND DATE: February 18, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Washington, DC 20424, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 851st meeting—February 18, 1987, Regular Meeting (10:00 a.m.)

CAP-1.

Project No. 9556-001, Kamargo Corporation

- Project No. 9557-001, Black River Hydro Corporation
 Project No. 9564-001, Norwood Hydro Corporation
 Project No. 9565-001, Raymondville Hydro Corporation
 Project No. 9566-001, East Norfolk Hydro Corporation
 Project No. 9553-001, School Street Hydro Corporation
 Project No. 9563-001, Herrings Hydro Corporation
 Project No. 9552-001, Deferiet Corporation
 Project No. 9554-001, Colton Hydro Corporation
 Project No. 9555-001, Higley Corporation
 Project No. 9567-001, Hannawa Corporation
 Project Nos. 2320-001, 2330-001, 2539-001 and 2569-001, Niagara Mohawk Power Corporation
- CAP-2.
 Project Nos. EL86-56-002, 003 and Project Nos. 4885-014 and 015, South Fork Resources, Inc.
- CAP-3.
 Project No. 9558-001, Carry Falls Corporation
 Project No. 2060-000, Niagara Mohawk Power Corporation
- CAP-4.
 Project No. 4644-004, Stevens and Thompson Paper Company, Inc.
- CAP-5.
 Project No. 10202-001, Larry Lewis
- CAP-6.
 Project Nos. 77-016 and 017, Pacific Gas and Electric Company
- CAP-7.
 Project No. 3756-002, City of Bountiful, Utah
- CAP-8.
 Project No. 7518-001, Niagara Mohawk Power Corporation
- CAP-9.
 Project No. 10077-001, Iron Mountain Mines, Inc.
- CAP-10.
 Omitted
- CAP-11.
 Project No. 8493-000, Hydroelectric Development, Inc.
- CAP-12.
 Docket No. HB54-84-1-001, Pacific Power & Light Company
- CAP-13.
 Docket No. ER87-180-000, Cincinnati Gas & Electric Company
- CAP-14.
 Docket No. ER87-44-002, Wisconsin Public Service Corporation
- CAP-15.
 Docket No. ER87-67-002, Wisconsin Electric Power Company
- CAP-16.
 Docket Nos. ER86-69-002 and ER87-70-002, Southern California Edison Company
- CAP-17.
 Docket Nos. ER85-2011-007, 008, 009, EF85-2021-007, 008 and 009, United States Department of Energy—Bonneville Power Administration
- CAP-18.
 Docket No. EL86-27-000 and 001, Sacramento Municipal Utility District v. Pacific Gas and Electric Company
- CAP-19.
 Docket No. EL81-14-005 and 006, American Municipal Power-Ohio, Inc. and City of St. Marys, Ohio v. The Dayton Power and Light Company
- CAP-20.
 Docket No. EL86-23-000, Northern California Power Agency
- CAP-21.
 Docket No. ER78-417-008, Kentucky Utilities Company
- CAP-22.
 Docket No. ER86-626-002, Louisiana Power & Light Company
- CAP-23.
 Docket No. ER86-692-001, Cambridge Electric Light Company
- CAP-24.
 Docket No. QF86-964-001, First American Energy Company/Culmtech, Ltd.
- CAP-25.
 Docket No. 2548-010, Georgia-Pacific Corporation Project No. 4349-008, Long Lake Energy Corporation
- Consent Miscellaneous Agenda*
- CAM-1.
 Docket No. FA85-8-000, Public Service Company of New Hampshire
- CAM-2.
 Docket No. RM86-12-001, 002 and 003, Generic Determination of Rate of Return on Common Equity for Public Utilities
- CAM-3.
 Docket No. RM79-76-125 (Oklahoma-3), High-Cost Gas Produced from Tight Formations
- CAM-4.
 Docket No. GP86-48-000, Beartooth Oil & Gas Company, Section 102 Determination, Bureau of Land Management, Federal No. 5-15 Well, BLM Docket No. CD-0151-83, FERC No. JD85-29076
- CAM-5.
 Docket No. GP83-12-002, State of Kansas, Section 103 NGPA Determination, Continental Energy Company, Stanley No. 1 Well (Haskell Co.), FERC No. JD81-01760
- CAM-6.
 Docket No. GP86-57-000, Shell Western E&P Inc.
- CAM-7.
 Docket No. RO82-75-001, Argo Petroleum Corporation, et al.
- CAM-8.
 Docket No. RO86-21-000, Transco Trading Company, Refiners and Producers Marketing, Inc. and Billy Ray Jones
- CAM-9.
 Docket No. RO85-18-000, Otis Ainsworth
- CAM-10.
 Docket No. RO85-9-000, Placid Oil Company
- CAM-11.
 Docket No. RO85-8-004, Exxon Company, U.S.A.
- Consent Gas Agenda*
- CAG1.
 Docket Nos. RP86-165-002, 003, 004, RP86-168-001, 002 and 003, Kentucky West Virginia Gas Company
- CAG2.
 Docket Nos. RP87-12-001, 002 and 003, Northern Natural Gas Company, Division of Enron Corporation
- CAG3.
 Docket Nos. TA87-1-9-003 and 004, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
- CAG-4.
 Docket Nos. TA87-1-59-003 and 004, Northern Natural Gas Company, Division of Enron Corporation
- CAG-5.
 Docket Nos. TA87-1-11-004, 005, 006 and 007, United Gas Pipe Line Company
- CAG-6.
 Docket Nos. RP85-206-011 through 027, Northern Natural Gas Company
- CAG-7.
 Docket Nos. RP82-55-006 through 017, Transcontinental Gas Pipeline Corporation
- CAG-8.
 Docket Nos. RP87-16-001 and 002, El Paso Natural Gas Company
- CAG-9.
 Docket No. RP86-133-001, National Fuel Gas Supply Corporation
- CAG-10.
 Docket No. RP87-35-000, Texas Gas Pipe Line Corporation
- CAG-11.
 Docket No. T87-2-5-002 (PGA87-2a), Midwestern Gas Transmission Company
- CAG-12.
 Docket No. RP87-27-000, Northwest Pipeline Corporation
- CAG-13.
 Docket Nos. RP87-1-37-000, 004 and 009, Northwest Pipeline Corporation
- CAG-14.
 Docket Nos. RP85-178-013, RP82-10-014 and RP82-125-020, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
- CAG-15.
 Docket Nos. RP86-161-000, 002, CP86-596-000 and 001, Migc, Inc.
- CAG-16.
 Docket No. ST87-66-000, Exxon Gas System, Inc.
- CAG-17.
 Docket Nos. ST87-14-000, ST87-15-000, ST87-29-000, ST86-2681-000, ST86-2682-000, ST86-2684-000, ST86-2686-000, ST86-2693-000, ST86-2694-000, ST86-2695-0900, ST86-2696-000, ST86-2697-000, ST86-2700-000, ST86-2702-000, ST86-2703-000 and ST86-2704-000, Delhi Gas Pipeline Corporation
- CAG-18.
 Docket Nos. ST86-931-000, ST86-1013-000, ST86-1796-000, ST86-1915-000, ST86-1916-000 and ST86-2428-000, Producer's Gas Company
- CAG-19.
 Docket No. CI73-494-000, FERC Gas Rate Schedule No. 13, Columbia Gas Development Corporation
- CAG-20.
 Docket No. CI85-600-000, Exxon Corporation
- CAG-21.
 Docket No. CP86-707-001, Northwest Pipeline Corporation
- CAG-22.

- Docket Nos. CP85-608-009 and 010, National Fuel Gas Supply Corporation CAG-23.
 Docket No. CP86-435-001, Northern Natural Gas Company, Division of Enron Corporation CAG-24.
 Docket No. CP87-8-001, Tennessee Gas Pipeline Company, a division of Tenneco Inc. CAG-25.
 Docket No. CP86-135-006, Natural Gas Pipeline Company of America CAG-26.
 Docket Nos. CP84-654-019 and 020, Algonquin Gas Transmission Company CAG-27.
 Docket No. CP86-686-003, Southern Natural Gas Company CAG-28.
 Docket Nos. CP86-636-001 and 002, Pacific Gas Transmission Company CAG-29.
 Docket No. CP86-465-001, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. CAG-30.
 Docket Nos. CP86-108-005, CP86-133-005, CP86-134-005, CP86-136-004 and CP86-137-004, Natural Gas Pipeline Company of America CAG-31.
 Docket No. CP86-210-002, Southern Natural Gas Company CAG-32.
 Docket No. CP86-701-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. CAG-33.
 Docket Nos. CP86-643-000 and 001, K N Energy, Inc. CAG-34.
 Docket Nos. CP85-511-000 and 001, Northern Natural Gas Company, Division of Enron Corporation CAG-35.
 Docket No. CP86-734-000, Texas Eastern Transmission Corporation CAG-36.
 Docket No. CP86-499-000, Natural Gas Pipeline Company of America CAG-37.
 Docket No. CP86-349-002, Texas Gas Transmission Corporation CAG-38.
 Docket No. CP87-40-000, Granite State Gas Transmission, Inc.

I. Licensed Project Matters

- P-1.
 Project No. 4922-000, Arizona Power Authority and Colorado River Commission of Nevada. Application for a preliminary permit for unutilized capacity at a Bureau of Reclamation project.
 P-2
 Project No. 5903-001, Black Canyon Irrigation District, Gem Irrigation District and Ridgeview Irrigation District. Appeal of a dismissal of a preliminary permit application for unutilized capacity at a Bureau of Reclamation project.
 P-3
 Docket No. E-6454-007, City of Centralia, Washington Rehearing request of a

Commission determination that a project is located on navigable waters of the U.S.

II. Electric Rate Matters

- ER-1
 Docket No. QF87-237-000, CMS Midland, Inc. Application for certification of a proposed 1300 MW cogeneration facility.

Miscellaneous Agenda

- M-1
 Reserved.
 M-2
 Reserved.
 M-3
 Docket No. Rm-83-41-000, Rules of Discovery for Trial-Type Proceedings. Final Rule
 M-4
 Docket No. PL87-3-000, Policy Statement on Recovery of Take-or-Pay Costs by Interstate Natural Gas Pipelines

I. Pipeline Rate Matters

- RP-1.
 (A) Docket Nos. TA85-3-29-000, TA86-1-29-002, CP85-190-000, TA85-1-29-000, TA86-1-29-000, TA86-5-29-002 and RP83-137-000, Transcontinental Gas Pipe Line Corporation. Order No. 436 rate settlement.
 (B) Docket No. CP86-405-000, Transcontinental Gas Pipe Line Corporation. Order No. 436 blanket certificate application.
 (C) Docket No. CI86-293-000, Transcontinental Gas Pipe Line Corporation. Docket No. CI86-297-000, Transco Gas Supply Company. Related limited-term abandonment.
 (D) Docket Nos. CP87-37-000 and 001, Philadelphia Electric Company, Complainant v. Transcontinental Gas Pipe Line Corporation, Respondent and Columbia Gas Transmission Corporation, Complainant v. Transcontinental Gas Pipeline Corporation, Respondent. Order on Complaints.
 (E) Docket Nos. TA85-3-29-010, 011, 012, TA86-1-29-007, 008, CP85-190-004, 005, TA85-1-29-007, 008, TA86-5-29-008, 009, RP83-137-026 and 027, Transcontinental Gas Pipe Line Corporation. Order on rehearing regarding severed issue.

RP-2.
 Omitted

- RP-3
 Docket No. RP84-76-000, Alabama-Tennessee Natural Gas Company. Order on Initial Decision.

- RP-4
 Docket No. RP82-58-000, Panhandle Eastern Pipe Line Company Docket No. RP82-105-000, Central Illinois Light Company v. Panhandle Eastern Pipe Line Company. Order on Initial Decision.

II. Producer Matters

- CI-1
 Reserved.

III. Pipeline Certificate Matters

- CP-1.

Reserved.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3370 Filed 2-12-87; 4:37 pm]

BILLING CODE 6717-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 19, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. White County Coal Corporation, LAKE 86-58-R, etc. (Issues include consideration of requirements for taking enforcement actions under section 104(d) of the Mine Act, 30 U.S.C. 814(d).)
2. Greenwich Collieries, PENN 85-188-R, etc. (Issues are same as above.)
3. NACCO Mining Company, LAKE 85-87-R, etc. (Issues are same as above.)
4. Emerald Mines Corporation, PENN 85-298-R. (Issues are same as above.)

It was determined by a unanimous vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-3442 Filed 2-13-87; 12:43 pm]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 16, 23, March 2, and 9, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 16

Tuesday, February 17

2:00 p.m.—Briefing on Final Version of Draft NUREG-1150 (Source Term) (Public Meeting)

Wednesday, February 18

2:30 p.m.—Briefing on Status of EEO Program (Public Meeting)

4:00 p.m.—Affirmation/Discussion and Vote (Public Meeting): a. Final Rule 10 CFR 73.57, Implementing Requirements for Licensee Access to FBI Criminal History Data (Tentative)

Week of February 23 (Tentative)*Monday, February 23*

2:00 p.m.—Briefing on Consideration of Proposed Emergency Planning Rule Changes (Public Meeting) (Title Change)

Wednesday, February 25

10:00 a.m.—Briefing on Surry Incident (Public Meeting)

2:00 p.m.—Briefing on National Academy of Sciences Report, "Revitalizing Nuclear Safety Research" (Public Meeting)

Thursday, February 26

10:00 a.m.—Briefing on Status of and Possible Vote on Restricted Power Levels for Fort St. Vrain (Public Meeting)

3:00 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 2 (Tentative)*Wednesday, March 4*

2:00 p.m.—Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, March 5

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 9 (Tentative)*Thursday, March 12*

10:00 a.m.—Discussion of Pending Investigations (Closed—Ex. 5 & 7)

2:00 p.m.—Discussion/Possible Vote on Full Power Operating License for Vogtle-1 (Public Meeting)

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

To verify the status of meetings call (recording) (202) 634-1498.

CONTACT PERSON FOR MORE

INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

February 12, 1987.

[FR Doc. 87-3508 Filed 2-13-87; 3:55 pm]

BILLING CODE 7590-01-M.

POSTAL SERVICE**Meeting**

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, March 3, 1987, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of Board, David F. Harris, at (202) 268-4800.

There will also be a session of the Board on Monday, March 2, 1987, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session, March 3, 1987—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 2-3, 1987.
2. Remarks of the Postmaster General.
3. Officer Compensation.
4. Consideration of Proposed Filing with the Postal Rate Commission for Mail Classification Change Extending C.O.D. Service to Express Mail.
5. Report on Law Department Programs.
6. Annual Testimony to Legislative Committees.
7. Capital Investment: Denver GMF/VMF Project.
8. Tentative Agenda for April 6-7, 1987, meeting in Dallas, Texas.

David F. Harris,
Secretary.

[FR Doc. 87-3514 Filed 2-13-87; 3:55 pm]

BILLING CODE 7710-12-M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1381)

TIME AND DATE: 9:00 a.m. (EST),
Thursday, February 19, 1987.

PLACE: TVA West Tower Auditorium,
400 West Summit Hill Drive, Knoxville,
Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on January 14, 1987.

Discussion Item

1. Bull Run Coal Supply Task Force. TVA staff will discuss the findings of a task force established by the Office of Power to make a comprehensive study of the TVA coal supply alternatives for the Bull Run Fossil Plant.

Action Items**B—Purchase Awards**

B1. Amendment to Indefinite Quantity Term Contract No. 80P68-171173 With Chem-Nuclear Systems, Inc., for Radioactive Waste Disposal Services for Various Nuclear Plants.

B2. Amendment to Contract 72P-40-T18 With Falcon Coal Company, Inc.; Contract 77P-41-T10 With Brown Budget Coal Company; and Contract TV-59790A With CSX Transportation, Inc.

*B3. Request for Proposal DA-206959—Basic Ordering Agreement for Natural Gas for Operation of the National Fertilizer Development Center at Muscle Shoals, Alabama.

C—Power Items

C1. Renewal Power Contract With Tuscumbia, Alabama.

C2. Supplement No. 4 to Contract No. TV-61135A With Gas-Cooled Reactor Associates to Provide for TVA's Continued Membership for a 1-Year Period to Support More Extensive High Temperature Gas-Cooled Reactor Developmental Efforts.

C3. Authorization to Provide Additional Funds Under Cooperative Agreement No. TV-65580A With Fluor Constructors, Inc., for Erection Services for 160-MW Atmospheric Fluidized Bed Combustion Demonstration Plant Project.

C4. Supplement No. 7 to Subagreement No. 1 Under the Technical Assistance Plan and Interagency Agreement (TV-68345A) Between TVA and U.S. Department of Energy for TVA Weld Quality Evaluation for Watts Bar Unit 1.

D—Personnel Items

D1. Implementation of the Decision of the Secretary of Labor in the Wage Dispute Between TVA and the International Brotherhood of Electrical Workers Resulting From the 50th Annual Wage Conference Held in 1985.

D2. Personal Services Contract With Tarica & Company, Certified Public Accountants, for Performance of Expanded Scope Audits Requested by Office of the Inspector General.

D3. Personal Services Contract With O'Neal and Saul, P.A., for Performance of Expanded Scope Audits Requested by Office of the Inspector General.

D4. Supplement No. 3 to Personal Service Contract No. TV-69344A With Coopers & Lybrand, Knoxville, Tennessee, for Services of Qualified Personnel to Provide Assistance to TVA in the Design and Implementation of an Accounting Information System. Requested by the Comptroller.

D5. Supplement No. 4 to Personal Services Contract No. TV-67495A With Westec Services, Inc., Plymouth Meeting, Pennsylvania, Providing for Additional Services in Connection with the Environmental Qualification of TVA's Nuclear Plants, Requested by the Office of Nuclear Power.

*Items approved by individual Board members. This would give formal ratification to the Board's action.

D6. Supplement No. 2 to Personal Services Contract No. 67884A With Digital Engineering, Inc., Huntsville, Alabama, Providing for Additional Services in Connection With the Environmental Qualification Evaluation of Safety-Related Electrical Equipment at TVA Nuclear Plants, Requested by Office of Nuclear Power.

D7. Supplement No. 14 to Personal Services Contract No. 56071A With Wyle Laboratories, Huntsville, Alabama, Providing for Engineering and Testing Support as Needed for the Environmental Qualification Assessment of Safety-Related Equipment at TVA Nuclear Plants, Requested by Office of Nuclear Power.

D8. Supplement No. 2 to Personal Services Contract No. TV-68729A With EQE Incorporated, San Francisco, California, Covering Arrangements for Seismic Evaluations at Browns Ferry and Sequoyah Nuclear Plants, Requested by Office of Nuclear Power.

D9. Supplement No. 7 to Personal Services Contract No. TV-67404A With General Physics Corporation, Columbia, Maryland, for Engineering and Related Support Services at Browns Ferry Nuclear Plant, Requested by Office of Nuclear Power.

D10. Supplement No. 1 to Personal Services Contract No. TV-70551A With

Energy Services, Inc., Williamsburg, Virginia, for Engineering Services at Browns Ferry Nuclear Plant.

D11. Supplement No. 1 to Personal Services Contract No. TV-71021A With DiBenedetto Associates, Inc., North Andover, Massachusetts, for Technical and Engineering Assistance at Sequoyah Nuclear Plant.

E—Real Property Transactions

E1. Filing of Condemnation Cases.
E2. Abandonment of Certain Easement Rights Affecting 0.2 Acre of Chatuge Reservoir Land in Clay County, North Carolina—Tract No. CHR-53F.

E3. Abandonment of Certain Rights Affecting 0.44 Acre of Chickamauga Reservoir Land in Hamilton County, Tennessee—Tract No. XCR-19.

F—Unclassified

F1. Subagreement No. 21 to Memorandum of Agreement (TV-23928A) Between TVA and U.S. Department of the Army, Corps of Engineers, for Engineering and Drafting Work for Updating As-Built Drawings for Chickamauga, Wheeler Main, Wheeler Auxiliary, Pickwick Auxiliary, Watts Bar, Wilson Main, and Wilson Auxiliary Locks.

F2. Supplement No. 2 to Subcontract No. TV-69097A With Battelle Memorial

Institute, Columbus Division, for Research Activities Relating to Biological Effects of Plume Fly Ash.

F3. Supplement No. 4 to Agreement No. TV-64685A With Oak Ridge Operations, U.S. Department of Energy, Covering Arrangements for TVA to Analyze Macrobenthos Samples From East Fork Poplar Creek, White Oak Creek, Mitchell Creek, Bear Creek, and Several Control Streams Near Oak Ridge, Tennessee.

F4. Agreement No. TV-71263A With U.S. Department of the Army, Corps of Engineers, Memphis District, for Laboratory Analyses of Water and Sediment Samples.

F5. Organization Bulletin and Code for the Office of the Inspector General.

CONTACT PERSON FOR MORE

INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: February 12, 1987.

W. F. Willis,

General Manager.

[FR Doc. 87-3374 Filed 2-13-87; 9:39 am]

BILLING CODE 8120-01-M

Corrections

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6F3316/R868; FRL-3153-4]

Pesticide Tolerances for Fenoxaprop-Ethyl

Correction

In rule document 87-2631 beginning on page 4292 in the issue of Wednesday, February 11, 1987, make the following correction:

On page 4293, in the second column, in the fourth line, the FR cite should read "24950".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0473]

N&N Menicon, Inc.; Premarket Approval of N&N 1500 (Mafilcon) Soft Contact Lens

Correction

In notice document 86-28198 appearing on page 45182 in the issue of Wednesday, December 17, 1986, make the following corrections:

1. In the first column, under **ADDRESS**, in the last line, the zip code should read "20857".

2. In the third column, in the second complete paragraph, in the fourth line, "360(h)" should read "360j(h)".

BILLING CODE 1505-01

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207 and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Editorial Amendments

Correction

In rule document 87-1409 beginning on page 2681 in the issue of Monday, January 26, 1987, make the following corrections:

1. On page 2682, in the first column, in the Supplementary Information, in the sixth line, "foods" should read "feed".

2. On the same page, in the third column, in amendatory instruction 7, in the second line "(b)" should read "(d)".

3. On page 2684, in the third column, in § 558.195(c), in the second line, "decoquinate" was misspelled.

BILLING CODE 1505-01-D

40 CFR Part 60 Federal Register

Wednesday
February 18, 1987

Part II

Environmental Protection Agency

40 CFR Part 60

**Standards of Performance for New
Stationary Sources, Standards of
Performance for New Sources,
Residential Wood Heaters; Listing of
Residential Wood Heaters for
Development of New Source
Performance Standards; Proposed Rules**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3138-7(b)]

Standards of Performance for New Stationary Sources; Standards of Performance for New Sources; Residential Wood Heaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit particulate matter (PM) emissions from new residential wood heaters. The proposed standards were developed through the process of regulatory negotiation. They implement Section 111 of the Clean Air Act and are based upon the Administrator's determination that wood heaters cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The proposed standards would require wood heaters manufactured on or after July 1, 1988, be capable of reducing emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

If requested, a public hearing will be held to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 20, 1987.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 11, 1987, a public hearing will be held on April 6, 1987, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Ann Eleanor at the phone number listed under For Further Information Contact to verify that a hearing will be held.

Request to Speak at Public Hearing. Persons wishing to present oral testimony must contact EPA by March 11, 1987.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number A-84-49, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of

Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD-13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, at the phone number listed under **FOR FURTHER INFORMATION CONTACT.**

Docket. Docket No. A-84-49, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For questions concerning regulatory aspects of the standards, please contact Rick Colyer, Standards Development Branch, telephone number (919) 541-5578. For questions concerning technical aspects of the standards, please contact Jeff Telander, Industrial Studies Branch, (919) 541-5595. For questions concerning test methods and laboratory accreditation, please contact George Walsh, Emission Measurement Branch, (919) 541-5543. The address for each is: Emission Standards and Engineering Division (MD-13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For questions concerning wood heater certification and enforcement, please contact Doreen Cantor, (202) 382-2874, at the following address: Stationary Source Compliance Division (EN-341), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Persons interested in attending the public hearing or persons wishing to present oral testimony must notify Ms. Ann Eleanor at (919) 541-5578.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. New Source Performance Standards—General

New Source Performance Standards (NSPS or "standards") implement Section 111 of the Clean Air Act. NSPS are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after the applicability date of the standard.

An NSPS requires these sources to control emissions to the level achievable by "best demonstrated technology," or "BDT," which is defined in item B.3 below.

B. Typical NSPS Decision Scheme

An NSPS is the product of a series of decisions related to certain key elements for the source category being considered for regulation. The elements identified in this "decision scheme" are generally the following:

1. Source category to be regulated—usually an entire industry but can be a process or group of processes within an industry.

2. Pollutant(s) to be regulated—the particular substance(s) emitted by the source that the standard will control.

3. Best demonstrated technology—the technology on which the Agency will base the standards, i.e.,

* * * the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

4. Affected facility—the pieces or groups of equipment that comprise the sources to which the standards will apply.

5. Format for the standards—the form in which the standards are expressed, e.g., as a percent reduction in emissions, as a pollutant concentration, or as an equipment standard.

6. Actual standards—based on what BDT can achieve, the maximum permissible emissions. (Note.—In general, standards do not require that a specific technology be used to achieve them. The source owner/operator may select the method for achieving the pollution control required.)

7. Other considerations—In addition, NSPS often include: modification/reconstruction considerations, monitoring requirements, performance test methods, and reporting and recordkeeping requirements.

C. Overview of This Preamble This preamble will:

1. Discuss the aspects of this NSPS that set it apart from other NSPS.
2. Summarize the important features of this NSPS by discussing the conclusions reached with respect to the decision scheme.
3. Describe the environmental, energy, and economic impacts of this NSPS.

4. Describe the background to this standard.

5. Present a rationale for each of the decisions in the decision scheme and provisions of the standard.

6. Discuss administrative requirements relevant to this action.

D. Unique Aspects of This NSPS

Two factors make this NSPS unique. First, the source category to be regulated, residential wood-fired heaters, are mass-produced consumer items, rather than industrial processes typically regulated by an NSPS. Because wood heaters are mass-produced consumer items, a compliance scheme requiring that each facility be tested would be very costly. (The cost of a test series is several times the cost of a typical wood heater). Therefore, this standard permits the manufacturers of wood heaters to avoid having each unit tested by allowing, as an alternative, a certification program whereby representative wood heaters are tested. If the representative wood heater meets the applicable emission limits, EPA would certify the entire model line. Individual wood heaters within the model line would be subject to labeling and operational requirements. Manufacturers would then be required to conduct a quality assurance program to ensure that appliances produced within a model line conformed to the certified design, and met applicable emission limits. EPA also would conduct audits to ensure compliance.

The second unique aspect of this standard is the means by which it was developed. This NSPS was developed through the process of regulatory negotiation, an alternative process for developing regulations in which individuals and groups with negotiable interests directly affected by the standard work with EPA in a cooperative venture to develop a standard by committee agreement. The rule, as presented in this proposal, reflects a consensus of representatives of the wood heater industry, the environmental community, consumer groups, state air pollution control and energy agencies, and the EPA.

It is important to note, however, that the parties to the negotiation concurred with the regulation, when considered as a whole. Inevitably in any negotiation, this means that some parties may have made concessions in one area, in exchange for concessions from other parties in other areas. As a result, it is difficult to assess how changes in particular parts of the proposed rule would affect the consensus.

Members of the negotiation committee and their affiliation are as follows:

Negotiators/Affiliation

1. Robert Ajax, U.S. EPA
2. William Becker, STAPPA/ALAPCO
3. Larry Canaday, Woodcutters Mfg.
4. John Charles, Oregon Environmental Council
5. Donnis Corn, a-b Fabricators, Inc.
6. David Doniger, Natural Resources Defense Council, Inc.
7. Harold Garabedian, Vermont Air Pollution Control Program
8. Robert Geiter, Applied Ceramics
9. R.D. Gros Jean, Corning Glass Works
10. Brad Holloman, New York State Energy Research & Development Authority and New York State Energy Office
11. Jim King, Colorado Department of Health
12. John Kowalczyk, Oregon Department of Environmental Quality
13. Neil Martin, Brugger Exports, Ltd.
14. David Menotti, Wood Heating Alliance
15. Jay W. Shelton, Shelton Research, Inc.
16. David Swankin, Consumer Federation of America

Facilitator

Phil Harter, Esq., Consultant to EPA

Executive Secretary

Chris Kirtz, U.S. EPA

Observers

Wayne Leiss, Office of Management and Budget

George J. Lippert, U.S. Forest Service

Jean Vernet, U.S. Department of Energy

II. Summary of the NSPS

A. Source Category To Be Regulated

This NSPS would regulate new residential wood heaters.

B. Pollutant To Be Regulated

This NSPS would regulate particulate matter (PM).

C. Affected Facility

A "wood heater" would be defined as an enclosed, woodburning appliance used for space heating, domestic water heating, or indoor cooking that meets all of the following criteria:

1. An air-to-fuel ratio averaging less than 35-to-1.
2. Firebox volume less than 20 cubic feet.
3. Minimum burn rate less than 5 kg/hr, and
4. Maximum weight of less than 800 kg.

The regulation explicitly excludes furnaces, boilers, and open fireplaces.

D. Best Demonstrated Technology

Two technologies are BDT for this source category: Catalytic technology and low-emitting noncatalytic technology.

E. Format for the Standards

The emission limit would be expressed in grams of PM per hour (g/hr).

F. Emission Limits and Compliance Dates

The rule would have two phases: wood heaters manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990, would have to meet certain particulate matter emission standards (Phase I); wood heaters manufactured on or after July 1, 1990, or sold at retail on or after July 1, 1992, would have to meet more stringent particulate matter emission standards (Phase II). For each phase there would be separate emission limits for catalytic wood heaters and for noncatalytic wood heaters as specified in Table 1.

TABLE 1.—WOOD HEATER EMISSION LIMITS

	Phase I (July 1, 1988–June 30, 1990)	Phase II (beginning July 1, 1990)
Catalytic.....	5.5 grams/hour.....	4.1 grams/hour.
Noncatalytic.....	8.5 grams/hour.....	7.5 grams/hour.

The Phase I emission limits are about the same as the 1988 emission limits in Oregon. Because the emission weighting formula used in this standard is different from the weighting formula in the Oregon standard, the numerical expression of the standard is different. For perspective, the numerical value of the Phase II emission limits are about 15 and 25 percent lower than the 1988 Oregon standards for noncatalyst and catalyst wood heaters, respectively, and also limit allowable emissions at any burn rate (i.e., a cap).

The 1990 cap for catalyst wood heaters is a function of burn rate (dry basis) and is calculated by the following:

- For burn rates < 2.82 kg/hr, Cap = 3.55 g/kg × (burn rate) + 4.98 g/hr
- For burn rates > 2.82 kg/hr, Cap = 15 g/hr.

The 1990 cap for noncatalyst wood heaters is 15 g/hr for burn rates less than or equal to 1.5 kg/hr and 18 g/hr for burn rates greater than 1.5 kg/hr.

G. Modification/Reconstruction Considerations

Modification or reconstruction, as defined in § 60.14 and § 60.15 of Subpart A, shall not, by itself, make a wood heater an affected facility under this subpart. A "modification" is a physical or operational change to an existing facility, in this case built before July 1, 1988, that would result in an increase in the emission rate. "Reconstruction" means the replacement of components

of an existing facility to the extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost needed to construct a comparable entirely new facility. Under the proposed rule, neither "modification" nor "reconstruction" of a unit built before July 1, 1988, would make that unit subject to the standards. On the other hand, a unit otherwise subject to them would remain subject, even if it were "modified" or "reconstructed."

H. Certification Testing

As an alternative to requiring that each wood heater be tested for compliance, a manufacturer may elect to have an entire model line certified. To obtain a certificate of compliance the manufacturer must submit for testing a wood heater which is representative of a model line to an EPA-accredited laboratory. If the representative wood heater meets the emission limits, the entire model line would be certified. Compliance with the emission limits would be demonstrated by meeting the composite or weighted average emission limit and by meeting, in addition, for Phase II, the individual caps at each of at least four burn rates. Applications for certification may be submitted at any time, but those received before July 1, 1988, may be considered under either the proposed or promulgated requirements, at the applicant's option. Additional and revised promulgated requirements would not apply retroactively.

I. Test Methods and Procedures

Procedures for loading the test fuel, for setting up the wood heater, for operating the wood heater, and for conducting the emissions and efficiency tests are specified in the regulation. Several equivalent methods for measuring PM would be permitted in the regulation. Efficiency testing would be optional.

J. Accreditation Procedures

Certification testing would be conducted by EPA-accredited laboratories and laboratories accredited by Oregon and exempted under this regulation's grandfather provisions. EPA would accredit laboratories based upon their demonstrated proficiency and upon specified criteria. Applications for accreditation may be submitted at any time, and those received before July 1, 1988, may be considered under either the proposed or promulgated requirements, at the applicant's option. Additional and revised promulgated requirements would not apply retroactively.

K. Compliance Scheme

Unless exempted, all model lines would have to be covered by a certificate of compliance, or each wood heater would have to be individually tested. All wood heaters affected by this standard would be labeled to indicate their compliance status and to provide comparative performance information for consumers. Enforcement would include: (1) Inspections at the retail level to ensure that all wood heaters are properly labeled, (2) parameter inspections to ensure that components of the manufactured units conform to the representative wood heater submitted for testing, and (3) emission audit testing to ensure that the model line meets the emission limits.

L. Labeling and Owner's Manual

All appliances subject to the standard and offered for sale would be required to display both a temporary label and a permanent label. In general, the temporary label would help the prospective purchaser select an appliance by providing information on relative pollution output, efficiency, and heat output. The permanent label would contain information relevant to compliance and applicability. Manufacturers would be required to provide operation and maintenance information necessary for good emissions control in the owner's manual that accompanies the appliance.

M. Catalyst Warranty Requirements

If the wood heater is equipped with a catalyst, the catalyst would have to be guaranteed in full for at least two years and, beginning July 1, 1990, for at least three years for thermal degradation of the substrate. Also, the catalyst would have to be easily accessible for inspection and replacement.

N. Manufacturer Quality Assurance

Manufacturers would be required to conduct a quality assurance (QA) program consisting of both parameter inspections and emissions testing.

O. Alternative Certification

EPA would allow an alternative certification procedure for manufacturers who may be unable to obtain certification in the event that EPA determines that the time for getting appliances tested at accredited laboratories and getting applications processed by EPA exceeds six months.

P. Recordkeeping and Reporting

Manufacturers would be required to maintain records of certification testing data, QA program results, production volumes, names and addresses of

purchasers, and information needed to support a request for a waiver or exemption. Accredited laboratories would have to keep testing records and report periodically to EPA certain information required under alternative certification provisions. Retailers would have to maintain names and addresses of purchasers. All records would have to be retained for at least five years.

III. Impacts of this NSPS

EPA used a wood stove demand simulation model to estimate the anticipated nationwide impacts of this NSPS. This computer model assumes households will attempt to minimize the cost of wood heat over the lifetime of the heater. It also assumes that, independent of the impacts of this regulation, wood heater sales volume would continue at about the same rate as in 1985. Using a variety of inputs such as the price of firewood, the price of various types of wood heaters, and wood heater sales volumes, the model projects on a regional and household/income basis, changes in sales, emissions, wood use, and heating costs that will occur as a result of this regulation. From these data, nationwide impacts were developed on air pollution, energy and control costs, and various economic effects in the fifth year after the regulation takes effect and compared with the impacts that would have occurred in the absence of regulation.

A. Air

Particulate emissions from wood heaters are a function of the method of measurement. Emission estimates based on laboratory tests have been made for both uncontrolled and controlled wood heaters. Based on a total particulate catch using EPA's Modified Method 5 (MM5) discussed in the Sampling Methods section, a typical conventional wood heater emits about 60 to 70 g/hr of PM. Catalytic and noncatalytic wood heaters complying with the 1988 standards would emit at least 82 and 72 percent less, respectively. Although catalytic wood heaters achieve greater emission reductions initially, presumed deterioration of the catalysts over time are estimated to result in emissions from catalytic wood heaters over their useful lifetimes approximately equal to noncatalytic wood heaters. Catalytic and noncatalytic wood heaters complying with the 1990 standards would emit at least 86 and 75 percent less, respectively, than conventional wood heaters. The numerical emission limits in the regulation, however, are based on PM measurements using the

Oregon Method 7, also described in the Sampling Methods section, which measures roughly half the emissions of MM5.

Assuming that: (1) The price increases resulting from the standard would be on the order of \$120 to \$200 per appliance, (2) manufacturers would offer a mix of catalytic and noncatalytic wood heaters, (3) the initial emissions control efficiency of a catalyst may deteriorate over time, and (4) some wood heaters will be exempted for a year, EPA projects that the nationwide PM emission reduction in the fifth year is 395 Gigagrams (Gg) per year (or 436,000 tons per year), as shown in Table 2. It is important to note that all of the fifth year impact data refer only to wood heaters manufactured on or after July 1, 1988, or sold on or after July 1, 1990. Wood heaters manufactured before July 1, 1988, and sold before July 1, 1990, would not be affected by this regulation.

Although no emission reduction estimates have been made for pollutants other than PM, the control techniques used to reduce PM emissions are known to reduce carbon monoxide (CO) and polycyclic organic matter (POM) emissions as well. POM is a class of compounds containing carcinogens.

B. Other Environmental Impacts

This NSPS is anticipated to have no impacts or only negligible impacts on water quality or quantity, waste disposal, radiation, or noise. The increased wood heater efficiencies are expected to result in reduced wood consumption thereby saving timber and preserving woodlands and vegetation for aesthetics, erosion control, and ecological needs.

C. Health and Welfare Impacts

Health effects associated with exposure to wood heater PM include both mortality and morbidity resulting from respiratory disease, cardiovascular disease, and some risk of carcinogenesis. Welfare effects of wood heater PM emissions include soiling and materials damage to residences. Depending on the dispersion characteristics of the PM emissions, soiling and materials damage may also occur to commercial, industrial, governmental, and institutional facilities. Wood heater PM emissions also adversely affect visibility. The State of Oregon's regulation on woodstove PM emissions was prompted, in part, by the degradation in regional visibility. Table 2 includes a rough estimate of the dollar value benefits of reducing the mortality, morbidity, and household soiling and materials damage associated with the PM emission

reduction due to the regulation. In addition to the health benefits of reduced air pollution, this standard is expected to reduce creosote deposition. Creosote deposition is the principal contributor to chimney fires. In 1984, 126,000 residential fires were attributed to wood heat, claiming 140 lives. Thirty percent of these fires were thought to have started in the chimney.

D. Energy Impacts

The increased efficiency of wood heaters is estimated to reduce demand for firewood by about 700,000 cords in the fifth year.

E. Cost Impacts

Many consumers would purchase more technically advanced wood heaters than they would have in the absence of the NSPS, and would therefore pay up to 25 percent more than they would for a conventional wood heater. Catalytic and noncatalytic wood heaters are, on average, about \$200 and \$120 more expensive, respectively, than conventional wood heaters. However, on average, this additional expense will be more than offset by cost savings from

the need for less firewood and for fewer chimney cleanings over the life of the heater. Nationally, in the fifth year, there is a projected net savings of \$29 million because of these offsetting benefits.

F. Economic Effects

The regulation is projected to result in a 5 percent decrease in sales in the first year when the exemption for the smallest firms is in force. A 7 percent decrease compared to the no regulation case is projected for the second year. In the long run, the decrease is expected to be about 5 percent. This decrease is expected to result, in part, in some manufacturers ceasing wood heater production, and others reducing it. It is not possible at this time to quantify this impact. In the long run, the regulation is anticipated to have no appreciable effect on the price of catalytic and noncatalytic low emitting stoves. Two important but unquantified impacts of the regulation are a potential increase in the development of the lower emitting heater technology and an increase in the spread of consumer information concerning this new technology.

TABLE 2. FIFTH YEAR NATIONWIDE IMPACTS SUMMARY

	Costs (savings) (\$10 ³)	Emissions (Gg/yr)	Number of wood heaters sold (10 ³)	Cords of wood (10 ³)	Health and welfare benefits (\$10 ³)
No regulation (baseline)		549	800	10.1	
NSPS	(29)	154	757	9.4	1,500

IV. Background to Standard

As discussed elsewhere in today's *Federal Register*, EPA is listing residential wood heaters based on its determination that wood heaters cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

During the past few years, several State and local governments have developed regulations controlling, and in some instances temporarily banning, wood heaters. On July 1, 1986, Oregon regulations went into effect prohibiting the sale of new wood heaters that are not state-certified. Similar regulations went into effect in Colorado on January 1, 1987. Several local ordinances have been passed, mostly in the Rocky Mountains, to control or ban woodburning. Several other States are awaiting the development of a Federal NSPS before deciding whether to regulate on their own.

The development of a Federal NSPS for wood heaters began in 1985 as a

response to the growing concern that wood smoke contributes to ambient air quality related health problems. In response to a lawsuit filed by the State of New York and the Natural Resources Defense Council (NRDC), the Agency agreed to conduct a wood heater NSPS rulemaking with a schedule calling for final action by January 31, 1988. *New York v. Thomas*, Nos. 84-1472, etc. (D.C. Cir.) (Settlement Agreement of May 9, 1986).

After communicating with the various parties interested in the development of this standard—the wood heating industry, State governments, environmental and consumer groups—EPA established a negotiating committee under the Federal Advisory Committee Act to negotiate the provisions of the standard.

Beginning on March 19, 1986, the regulatory negotiation committee met six times on a monthly basis to discuss and reach agreements on a variety of technical and policy issues associated with the development of the standard. At the final meeting of the committee on

August 21, 1986, the committee reached agreement in principle on all major provisions of the standard and, in December, the standard that is being proposed today was formally agreed to by all parties.

V. Rationale for Proposed Standards

The purpose of this section is to (1) explain briefly the issues negotiated by the committee, (2) describe the resolutions reached by the committee, (3) present the rationale for these resolutions. EPA cautions that its explanation of the reasons for particular committee decisions may not always reflect the reason why each individual committee member agreed to a particular provision of the regulation.

A. Selection of Source Category

As discussed in the listing notice contained elsewhere in today's *Federal Register*, the standard would cover wood heaters and not conventional fireplaces. Wood heaters exhibit greater air pollution emitting characteristics than do fireplaces. In addition, the different technical and operational characteristics of fireplaces do not easily lend themselves to the same types of controls that can be applied to wood heaters.

Fortunately, the conditions in a wood heater that characterize the pollution problem—poor air and fuel mixing, low air flows, relatively high concentrations of unburned material in the exhaust—are conditions that lend themselves to control using secondary or more complete combustion. This can be accomplished through modification of the firebox and air supply systems and/or through use of catalysts.

Secondary combustion controls are not necessarily applicable to and have not been demonstrated for fireplaces. The reason for this is that the higher air-to-fuel ratios and exhaust air flow rates, and the lower concentrations of unburned matter in the exhaust will not readily support secondary combustion. Use of catalysts may be applicable in certain cases, but, in general, small catalysts tend to restrict exhaust flow in the fireplace stack, and could cause smoke to back-puff into the room. Larger catalysts with less restriction would add greater mass and require more heat than is available to sustain combustion. These problems are not necessarily insurmountable and programs in Colorado are underway to assess fireplace controls. Thus, control systems that have been demonstrated for wood heaters are not necessarily applicable to fireplaces. The quantity of pollutant emissions from fireplaces justifies further investigation of possible control

techniques, however, and EPA solicits comments on how such emissions may be effectively reduced.

Another reason for not regulating fireplaces under this standard is that many fireplaces are custom designed and site-built. The certification program and test protocols are designed to accommodate mass-produced units based on a single model line. A masonry fireplace permanently attached to a structure could not readily be tested in a laboratory.

B. Pollutant To Be Regulated

Wood heaters emit PM (which include condensable hydrocarbons and POM's) as well as large quantities of carbon monoxide. As indicated in the August 2, 1985 ANPR, EPA intends to regulate only PM under this standard. Committee members agreed with this decision to limit the scope of the regulation to PM.

EPA had several reasons for this decision. The first was that by limiting the pollutants covered to PM, a wood heater regulation could be developed in a shorter period of time. The second reason was that control techniques for reducing PM also reduce CO emissions, although the degree of CO reduction is not always proportional to the PM reductions. Some wood heater designs and control techniques result in proportionately greater CO emission reductions than others. Similarly, reductions in PM emissions are accompanied by similar reductions in POM emissions. Based upon limited test data, it appears that catalytic and noncatalytic control technology both reduce POM to approximately the same degree. Finally, at the local level, wood smoke is believed to create more problems with attainment of ambient air quality standards for PM than for CO. Therefore, EPA decided that priority should be given to PM controls.

C. Applicability

As mentioned above, this regulation is intended to regulate emissions from enclosed wood heaters and not conventional fireplaces. Because of the variety of residential wood-burning appliances, the distinction between airtight wood heaters and fireplace inserts, on the one hand, and fireplaces, on the other, is not clear cut. A mass-produced freestanding woodburning appliance equipped with tight fitting doors and combustion air controls may be called a fireplace but may function and have emission characteristics of a wood heater.

It was necessary, therefore, to define clearly which appliances would be covered and which would be excluded by the standard. The committee agreed

to define the facility affected by this NSPS as an enclosed, woodburning appliance capable of and intended for space heating, domestic water heating, or indoor cooking and that has an air-to-fuel ratio of less than 35-to-1 at the low burn cycle, has a usable firebox volume less than 20 cubic feet, weighs less than 800 kg, and has a minimum burn rate less than 5 kg/hr. Multi-fueled appliances (e.g., wood and coal) would be covered to ensure that the standard would not be circumvented by simply designating an appliance as coal-capable when in fact it could be used to burn cordwood.

The reference to "indoor cooking" is intended to exclude outside barbeque grills but to include indoor wood-fired cookstoves. To have excluded cookstoves would have created the possibility of circumvention because most space heating woodstoves can be judged to be capable of heating food. Additionally, no evidence was presented to indicate that a cookstove has different operating or emitting characteristics than a typical woodstove to warrant its exclusion.

Following the negotiation, one manufacturer of wood-fired cookstoves that contain ovens commented, through the Wood Heating Alliance (WHA), that control of emissions from these facilities with catalyst and noncatalyst technologies is not feasible. No data or other information were submitted to support these claims. Cookstoves with ovens are similar in most respects to woodstoves and EPA has no data showing that available controls are not applicable to these facilities with ovens. EPA is, therefore, not exempting such facilities in the proposed standard and is requesting comments and any data relevant to control of wood-fired cookstoves. Depending upon the information received, EPA may exempt cookstoves or may set an alternative standard or effective date for such facilities.

Air-to-Fuel Ratios

The air-to-fuel ratio and minimum burn rates are also a means of distinguishing airtight wood heaters from fireplaces. Fireplaces generally have much higher minimum air-to-fuel ratios (typically above 100-to-1) than do woodstoves or fireplace inserts. Lower air-to-fuel ratios are possible in fireplaces with tight-fitting glass doors. For example, data presented to the negotiating committee showed one test run on a small zero clearance fireplace with an air-to-fuel ratio of 23-to-1. However, this same unit consistently had burn rates above 8 kg per hour.

Based on consideration of these data, the committee established an air-to-fuel ratio criterion of 35-to-1 and a burn rate criterion of 5 kg per hour as a means for differentiating between facilities that are subject to and exempt from the standard. An affected facility that would be subject to the standard must operate below both of these criteria.

Determination of air-to-fuel ratios and burn rates are made using procedures specified in Method 28A. EPA requests comments regarding this definition of wood heater as a means of separating fireplaces from air-starved appliances such as woodstoves and fireplace inserts.

Method 28A is proposed for determining applicability regarding the air-to-fuel ratio criterion. Specifications in Method 28A are intended to ensure that determinations of whether particular facilities are covered by the standard are made on the facility configurations that could reasonably be expected to be employed by the user. They are also intended to prevent circumvention of the standard through the addition of an air port that would often be blocked off in actual usage. These specifications are based on the assumption that consumers may remove such items as damper or other closure mechanism stops if this can be done readily with household tools; that consumers may block air inlet passages not visible during normal operation of the appliance using aluminum tape or parts generally available at retail stores; and that consumers may cap off any threaded or flanged air inlets. They also assume that air leakage around glass doors, sheet metal joints or through inlet grilles visible during normal operation of the appliance would not be further blocked or taped off by a consumer.

Method 28A is not intended to cause a facility that is clearly designed, intended, and, in most normal installations, used as a fireplace to be converted into a wood heater for purposes of applicability testing. Such a fireplace would be identifiable by such features as large or multiple glass doors or panels that are not gasketed, relatively unrestricted air inlets intended, in large part, to limit smoking and fogging of glass surfaces, and other aesthetic features not normally included in wood heaters.

Size Cutoffs and Accessories

The 20 cubic foot firebox volume cutoff ensures that large industrial and commercial wood-fired appliances would not unintentionally be brought under this regulation. Most residential wood-fired appliances are less than one-third this size.

The committee also established the size cutoff of 800 kg to exclude high mass, site-built masonry appliances. The largest conventional wood heater intended to be covered by the standards of which EPA is aware weighs less than 350 kg.

Simply adding accessories to an existing fireplace not originally equipped or designed for such accessories would not cause the fireplace to become an affected facility. In one instance, the committee was made aware of a specially designed fireplace grate that its manufacturer claimed would cause a fireplace technically to become an affected facility under the proposed definition. The standard would not apply to these accessories. However, facilities that are described as prefabricated fireplaces and that are designed to accommodate doors or other accessories that would create the air-starved operating conditions of wood heaters would be covered by the standard if they meet the criteria in the definition with these accessories in place.

Homemade Wood Heaters and Coal-Fired Heaters

One issue on which EPA specifically requests comment is how the certification requirements should apply to homemade wood heaters, many of which are built from commercially-available kits. The emission limits would apply to these units, since homeowners can only operate affected facilities that are certified or exempted. There are several kit manufacturers who distribute their products nationally. Typically, a kit includes a door, legs, flue pipe and collars, brackets, bolts and other hardware, and instructions for assembling the wood heater with ordinary tools. One manufacturer guarantees a lifetime of ten years and claims heat outputs well in excess of most conventional wood heaters. Although they lack aesthetic appeal, there appears to be a definite market for this type of wood heater. Survey data indicate that more than 5 percent of the wood heaters produced in this country are homemade.

EPA believes that kit manufacturers should have their designs (i.e., a wood heater constructed according to manufacturer's instructions) tested and certified. At least one of the kit manufacturers has voluntarily complied with the U.S. Consumer Product Safety Commission's regulations (16 CFR Part 1406) requiring safety labeling by having his design tested. This manufacturer includes as an option a safety label which can be applied to a kit stove as it is assembled.

The committee agreed that genuine coal-fired appliances, wood-fired furnaces and boilers should be excluded from this standard. The committee agreed to a definition of "coal-only heater" that defines the design of the appliance with such specificity as to exclude facilities that might be called coal heaters by the manufacturer but which could be expected to be used as wood-fired appliances. Also, to qualify as a coal-only heater, the model would have to be listed for burning coal only by a nationally recognized safety testing laboratory. The committee decided to require that coal-only heaters be labeled as such but that coal-only heaters be exempt from other requirements such as the emission limits.

Boilers and Furnaces

Due to the absence of emission test data comparable in quality to that used to set the emission limits for other wood heaters, the absence of a standardized test protocol, and the paucity of data on the feasibility of emission controls, the committee decided that boilers and furnaces should not be included in this standard at this time. In order to avoid circumvention, the committee agreed that boilers and furnaces should be tested and listed under accepted American or Canadian safety testing codes, in order to be exempt from the standards.

In addition to specifically excluding boilers, furnaces, and open masonry fireplaces from the standard, the committee decided to exempt wood heaters manufactured for export and wood heaters used exclusively for research and development (R&D) from all but the labeling requirements. Wood heaters operated in other countries would not be affected by this standard. To prevent a manufacturer from designating an unlimited number of wood heaters as "research stoves," the R&D exemption would be limited to 50 wood heaters per model line. Furthermore, wood heaters exempted under the R&D provision could not be sold.

Oregon-Certified Wood Heater Exemption

Finally, the committee agreed to two other exemptions. The first was that wood heaters which are certified by the Oregon DEQ should be exempted from being retested under the EPA certification program for the first 2-year phase of the standard (when the EPA and the Oregon emission limits are roughly equivalent). (Manufacturers of Oregon-certified wood heaters would, however, need to apply to EPA for

certification and comply with other applicable EPA requirements.) The second was to provide a 1-year exemption from the standard for all models produced by manufacturers who produced fewer than 2,000 wood heaters in a base year.

The Oregon "grandfather" provision offers the following advantages:

(1) It would reduce the cost burden of certification testing on the industry;

(2) By avoiding duplicate and essentially redundant testing, it would reduce the total number of tests needed during the first 2 years under the standard and would thereby reduce delays, uncertainty, and other undesirable effects that would result from a testing "logjam;"

(3) Manufacturers who had already made investments to design, produce, and market clean-burning wood heaters would not be penalized; and

(4) The demand for testing would be reduced and spread out over time. At the time the negotiations were completed, Oregon had certified almost 50 models.

Small Manufacturer Exemption

The decision to grant a 1-year delay to small manufacturers (those who produce fewer than 2,000 wood heaters between July 1, 1987, and June 30, 1988) had two bases. The first was to provide an additional means of reducing a potential logjam problem by delaying for 1 year the compliance date for many manufacturers. The second was to provide additional time to small manufacturers for such purposes as conducting the research and development, obtaining financing, or purchasing complying designs, necessary to meet the standard. Small manufacturers would likely be the least able to meet the compliance deadlines, because, as a rule, they have less technical expertise, more limited investment funds, and less access to capital markets than large manufacturers. Results of an EPA survey of manufacturers indicated that approximately 70 percent of the manufacturers produce less than 2,000 wood heaters per year, but account for only about 10 percent of the production. Because relatively few firms account for a relatively large share of the wood heater production, it was reasoned that a 1-year delay would help alleviate adverse impacts for many manufacturers while causing a minimal environmental impact. The effect of this would be to preserve the current competitive situation and will not result in an increase in sales by firms covered by the exemption.

D. Compliance Date

Under section 111(a)(2) of the Clean Air Act, any source, the construction of which commences after proposal, is a "new source." However, EPA can set standards only for classes of wood heaters for which EPA has identified BDT. To be BDT, a technology must be available at a reasonable cost. For wood heaters, an important element of the cost of a technology is the cost of delaying production while models with that technology are designed and certified. Thus, BDT applies, and the standards apply, only to those classes of new sources that can meet the standards with a reasonable lead time, as discussed below.

The results of an EPA survey of manufacturers indicated that virtually all of the manufacturers would be able to design, certify, and market a new clean-burning model within 24 months. Manufacturers on the committee also provided varying estimates of the time required to get a new model on line ranging from 6 to 14 months. Based on information supplied by a large manufacturer present at one of the meetings it was estimated that it would take 22 months for that manufacturer (14 months for a single line) to develop and certify all of his model lines. This estimate included design, research and development, testing, field evaluation, and marketing. In addition, because of the Oregon and Colorado standards and the publicity given the EPA standards development, a number of manufacturers had already become well aware of the need to begin designing new clean-burning wood heaters. Finally, the environmental impacts of a longer delay were significant.

Several committee members noted that controls were needed as soon as possible to help states come into attainment with the proposed new "PM-10" ambient standards if EPA promulgates them. (As detailed in *Federal Register* Vol. 49, No. 55, published on March 20, 1984, EPA has proposed a new ambient standard for PM particles less than 10 microns in diameter.) Woodsmoke particles are smaller than 10 microns in size and might contribute to problems in complying with a PM₁₀ standard in many parts of the country.

To accommodate the need to speed up the environmental benefits of the standard, and to prevent unreasonable economic hardship to the wood heater manufacturing industry, the committee agreed to a variety of measures. These include the small manufacturer exemption and the Oregon grandfather provision (both described in

"Applicability"), a two-phased standard with the first phase beginning in July 1988 to be followed by a more stringent standard in July 1990, a provision in the standard allowing an alternative certification process to manufacturers who are unable to certify because of unreasonable delays in the certification process, and a provision for waiving certification testing of designs identical to previously certified designs.

Both the small manufacturer and Oregon exemptions are expected to reduce significantly the demand for certification testing and thus the possibility of undue delays or a "logjam" for certification in the period between proposal and the compliance date. The committee recognized that the time required to develop and certify a model was related to the stringency of meeting the standard. In part for this reason, the committee agreed to a July 1988 compliance date for application of emission limits that are roughly equivalent to Oregon's 1988 emission limits.

The Oregon standards, which were adopted in 1984, have represented the design target toward which most manufacturers in the northwest and other large manufacturers nationwide have directed their research and development efforts. In August 1986, when the committee was considering the scheduling and emission limits, some 50 models had achieved the Oregon 1988 standards. This accomplishment has required significant expenditures and effort by many small businesses and has resulted, for the first time, in significant technological advances in wood heater designs. Until this time, control technology had been essentially undemonstrated. The committee concluded, therefore, that a level of control comparable to the Oregon 1988 standard was appropriate and achievable in 1988. It was concluded that a more stringent level of control as early as 1988 would not necessarily be achievable by those models which otherwise would have met the Oregon 1988 standard. Such a standard would cause an unmanageable certification backlog, would present a moving target to those manufacturers who had done the research and development and spent funds for certification in Oregon, and would not be reasonable considering the small environmental gain, if any, that might result. A second phase of the standard, requiring more stringent emission controls, would go into effect 2 years later in July 1990.

If a logjam did occur, an alternative certification scheme would allow manufacturers to have their models

certified for up to 1 year based upon test data, from any test performed in accordance with the test methods specified in § 60.534. The alternative certification provision works as follows.

Beginning April 1, 1987, and continuing until July 1, 1990, EPA will calculate certification lead times from the estimated laboratory testing backlog and EPA's estimated application processing time. If the estimated laboratory testing backlog plus EPA's estimated application processing time exceeds 6 months, EPA must determine that an unreasonably long certification lead time, a "logjam", exists. Until EPA determines that a logjam no longer exists, manufacturers will be allowed to comply under the alternative certification process described below, as long as they have scheduled a wood heater for certification testing at an EPA-accredited laboratory. Under alternative certification, the manufacturer would submit to EPA a completed application including test data from any laboratory, without regard to EPA laboratory accreditation and including the manufacturer's own in-house laboratory. If EPA takes no action on the application, the model line will automatically be certified at the end of 30 days. (EPA could reject the application only if it were incomplete or clearly indicated noncompliance.)

The duration of the alternative certification for each affected line depends upon the certification test results from the EPA-accredited laboratory, and when EPA takes action on an application for "full" certification. If the preliminary test results from the accredited lab indicate that the appliance met the emission limits or failed by less than 50 percent over the composite emission limit, alternative certification will continue to the end of the manufacturer's production year during which EPA takes action on the application for "full" certification, or 12 months after that date, whichever comes earlier. A failure greater than 50 percent over the emission limit will trigger expiration of the alternative certification in 72 hours. Alternative certification also expires if the preliminary test results from the originally scheduled test at an EPA-accredited laboratory are reported to the manufacturer within 100 days of when the appliance was scheduled, and these results show that the appliance exceeds the applicable emission limits.

Preliminary test results are those reported by the laboratory within 10 days after testing is completed. They do not necessarily consist of the complete test report, but are test results that the

laboratory will stand behind, to enable the manufacturer or EPA to determine whether a wood heater meets the applicable emission limits. The preliminary results must be signed by a responsible official of the laboratory.

Finally, the committee agreed that wood heater models which are similar in all material respects to previously-certified models (e.g., models produced using a design purchased from another manufacturer) could be waived from certification testing. To be eligible, the manufacturer seeking the waiver must submit a copy of the agreement permitting the applicant to produce wood heaters of that design. This provision would be to reduce testing demand and to reduce certification costs.

E. Selection of Emission Limit Format

Format refers to the units in which emission values are expressed. The committee considered three alternative formats for expressing wood heater emissions. These were: (1) Grams of particulate per hour (g/hr), (2) grams of particulate per kilogram of wood consumed (g/kg), and (3) grams of particulate per joule of heat delivered (g/J). The relative ranking of heaters can depend upon the emission limit format. The three formats do not necessarily rank heaters equally.

The committee agreed to express the emission limits in grams per hour. It is the least complex of the three formats, and it is consistent with current regulations in Colorado and Oregon. Further, it provides more accurate information than either of the other formats on actual rates of particulate loading into the ambient air.

The committee rejected the g/J format because its selection required heat output to be measured. Currently available heat output measurement methodologies are relatively imprecise as well as costly. The committee determined that the main benefit of g/kg format would be to reduce possible bias created by g/hr for low burn rates, but that this could be addressed in the selection of the emission limits and the weighting scheme, and by setting "caps" that may allow higher emissions at greater burn rates. (See discussion at "Selection of Level of the Standard").

F. Selection of Wood Load for Emission Testing

Fuel characteristics and loading arrangements affect PM emissions from wood heaters. To provide a common basis for comparing emission performance among wood heaters for certification testing purposes, a standardized wood loading procedure is

needed. Two standardized wood loading procedures had been used for emission testing prior to the NSPS development. These are the Oregon procedure and the draft ASTM P-180 proposed procedure. Both procedures require the use of air-dried Douglas fir dimensional lumber (e.g., 2x4s, 4x4s) arranged and stacked in specific fashions. The major differences between the two procedures are test fuel size, spacing between fuel pieces, and the amount of fuel required.

The committee decided to adopt the Oregon loading procedures. The majority of available emissions data was collected using this procedure. Although no standardized wood load configuration and procedure is representative of individual consumer cordwood burning practices, the Oregon loading density falls within the range shown by the studies.

The committee's decision on the Oregon loading density was also supported by studies which had investigated actual consumer wood loading practices. The first, a study conducted between 1979 and 1985 on nine houses located in New York, Ohio, and Vermont, consisted of 569 loads with 141 night loads. The overall average load factor was 5.4 lb/ft³ of usable firebox volume. The average overnight load factor was 6.4 lb/ft³. The second study, performed in 1985-1986, consisted of houses in Oregon, Vermont, and New York. Four hundred seventy-five wood loads were documented and the average wood load density ranged from 1.1 to 6.7 lbs/ft³ (dry basis) depending upon the method of wood load density determination. The Oregon loading, which specifies 7 lb/ft³ (wet basis), is more consistent with these data than are alternative loadings considered by the committee. These alternatives resulted in higher densities, generally 50 to 100 percent greater.

G. Selection of Burn Rate for Emission Testing

The burn rate at which the appliance is operated also affects PM emissions from wood heaters. Burn rate is a measure of how much fuel is consumed in a given amount of time (kg/hr). The burn rate of a heater is regulated by the air inlet supply and affects the heat output rate of the heater.

Emission profiles showing emission rates as a function of burn rate (or heat output) for different heaters show that emission characteristics are heater-specific. The overall emission performance of a wood heater cannot be determined by performing emission tests at a single burn rate or heat output condition. Consistent with the current

testing approaches in the Oregon and Colorado regulations, the committee agreed conceptually that multiple emission test runs spanning the operating range of a heater were needed to adequately characterize a heater's emission performance.

Two issues were addressed during the negotiations: (1) Which parameter, heat output (MJ/hr) or burn rate (g/kg), should be used to define operating conditions during wood heater emission tests, and (2) at what specific burn rate (heat output) categories or ranges should emission tests be conducted?

EPA presented emission profiles of heaters using both burn rate and heat output as the independent variable. Very little difference in composite emission values was seen when the two methods were compared.

Due to the fact that heaters of a similar control technology type generally have very similar efficiencies, and heat output rates and burn rates are directly related to the efficiency of the appliance, the committee agreed that burn rate is the better parameter for defining test conditions. Therefore, burn rate, rather than heat output, was selected as the basis for defining test conditions.

Both the Oregon and Colorado regulations define four specific heat output categories in which tests must be performed. These categories span the range from lowest heat output (or burn rate) to maximum heat output (or burn rate). There is, however, what could be regarded as a loophole in this approach. Wood heaters could comply with the emission limits by modifying the air introduction system to eliminate low burn rate, high emission conditions. This type of modification reduces substantially the sustainable burn time and is generally contrary to typical wood heater usage. For example, data on actual homeowner usage showed that approximately 50 percent of the time burn rates are less than 1.2 kg/hr. The several heaters that had been modified for Oregon certification were set up to not burn at rates below about 20,000 Btu/hr or about 1.6 kg/hr. Such appliances, although clean burning during certification tests, could easily be modified by the consumer either by removing damper stops or through use of a stack damper to achieve longer burn times, and thereby create high emissions. Consumers would be motivated to do this in order to extend burn times and to lower the heat output of the wood heater. Statements by several committee members indicated that such modifications were not uncommon.

The committee agreed at the outset that multiple test points were needed and that the burn rate loophole needed to be closed by specifying minimum burn rate criteria. The committee agreed that the burn rate categories be consistent with the current Oregon and Colorado regulations. The committee also concluded that the regulation should specify quantitatively a minimum burn rate that must be achieved during certification tests.

Test categories were determined by translating the Oregon categories into burn rates using an overall efficiency factor of 69 percent, and are shown in the following table. These categories were found to be reasonably consistent with homeowner usage and with the performance capabilities of the best demonstrated clean burning wood heaters.

TABLE 2.—BURN RATE CATEGORIES
(Average kg/hr, dry basis)

Category 1	Category 2	Category 3	Category 4
<0.80.....	0.80-1.25	1.26-1.90	Maximum burn rate.

A minimum burn rate less than 1.25 kg/hr must be achieved for the 1988 standard, while a burn rate less than 1.0 kg/hr must be achieved for the 1990 standard. If the required minimum burn rates are artificially created for purposes of the certification test, the manufacturer may exclude test runs less than 0.9 kg/hr from the weighted average.

H. Weighting Scheme

Weighting scheme refers to the method of compiling emission rate results from different burn rate conditions into a single value to be used for compliance determination.

The committee agreed that an appropriate weighting scheme is one that would place sufficient emphasis on low burn rates, and at the same time ensure clean burning across the entire operating range.

A weather weighting scheme was one approach considered. This approach has been used in the two state regulations. Weather weighting methods generally weight more heavily toward the low end of the heat output range—an operating condition that the committee agreed was prevalent, especially to sustain overnight burns. The primary disadvantage to a weather weighting approach is that the wide range of climates in the United States makes a national weather weighting scheme less objective. House size, design, extent of weatherization, and woodburning habits

vary greatly on a national basis, making a weighting scheme based on heat demand less reasonable for a national standard than for a state standard. In addition, weather weighting methods are based on seasonal heat demand averages and do not account for seasonal and diurnal variations. One disadvantage to weather weighting approaches is that they require the measurement of heat output rates and that generally, such methods place virtually all weighting on a small segment of the heater's operating range. As demonstrated in the Oregon regulation, some manufacturers have designed heaters that are only clean burning at the operating condition that is weighted the heaviest.

A polygon weighting scheme that the committee considered is designed to spread weighting more equitably over the entire operating range. This method weights the single test run emission values according to the proportion of the appliance's operating range that is mathematically represented by that test run. However, since many heaters have the capability to operate at burn rates (heat outputs) well above the three lower categories specified in the Oregon regulation, in many instances application of the polygon weighting method results in the majority of weight placed on the highest burn rate (heat output) conditions.

Burn rate data collected during in-home studies in the states of Vermont, New York, and Oregon were compiled to develop a frequency distribution of burn rate patterns and were used as the basis for developing a weighting scheme for use in this NSPS. The burn rate frequency distribution demonstrated that approximately 50 percent of the measured burn rates were less than 1.2 kg/hr.

The committee agreed that the frequency distribution developed from the in-home studies reasonably represented the full range of actual consumer wood use. This distribution heavily weights the lower burn rates which are common when heaters are operated overnight and also spreads the weighting out over the a range that includes the higher burn rates that would be found in colder climates and on the coldest days. This distribution was felt to be more representative overall than other averaging schemes considered. For these reasons, the committee selected this as the appropriate weighting scheme.

I. Altitude Effects on Emission Test Results

Atmospheric pressure varies directly with altitude. Variations in atmospheric pressure also have the potential to affect the combustion process (i.e., lean/rich air and fuel mixing conditions) and have been shown to affect the level of emissions created by combustion. Both the Oregon and Colorado woodstove emission control programs allow testing laboratories to adjust the PM emission measurement results to account for differences in altitude above sea level.

The altitude adjustment factors used in the Oregon and Colorado programs are based upon tests conducted on the same wood heater models (using identical test procedures) at a laboratory located near 300 feet above sea level and another laboratory located at 6,900 feet above sea level. All of the wood heaters tested at the high altitude lab had higher emissions than those at the low altitude laboratory, although the variation in emission differences was large. At issue was whether the EPA certification program should allow test results to be corrected for altitude and, if so, by how much.

The committee agreed to allow the retention of the altitude adjustment factor for the Oregon grandfathered models, for the in-house quality assurance programs operated by the manufacturers, and for seeking alternative certification under the logjam provisions. This decision was based upon practical considerations. If altitude adjustment were not allowed for Oregon grandfathered wood heaters, this would cause a significant number to have to be retested at low altitude and would cause essentially all prospective Oregon tests to be performed at low altitude. This could significantly increase the potential for a testing logjam, would add costs for those manufacturers who have taken the lead in R&D work and have passed Oregon tests, and, on average, would not have an environmental impact. If altitude adjustment were not allowed for in-house quality assurance or for logjam certification this would essentially void these two important provisions and could have potentially resulted in a later compliance date. The adverse environmental impact of a later compliance date would be great.

However, for direct Federal certification, and for enforcement and compliance audit testing conducted pursuant to this NSPS, no altitude adjustment factor would be allowed. This decision could be changed through subsequent rulemaking if data become available showing that the altitude

effect is predictable on a wood heater-by-wood heater basis.

The limited data that are available at this time indicate that the effect of altitude is different for different wood heaters and no one altitude adjustment factor is appropriate. Thus, as manufacturers gain more experience with heater design and the effect of altitude on emission rates the potential for gaming would be great. That is, use of a single altitude adjustment factor for each wood heater could motivate manufacturers to seek certification at the lab where their heaters perform the best. This would result in competitive disadvantages, continual disagreement over the appropriate adjustment factors, and increased emissions. While not allowing the altitude correction factor does not solve all these problems, this approach is fair and consistent for all manufacturers. However, the committee agreed to permit the use of pressurized testing at test labs to simulate pressure at lower altitudes (not to exceed sea level) and thereby offset the disadvantage that high altitude labs would incur in the absence of pressurized testing.

The committee discussed the idea of a two altitude standard under which heaters would need to be tested at high altitude in order to be sold at high altitude. Some parties felt that the need for such an approach was not sufficiently demonstrated at this time and that the administrative, technical, and enforcement problems that such an approach would create would offset any possible short term benefits. Other parties disagreed, but eventually agreement was reached not to adopt such an approach at this time. This approach could be considered at some later date but would depend on the finding that there are clear differences between the technologies that work best at high and low altitude.

EPA notes that high-altitude states would not be prohibited from adopting more stringent standards to offset possible higher emissions due to lower atmospheric pressures.

J. Emission Measurement Methods for Emissions Testing

Procedures for measuring particulate emissions from wood heaters involve measurement of exhaust gas flow rate and emission concentration. These measurements can be made either in the wood heater stack or in a dilution tunnel. A dilution tunnel is a device which captures wood heater stack emissions and introduces outside air for the purpose of maintaining constant, measurable gas velocities for sampling.

The exhaust gas flow rate from wood heaters is dependent on natural draft conditions, and, as a result, gas velocities in the stack are extremely low. Gas velocities are generally below the detectable limit of most commonly used velocity measurement methods, such as EPA Method 2. In addition, the exhaust gas velocities change with time, and the tester must be able to adjust sampling rates in accordance with velocity changes during the test.

A carbon-hydrogen-oxygen (CHO) mass balance procedure is one procedure used to measure exhaust gas flow rates from wood heater stacks. The CHO balance method is based on a stoichiometric analysis of mass flow rate using exhaust gas measurements of CO₂, CO, O₂, and measurements of fuel burn rate throughout the test period. The gaseous components are measured with gas analyzers after the associated sample collection and conditioning systems. A tracer gas supply and measurement system is also necessary to detect changes in stack velocities during the test.

The velocity and flow rate measurement method in the dilution tunnel is based on EPA Method 2. Method 2 is a pitot procedure that uses velocity pressure, stack temperature, and stack dimensional data to calculate gas velocity and flow rate. The equipment necessary to conduct velocity measurements in the dilution tunnel include a velocity pitot (type S), a manometer, and a temperature indicator. Measurements are made manually and are familiar to most emission testers.

The committee discussed two candidate methods for measuring pollutant emission concentrations in the wood heater exhaust stack. These are the EPA Modified Method 5 (MM5) or semivolatiles organic sampling train (semi VOST) and the Oregon DEQ Method 7 (OM7) particulate sampling method. The MM5 sampling train is based on EPA Method 5. The EPA Method 5 sample collection train is modified with the addition of an XAD-2 sorbent resin module preceded by a condenser to cool the gas stream. The XAD-2 module is located downstream of the condenser which is placed immediately downstream of the heated filter (250°F) and upstream of the impingers. Analyses of the sample components include a gravimetric determination of mass collected in the sample probe and filter, the XAD-2 module extract, and the impinger extractions. Gas chromatographic analyses of aliquots of the extracted sample provide a measure of

semivolatile organic matter, which is defined as the material that passes through the 250°F filter but is collected in the XAD-2 resin and in the impingers. The sum of the gravimetric and chromatographic analyses results is identified as a measurement of total condensable organic matter.

The method employed by the Oregon DEQ, called OM7, is similar to EPA Method 5. The sample probe and heated filter are followed by water-filled impingers and a final filter for collection of condensed material. Analysis of the sample collected in the probe, on the filters, and in the impinger solutions is gravimetric. The collection efficiency for organic materials in the impingers of the OM7 sampling train is not as great as that for the XAD-2 module in the MM5 sampling train. Therefore, the emission concentration measured with the OM7 method will be somewhat less than that measured with the MM5 procedure.

The EPA recently completed a series of emission measurement method comparison tests. As a part of the test series, the MM5 and OM7 procedures were run in the wood heater stack.

One finding of the test program is that the total particulate emissions measured by the OM7 procedure are about one-half the results from the MM5 procedure. This relationship is reasonably constant over the range of emissions encountered in the study.

There is a significant difference in the ease of operation and the cost associated with these two sampling methods. The MM5 sampling train is more expensive initially and requires more preparation time than the OM7 sampling train. Sample recovery from the XAD-2 module and the impingers requires about two days of laboratory time and special laboratory equipment. Analysis of the MM5 samples requires a gas chromatograph and the expertise to operate it.

The OM7 sampling train is essentially the same as the EPA Method 5 train. It has been applied to compliance testing for many years and is familiar to all emission testing firms that have performed State or Federal compliance tests. Preparation and sample recovery times are significantly less than for the MM5 train. Sample analysis is performed with standard laboratory equipment. EPA estimates that the cost to complete a wood heater certification test using OM7 is about 50 percent less than the cost of conducting an MM5 test.

There are three candidate sampling and analysis methods that can be used in the dilution tunnel for the measurement of wood heater emissions. These are the MM5 and OM7 sampling methods described earlier, and the draft

American Society for Testing and Materials (ASTM) procedure.

The ASTM emission sampling procedure applied to wood stove testing is conducted only in conjunction with the dilution tunnel. The ASTM sampling train consists of a probe and two filters. The sampling train temperature is ambient (about 70°F) and analysis of the sample collected in the probe and on the filters is gravimetric. The ASTM sampling procedure was not designed for testing in the stack because a large percentage of the organics would be in the gaseous phase at stack temperatures.

The EPA method comparison test included the use of all three candidate methods in the dilution tunnel. One finding was that the relationship between measured emissions with the OM7 and MM5 procedures remained about the same as the relationship for the stack measurements; that is, results obtained using the OM7 train were about one-half the results using the MM5 procedure. Emission rate measurements from the dilution tunnel compared directly with results obtained in the stack; that is, MM5 and OM7 stack data agreed with MM5 and OM7 dilution tunnel data.

The concentrations measured with the ASTM method were about 40 percent of the results from the MM5 procedure. The relationship between ASTM and OM7 sampling methods results were similar to those described for the ASTM and MM5 results. The emission concentrations from the ASTM procedure were about 80 percent of the results from the OM7 sampling procedure.

The EPA requests comment on the improvement in precision when dual instead of single sampling trains are used, especially when filter sizes are less than the 100-millimeter filters specified in Method 5G (dilution tunnel sampling).

The ASTM sampling and analysis method is significantly less expensive and requires less time and effort than either the MM5 or OM7 procedure. ASTM sample train preparation and sample recovery is relatively simple. Sample analysis is similar to that performed for the OM7 procedure except that there is no impinger catch. It is estimated that a wood heater certification test using the ASTM procedure costs about 65 percent less than a test using the MM5 procedure.

The option to use the MM5 sampling method, either in the wood heater stack or in the dilution tunnel, was rejected by the committee because it was too costly and because the additional information it provided was unnecessary to

distinguish between well controlled and poorly controlled wood heaters. Therefore, there were three method options for measuring exhaust gas flow and particulate concentration considered by the committee: Oregon Method 7 (OM7) in the stack, OM7 in a dilution tunnel, and the ASTM sampler in a dilution tunnel.

The committee agreed that each of the three test method options would be allowed for certification of wood heaters and that each would be considered a reference method. The committee also agreed that for purposes of audit testing, the same test procedure as used for original certification be used for audit testing.

Since the OM7 train and the ASTM sampler each collect different constituents, the committee agreed to develop a factor to adjust the measured ASTM emission value to an equivalent OM7 value for determining compliance. The equation was derived by averaging the OM7-ASTM relationships developed by three different test laboratories. The resulting equation is:

$$OM7 = 1.82 (ASTM)^{0.83}$$

where:

OM7 = Emission rate measured by the Oregon Department of Environmental Quality procedure (OM7 in the stack), g/hr.
ASTM = Emission rate measured by ASTM procedure, g/hr.

This factor is based upon wood heater test data collected at three laboratories. Therefore, it was necessary to define a weighting scheme that would be used to establish the relationship that is included in the method. The committee considered weighting each test equally and weighting each lab equally before deciding on the latter. It is recognized, therefore, that the actual relationship may not be constant from lab to lab and may differ from the relationship in the method. It was concluded, however, that small differences would not significantly affect or bias the certification results and the advantages of allowing the use of both methods outweighed any small gain in consistency that might result from the selection of only one method. Unless a clear basis is found for revising the factor used in the method (e.g., error in the original data base or in the procedure used by one or more labs that generated this data base), EPA does not anticipate that it would be revised and any revision would not apply retroactively.

K. EPA Laboratory Accreditation

Committee members agreed at the outset that the success of a wood heater certification program depends upon high

quality testing because a certification test on a single wood heater is used to certify the entire model line. To ensure quality test results, the States of Oregon and Colorado both require testing laboratories to demonstrate their technical capabilities in heater operation and testing. Due to the complexity of the test methods, and the necessity for high quality test results, the committee agreed that a national wood heater laboratory testing accreditation program should be implemented to help assure that laboratories are both qualified and competent. This would be the first NSPS regulation to require demonstration of testing proficiency in order to conduct compliance testing.

One option considered by the committee was to rely on accreditation by the National Bureau of Standards (NBS), through its National Voluntary Laboratory Accreditation Program (NVLAP). NVLAP currently administers a program for heater safety testing and could add the emission testing aspect to their existing wood heater program. Several laboratories are currently NVLAP accredited for safety testing. Extending the NVLAP program to emissions would add relatively small costs since inspections for both safety and emissions testing program could be potentially accomplished in the same visit. On the other hand, NVLAP has no in-house expertise in stack testing, wood heater emission testing, or air emission compliance testing. Some committee members felt that experience with these elements would be needed especially during the first several years of the wood heater program.

Committee members also agreed, however, that it was unnecessary for EPA to duplicate NVLAP's efforts in the administration of a national program. Therefore, they decided that laboratories must be accredited by NVLAP if a NVLAP wood heater lab accreditation program is in place, but must also meet additional EPA requirements before data would be accepted for certification purposes. The NVLAP accreditation would focus on basic laboratory capability, procedures and quality assurance—elements with which NVLAP has experience. EPA will assist NVLAP in developing procedures for wood heater test labs. Requirements in addition to NVLAP accreditation are that the laboratory: (1) Have no conflict of interest, (2) agree to perform one audit test for each five certification tests, (3) establish an escrow account (see discussion under Certification/Enforcement) for depositing funds to be used in the audit program, (4) be located

in the continental United States, and (5) conduct initial proficiency testing and agree to participate in an annual round robin testing program.

In the event that the NVLAP program is not being implemented, EPA would assume the NVLAP functions. The committee agreed that EPA should be responsible for conducting the proficiency tests and for evaluating the results, and that EPA should retain the authority for revoking EPA laboratory accreditation. (EPA does not have authority to either provide or reject NVLAP accreditation. Therefore, revocation of EPA accreditation would not necessarily affect NVLAP accreditation.) Annual round robin testing will begin as soon as possible after the test methods are developed and a candidate wood heater is identified.

The EPA requests comments on the need for NVLAP accreditation as a precondition for EPA accreditation. If, based upon these comments, the Administrator determines there is no need for prior NVLAP accreditation, EPA will publish a notice of this determination.

Applications for EPA accreditation received before July 1, 1988, may be considered under either the proposed or promulgated requirements, at the applicant's option. Additional and revised promulgated requirements would not apply retroactively.

Laboratories accredited by the State of Oregon prior to January 1, 1988, may be accredited by EPA without having to be accredited by NVLAP nor having to undergo initial proficiency testing. The purpose of this provision, like the Oregon "grandfather" wood heater certification provision, is to reduce the potential delays in certification testing.

L. Selection of BDT

The basic control technique for wood heaters is to improve or enhance the combustion process. Emission control technology for wood heaters falls into two categories: Catalytic and noncatalytic.

Catalytic technology is the use of catalytic combustors in wood heaters. It emerged in the early 1980's primarily as a means to reduce creosote formation and improve combustion efficiency in woodstoves. Catalytic technology is currently being widely marketed for woodburning appliances. As of early 1986, over 60 heater manufacturers offered catalytic models, including retrofit designs. Heater manufacturers currently rely on catalyst manufacturers for supply of the catalytic combustors that are used in their heaters.

A catalyst is a substance that enhances the rate of a reaction at a given temperature, without being appreciably changed during the reaction. In a wood heater, the catalytic combustor promotes secondary combustion and is, in effect, a smoke afterburner. Hydrocarbons and carbon monoxide in the wood smoke are burned as they pass through the combustor.

The catalytic combustors used in wood heaters typically employ platinum and/or other noble metals, such as palladium, as catalysts. The catalytic material is generally deposited on a carrier or substrate. Two types of substrates, metal and ceramic, are used. Ceramic substrates are the more commonly used.

Wood heater design features that help promote catalytic combustion include catalyst placement, secondary air, and baffles or other features that enhance mixing of gases within the heater. Catalyst placement is critical for achieving and maintaining catalyst light-off temperatures. Combustor temperatures of approximately 400–500 °F are required to initiate catalytic activity. Combustors are typically placed above the primary combustion zone in areas of the firebox where high temperatures are maintained, but where flame impingement does not occur.

Secondary air is typically supplied upstream of the catalytic combustor to ensure sufficient combustion air and to promote mixing of the air and combustion gases at the face of the combustor. Mixing of the combustion gases is enhanced by introducing baffles in the path of the gas stream and the secondary air.

Residential wood heaters demonstrating emission control without the use of a catalytic combustor are defined as noncatalytic, combustion-modified heaters or noncatalytic low-emitting designs. Heaters using noncatalytic control technologies modify process features to promote more complete combustion thereby reducing emissions.

Unlike catalytic control technology, noncatalytic combustion-modified technology is much more difficult to differentiate from conventional wood heaters, since there is no single device or design that separates the two. Instead, achieving low emissions using noncatalytic technology is attributed to careful integration of several features into a heater design. The proper integration of these features allows increased firebox temperatures, increased turbulence (air and fuel mixing), and increased residence time of

combustion gases in high temperature zones.

Features that are common among low-emitting designs include smaller fireboxes, baffles, low firebox heights, primary air inlets located high in the firebox, and preheated secondary air.

Both technologies result in higher priced wood heaters but lower operating costs due to reduced firewood consumption and reduced chimney cleanings. The decision to select either catalytic or noncatalytic or both as the basis for the standard took into account both their initial performance and estimates of the emission reduction effectiveness over the lifetime of a wood heater.

Comparative emission values from tests conducted on wood heaters meeting the Oregon DEQ standards indicate that catalytic wood heaters have lower initial emissions than do noncatalytic wood heaters. As of May 1986, when Oregon had certified 17 noncatalytic and 20 catalytic wood heaters, the average Oregon-weighted emissions rate of the noncatalytic wood heaters was 9.5 g/hr and the average Oregon-weighted emissions rate of catalytic wood heaters was 3.3 g/hr.

Long-Term Control Effectiveness

Most NSPS affect industrial processes and are expressed as levels that are not to be exceeded at any time. To ensure that standards are not exceeded, there is often a requirement for monitoring the emission controls and/or emission levels and for reporting these results to EPA. In addition, EPA or local enforcement officials make periodic compliance inspections and may require subsequent performance testing to assure that the facility continues to meet the NSPS emission limits. The owners and operators of the facility comply by maintaining and replacing, as necessary, control equipment.

Given that wood heaters are mass-produced items which will be owned and operated by millions of consumers in their homes, the committee recognized that the mechanisms which ensure lifetime emissions control effectiveness for other NSPS would not be practical for wood heaters. House-to-house inspections and enforcement would be logistically infeasible and unreasonably burdensome. The committee was concerned that the standard build in as much assurance as possible that wood heaters operated by the general public would be properly operated and maintained to ensure continued low emissions performance over the life of the wood heater. This concern centered around catalytic wood heaters although both technologies are

subject to tampering, misuse, and mechanical or physical degradation.

Although there are considerable data on the initial performance of catalytic wood heaters, there are only limited studies which provide information on the long-term performance of catalytic converters. Automobile catalytic converters are known to deteriorate with use and to be subject to irreversible poisoning by misfueling. Some of the data that exist on wood heaters are inconclusive; other data such as that developed by Oregon DEQ show gradual deterioration in PM removal effectiveness with catalyst aging. Long-term studies of catalyst longevity, both in the field and in the laboratory, are currently underway. Initial findings from one study involving actual in-home use of catalytic wood heaters identified another problem associated with catalytic converters. It was found that several catalytic elements had suffered physical failure (i.e., crumbling of the ceramic substrate) during the first heating season. Analysis by the consultant conducting the study and by the catalyst manufacturer determined that the physical breakup of the substrate resulted from either thermal stress or physical injury primarily attributable to stove design and operation. After considering all the available information, the general conclusion of the committee was that catalytic technology is effective and that good performance should be expected for periods of 10,000 hours or more. Also, it was concluded that the physical failures were a "learning curve" problem that should no longer occur. However, the committee also felt that the long term effectiveness of catalytic converters depended upon catalyst warranties and consumer education.

If consumers operate their wood heaters according to manufacturer instructions and if they replace their catalytic converters when necessary, catalytic converters could potentially result in the greater long-term emissions reductions than noncatalytic technology. Well-informed consumers should be motivated to maintain and replace their catalytic converters because of the improved overall heating efficiencies and operating cost savings. However, not all consumers would be aware of the benefits of maintaining catalytic converters and even when informed many would not go to the effort or expense to replace their catalytic converters (replacement catalyst costs are estimated at about \$50 to \$75). Moreover, many consumers will not be aware of whether their catalytic converters have either degraded significantly or failed entirely. The committee considered a list of options ranging from a lifetime warranty of free catalytic

replacements to catalyst longevity testing.

Separate Emission Limits

In the end, the committee decided to follow the pattern set in Oregon where a separate emission limit was established for catalytic and noncatalytic wood heaters. This decision was based on EPA's assumption that even though initial performance differed significantly, the lifetime emissions of the two technologies would be approximately equal. This assumption was not the result of any precise calculation because of the many uncertainties and the lack of data but was considered reasonable based on the various scenarios presented during the negotiations. For example, one survey by a catalyst manufacturer indicated that more than 90 percent of catalyst owners would replace their catalytic converters. However, it is unclear that these respondents were aware of the costs involved. Also this group had purchased catalytic units in spite of their higher cost at a time when they were not required to do so. It is questionable whether this group is representative of all wood heater purchasers. The committee, and EPA in particular, felt strongly that setting a separate emission limit for noncatalytic wood heaters was needed to encourage and to provide the opportunity for continued improvements in noncatalytic designs. It was felt that if a standard were set that could only be achieved by catalytic technology, noncatalytic designs would be discouraged and in the long term noncatalytic research and development would cease.

Catalyst Warranties and Temperature Monitors

With regard to the specific issue of how to address catalytic deterioration and failures, the committee agreed to require a catalyst warranty providing full coverage for two years (as Oregon requires) and that, in addition, after July 1, 1990, the catalytic converters would have to be warranted in full for three years against physical degradation of the catalyst due to thermal shock. The words "in full" mean replacement on a nonproratable, multiple replacement basis. The warranty applies to each individual catalyst. However, if in-use data should show that significant numbers of certain categories of catalytic converters (e.g., brands, models, or lots) are failing to perform for the duration of the warranty periods, then EPA will take necessary steps to prevent further use of these in new wood heaters. Physical failure in significant numbers, unless attributable

to wood heater design or improper operation, would be one basis for such action. Failure to perform at 70 percent emission reduction based upon bench testing would be another basis. This latter requirement is to assure that the physical failures described previously are, indeed, resolved.

Emissions from a wood heater depend as much upon how the owner operates it as upon its design. A catalyst temperature monitor would provide information to the operator necessary for him to work the heater in the best way possible. The regulation would require that wood heaters include a permanent provision for installing a temperature monitor.

The committee considered requiring that all new wood heaters be equipped with temperature monitors rather than merely being equipped to adopt these devices. A temperature monitor must withstand the very high temperatures (1800 °F) reached in the catalytic combustor and should last at least as long as the guaranteed life of the combustor. In general, the committee could not conclude that currently available monitors were sufficiently reliable or durable. Monitors now available may break or melt under high thermal stress and consequently would not perform over the life of the combustor.

If EPA determines that reasonably-priced monitors are adequately demonstrated, EPA may require them as a condition for certification. EPA needs both technological and economic data on temperature monitors expected to perform under high temperatures and last for several years. The Agency seeks comments on the feasibility of developing an adequate temperature monitor for catalytic combustors.

The manufacturer must provide instructions in the owner's manual on how the consumer can maintain good catalytic performance, how he can determine when replacement is necessary, what he must do to obtain a replacement catalyst (under warranty or otherwise), and how to physically replace the catalyst. Finally, the regulation would require that catalysts be easily accessible for inspection and replacement.

In summary, the committee decided that both catalytic and low-emitting noncatalytic technology would be BDT and that separate emission limits would be established reflecting the best performance levels of these two technologies.

M. Level of the Standard

After deciding that BDT should consist of both catalytic and

noncatalytic technologies with different emission limits (as described in the previous section) and that the standard should include two phases (as described under "Compliance Date"), decisions were then made on the emission limits for each phase and technology.

Decisions on the emission limits were made through a two step process. First, emission limits reflecting BDT were identified on the same weighting basis used by Oregon. Then, these limits were converted to the NSPS weighting. The procedure that was followed for each of the four emission limits is described in the following paragraphs.

As described earlier under "Compliance Date," the decision had been made that the 1988 EPA standards should be comparable to the Oregon 1988 limits. Therefore, the Oregon limits of 4 g/hr for catalytic wood heaters and 9 g/hr for noncatalytic wood heaters were selected as the basis for EPA Phase I emission limits.

In establishing the Phase II limits, the first step was to determine the emission level that reflected Phase II BDT. This was done separately for catalyst and noncatalyst wood heaters but in both cases involved consideration of the emission profiles and the weighted averages of each heater that had been certified to the Oregon 1988 standard.

For catalyst heaters, the committee grouped the heaters based on similar performance characteristics. Two independent techniques were used to do this. The first involved a statistical evaluation to determine if significant differences were identifiable among wood heaters which met the Oregon 1988 standard. With only one exception, no distinguishable differences were identified among the emission performances of the catalytic heaters. After elimination of the identified outlier, the individual emission rates from each of the remaining wood heaters were compiled and the data treated as if measured on a single wood heater. The Oregon weighting scheme was then applied to these data. The resulting Oregon weighted composite was 3 g/hr.

Similar results were derived using a second independent approach where wood heaters were subjectively categorized according to the shape of their emission profiles, their range of operation, and the relative magnitude of their Oregon-weighted emission value. Using this approach, the various categories were used to develop a few "model" profiles which were then compared on the basis of the three criteria cited above. The model profile judged to be the most representative of the best Oregon wood heaters was

selected. The resulting Oregon-composited value was also approximately 3 g/hr.

Given the variability in the profiles of noncatalytic wood heaters, the committee had more difficulty in selecting an emission limit. As was done with catalyst heaters, the weighted averages and the emission profiles were considered for each heater that had been certified to the Oregon 1988 standard. The categorization approach described in the preceding paragraph was also applied to the noncatalytic data. This approach showed that there are large heater-to-heater differences and, in particular, many of the earliest heaters to be certified exhibited profiles that were arguably not BDT. That is, although the weighted averages were below the emission limits, the emission profiles showed that emissions would be high at high or low burn rates (rates which would not be uncommon in home use). In contrast, several of the most recently-certified wood heaters showed profiles that reflected advances in technology and that operated with relatively low emissions across the burn rate range. These heaters were considered to be BDT. Using the Oregon weighting, a value of 7.5 g/hr was agreed to as reflecting this BDT. Although not critical to this decision, it was noted that this limit has a relationship to the catalyst standard that is not unreasonable taking into account the possible effect of catalyst deterioration, nonreplacement of catalysts by consumers, and catalyst failure. As noted previously, these effects cannot be predicted with certainty. However, it is not unreasonable to conclude that these effects could cause long term catalyst emissions to average 7.5 g/hr or more (over the lifetime of the wood heater).

After reaching consensus on the relative stringency of the emission limits using the more familiar Oregon-weighted averages, the committee discussed approaches to facilitate the conversion of Oregon values to EPA weighted averages. The two weighting schemes place emphasis on different portions of the emission profiles and, therefore, do not correspond directly. A relatively good correlation between the weighted emission limits exists for a group of heaters demonstrating very similar shaped emission profiles. However, those heaters that have very dissimilar emission profiles may be ranked very differently by the two weighting schemes.

Since most of the Oregon certified catalytic heaters demonstrate very similar emission profiles, the committee

agreed that a conversion factor be developed based on the best fit correlation between the Oregon and EPA weighting schemes. The heaters used for establishing this correlation were those catalytic heaters meeting an Oregon-weighted composite of 3 g/hr. The conversion for catalyst wood heaters from the Oregon weighting to the EPA weighting yielded a limit for Phase I of 5.5 g/hr and for Phase II of 4.1 g/hr.

The conversion for noncatalytic wood heater was more difficult since noncatalytic heaters as a group generally have less similar emission profiles than do catalytics. Because the two weighting schemes place emphasis on different portions of the emission profile, a heater with a low composite average under one weighting scheme may have a high composite average when a different weighting scheme is applied. Therefore, there is no direct correlation between the two weighting methods for all noncatalytic wood heaters. The committee then examined the appropriate basis for converting the limits from Oregon weighting to the EPA weighting. This was more difficult for noncatalyst than catalyst heaters and involved consideration of not only the relationship for the heaters in the data base but also the effect that "caps" (described below) would have on the data. The conclusion, based on the data for BDT heaters, was that EPA limits of 8.5 g/hr and 7.5 g/hr reflect BDT for Phases I and II, respectively.

In addition to the composited emission limits, the committee agreed that the Phase II emission limits would also consist of a "cap." A cap is the maximum allowable emission limit for any given burn rate. The Phase II caps for individual runs are designed to assure that the emission control performance of wood heaters is relatively constant across the full range of operating conditions. For noncatalytic wood heaters, the cap will be 15 g/hr for burn rates equal to or less than 1.5 kg/hr and 18 g/hr for burn rates greater than 1.5 kg/hr. Both reflect the performance of the best demonstrated wood heaters.

The catalytic emission limit cap is a function of burn rate, defined by a line parallel to the best fit emission profile for catalytic heaters meeting an Oregon weighted average of 3.0 g/hr. This results in a more stringent cap at the lower burn rate ranges where catalyst performance is most effective and increases consistent with demonstrated performance. A catalytic cap at burn rates less than or equal to 2.82 kg/hr is defined by the following equation:

$$\text{Cap} = 3.55 \text{ kg/hr} \times \text{BR} + 4.98 \text{ g/hr}$$

where:

BR = burn rate in dry kg/hr.

At burn rates greater than 2.82 kg/hr the cap is 15 g/hr.

This limit is consistent with the noncatalyst cap and was considered to be a level that should not be exceeded. The committee recognized that this may result in the need to limit catalyst wood heater burn rates and felt that was reasonable as performance above 15 g/hr could not be considered as representative of BDT. As of late summer 1986, 11 catalytic and 5 noncatalytic wood heaters were capable of meeting the Phase II (1990) emission limits.

N. Certification and Enforcement

This NSPS is to be implemented by means of a certification program. Alternatively, an enforceable wood heater NSPS would have to require that each new wood heater be tested individually or the NSPS would have to be based on an equipment standard (e.g., each new wood heater must be equipped with a certain type of catalyst, specified firebox dimensions, etc.).

The first alternative, testing each appliance, would have been economically prohibitive as the cost of testing could exceed the price of the wood heater by almost an order of magnitude. The second alternative, an equipment standard would be very difficult or impossible to develop, would severely constrain the design of new wood heaters, and would have limited technology to one or two designs.

The issues concerning certification include the following:

- (1) What are the terms and conditions of the certificate? How long is the certificate good for?
- (2) What constitutes a representative wood heater for testing purposes and what changes can a manufacturer make to the certified model line without being required to recertify? Also, how can manufacturing quality be assured?
- (3) What assurance do the EPA and the public have that the single certification test series is accurate and valid for an entire model line? and
- (4) Under what conditions can the certificate be denied or withdrawn and what recourse does the manufacturer have to appeal this action?

Terms and Conditions of Certification

The issuance of a certificate would be based primarily upon whether a single representative wood heater meets the applicable emission limits as determined by a validly conducted test. The certification based upon this test would apply to the wood heater model

line, provided that the units are similar in all material respects to the tested model. Although the primary basis for granting a certificate will be the certification test results, an application for certification must include several other items such as detailed engineering drawings and affirmations by the manufacturer regarding compliance with certain other provisions such as the in-house quality assurance program. In addition, there would be no premarket approval of other areas of compliance such as the content of owners manuals and labels.

The term of the 1988 certificate would expire July 1, 1990; the term of a certificate for a wood heater meeting 1990 emission limits would be 5 years. A model line could be recertified, at EPA's discretion, without retesting. Once every 2 years manufacturers of certified models would have to report to EPA to declare that no changes that would require recertification had been made in the model line.

Another provision agreed to by the committee was to allow certification to be granted, based on the proposed requirements, until July 1, 1988. In addition to providing manufacturers with a certain target and time to meet it, this would alleviate any potential logjam because manufacturers would not have to wait until promulgation (January 1988) to get model lines certified.

The certification approach raises a number of issues that are not normally found in the NSPS program. For example, what constitutes a representative wood heater, and how can the EPA be assured that manufacturers continue to produce assembly-line units that conform to the unit submitted for testing?

Concerns with these issues stemmed, in part, from problems that have arisen in the motor vehicle emissions certification program. In addition, the need to assure on-going production quality also related to the manufacturers' unwillingness to accept a program that included financial liability (e.g., recalls, penalties) for wood heaters or their certified model lines that were produced in good faith, and believed to be in compliance and were subsequently found to fail certification audit tests. The wood heater industry was not willing to accept such liability and stated that any program that would include the possibility for such penalties would cripple the industry. Therefore, the committee sought to identify a combination of provisions that would reasonably assure that assembly line heaters are indeed low emitters and are

not different from the tested unit and at the same time would not place unacceptable costs or liability on the manufacturers. Several provisions were identified and agreed to that accomplish this.

Representativeness

The committee agreed that production line wood heaters would not have to be identical to the unit submitted for testing, but would have to be "similar in all material respects." This means, first, that not all components are of concern to EPA. For example, if a manufacturer decides to change the color of the trim on the outside of the firebox or to change the size of the handle of the door, this is not "material" to emissions and therefore is not subject to EPA review. The regulation specifies eight components that are presumed to affect emissions: Firebox volume and dimensions; the location, control method, and cross sectional area of restrictive air inlets; the location and dimensions of baffles; the dimensions and location of refractory/insulation materials; catalyst dimensions and location; catalyst bypass mechanism location and dimensions; flue gas exit dimensions and location; and finally, door and catalyst bypass gasket dimensions and fit. Changes to any of these eight components would require a new certification test unless EPA determines that the change is not likely to increase emissions. Furthermore, the manufacturer would not be allowed to change the materials used in the refractory/insulation and the door and catalyst bypass gaskets without EPA approval or recertification.

One minor exception to this pertains to the firebox material. Due to the relatively high costs of making molds, manufacturers of cast iron wood heaters argued that the standard should allow the results of initial certification tests performed on heaters with welded plate steel fireboxes to be used as a basis for certifying cast iron production heaters provided that the welded plate heater is similar in all other material respects to the production heaters. An exception was included that provides for this. However, it is also required that any model line that utilizes this exception must undergo an audit test using a production line cast stove heater 1,000 heaters are produced and report the audit test results to EPA within 45 days of the QA audit.

Changes in the make, model, or composition of catalysts would be approved by EPA based on test data and other information that demonstrate that the proposed substitute will perform at least as well, initially and

over time, as the original catalyst in the wood heater. EPA will develop further guidance for catalyst manufacturers on demonstrating catalyst equivalency. Prior to July 1, 1990, however, EPA will allow for substitution, catalysts certified by the Oregon DEQ as equivalent for substitution, as long as the proposed substitute catalyst had been used in certifying a currently certified wood heater.

"Similar in all material respects" also means that all components can vary within specified tolerances. The committee recognized that with good faith efforts and under good manufacturing practices, mass-produced items such as wood heaters would have slight variations in dimensions. The manufacturer in his application for certification of a model line would specify his manufacturing tolerances for components presumed to affect emissions identified in the regulation. If no tolerances are specified, the tolerance automatically becomes plus or minus 1/4 inch for any linear dimension and plus or minus 5 percent for areas related to air introduction systems. Tolerances submitted by the manufacturer that are different from these must be indicated in the application and the manufacturer must show that these tolerances would not reasonably be anticipated to increase emissions.

In order to avoid unnecessary testing and to prevent a barrier to improvements in wood heater design, the EPA Administrator could waive the recertification requirement for changes that exceed the specified tolerances if the manufacturer demonstrates that the change would not reasonably be anticipated to cause emissions to exceed the standard. For example, if a manufacturer wants to substitute a new type of refractory material which has been shown to reduce emissions in other models, the Administrator may elect to grant a waiver to the manufacturer from recertification testing. This demonstration could be made with any relevant data, including test data from the manufacturer's research and development laboratory.

Quality Assurance

As a means to ensure the continued production of wood heaters that comply with the emission limits and in place of "look back" penalties or recall provisions, the regulation would require that manufacturers conduct a quality assurance program and that EPA conduct enforcement audits, both consisting of parameter inspections and emission testing. A parameter inspection is a physical check of production wood

heaters either in the plant or at retail outlets, to compare some or all of the emission-related features of the production unit with the features of the wood heater submitted for testing. To ensure that EPA can accurately compare the dimensions and other features of the wood heater which is inspected with the wood heater submitted for testing, the regulation would require that detailed engineering drawings and photographs be submitted with the certification application and that the tested unit be sealed and retained for as long as the model line is manufactured.

An emission test audit consists of testing a production wood heater using the same test procedure used in certification. The results of the audit test are then compared to the certification test results and the applicable emission limits. Both the manufacturer's "in-house" quality assurance program and the EPA enforcement audit programs are discussed briefly below.

The quality assurance program in the regulation would require manufacturers to (1) inspect at least one out of every 150 wood heaters (within a certified model line) to determine whether the unit is within the specified tolerances, and (2) conduct emission tests at a frequency that depends upon how close the certification test results were to the applicable emission limit and upon the manufacturer's production volume of the model line. If the certification emission test composite was within 30 percent of the applicable emission limit, the manufacturers of fewer than or equal to 2,500 wood heaters per year must test one out of every 5,000 wood heaters produced (within the model line). Manufacturers who produce greater than 2,500 wood heaters (within the model line) per year must test one out of every 5,000 or annually, whichever is more frequent. If the certification composite test results are 70 percent of the applicable emission limits or less, the testing frequency for manufacturers of fewer than or equal to 2,500 wood heaters per year is as directed by EPA, but not more than once for every 10,000 heaters. For manufacturers who produce greater than 2,500 wood heaters per year in the model line, the frequency is one for every 10,000 wood heaters or triennially, whichever is more frequent.

The manufacturer must provide written notice within one week prior to the quality assurance emissions test and maintain records of test results and all associated test documentation. He would not have to report the test results to EPA (except in the case of initial audit tests of cast iron wood heaters as described previously), nor does EPA

intend to routinely observe these tests. As necessary, the manufacturer must take appropriate steps to resolve the cause of any exceedences of emission limits. The manufacturer has discretion as to how to resolve the problem but he must document all remedial measures as well as the effect of these measures. The failure to adhere to this quality assurance program or to undertake appropriate remedies to correct for exceedences would be taken into account in EPA's decision regarding possible future enforcement actions taken in response to a failure of an EPA audit. An adequate QA program containing and adhering to the requirements also would protect the manufacturer from penalties for possible non-complying wood heaters out of the manufacturer's hands.

The committee recognized that some manufacturers would consistently pass QA checks and, for such cases, provided a means by which the frequency of both the parameter inspections and the emission tests could be reduced. If two consecutive passing tests are conducted (for either the parameter inspection or the emissions test), the manufacturer may thereafter skip every other required test. If five consecutive passing tests are conducted under the skip-every-other-test frequency, the manufacturer may further reduce the audit frequency to skip three consecutive tests after each required test.

For example, suppose that a manufacturer is required to test one of every 5,000 wood heaters. He tests one of the first 5,000 and it passes. He tests another out of the second 5,000 and it, too, passes. He would then be allowed to skip his test for the third 5,000, but would have to test one of the fourth 5,000. He may continue skipping one test for every 5,000 wood heaters as long as each test passes. When five consecutive tests are passed, three sets of 5,000 may be skipped following every passing test. A test failure would require that the manufacturer revert to the original frequency, as well as to undertake appropriate remedial action as described above.

Enforcement Inspections and Audits

EPA will monitor compliance by conducting parameter inspections at retail outlets and at manufacturing facilities. In addition, EPA will use emissions audit tests to monitor compliance. EPA plans to conduct two types of emissions audit test programs. The Selective Enforcement Audit (SEA) program—in which EPA will test wood heaters from a certified model line using a neutral selection scheme criteria for selecting which model lines to test—could

include tips or other information leading EPA to suspect that a model line may not be in compliance. EPA derives its authority to conduct SEA tests from section 114 of the Clean Air Act which provides that EPA may require source owners or operators to have their facilities tested to determine compliance. EPA will not conduct SEA testing before July 1, 1990, except on the basis of information that indicates that a model line may be exceeding applicable emission limits.

The random compliance audit (RCA) is a program for testing wood heater models certified to meet the 1990 emission limits. Models that are certified for the 1988 standards only are not subject to the RCA's. The RCA tests will not commence until July 1, 1990. The RCA is unlike other EPA enforcement testing or monitoring programs in that it would be funded by a surcharge on certification test fees levied by accredited laboratories on the manufacturers.

Many committee members believed that audit testing is essential to assure an effective program. There are several reasons why audit testing is important for these standards. Most NSPS affect industrial sources. These sources are each tested for compliance when they are new and are subject to additional compliance tests which are paid for by the source owner/operator at later dates. Many such source categories are also subject to continuous monitoring requirements for the purpose of determining compliance on an on-going basis. Wood heaters are different. As described previously, only one wood heater will be tested to obtain certification. Section 114 provides the authority for EPA to request manufacturers to perform additional tests. However, the costs of these tests, as explained above, are high (relative to the cost of the facility being tested) and there was concern that EPA would be reluctant to impose such costs on small manufacturers; or that such costs, when imposed on a limited number of manufacturers, would create inequities. The RCA program was, therefore, created as a means to provide with certainty follow-up compliance tests and to spread the costs equally among the product lines.

Under the RCA program, each accredited laboratory would levy a surcharge equal to 20 percent of the charge for those tests which lead to certification to the 1990 standards. The surcharge would be deposited by the laboratory into an escrow account to be used to fund RCA's at the Administrator's discretion. Whether the

laboratory bears this cost or surcharges the manufacturer for all or part of it is not governed by the regulation but is a matter left to individual laboratories and manufacturers to work out for themselves in contracts. For example, if the laboratory's regular certification test fee is \$5,000, not including any surcharge earmarked for the escrow account, the laboratory would deposit into the escrow account \$1,000 if the tested wood heater becomes certified for the Phase II standard. After July 1, 1990, EPA would require the laboratory to use funds in its escrow account to conduct an emissions test audit of a wood heater selected by EPA. The selection of both the wood heater line and the wood heater within the line to be audited in the RCA program would be random. The RCA test would serve as an audit of the original certification test as well as a means of assuring that the manufacturer is producing wood heaters with the same emissions characteristics as the one submitted for certification. In short, the RCA program ensures that one in five of the models certified to the 1990 standards will undergo an audit test.

In developing the basis for the RCA and SEA testing, the committee also addressed the question of how test method precision should be taken into account. The decision was that, initially, the wood heater models selected by EPA for RCA's and SEA's would be tested by the same laboratory that conducted the initial certification test. This decision was based upon the conclusion that the intralab precision of the test method and procedure was taken into account in the establishment of the standards. That is, the RCA or SEA test results obtained at the same laboratory that conducted the initial certification tests would be compared directly, without any adjustment for precision, against the standard for the purposes of determining compliance. This provision suggests that manufacturers should provide a sufficient margin in their designs to account for intralab precision. This is reasonable because the test results from each of the wood heaters in the data base included the effect of imprecision. As such, the apparent heater-to-heater differences in the data base reflect not only true differences in performance, but also reflect test method precision. Although data are limited, data obtained by Oregon DEQ suggest that the interlab four-run weighted average precision at the level of the standards is not greater than ± 1 g/hr.

In contrast, the data base upon which the standards are based does not include individual wood heaters tested

at more than one laboratory. Therefore, it was agreed that overall and interlaboratory component of precision should be determined before enforcement tests are performed at laboratories other than the laboratory that initially certified the wood heater. Further, it was agreed that if the overall four-run weighted average precision exceeds ± 1 g/hr, then the interlab component of the precision will be added to the standard when RCA and SEA tests are conducted at other than the original certifying laboratory.

The EPA will, by July 1, 1990, either publish in the *Federal Register* a determination that the interlaboratory precision cannot be determined, or promulgate revisions reflecting what that precision has been found to be. After EPA has so determined, or amended the rule as necessary to reflect the degree of interlaboratory variation in test results, RCA's would be conducted by an accredited laboratory other than the one which conducted that certification test, but within an altitude of 500 feet.

Quality of Certification Testing

Another concern raised by committee members in the certification and enforcement area was the need to ensure the validity, accuracy, and representativeness of certification tests. To meet these concerns, several other provisions were added. One is a requirement that EPA be notified 30 days in advance of a certification test and that tests be performed within the continental United States. This permits EPA to send a representative to observe the certification test. Problems observed may be the basis for rejecting the certification application.

The regulation also requires that all test data, including outliers, and all documentation, such as the laboratory technician's notes obtained during all certification tests on the wood heater, be submitted with the application for certification. By having access to all the data and by requiring that specific measurements and parameters be recorded and submitted, EPA can evaluate the test results to determine the quality of the testing and therefore the validity of the test results.

The committee did, however, recognize that any given test run may be an anomaly and therefore provided for an objective means by which a manufacturer seeking EPA certification may retest and discard one out of three runs at a given burn rate. The committee recognized that this outlier rejection scheme does contain a slight negative bias. That is, using the lowest 2 out of 3 runs will always produce a result lower

than the average. However, such a scheme was considered by the committee to be necessary as a means of completely rejecting the very high outliers that have been observed without excessively adding to test costs. It was felt that use of the two remaining data points would provide a sufficient indicator of true performance and that the RCA and SEA programs would be a deterrent against use of this outlier scheme as a possible means for obtaining certification of a marginal heater.

Certification Revocation or Denial

Another important issue in the certification/enforcement area dealt with the circumstances and procedures by which EPA could revoke or deny a certificate of compliance or laboratory accreditation, and the recourse a manufacturer or laboratory would have to appeal this action. This issue involves balancing (1) the need to stop the production and sale of wood heaters that do not meet the emission limits against (2) the concerns that a firm could be forced out of business by losing its certification or accreditation for a relatively minor infraction or on the basis of inaccurate information given to EPA. Because manufacturers are primarily small businesses, even a short-term revocation during the production season could cause closure or bankruptcy.

The proposed regulation would allow EPA to revoke a certificate or accreditation for noncompliance, such as RCA or SEA test failures or mislabeling. The procedures, therefore, are designed both to provide rebuttal opportunities to manufacturers and also to assure that certification is suspended quickly for the wood heaters with the highest pollution potential. Section 60.539 specifies procedures for notification, hearings, and appeals to protect manufacturers and laboratories. EPA judges these protections appropriate in that revocation could cause great economic harm to the manufacturer or laboratory.

The timing of suspension or revocation would also depend on the severity of the infraction based on emission audit test results. The proposed regulation would allow EPA to suspend a certification if the audit test results indicated that the wood heater emissions were equal to or greater than 50 percent higher than the applicable emission limits. The suspension would take effect within 72 hours of the manufacturer being notified that the suspension had been ordered. If the results are less than 50 percent over the limits, suspension would occur at the

end of 60 days. In addition to the appeals process, a manufacturer could overcome the presumption of having failed an audit by having additional wood heaters, selected by EPA, tested.

Unlike other NSPS which are enforced and implemented primarily at the EPA Regional or State level, this certification program would be administered at the headquarters, with enforcement assistance provided by the Regions.

O. Labeling and Public Information

If this standard is to have lasting environmental benefits, consumers have to be educated on how to select the wood heater appropriate for their heating needs, and how to install, operate, and maintain their wood heater for optimal emissions and efficiency performance. Specific issues addressed by the committee were as follows:

- (1) Should there be mandatory labels?
- (2) Should EPA require that manufacturers present certain operation and maintenance instruction in the owner's manuals that accompany the wood heater from the point of purchase? and
- (3) What information resulting from certification testing should be made available to the public and in what form?

With regard to the first question, the committee considered whether to require both permanent and temporary (i.e., hang tags) labels, and/or to require that manufacturers publish certain warnings and information in an owner's manual, as does the U.S. Consumer Product Safety Commission (e.g., mandatory safety-related information for many types of solid fuel-fired appliances). The committee concluded that all three—permanent labels, temporary labels, and owner's manuals—are necessary to minimize emissions.

The permanent label would contain information disclosing the compliance status of the wood heater (e.g., meets the 1988 but not the 1990 standard, for export only, etc.), the model name or number, the manufacturer's name, and the date of manufacture. In general, the permanent label would provide information necessary for EPA enforcement activities. The one exception is that for catalytic wood heaters the regulation also specifies a statement on the label that says the wood heater contains a catalytic combustor which needs periodic inspection and replacement and adds a warning that it is against the law to operate the wood heater with a deactivated or missing catalyst.

The committee agreed that the temporary label should primarily contain information useful to prospective wood heater purchasers. This would include the wood heater's compliance status, comparative emission and efficiency performance data, and heat output rates.

Owner's Manuals

Finally, the committee agreed that information on proper installation, operation, and maintenance should be included in the owner's manual.

The contents of the owner's manuals are specified in Section 3 of Appendix I. Because much of the information is appliance-specific, the guidance in this appendix includes a checklist and illustrative language which shows the level of detail which the committee agreed was appropriate. The information required to be included in the owner's manuals includes the following: Wood heater description and compliance status; tamper warning; catalyst information and warranty (if catalyst equipped); fuel selection; achieving and maintaining catalyst light-off (if catalyst equipped); catalyst monitoring (if catalyst equipped); troubleshooting catalytic equipped heaters (if catalyst equipped); catalyst replacement (if catalyst equipped); wood heater operation and maintenance; and installation for achieving proper draft. Any manufacturer using the model language in Appendix I to satisfy any requirement of the regulation shall be in compliance with that requirement, provided that the particular model language is printed in full, with only such changes as are necessary to ensure accuracy for the particular model line. The regulation does not require premarket approval of owner's manuals.

Comparative Performance Data for Consumers

The third issue relating to labeling and public information was deciding what comparative performance data should be provided to the prospective purchasers on the temporary labels. Studies by the Federal Trade Commission indicate that consumers are best served by the simple presentation of comparative performance data on a few important attributes rather than either large quantities of technical data or a simple pass/fail indication. Comparative emissions information is necessary because it allows environmentally-conscious individuals to purchase wood heaters that go beyond simple attainment of the standards. Efficiency information is necessary because most consumers will

want to be able to select the wood heaters that will provide the most heat for the least fuel. As wood heater manufacturers compete against each other to develop progressively more efficient products, the committee believes that the emissions performance of their appliances would continue to improve. The more efficient a wood heater is, the less it pollutes.

Finally, heat output information is important because it allows the consumer to purchase the right sized wood heater for his heating needs. This is important to the environment because either an undersized or an oversized wood heater results in less than optimal emissions performance. An oversized wood heater would likely be operated in a low heat output rate which, for most noncatalytic wood heaters, results in high emissions. On the other hand, an undersized wood heater may prompt its owners to overheat the appliance. If it is catalyst equipped, overheating could damage the catalytic combustor.

Several committee members wanted to require a labeling scheme similar to that required in the Oregon woodstove program, which requires the disclosure of specific emissions, efficiency, and heat output data gathered from the certification test.

Other committee members were opposed to this position. In particular, they opposed the requirement that efficiency data be provided because this would entail a more costly test procedure. Further, they argued that although consumers may want efficiency information, this is not necessary to carry out the mandates of the Clean Air Act in general or the NSPS program in particular. Several committee members wanted EPA to establish an efficiency test method and a standardized method of reporting efficiency even though it would entail additional costs. They argued that some manufacturers were advertising different measures of efficiency using different testing procedures and that this is misleading and deceptive to consumers. They believed that standardized efficiency tests could help reduce this problem.

Specificity of Data Reported

On the other hand, some committee members pointed out that, given the inherent variations in test results, providing comparative test results to the consumer could mislead consumers to make purchase judgments based upon small and, in reality, meaningless differences in numbers. Regarding emission test results, some committee members believed that because any wood heater which complied with the

emission limits would be clean burning and efficient, there was no need for data which could mislead the consumer. Therefore, an alternative was to provide a pass/fail indication for emissions and to present only heat output data for wood heater sizing.

The approach that was selected represents a balance which responds to the various concerns. The temporary label provided by the regulation would require the disclosure of emissions, efficiency, and heat output data. However, to meet committee members' concerns regarding consumers being misled by specific numbers from a relatively imprecise test method, it was agreed that the data would be presented in a graphic form. As shown in Appendix I, the emissions and efficiency data are presented in the form of blunt ended arrows on a linear scale. In this way, the consumer can compare labels and discern relatively significant differences between the emissions and efficiency attributes, but small differences in emissions which are beyond the precision of the test method would be less obvious. The Wood Heating Alliance also has expressed interest in providing the EPA further advice on formatting the temporary labels after consulting with a graphic artist.

Default Efficiency Values

The committee was also concerned that mandatory efficiency measurements would increase testing costs. This was addressed by allowing the manufacturer to select either a measured efficiency value or a default efficiency value. The default, or estimated, efficiency value would be based upon measured efficiency data of similar wood heaters. To avoid a situation where a manufacturer would select a default value over his measured efficiency, because the former was higher, the committee decided that default values would be one standard deviation below the mean efficiency value for a population of similar wood heaters certified by Oregon as of the summer of 1986. Separate default values were established for catalyst and noncatalyst wood heaters. These default efficiencies are 72 percent for catalyst wood heaters and 63 percent for noncatalyst wood heaters. EPA derived these default efficiencies from currently available data from actual efficiency tests of clean-burning wood heaters. It is possible that over time wood heater efficiencies will increase above those levels indicated by currently available data. If these new data differ significantly from present data, EPA

may amend the regulation to require use of new estimated figures for those heaters not actually tested for efficiency.

The regulation also provides a means by which manufacturers can estimate their heat output in Btu per hour without measuring this parameter directly. This entails a conversion from burn rate data and assumes a standard heating value for the test fuel.

In addition to these comparative performance data the temporary label contains statements urging the consumer to consult his owner's manual and to properly maintain and replace the catalyst as necessary.

P. Reporting and Recordkeeping

Section 60.537 of the regulation would provide several reporting and recordkeeping requirements which are necessary in order for EPA to enforce the standard or for manufacturers and laboratories to demonstrate eligibility for exemptions, certification, or accreditation. There were three reporting and recordkeeping requirements that involved some discussion among committee members.

The first was the requirement that all "commercial owners," which includes dealers and distributors as well as manufacturers, be required to maintain the names and addresses of those persons to whom they sold or transferred a wood heater or from whom they purchased a used wood heater. Keeping a list of customers would be important if critical operational or equipment replacement warnings needed to be communicated. Although this appears to be an additional burden, industry representatives stated that this was standard practice within the industry and that commercial vendors kept similar records. Keeping the names and addresses of persons from whom the retailers purchased used wood heaters is not universally practiced and would impose an additional requirement for those retailers who buy used wood heaters.

The second item was the requirement that all records be kept for 5 years rather than the 2-year retention requirements applicable to most other NSPS sources. The committee agreed that 5 years retention was necessary to meet the objectives of the program and was consistent with the length of time for which certifications and accreditations were good.

The final item of discussion was the requirement that the wood heater submitted for certification testing be "sealed" upon completion of testing. To seal a wood heater means that the accredited laboratory that performs the

certification test will secure the wood heater in a manner that provides reasonable assurances against tampering. (For example, securing the door with steel strapping used for shipping. The EPA requests suggestions on other means of sealing a wood heater to prevent tampering.) Sealing is necessary to resolve any possible disputes regarding either the precise dimensions and tolerances of the tested unit or its actual emissions characteristics.

Q. Prohibitions

Any person who does not comply with the requirements of the standard would be violating section 114 or section 111 of the Clean Air Act and could be prosecuted in an enforcement action brought by EPA pursuant to section 113 of the Clean Air Act.

The standards would require persons to have wood heaters tested, certified, labeled, and supplied with certain documentation: 40 CFR 60.538 (a) through (e) and (i). These requirements would be adopted under section 114(a)(1) of the Act, which authorizes EPA to require owners of emission sources to establish records, make reports, sample emissions, and provide other information.

The standards would also impose requirements on the operation of wood heaters: 40 CFR 60.538 (f) through (h). These requirements are standards of performance under section 111 of the Act, including "requirement[s] relating to the operation or maintenance of a source to assure continuous emission reduction" [section 302(1)].

R. Miscellaneous

As discussed above, this NSPS is unique in a number of respects. As a result, a certification/enforcement scheme was created to address the question of how compliance was to be demonstrated, and special recordkeeping and reporting requirements were developed. These provisions are intended to supplant provisions on Subpart A of Part 60 which otherwise would apply. In particular, it is intended to supplant the following provisions in Subpart A:

Section 60.8 (a), (c), (d), (e), and (f) (pertaining to performance tests).

Section 60.7 (pertaining to notification and recordkeeping).

Section 60.15(d) (pertaining to notification to EPA of reconstruction of an existing facility).

The Agency intends to include specific language in the final regulation making the above provisions of Subpart A inapplicable. Comment is requested

on whether any other provisions of Subpart A should be excluded.

VI. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

C. Clean Air Act Procedural Requirements

1. *Administrator Listing—Section 111.* As prescribed by section 111 of the Clean Air Act, as amended, establishment of standards of performance for residential wood heaters was preceded by the Administrator's determination (see additional notice in today's *Federal Register*) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

2. *Periodic review—Section 111.* This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

3. *External Participation—Section 117.* In developing this standard, EPA went well beyond the requirements of

section 117 of the Act, which requires consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. As detailed in preceding sections, this standard was negotiated with representatives of all affected parties. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Any comments submitted to the Administrator on these issues should contain specific information and data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that could avoid this impact.

4. Economic Impact Assessment—Section 317. Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs.

D. Office of Management and Budget Reviews

1. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place, NW., Washington, DC 20503 marked "Attention: Desk Officer for EPA." Copies of these comments should also be submitted to Central Docket Section (LE-131), Attention: Docket Number A-84-49, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The final rule will respond to any OMB or public comments on the information collection requirements.

2. Executive Order 12291 Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is considered a major rule because it could result in a significant increase in prices; or may have adverse effects on competition or employment. The

proposed regulation is projected to cause a shift from the production and sale of conventional wood heaters to the production and sale of higher-quality heaters that may cost as much as 25 percent more than the conventional ones, and could cause some manufacturers, distributors, and retailers to leave the wood heater market. EPA has prepared and submitted to OMB "Regulatory Impact Analysis: Residential Wood Heater New Source Performance Standard," and has included it in the docket.

This regulation was submitted to the OMB for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA responses to those comments will be included in Docket A-84-49. This docket is available for public inspection at EPA's Central Docket Section, which is listed under the ADDRESSES section of this notice.

E. Regulatory Flexibility Act Compliance

This regulation, if promulgated, may have a significant economic impact on a substantial number of small business entities. Some production costs may increase by as much as 25 percent, and some manufacturers, distributors, and retailers may leave the wood heater market as a result of the rule. Almost all business entities associated with this industry are considered small. Pursuant to the provisions of 5 U.S.C. 603, a regulatory flexibility analysis has been completed and is in a separate document "Regulatory Impact Analysis: Residential Wood Heater New Source Performance Standard," contained in the docket.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Wood heaters.

Dated: January 31, 1987.

Lee M. Thomas,
Administrator.

It is proposed that 40 CFR Part 60 be amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7601).

2. By adding a new Subpart AAA consisting of § 60.530 through § 60.539 to read as follows:

Subpart AAA—Standards of Performance for Residential Wood Heaters

Sec.	
60.530	Applicability and designation of affected facility.
60.531	Definitions.
60.532	Standards for particulate matter.
60.533	Compliance and certification.
60.534	Test methods and procedures.
60.535	Laboratory accreditation.
60.536	Permanent label, temporary label, and owner's manual.
60.537	Reporting and recordkeeping.
60.538	Prohibitions.
60.539	Hearing and appeal procedures.

Subpart AAA—Standards of Performance for Residential Wood Heaters

§ 60.530 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each wood heater manufactured on or after July 1, 1988 or sold at retail on or after July 1, 1990. The provisions of this subpart do not apply to wood heaters constructed prior to July 1, 1988, that are or have been owned by a noncommercial owner for his personal use.

(b) Each affected facility shall comply with the applicable emission limits in § 60.532 unless exempted under paragraph (c), (d), (e), (f), or (g) of this section.

(c)(1) Within a model line, an affected facility manufactured prior to July 1, 1990 is exempt from the emission limits in § 60.532 and shall be certified by the Administrator if that model line has been issued a valid certificate of compliance by the Oregon Department of Environmental Quality prior to January 1, 1988, and meets the Oregon 1988 standards for particulate matter emissions, provided that

(i) The manufacturer requests the exemption in writing from the Administrator and certifies that the information used in obtaining Oregon certification satisfied applicable requirements of the Oregon law,

(ii) The certification test included at least one test run at a burn rate of less than 1.25 kg/hr; and

(iii) No changes in components that may affect emissions have been made to the model line that would require recertification under § 60.533(k).

(2) Affected facilities exempted under this paragraph may not be sold at retail on or after July 1, 1992.

(3) Any certificate issued under this paragraph shall be modified to reflect any modifications in Oregon certification approved by the Oregon Department of Environmental Quality

prior to January 1, 1988. The manufacturer shall notify the Administrator of any such modifications within thirty days of their approval by the Oregon Department of Environmental Quality.

(4) Upon denying a certificate under this subsection the Administrator shall give written notice setting forth the basis for his determination to the manufacturer involved.

(d) An affected facility is exempt from the applicable emission limits of § 60.532, provided that—

(1) It was manufactured between July 1, 1988, and June 30, 1989;

(2) The manufacturer was a manufacturer of wood heaters as of January 1, 1987, and manufactured fewer than 2,000 wood heaters between July 1, 1987 and June 30, 1988;

(3) The manufacturer manufactures no more uncertified wood heaters between July 1, 1988 and June 30, 1989, than it manufactured between July 1, 1987 and June 30, 1988; and

(4) The affected facility is sold at retail before July 1, 1991.

(e) Affected facilities manufactured in the U.S. for export are exempt from the applicable emission limits of § 60.532.

(f) A wood heater used for research and development purposes that is never offered for sale or sold is exempt from the applicable emission limits of § 60.532. No more than 50 wood heaters manufactured per model line may be exempted for this purpose.

(g) A coal-only heater is exempt from the applicable emission limits of § 60.532.

(h) The following are not affected facilities and are not subject to this subpart:

- (1) Open masonry fireplaces constructed on site,
- (2) Boilers, and
- (3) Furnaces.

(i) Modification or reconstruction, as defined in § 60.14 and § 60.15 of Subpart A, shall not, by itself, make a wood heater an affected facility under this subpart.

§ 60.531 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and Subpart A of this part.

"At retail" means the sale by a commercial owner of a wood heater to the ultimate purchaser.

"Boiler" means a solid fuel burning appliance used primarily for heating spaces other than the space where the appliance is located, by the distribution through pipes of a gas or fluid heated in the appliance. The appliance must be tested and listed as a boiler under

accepted American or Canadian safety testing codes.

"Coal-only heater" means an enclosed, coal-burning appliance capable of and intended for space heating, domestic water heating, or indoor cooking, which has all of the following characteristics:

(a) An opening for loading coal which is located near the top or side of the appliance;

(b) An opening for emptying ash which is located near the bottom or the side of the appliance;

(c) A system which admits air primarily up and through the fuel bed;

(d) A grate or other similar device for shaking or disturbing the fuel bed;

(e) Installation instructions which state that the use of wood in the stove except for coal ignition purposes is prohibited by law; and

(f) The model is listed by a nationally recognized safety-testing laboratory for use of coal only, except for coal ignition purposes.

"Commercial owner" means any person who owns or controls a wood heater in the course of the manufacture, importation, distribution, or sale of the wood heater.

"Furnace" means a solid fuel burning appliance used primarily for heating spaces other than the space where the appliance is located, by the distribution through ducts of air heated in the appliance. The appliance must be tested and listed as a furnace under accepted American or Canadian safety testing codes.

"Manufactured" means completed and ready for shipment (whether or not packaged).

"Manufacturer" means any person who constructs or imports a wood heater.

"Model line" means all wood heaters offered for sale by a single manufacturer that are similar in all material respects.

"Representative affected facility" means an individual wood heater that is similar in all material respects to other wood heaters within the model line it represents.

"Sale" means the transfer of ownership or control, except that transfer of control shall not constitute a sale for purposes of § 60.530(f).

"Similar in all material respects" means that the construction materials, exhaust and inlet air system, and other design features are within the allowed tolerances for components identified in § 60.533(k).

"Wood heater" means an enclosed, woodburning appliance capable of and intended for space heating, domestic water heating, or indoor cooking, that meets all of the following criteria:

(a) An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1 as determined by the test procedure prescribed in § 60.534;

(b) A usable firebox volume of less than 20 cubic feet;

(c) A minimum burn rate less than 5 kg/hr; and

(d) A maximum weight of 800 kg.

§ 60.532 Standards for particulate matter.

Unless exempted under § 60.530, each affected facility:

(a) Manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990, shall comply with the following particulate matter emission limits as determined by the test methods and procedures in § 60.534:

(1) An affected facility equipped with a catalytic combustor shall not discharge into the atmosphere any gases which contain particulate matter in excess of a weighted average of 5.5 g/hr.

(2) An affected facility not equipped with a catalytic combustor shall not discharge into the atmosphere any gases which contain particulate matter in excess of a weighted average of 8.5 g/hr.

(b) Manufactured on or after July 1, 1990, or sold at retail on or after July 1, 1992, shall comply with the following particulate matter emission limits as determined by the test methods and procedures in § 60.534:

(1) An affected facility equipped with a catalytic combustor shall not discharge into the atmosphere any gases which contain particulate matter in excess of a weighted average of 4.1 g/hr. Particulate emissions during any test run at any burn rate that is required to be used in the weighted average shall not exceed the value calculated for "C" (rounded to 2 significant figures) calculated using the following equation:

- (i) At burn rates less than or equal to 2.82 kg/hr, $C = 3.55 \text{ g/kg} \times \text{BR} + 4.98 \text{ g/hr}$, where BR = burn rate in kg/hr
- (ii) At burn rates greater than 2.82 kg/hr, $C = 15 \text{ g/hr}$.

(2) An affected facility not equipped with a catalytic combustor shall not discharge into the atmosphere any gases which contain particulate matter in excess of a weighted average of 7.5 g/hr. Particulate emissions shall not exceed 15 g/hr during any test run at a burn rate less than or equal to 1.5 kg/hr that is required to be used in the weighted average, and particulate emissions shall not exceed 18 g/hr during any test run at a burn rate greater than 1.5 kg/hr that is required to be used in the weighted average.

§ 60.533 Compliance and certification.

(a) For each model line, compliance with applicable emission limits may be determined based on testing of representative affected facilities within the model line.

(b) Any manufacturer of an affected facility may apply to the Administrator for a certificate of compliance for a model line. The application shall be in writing to: Stationary Source Compliance Division (EN-341), U.S. EPA, 401 M Street, SW., Washington, DC, 20460, Attention: Wood Heater Program. The application must be signed by the manufacturer, or an authorized representative, and shall contain the following:

(1) The model name and/or design number;

(2) A photograph of the tested unit;

(3)(i) Engineering drawings and specifications of components that may affect emissions (including specifications for each component listed in paragraph (k) of this section). Manufacturers shall identify tolerances of components of the tested unit listed in paragraph (k)(2) of this section that are different from those specified in that paragraph, and show that such tolerances may not reasonably be anticipated to cause wood heaters in the model line to exceed the applicable emission limits.

(ii) A statement whether the firebox, or any firebox component (other than one listed in paragraph (k)(3) of this section), will be composed of different material from the material used for the firebox or firebox component in the wood heater on which certification testing was performed and a description of any such differences.

(4) All documentation pertaining to a valid certification test, including the complete test report and raw data sheets, laboratory technician notes, calculations, and test results for all test runs.

(5) For catalytic wood heaters, a copy of the catalytic combustor warranty;

(6) A statement that the manufacturer will conduct a Quality Assurance Program for the model line which satisfies the requirements of paragraph (o) of this section;

(7) A statement that the tested unit was sealed by the laboratory after the completion of certification testing; and

(8) A statement that the manufacturer will notify the accredited laboratory if the application for certification is granted, within thirty days of receipt of notification from EPA.

(c) If the affected facility is a catalytic wood heater, the warranty for the catalytic combustor shall include the replacement of the combustor and any

prior replacement combustor without charge to the consumer for:

(1) 2 years from the date the consumer purchased the heater for any defects in workmanship or materials that prevent the combustor from functioning when installed and operated properly in the wood heater, and

(2) 3 years from the date the consumer purchased the heater for thermal crumbling or disintegration of the substrate material for heaters manufactured after July 1, 1990.

(d) The manufacturer of an affected facility equipped with a catalytic combustor shall provide for a means to allow the owner to gain access readily to the catalyst for inspection or replacement purposes.

(e)(1) The Administrator shall issue a certificate of compliance for a model line if he determines, based on all information submitted by the applicant and any other relevant information available to him, that:

(i) A valid certification test has demonstrated that the wood heater representative of the model line complies with the applicable particulate emission limits in § 60.532,

(ii) Any tolerances for components listed in paragraph (k)(2) of this section that are different from those specified in that paragraph may not reasonably be anticipated to cause wood heaters in the model line to exceed the applicable emission limits; and

(iii) The requirements of paragraphs (b), (c), (d), and (m) of this section have been met.

(2) For the period between proposal of this subpart through June 30, 1988, an applicant may elect to have his application determined under the requirements of Subpart AAA proposed on February 18, 1987.

(3) Upon denying certification under this paragraph, the Administrator shall give written notice to the manufacturer setting forth the basis for his determination.

(f) To be valid, a certification test must be

(1) Announced to the Administrator at least 30 days prior to such testing, pursuant to § 60.534;

(2) Conducted by a testing laboratory accredited by the Administrator pursuant to § 60.535;

(3) Conducted on a wood heater similar in all material respects to other wood heaters of the model line which is to be certified; and

(4) Conducted in accordance with the test methods and procedures specified in § 60.534.

(g) [Reserved]

(h)(1)(i) The Administrator on a monthly basis between April 1, 1987 and

July 1, 1990 shall determine whether an undue certification delay exists, pursuant to paragraph (h)(2) of this section. Such determinations shall be made on or about the 20th day of the month.

(ii) Any failure of the Administrator to make a required determination under paragraph (h)(1)(i) of this section by the 30th day of any month shall constitute a determination that an undue certification delay exists.

(iii) Any determination under paragraph (h)(1) (i) or (ii) of this section shall remain in effect until superseded by a subsequent determination; except that a determination under paragraph (h)(1)(ii) of this section shall remain in effect for at least thirty (30) days.

(iv) The Administrator shall mail notice of all determinations under paragraph (h)(1) (i) or (ii) of this section to all persons who have requested in writing to receive them.

(2) An undue certification delay exists when the sum of the average testing lead time and the certification lead time is greater than six months.

(i) The average testing lead time shall be determined from the information submitted by accredited laboratories pursuant to § 60.537(b). The average testing lead time is the simple average of lead times reported under § 60.537(b)(2) for the previous month.

(ii) The certification lead time shall be an estimate, as of the date of the determination, of the time likely to be required to determine whether to issue a certificate of compliance for a complete application received on that date. This estimate shall be based on factors such as past experience, the number of applications to be processed, and the resources available for processing.

(3)(i) While any determination under paragraph (h)(1) of this section that an undue certification delay exists is in effect, a manufacturer may submit an application for alternative certification.

(ii) An application for alternative certification shall be in writing to: Stationary Source Compliance Division (EN-341), U.S. EPA, 401 M Street, SW., Washington, DC 20460, Attention: Wood Heater Program. The application must be signed by the manufacturer, or an authorized representative, and contain the following:

(A) The documentation required under paragraphs (b) (1) through (6) of this section, except that, in applying paragraph (b)(4) of this section, paragraphs (f) (1) and (2) of this section shall not apply;

(B) Evidence of compliance with paragraphs (c), (d) and (m) of this section;

(C) A statement that a representative affected facility for the model line in question has been tested in accordance with § 60.534(a), and meets applicable emission limits in § 60.532. Such testing may be conducted in any laboratory of the manufacturer's choice;

(D) A statement identifying the month which will be the end of the manufacturer's production year for that model;

(E) Evidence that the manufacturer has scheduled with an accredited laboratory the testing required for full certification under this subpart at the earliest feasible date;

(F) Evidence that the manufacturer has notified the accredited laboratory that he intends to apply for alternative certification; and

(G) A commitment to report the results of all valid certification tests to the Administrator.

(iii) Test results not obtained under pressurized conditions may be adjusted for altitude according to the following formula:

$$E_A = \frac{E}{AA_{F_2}}$$

where:

E_A = adjusted emissions in g/hr

E = measured emissions in g/hr at ALT_L

AA_{F_2} = altitude adjustment factor

where:

$$AA_{F_2} = \frac{ALT_L - 300}{6600} + 1.0$$

ALT_L = altitude above mean sea level of laboratory in feet

(4)(i) Submission of an application for alternative certification pursuant to paragraph (h)(3) of this section automatically renders a model line certified thirty days after receipt of the application for alternative certification by the Administrator, unless alternative certification is sooner denied, on the basis that the application is not complete, or that the test results do not show compliance with the applicable emission limits in § 60.532. Except as provided in paragraphs (h)(4)(ii) through (h)(4)(iv) of this section, alternative certification shall expire on the earlier of

(A) The completion of the manufacturer's production year during which the Administrator takes action under paragraph (e) of this section on an application for certification; or

(B) Twelve months after such action.

(ii) If, in any certification tests performed pursuant to the commitment in paragraph (h)(3)(ii)(E) of this section, emissions from the affected facility exceed the applicable emission limits in § 60.532 by greater than 50 percent, alternative certification pursuant to this paragraph shall expire 72 hours after the manufacturer receives notification from the laboratory of the test results, in accordance with paragraph (h)(4)(v) of this section.

(iii) If, in any certification test performed under paragraph (h)(3)(ii) of this section, emissions from the affected facility exceed the applicable emission limits in § 60.532, alternative certification pursuant to this paragraph shall expire 72 hours after the manufacturer receives notification satisfying paragraph (h)(4)(v) of this section from the laboratory of the test results, if such notification is received within 100 days of the date on which the manufacturer scheduled the certification test.

(iv) Alternative certification shall expire 72 hours after the manufacturer receives notification from the Administrator that the manufacturer has failed to meet a scheduled commitment for certification testing.

(v) Any notification under paragraph (h)(4)(ii) or (h)(4)(iii) of this section shall include a copy of a preliminary test report from the accredited laboratory. The accredited laboratory shall provide a preliminary test report to the manufacturer and to the Administrator within ten days of the completion of testing, if a wood heater exceeds the applicable emission limits in § 60.532 in certification testing.

(i) An applicant for certification may apply for a waiver of the requirement to submit the results of a certification test pursuant to paragraph (b)(4) of this section, if the wood heaters of the model line are similar in all material respects to another model line that has already been issued a certificate of compliance. A manufacturer that seeks a waiver of certification testing must identify the model line that has been certified, and must submit a copy of an agreement with the owner of the design permitting the applicant to produce wood heaters of that design.

(j)(1) Unless sooner revoked by the Administrator, a certificate of compliance shall be valid:

(i) Through June 30, 1990, for a model line certified as meeting emissions limits in § 60.532(a); and

(ii) For five years from the date of issuance, for a model line certified as meeting emission limits in § 60.532(b).

(2) Upon application for renewal of certification by the manufacturer, the

Administrator may waive the requirement for certification testing upon determining that the model line continues to meet the requirements for certification in paragraph (e) of this section, or that a waiver of certification is otherwise appropriate.

(3) Upon waiving certification testing under this paragraph, the Administrator shall give written notice to the manufacturer setting forth the basis for his determination.

(k)(1) A model line must be recertified whenever any change is made in the design submitted pursuant to § 60.533(b)(3) that is presumed to affect the particulate emission rate for that model line. The Administrator may waive this requirement upon written request by the manufacturer, if he determines that the change may not reasonably be anticipated to cause wood heaters in the model line to exceed the applicable emission limits. The grant of such a waiver does not relieve the manufacturer of any compliance obligations under this subpart.

(2) Any change in the indicated characteristics of the following components is presumed to affect particulate emissions if that change exceeds a tolerance specified in the certified design or, if no tolerance is so specified, $\pm 1/4$ inch for any linear dimension and ± 5 percent for dimensions relating to air introduction systems:

(i) *Firebox*: Dimensions;

(ii) *Air introduction systems*: Cross-sectional area of restrictive air inlets, outlets, and location and method of control;

(iii) *Baffles*: Dimensions and locations;

(iv) *Refractory/insulation*: Dimensions, and location;

(v) *Catalyst*: Dimensions, and location;

(vi) *Catalyst bypass mechanism*: Dimensions and location;

(vii) *Flue gas exit*: Location and dimensions; or

(viii) *Door and catalyst bypass gaskets*: Dimensions and fit.

(3) Any change in the materials used for the following components is presumed to affect emissions:

(i) Refractory/insulation or

(ii) Door and catalyst bypass gaskets.

(4) A change in the make, model, or composition of a catalyst is presumed to affect emissions, unless the change has been approved in advance by the Administrator, based on test data that demonstrate that the replacement catalyst is equivalent to or better than the original catalyst in terms of particulate emission reduction.

(l)(1) The Administrator may revoke a certificate of compliance if he determines that the wood heaters being produced in that model line do not comply with the requirements of this section or § 60.532. Such a determination shall be based on all available evidence, including:

(i) Test data from a re-testing of the original unit on which the certification test was conducted;

(ii) A finding that the certification test was not valid;

(iii) A finding that the labeling of the wood heater does not comply with the requirements of § 60.536.

(iv) Failure by the manufacturer to comply with reporting and recordkeeping requirements under § 60.537;

(v) Physical examination showing that a significant percentage of production units inspected are not similar in all material respects to the representative affected facility submitted for testing; or

(vi) Failure of the manufacturer to conduct a quality assurance program in conformity with paragraph (o) of this section.

(2) Revocation of certification under this subsection shall not take effect until the manufacturer concerned has been given written notice by the Administrator setting forth the basis for the proposed determination and an opportunity to request a hearing under § 60.539.

(3) Determination to revoke certification based upon audit testing shall be made only in accordance with paragraph (p) of this section.

(m) A catalyst-equipped wood heater shall be equipped with a permanent provision to accommodate a commercially available temperature sensor which can monitor combustor gas stream temperatures within or immediately downstream (within 1 inch) of the combustor surface.

(n) Any manufacturer of an affected facility that is subject under § 60.530(b) to the applicable emission limits of this Subpart and does not belong to a model line certified under this section shall cause that facility to be tested in an accredited laboratory in accordance with paragraphs (f)(1), (f)(2), and (f)(4), of this section before it leaves the manufacturer's hands and shall report the results to the Administrator.

(o)(1) For each certified model line, the manufacturer shall conduct a quality assurance program satisfying the requirements of this paragraph.

(2) Except as provided in paragraph (o)(5) of this section, the manufacturer or his authorized representative shall inspect at least one out of every 150 units produced within a model line, to

determine that the wood heater is within applicable tolerances for all components that affect emissions as listed in paragraph (k)(2) of this section.

(3)(i) Except as provided in paragraph (o)(3)(iii) or (o)(5) of this section, the manufacturer or his authorized representative shall conduct an emission test on a randomly chosen affected facility produced within a model line certified under § 60.533(e) or § 60.533(h), on the following schedule:

If weighted average certification test results were:	If yearly production per model is:	
	<2,500	>2,500
70% or less of std...	When directed by EPA, not to exceed once every 10,000 stoves.	Every 10,000 stoves or triennially (whichever is more frequent).
Within 30% of std...	Every 5,000 stoves.	Every 5,000 stoves or annually (whichever is more frequent).

(ii) Emission tests shall be conducted in conformity with § 60.534(a), using the same test method and procedure used to obtain certification. The manufacturer shall notify EPA by U.S. mail that an emissions test required pursuant to this paragraph will be conducted within one week of the mailing of the notification.

(iii) If the manufacturer stated under paragraph (b)(3) of this section that the firebox or any firebox component would be composed of a different material than the material used in the wood heater on which certification testing was performed, the first test shall be performed before 1,000 wood heaters are produced. The manufacturer shall submit a report of the results of this emission test to the Administrator within 45 days of the completion of testing.

(4) The manufacturer shall take remedial measures, as appropriate, when inspection or testing pursuant to this paragraph indicate that affected facilities within the model line are not within applicable tolerances or do not comply with applicable emission limits. Manufacturers shall record the problem identified, the extent of the problem, the remedial measures taken, and the effect of those measures as projected by the manufacturer or determined by any additional testing.

(5)(i) If two consecutive passing tests are conducted under either paragraph (o)(2) or (o)(3) of this section, the required frequency of testing under the applicable paragraph(s) shall be modified as follows: Skip every other required test.

(ii) If five consecutive passing tests are conducted under the modified schedule provided for in paragraph

(o)(5)(i)(A) of this section the required frequency of testing under the applicable subsection shall be further modified as follows: Skip three consecutive required tests after each required test that is conducted.

(iii) Testing shall resume on the frequency specified in the paragraph (o)(2) or (o)(3) of this section, as applicable, if a test failure results in any test conducted under a modified schedule.

(6) If emissions tests under this paragraph are conducted at an altitude different from the altitude at which certification tests were conducted, and are not obtained under pressurized conditions, the results shall be adjusted for altitude in accordance with paragraph (h)(3)(iii) of this section.

(p)(1)(i) The Administrator shall after July 1, 1990 select for random compliance audit testing certified wood heater model lines that have not already been subject to a random compliance audit under this paragraph. The Administrator shall use a procedure that ensures that the selection process is random.

(ii) The Administrator may, by means of a neutral selection scheme, select model lines certified under § 60.533(e) or § 60.533(h) for selective enforcement audit testing under this paragraph. Prior to July 1, 1990, the Administrator shall only select a model line for a selective enforcement audit on the basis of information indicating that affected facilities within the model line may exceed the applicable emission limit in § 60.532.

(2) The Administrator shall randomly select for audit testing five production wood heaters from each model line selected under paragraph (p)(1) of this section. These wood heaters shall be selected from completed units ready for shipment from the manufacturer's facility (whether or not the units are in a package or container). The wood heaters shall be sealed upon selection and remain sealed until they are tested or until the audit is completed. The wood heaters shall be numbered in the order that they were selected.

(3)(i) The Administrator shall test the first of the five wood heaters selected under paragraph (p)(2) of this section in a laboratory accredited under § 60.535 that is selected pursuant to paragraph (p)(4) of this section.

(ii)(A) In the case of a random compliance audit, the expense of the test shall be paid from the escrow account established by the laboratory under § 60.535(b)(4), unless the funds in that account are insufficient, and the laboratory is not obligated pursuant to

§ 60.535(b)(4) to perform an audit test for the Administrator. The escrow agent shall pay for such a test from the laboratory's escrow account, on the instructions of the Administrator. The maximum amount that the laboratory may charge the Administrator for performance of an audit test shall be determined by the following formula:

$$A = \frac{B}{D/5 - PA}$$

where:

A = the maximum laboratory charge;

B = the balance in the laboratory's escrow account;

D = the total number of deposits into that account under § 60.535(b)(4); and

PA = the number of previous audits charged against that escrow account.

(B) The Administrator may direct the escrow agent to utilize funds in the escrow account of a laboratory, to pay for a random compliance audit at another accredited laboratory, only if the laboratory which established the escrow account is no longer accredited, or is no longer in the business of certification testing of wood heaters under this subpart. In such a case, the charge for the test shall be determined by the Administrator, taking into account the average charge for random compliance audit tests during the preceding year.

(iii) The test shall be conducted using the same test method and procedure used to obtain certification. If the test is performed in a pressure vessel, air pressure in the pressure vessel shall be maintained within 1 percent of the average of the barometric pressures recorded for each individual test run used to calculate the weighted average emission rate for the certification test. The Administrator shall notify the manufacturer at least one week prior to any test under this paragraph, and allow the manufacturer and/or his authorized representatives to observe the test.

(4)(i) Except as provided in this paragraph, the Administrator may select any accredited laboratory for random compliance audit testing.

(ii)(A) The Administrator shall select the accredited laboratory which performed the test used to obtain certification for audit testing, until the Administrator has amended this subpart, based upon a determination pursuant to paragraph (p)(4)(ii)(B) of this section, to allow testing at another laboratory. If another laboratory is selected pursuant to this subsection, and the overall precision of the test method and procedure is greater than plus or minus 1 gram per hour of the weighted

average at laboratories below 1000 feet elevation (or equivalent), the interlaboratory component of the precision shall be added to the applicable emissions standard for the purposes of this paragraph.

(B) With respect to each test method and procedure set out in § 60.534(a), the Administrator shall, by July 1, 1990, publish a decision, after notice of an opportunity for comment, which either—

(1) Amends this subpart based on a determination of the overall precision of the method and procedure, and the interlaboratory component thereof; or

(2) Sets forth a determination that the available data are insufficient to determine the overall precision of the method and procedure, and the interlaboratory component thereof.

(iii) The Administrator shall not select an accredited laboratory that is located at an elevation more than 500 feet higher than the elevation of the laboratory which performed the test used to obtain certification, unless the audit test is performed in a pressure vessel.

(iv) The Administrator shall not select a laboratory which is not obligated pursuant to § 60.535(b)(3) to perform a random compliance audit for the Administrator unless there is no accredited laboratory which is so obligated.

(5)(i) If emissions from a wood heater tested under paragraph (p)(3) of this section exceed the applicable weighted average emission limit by more than 50 percent, the Administrator shall so notify the manufacturer that certification for that model line is suspended effective 72 hours from the receipt of the notice, unless the suspension notice is withdrawn by the Administrator. The suspension shall remain in effect until withdrawn by the Administrator, or 30 days from its effective date (if a revocation notice under paragraph (p)(5)(ii) of this section is not issued within that period), or the date of final agency action on revocation, whichever occurs earlier.

(ii)(A) If emissions from a wood heater tested under paragraph (p)(3) of this section exceed the applicable weighted average emission limit, the Administrator shall notify the manufacturer that certification is revoked for that model line.

(B) A revocation notice under paragraph (p)(5)(ii)(A) shall become final and effective sixty days after receipt by the manufacturer, unless it is withdrawn, a hearing is requested under § 60.539, or the deadline for requesting a hearing is extended.

(C) The Administrator may extend the deadline for requesting a hearing for up to 60 days, for good cause.

(D) A manufacturer may extend the deadline for requesting a hearing for up to six months, by agreeing to a voluntary suspension of certification.

(iii) Any notification under paragraphs (p)(5)(i) or (p)(5)(ii) shall include a copy of a preliminary test report from the accredited laboratory. The accredited laboratory shall provide a preliminary test report to the Administrator within ten days of the completion of testing, if a wood heater exceeds the applicable emission limit in § 60.532. The laboratory shall provide the Administrator and the manufacturer, within thirty days of the completion of testing, all documentation pertaining to the test, including the complete test report and raw data sheets, laboratory technician notes, and test results for all test runs.

(iv) Upon receiving notification of a test failure under paragraph (p)(5)(ii), the manufacturer may submit some or all of the remaining four wood heaters selected under paragraph (p)(2) for testing at his own expense, in the order they were selected by the Administrator, at the laboratory that performed the emissions test for the Administrator.

(v) Whether or not the manufacturer proceeds under paragraph (p)(5)(iv), the manufacturer may submit any relevant information to the Administrator, including any other test data generated pursuant to this subpart. The manufacturer shall pay the expense of any testing performed for him.

(vi) The Administrator shall withdraw any notice issued under paragraph (p)(5)(ii) if tests under paragraph (p)(5)(iv) show either

(A) That all four wood heaters tested for the manufacturer met the applicable weighted average emission limits; or

(B) That the second and third wood heaters selected met the applicable weighted average emission limits and the average of all three weighted averages (including the original audit test) was below the applicable weighted average emission limits.

(vii) The Administrator may withdraw any proposed revocation, if the Administrator finds that an audit test failure has been rebutted by information submitted by the manufacturer under paragraph (p)(5)(iv) and/or paragraph (p)(5)(v) or by any other relevant information available to him.

(viii) Any withdrawal of a proposed revocation shall be accompanied by a document setting forth its basis.

§ 60.534 Test methods and procedures.

Test methods and procedures in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards and requirements for certification under § 60.532 and § 60.533 as follows:

(a) Method 28 shall be used to establish the certification test conditions and the particulate matter weighted emission values.

(b) Emission concentrations may be measured with either:

(1) Method 5G, if a dilution tunnel sampling location is used, or

(2) Method 5H, if a stack location is used.

(c) Method 28A shall be used to determine that a wood combustion unit qualifies under the definition of wood heater in § 60.531(a), if such determination is necessary.

(d) Appendix J is used as an optional procedure in establishing the overall thermal efficiency of wood heaters. (To be proposed separately.)

(e) The manufacturer of an affected facility shall provide the Administrator at least 30 days prior notice of any certification test to afford the Administrator the opportunity to have an observer present. Notification of schedule changes in certification testing may be made by telephone provided that such notification is documented in writing by the manufacturer. The Administrator shall accept notifications under this paragraph on and after October 16, 1986.

§ 60.535 Laboratory accreditation.

(a)(1) A laboratory may apply for accreditation by the Administrator to conduct wood heater certification tests pursuant to § 60.533. The application shall be in writing to: Emission Measurement Branch (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, (Attn: Wood Heater Laboratory Accreditation).

(2) For the period between proposal of this subpart through June 30, 1988, an applicant may elect to have his application determined under the requirements of Subpart AAA proposed on February 18, 1987.

(3) If accreditation is denied under this section, the Administrator shall give written notice to the laboratory setting forth the basis for his determination.

(b) In order for a test laboratory to qualify for accreditation the laboratory must:

(1) Be accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) for wood heater emissions testing, pursuant to 15 CFR Part 7;

(2) Have no conflict of interest or stand to gain any financial benefit from the outcome of certification testing conducted pursuant to § 60.533;

(3) Agree to perform one audit test at the Administrator's direction for each five tests performed by the laboratory on the basis of which model lines are certified under § 60.533(e) to meet the emission limits in § 60.532(b).

(4) Establish, prior to the effective date of accreditation, an interest-bearing escrow account at a federally insured financial institution in trust for the benefit of the Administrator. The laboratory shall agree that within 30 days after certification of a wood heater model line is granted under § 60.533(e) to meet the emission limits in § 60.532(b) on the basis of a test conducted at the laboratory, the laboratory will deposit into the escrow account an amount equal to 20 percent of the charge to the manufacturer for the certification test (calculated without regard to any amount surcharged to cover the escrow fund deposit).

(5) Demonstrate proficiency to achieve reproducible results with at least one test method and procedure in § 60.534(a), by:

(i) Performing a test consisting of at least eight test runs (two in each of the four burn rate categories) on a wood heater identified by the Administrator;

(ii) Providing the Administrator at least 30 days prior notice of the test to afford the Administrator the opportunity to have an observer present; and

(iii) Submitting to the Administrator all documentation pertaining to the test, including a complete test report and raw data sheets, laboratory technical notes, and test results for all test runs;

(6) Be located in the continental United States; and

(7) Agree to participate annually in a proficiency testing program conducted by the Administrator.

(c) Laboratories accredited by the State of Oregon prior to January 1, 1988, may be accredited by the Administrator without regard to the requirements in paragraphs (b)(1) and (b)(5) of this section, provided that the laboratory requests the accreditation in writing and, in addition to other applicable requirements, certifies under penalty of law that the information used in obtaining Oregon accreditation satisfied applicable requirements of Oregon law.

(d) If, on or after January 31, 1987, NVLAP accreditation is unavailable, a laboratory may be accredited by the Administrator, without regard to the requirements of paragraph (b)(1) of this section, provided that the laboratory requests accreditation in writing, and

establishes, in addition to other applicable requirements, that:

(1) Laboratory personnel have a total of one year of relevant experience in particulate measurement, including at least three months experience in measuring particulate emissions from wood heaters;

(2) The laboratory has the equipment necessary to perform testing in accordance with at least one test method and procedure in § 60.534(a); and

(3) Laboratory personnel have experience in test management and laboratory management.

(e)(1) The Administrator may revoke EPA laboratory accreditation if he determines that the laboratory

(i) No longer satisfies the requirements for accreditation in paragraph (b), (c) or (d);

(ii) Does not follow required procedures or practices, as shown in a laboratory audit;

(iii) Had falsified data or otherwise misrepresented emission data;

(iv) Failed to apply funds to an escrow account as required in paragraph (b)(4) of this section or used funds from that account for purposes other than audit testing directed by the Administrator; or

(v) Failed to participate in a proficiency testing program, in accordance with its commitment under paragraph (b) of this section.

(vi) Failed to seal the wood heater in accordance with paragraph (g).

(2) Revocation of accreditation under this paragraph shall not take effect until the laboratory concerned has been given written notice by the Administrator setting forth the basis for the proposed determination and an opportunity for a hearing under § 60.539.

(f) Unless sooner revoked, a certificate of accreditation granted by the Administrator shall be valid:

(1) For five years from the date of issuance, for certificates issued under paragraph (b) of this section;

(2) Until July 1, 1990, for certificates issued under paragraph (c) of this section;

(3) For one year from the date of issuance, for certificates issued under paragraph (d) of this section.

(g) A laboratory accredited by the Administrator shall seal any wood heater on which it performed certification tests, upon completion of certification testing.

§ 60.536 Permanent label, temporary label, and owner's manual.

(a)(1) Each affected facility manufactured on or after July 1, 1988 or offered for sale at retail on or after July

1, 1990 shall have a permanent label affixed to it that meets the requirements of this section.

(2) Except for units subject to § 60.530 (e), (f), or (g), the permanent label shall contain the following information:

- (i) Month and year of manufacture,
 - (ii) Model name or number, and
 - (iii) Serial number.
- (3) The permanent label shall:
- (i) Be affixed in a readily visible or accessible location;
 - (ii) Be at least 3½ inches long and 2 inches wide;
 - (iii) Be made of a material expected to last the lifetime of the wood heater;
 - (iv) Present required information in a manner so that it is likely to remain legible for the lifetime of the wood heater; and
 - (v) Be affixed in such a manner that it cannot be removed from the appliance without damage to the label.

(4) The permanent label may be combined with any other label, as long as the required information is displayed, and the integrity of the permanent label is not compromised.

(b) If the wood heater belongs to a model line certified under § 60.533, and has not been found to exceed the applicable emission limits or tolerances through quality assurance testing, one of the following statements, as appropriate, shall appear on the permanent label:

"U.S. Environmental Protection Agency

Certified to comply with July, 1988, particulate emission standards. Not approved for sale after June 30, 1992."

or

"U.S. Environmental Protection Agency

Certified to comply with July, 1990, particulate emission standards."

(c)(1) If compliance is demonstrated under § 60.530(c), the following statement shall appear on the permanent label:

"U.S. Environmental Protection Agency

Certified under 40 CFR 60.530(c). Not approved for sale after June 30, 1992."

(2) If compliance is demonstrated under § 60.530(h), one of the following statements, as appropriate, shall appear on the permanent label:

"U.S. Environmental Protection Agency

Certified under 40 CFR 60.533(h) to comply with July, 1988 particulate emissions standards. Not approved for sale after June 30, 1992."

or

"U.S. Environmental Protection Agency

Certified under 40 CFR 60.533(h), to comply with July, 1990 particulate emissions standards."

(d) Any label statement under paragraph (b) or (c) constitutes a representation by the manufacturer as to any wood heater that bears it—

- (1) That certification was in effect at the time the wood heater left the hands of the manufacturer,
 - (2) That the manufacturer was, at the time the label was affixed, conducting a quality assurance program in conformity with § 60.533(o),
 - (3) That as to any wood heater individually tested for emissions by the manufacturer under § 60.533(o)(3), that it met the applicable emissions limits, and
 - (4) That as to any wood heater individually inspected for tolerances under § 60.533(o)(2), that the wood heater is within applicable tolerances.
- (e) If an affected facility is exempt from the emission limits in § 60.532 under the provisions of § 60.530(d), the following statement shall appear on the permanent label:

"U.S. Environmental Protection Agency

Not certified. Approved for sale until June 30, 1991."

(f)(1) If an affected facility is manufactured in the U.S. for export, the following statement shall appear on the permanent label:

"U.S. Environmental Protection Agency

Export stove. May not be operated within the United States."

(2) If an affected facility is manufactured for use for research and development purposes as provided in § 60.530(f), the following statement shall appear on the permanent label:

"U.S. Environmental Protection Agency

Not certified. Research Stove. Not approved for sale."

(3) If an affected facility is a coal-only heater, the following statement shall appear on the permanent label:

"U.S. Environmental Protection Agency

This heater is only for burning coal. Use of any other solid fuel except for coal ignition purposes is a violation of Federal law."

(g) Any affected facility that does not qualify for labeling under any of paragraphs (b) through (f) shall bear one of the following labels:

(1) If the test conducted under § 60.533(n) indicates that the facility does not meet applicable emissions limits:

"U.S. Environmental Protection Agency

Not certified. Does not meet EPA particulate emission standards. IT IS AGAINST THE LAW TO OPERATE THIS WOOD HEATER."

(2) If the test conducted under § 60.533(n) indicates that the facility does meet applicable emissions limits:

"U.S. Environmental Protection Agency

Not certified. Meets EPA particulate emission standards."

(3) If the facility has not been tested as required by § 60.533(n):

"U.S. Environmental Protection Agency

Not certified. Not tested. Not approved for sale. IT IS AGAINST THE LAW TO OPERATE THIS WOOD HEATER."

(h) For affected facilities equipped with catalytic combustors, the following statement shall appear on the permanent label:

"This wood heater contains a catalytic combustor, which needs periodic inspection and replacement for proper operation. Consult owners manual for further information. It is against the law to operate this wood heater in a manner inconsistent with operating instructions in the owner's manual, or if the catalytic element is deactivated or removed."

(i) The removable label of an affected facility permanently labeled under paragraph (b) or (c) of this section shall contain only the following information:

(1) A statement indicating the compliance status of the model. The statement shall be one of the statements provided in Appendix I, Section 2.2.1. Instructions on the statement to select are provided in Appendix I.

(2) A graphic presentation of the composite particulate matter emission rate as determined in the certification test. The method for presenting this information is provided in Appendix I, Section 2.2.2.

(3) A graphic presentation of the overall thermal efficiency of the model. The method for presenting this information is provided in Appendix I, Section 2.2.3. At the discretion of the manufacturer, either the actual measured efficiency of the model or its estimated efficiency may be used for purposes of this paragraph. The actual efficiency is the efficiency measured in tests conducted pursuant to § 60.534(d). The estimated efficiency shall be 72 percent if the model is catalyst equipped and 63 percent if the model is not catalyst equipped.

(4) A numerical expression of the heat output range of the unit, in British thermal units per hour (Btu/hr) rounded to the nearest 100 Btu/hr.

(i) If the manufacturer elects to report the overall efficiency of the model based on test results pursuant to paragraph (i)(3), he shall report the heat output range measured during the efficiency test. If an accessory device is used in the certification test to achieve any low burn rate criterion specified in this subpart, and if this accessory device is not sold as a part of the wood heater,

the heat output range shall be determined using the formula paragraph (i)(4)(ii) based upon the lowest sustainable burn rate achieved without the accessory device.

(ii) If the manufacturer elects to use the estimated efficiency as provided in paragraph (i)(3) of this paragraph, he shall estimate the heat output of the model as follows:

$$HO_E = (19,140) \times (\text{Estimated overall efficiency}/100) \times BR$$

where

HO_E = Estimated Heat Output in Btu/hr
 BR = Burn rate in dry kilograms of test fuel per hour

(5) Statements regarding the importance of operation and maintenance. Instructions on which statements must be used are provided in Appendix I, Section 2.

(6) The manufacturer and the identification of the model.

(j) The removable label of an affected facility permanently labeled under paragraph (e), (f)(3) or (9) of this section shall contain only the information provided for in Appendix I, Section 2.

(k) The removable label shall be affixed to a location on the wood heater that is readily seen and accessible when the wood heater is offered for sale to consumers by any commercial owner. This label may not be combined with any other label or information. The label shall be attached to the wood heater in such a way that it can be easily removed by the consumer upon purchase. The removable label shall be printed on 90 pound bond paper in black ink with a white background except that models that are not otherwise exempted which do not meet the applicable emission limits or have not been tested pursuant to this subpart, shall be on a red background as described in Appendix I, Section 2.5. The dimensions of the removable label shall be five inches by seven inches as described in Appendix I, Section 2.1. The arrangement of the wording, the requirements for presentation of the graphic data, and the specified typography for the removable label are presented in Appendix I.

(l)(1) An owners manual required to be provided under this subpart shall contain the information listed in paragraph (l)(2) (pertaining to installation), and paragraph (l)(3) (pertaining to operation and maintenance). Such information shall be adequate to enable consumers to achieve optimal emissions performance.

(2) Installation Information: requirements for achieving proper draft.

(3) Operation and Maintenance Information:

(i) Wood loading procedures, recommendations on wood selection, and warnings on what fuels not to use, such as treated wood, colored paper, cardboard, solvents, trash and garbage;

(ii) Fire starting procedures;

(iii) Proper use of air controls;

(iv) Ash removal procedures;

(v) Instructions on gasket replacement;

(vi) For catalytic models, information on the following pertaining to the catalytic combustor: procedures for achieving and maintaining catalyst activity, maintenance procedures, procedures for determining deterioration or failure, procedures for replacement, and information on how to exercise warranty rights; and

(vii) For catalytic models, the following statement

"This wood heater contains a catalytic combustor, which needs periodic inspection and replacement for proper operation. It is against the law to operate this wood heater in a manner inconsistent with operating instructions in this manual, or if the catalytic element is deactivated or removed."

(4) Any manufacturer using EPA model language contained in Appendix I to satisfy any requirement of this paragraph shall be in compliance with that requirement, provided that the particular model language is printed in full, with only such changes as are necessary to insure accuracy for the particular model line.

§ 60.537 Reporting and recordkeeping.

(a)(1) Each manufacturer who holds a certificate of compliance under § 60.533(e) or § 60.533(h) for a model line shall maintain records containing the information required by this paragraph with respect to that model line.

(2)(i) All documentation pertaining to the certification test used to obtain certification, including the full test report and raw data sheets, laboratory technician notes, calculations, and the test results for all test runs.

(ii) Where a model line is certified under § 60.533(h) and later certified under § 60.533(e), all documentation pertaining to the certification test used to obtain certification in each instance shall be retained.

(3) For parameter inspections conducted pursuant to § 60.533(o)(2), information indicating the extent to which tolerances for components that affect emissions as listed in § 60.533(k)(2) were inspected, and at what frequency, the results of such inspections, remedial actions taken, if any, and any follow-up actions such as additional inspections.

(4) For emissions tests conducted pursuant to § 60.533(o)(3), all test

reports, data sheets, laboratory technician notes, calculations, and test results for all test runs, the remedial actions taken, if any, and any follow-up actions such as additional testing.

(5) The number of affected facilities that are sold each year, and to whom they were sold.

(b)(1) Each accredited laboratory shall maintain records consisting of all documentation pertaining to each certification test, including the full test report and raw data sheets, technician notes, calculations, and the test results for all test runs.

(2) Each accredited laboratory shall report to the Administrator by the 8th day of each month between April 1, 1987 and July 1, 1990:

(i) The number and identification of wood heaters scheduled for testing;

(ii) The estimated date on which certification testing could commence for a wood heater, if such a test were requested on the first day of that month;

(iii) The identification of the wood heaters tested for purposes of certification during the previous month.

(3) Each accredited laboratory shall report to the Administrator within 24 hours whenever a manufacturer which has notified the laboratory that it intends to apply for alternative certification for a model line fails to submit on schedule a representative unit of that model line for certification testing.

(c) Any wood heater upon which certification tests were performed based upon which certification was granted under § 60.533(e) shall be retained (sealed and unaltered) for as long as the model line in question is manufactured. Any such wood heater shall be made available upon request to the Administrator for inspection and testing. The requirements of this paragraph may be satisfied by either the manufacturer or the testing laboratory.

(d) Each commercial owner of an affected facility shall maintain records of the name and address of each person to whom he sells or transfers an affected facility, the model of the affected facility, and for commercial owners who are not manufacturers, the identity of the manufacturer.

(e) Any manufacturer seeking exemption under § 60.530(d) shall:

(1) Report to the Administrator by September 1, 1988, the number of wood heaters manufactured between July 1, 1987 and July 1, 1988, and evidence that he was a manufacturer of wood heaters as of January 1, 1987;

(2) Report to the Administrator by September 1, 1989 the number of uncertified wood heaters manufactured

that were subject to § 60.530(d), between July 1, 1988 and July 1, 1989.

(3) Maintain wood heater production records covering the period July 1, 1987 to July 1, 1989.

(f) Each manufacturer of an affected facility certified under § 60.533 shall submit a report to the Administrator every 2 years following issuance of a certificate of compliance for each model line. This report shall certify that no changes in the design or manufacture of this model line have been made that require recertification under § 60.533(k).

(g) Each manufacturer shall maintain records of the model and number of wood heaters exempted under § 60.530(f).

(h) Each commercial owner of a wood heater previously owned by a noncommercial owner for his personal use shall maintain records of the name and address of the previous owner.

(i)(1) Unless otherwise specified, all records required under this section shall be maintained by the manufacturer or commercial owner of the affected facility for a period of no less than 5 years.

(2) Unless otherwise specified, all reports to the Administrator required under this subpart shall be made to: Stationary Source Compliance Division (EN-341), U.S. EPA, 401 M Street, SW., Washington, DC, 20460 Attention: Wood Heater Program.

(3) A report to the Administrator required under this subpart shall be deemed to have been made when it is properly addressed and mailed, or placed in the possession of a commercial courier service.

§ 60.538 Prohibitions.

(a) No person shall operate an affected facility that does not have affixed to it a permanent label pursuant to § 60.536 (b), (c), (e), (f)(2), (f)(3), or (g)(2).

(b) No manufacturer shall advertise for sale, offer for sale, or sell an affected facility that:

(1) Does not have affixed to it a permanent label pursuant to § 60.536, and

(2) Has not been tested when required by § 60.533(n).

(c) On or after July 1, 1990, no commercial owner shall advertise for sale, offer for sale, or sell an affected facility that does not have affixed to it a permanent label pursuant to § 60.536 (b), (c), (e), (f)(1), (f)(3), (g)(1) or (g)(2). No person shall advertise for sale, offer for sale, or sell an affected facility labeled under paragraph (f)(1) except for export.

(d)(1) No commercial owner shall offer for sale or sell an affected facility

permanently labeled under § 60.536 (b) or (c) unless—

(i) The affected facility has affixed to it a removable label pursuant to § 60.536 of this subpart,

(ii) He provides any purchaser or transferee with an owners manual pursuant to § 60.536(l) of this subpart; and

(iii) He provides any purchaser or transferee with a copy of the catalytic combustor warranty (for affected facilities with catalytic combustors).

(2) No commercial owner shall offer for sale or sell an affected facility permanently labeled under § 60.536 (e), (f)(3), or (g), unless the affected facility has affixed to it a removable label pursuant to § 60.536 of this subpart.

(3) A commercial owner other than a manufacturer complies with the requirements of paragraph (d) of this section if he

(i) Receives the required documentation from the manufacturer or a previous commercial owner and

(ii) Passes that documentation on unaltered to any person to whom the wood heater that it covers is sold or transferred.

(e) In any case in which the Administrator revokes a certificate of compliance for the knowing submission of false or inaccurate information, or other fraudulent acts, he may give notice of that revocation and the grounds for it to all commercial owners. From and after the date of receipt of that notice no commercial owner may sell any wood heater covered by the revoked certificate (other than to the manufacturer) unless

(1) It has been tested as required by § 60.533(n) and labeled as required by § 60.536(g), or

(2) The model line has been recertified in accordance with this subpart.

(f) No person shall install or operate an affected facility except in a manner consistent with the instructions on its permanent label and in the owners manual pursuant to § 60.536(l) of this subpart.

(g) No person shall operate an affected facility which was originally equipped with a catalytic combustor if the catalytic element is deactivated or removed.

(h) No person shall operate an affected facility that has been physically altered to exceed the tolerance limits of its certificate of compliance.

(i) No person shall alter, deface, or remove any permanent label required to be affixed pursuant to § 60.536 of this subpart.

§ 60.539 Hearing and appeal procedures.

(a)(1) In any case where the Administrator

(i) Denies an application under § 60.530(c) or § 60.533(e);

(ii) Issues a notice of revocation of certification under § 60.533(l);

(iii) Denies an application for laboratory accreditation under § 60.535; or

(iv) Issues a notice of revocation of laboratory accreditation under § 60.535(e), the manufacturer or laboratory affected may request a hearing under this section within thirty days following receipt of the required notification of the action in question.

(2) In any case where the Administrator issues a notice of revocation under § 60.533(p), the manufacturer may request a hearing under this section with the time limits set out in § 60.533(p)(5).

(b) Any hearing request shall be in writing, shall be signed by an authorized representative of the petitioning manufacturer or laboratory, and shall include a statement setting forth with particularity the petitioner's objection to the Administrator's determination or proposed determination.

(c)(1) Upon receipt of a request for a hearing under paragraph (a) of this section, the Administrator shall request the Chief Administrative Law Judge to designate an Administrative Law Judge as Presiding Officer for the hearing. If the Chief Administrative Law Judge replies that no Administrative Law Judge is available to perform this function, the Administrator shall designate a Presiding Officer who has not had any prior responsibility for the matter under review, and who is not subject to the direct control or supervision of someone who has had such responsibility.

(2) The hearing shall commence as soon as practicable at a time and place fixed by the Presiding Officer.

(3)(i) A motion for leave to intervene in any proceeding conducted under this paragraph must set forth the grounds for the proposed intervention, the position and interest of the movant and the likely impact that intervention will have on the expeditious progress of the proceeding. Any person already a party to the proceeding may file an answer to a motion to intervene, making specific reference to the factors set forth in the foregoing sentence and paragraph (c)(3)(iii), of this section, within ten (10) days after service of the motion for leave to intervene.

(ii) A motion for leave to intervene in a proceeding must ordinarily be filed before the first prehearing conference or,

in the absence of a prehearing conference, prior to the setting of a time and place for a hearing. Any motion filed after that time must include, in addition to the information set forth in paragraph (c)(3)(i), of this section, a statement of good cause for the failure to file in a timely manner. The intervenor shall be bound by any agreements, arrangements, and other matters previously made in the proceeding.

(iii) Leave to intervene may be granted only if the movant demonstrates that his presence in the proceeding would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties, and the movant may be adversely affected by a final order. The intervenor shall become a full party to the proceeding upon the granting of leave to intervene.

(iv) Persons not parties to the proceeding who wish to file amicus curiae briefs may so move. The motion shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable. If the motion is granted, the Presiding Officer or Administrator shall issue an order setting the time for filing such brief. An amicus curiae is eligible to participate in any briefing after his motion is granted, and shall be served with all briefs, reply briefs, motions, and orders relating to issues to be briefed.

(4) In computing any period of time prescribed or allowed in this subpart, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included. When a stated time expires on a Saturday, Sunday or legal holiday, the stated time period shall be extended to include the next business day.

(d)(1) Upon his appointment the Presiding Officer shall establish a hearing file. The file shall consist of the notice issued by the Administrator under § 60.530(c), § 60.533(e), § 60.533(l), § 60.533(p), § 60.535(a), or § 60.535(e), together with any accompanying material, the request for a hearing and the supporting data submitted therewith, and all documents relating to the request for certification or accreditation, or the proposed revocation of either.

(2) The hearing file shall be available for inspection by any party, to the extent authorized by law, at the office of the Presiding Officer, or other place designated by him.

(e) Any party may appear in person, or may be represented by counsel or by any other duly authorized representative.

(f)(1) The Presiding Officer upon the request of any party, or in his discretion,

may order a prehearing conference at a time and place specified by him to consider the following:

- (i) Simplification of the issues;
- (ii) Stipulations, admissions of fact, and the introduction of documents;
- (iii) Limitation of the number of expert witnesses;
- (iv) Possibility of agreement disposing of all or any of the issues in dispute;
- (v) Such other matters as may aid in the disposition of the hearing; including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(g)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to penalties under Title 18 U.S.C. 1001 for knowingly making false statements or representations or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be recorded verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearings shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(h)(1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator. Except as provided in paragraph (h)(3) of this section, any such appeal shall be taken within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall

have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

(3) In any hearing requested under paragraph (a)(2) of this section the Presiding Officer shall render his initial decision within 60 days of that request. Any appeal to the Administrator shall be taken within ten days of the initial decision, and the Administrator shall render his decision in that appeal within 30 days of the filing of the appeal.

3. By adding four new Reference Methods (Method 5G, 5H, 28, and 28A) to Appendix A to read as follows:

Appendix A—Reference Methods

Method 5G—Determination of Particulate Emissions From Wood Heaters From a Dilution Tunnel Sampling Location

1. Applicability and Principle

1.1 *Applicability.* This method is applicable for the determination of particulate matter emissions from wood heaters.

1.2 *Principle.* Particulate matter is withdrawn proportionally at a single point from a total collection hood and sampling tunnel that combines the wood heater exhaust with ambient dilution air. The particulate matter is collected on two glass fiber filters in series. The filters are maintained at a temperature of no greater than 32 °C (90 °F). The particulate mass is determined gravimetrically after removal of uncombined water.

There are three sampling train approaches described in this method: (1) one dual-filter dry sampling train operated at about 0.015 m³/min, (2) one dual-filter plus impingers sampling train operated at about 0.015 m³/min, and (3) two dual-filter dry sampling trains operated simultaneously at any flow rate. Options (2) and (3) are referenced in Section 7 of this method. The dual-filter sampling train equipment and operation, option (1), are described in detail in this method.

2. Apparatus

2.1 *Sampling Train.* The sampling train configuration is shown in Figure 5G-1 and consists of the following components:

2.1.1 *Probe.* Stainless steel or glass about 95 mm (3 7/8 in.) I.D., between 0.3 and 0.6 m (12 and 24 in.) in length. If made of stainless steel, the probe shall be constructed from seamless tubing.

2.1.2 *Pitot Tube.* Type S, as described in Section 2.1 of Method 2. The Type S pitot

tube assembly shall have a known coefficient, determined as outlined in Method 2, Section 4.

Alternatively, a standard pitot may be used as described in Method 2, Section 2.1.

2.1.3 Differential Pressure Gauge. Inclined manometer or equivalent device, as described in Method 2, Section 2.2. One manometer shall be used for velocity head (Δp) readings and another (optional) for orifice differential pressure readings (ΔH).

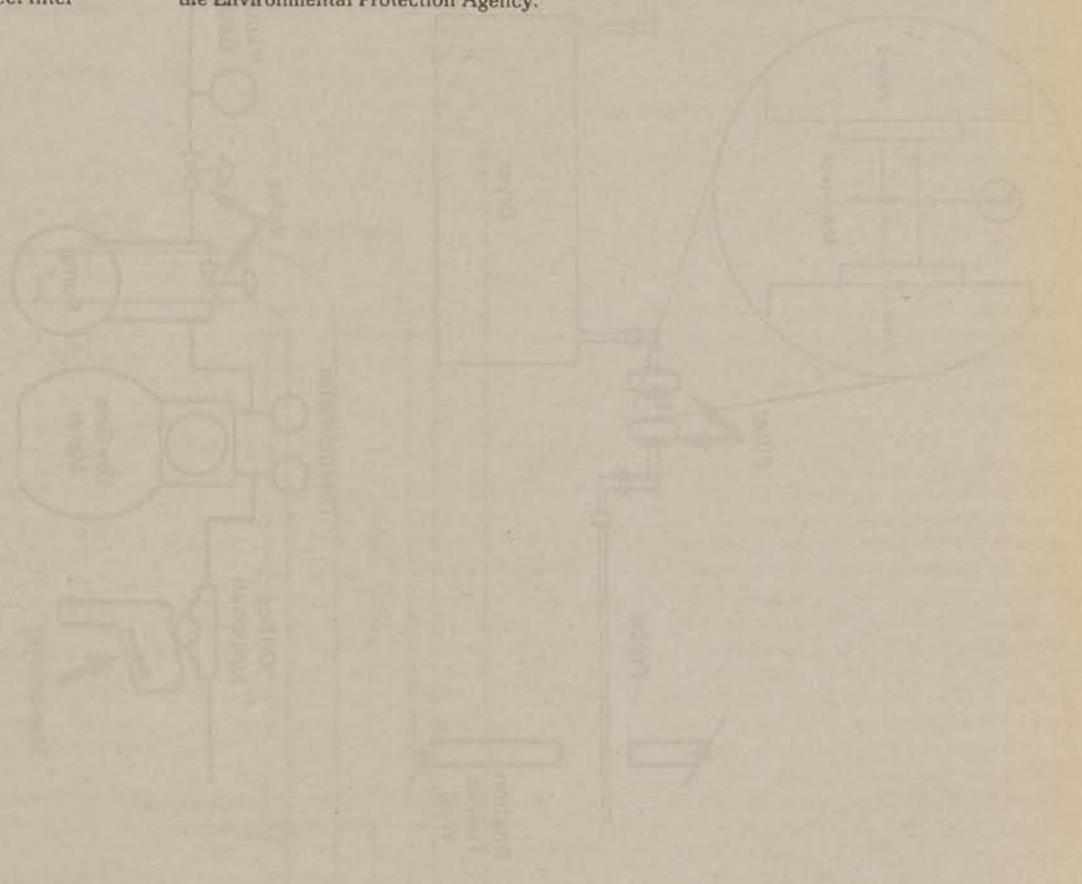
2.1.4 Filter Holders. Two each made of borosilicate glass, stainless steel, or Teflon, with a glass frit or stainless steel filter

support and a silicone rubber or Viton gasket. The holder design shall provide a positive seal against leakage from the outside or around the filters. The filter holders shall be placed in series with the backup filter holder located 25 to 100 mm (1 to 4 in.) downstream from the primary filter holder. The filter holder shall be capable of holding a filter with a 100-mm (4-in.) diameter, except as noted in Section 7.

Note: Mention of trade names or specific product does not constitute endorsement by the Environmental Protection Agency.

2.1.5 Filter Temperature Monitoring System. A temperature gauge capable of measuring temperature to within 1.0 percent of absolute temperature. The gauge shall be installed at the exit side of the front filter holder so that the sensing tip of the temperature gauge is in direct contact with the sample gas or in a thermowell as shown in Figure 5G-1. The temperature gauge shall comply with the calibration specifications in Method 2, Section 4.

BILLING CODE 6560-50-M



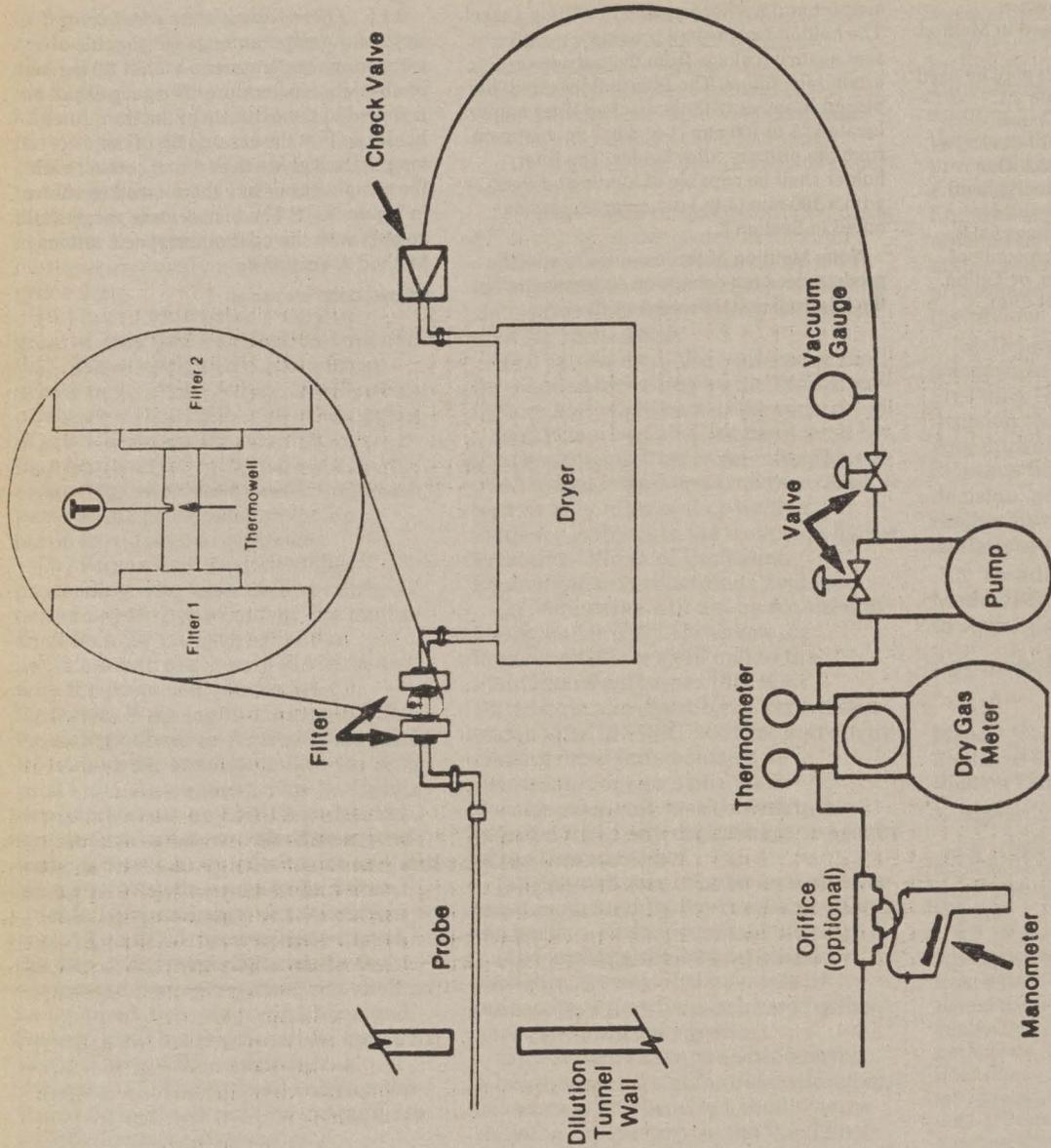


Figure 5G-1. Sampling train.

2.1.6 *Dryer.* Any system capable of removing water from the sample gas to less than 1.5 percent moisture (volume percent) prior to the metering system.

2.1.7 *Metering System.* Same as Method 5, Section 2.1.8.

2.1.8 *Barometer.* Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg).

2.1.9 *Dilution Tunnel Gas Temperature Measurement.* Temperature sensor, as described in Method 2, Section 2.3.

2.2 *Dilution Tunnel.* The dilution tunnel

apparatus is shown in Figure 5G-2 and consists of the following components:

2.2.1 *Hood.* Constructed of steel with a minimum diameter of 0.3 m (1 ft) on the large end and a standard 0.15 to 0.3 m (0.5 to 1 ft) coupling capable of connecting to standard 0.15 to 0.3 m (0.5 to 1 ft) stove pipe on the small end.

2.2.2 *90° Elbows.* Steel 90° elbows, 0.15 to 0.3 m (0.5 to 1 ft) in diameter for connecting mixing duct, straight duct and damper (optional) assembly. There shall be at least two 90° elbows upstream of the sampling section (see Figure 5G-2).

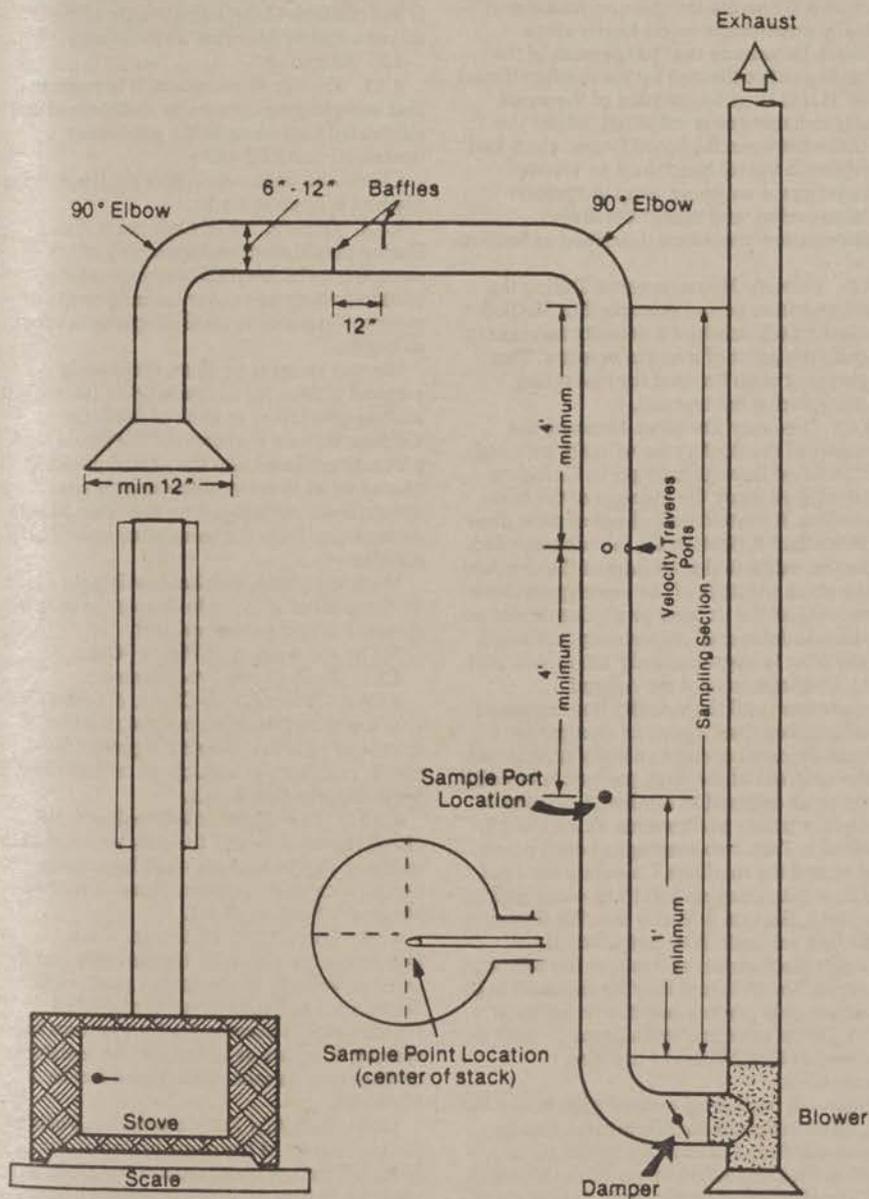


Figure 5G-2. Suggested construction details of the dilution tunnel.

2.2.3 *Straight Duct.* Steel, 0.15 to 0.3 m (0.5 to 1 ft) in diameter to provide the ducting for the dilution apparatus upstream of the sampling section. Steel duct, 0.15 m (0.5 ft) in diameter shall be used for the sampling section. In the sampling section, at least 1.2 m (4 ft) downstream of the elbow, shall be two holes (velocity traverse ports) at 90° to each other of sufficient size to allow entry of the pitot for traverse measurements. At least 1.2 m (4 ft) downstream of the velocity traverse ports, shall be one hole (sampling port) of sufficient size to allow entry of the sampling probe. Ducts of larger diameter may be used for the sampling section provided the specifications for minimum gas velocity and the dilution rate range shown in Section 4 are maintained. The length of duct from the hood inlet to the sampling ports shall not exceed 9.1 m (30 ft).

2.2.4 *Mixing Baffles.* Steel semicircles (two) attached at 90° to the duct axis on opposite sides of the duct midway between the two elbows upstream of sampling section. The space between the baffles shall be about 0.3 m (12 in.).

2.2.5 *Blower.* Squirrel cage or other fan capable of extracting gas from the dilution tunnel of sufficient flow to maintain the velocity and dilution rate specifications in Section 4 and exhausting the gas to the atmosphere.

2.3 *Sample Recovery.* Probe brushes, wash bottles, sample storage containers, petri dishes, and a funnel as described in Method 5, Section 2.2.1 through 2.2.4, and 2.2.8, respectively, are needed.

2.4 *Analysis.* Glass weighing dishes, desiccator, analytical balance, beakers (250 ml or smaller), hygrometer, and temperature gauge as described in Method 5, Sections 2.3.1 through 2.3.3 and 2.3.5 through 2.3.7, respectively, are needed.

3. Reagents

3.1 *Sampling.* The reagents used in sampling are as follows:

3.1.1 *Filters.* Glass fiber filters with a minimum diameter of 100 mm (4 in.), without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. Gelman A/E 61631 has been found acceptable for this purpose.

3.1.2 *Stopcock Grease.* Same as Method 5, Section 3.1.5.

3.2 *Sample Recovery.* Acetone-reagent grade, same as Method 5, Section 3.2.

3.3 *Analysis.* Two reagents are required for the analysis:

3.3.1 *Acetone.* As in Section 3.2.

3.3.2 *Desiccant.* Anhydrous calcium sulfate, calcium chloride, or silica gel, indicating type.

4. Procedure

4.1 *Dilution Tunnel.* A schematic of a dilution tunnel is shown in Figure 5G-2. The dilution tunnel dimensions and other features are described in Section 2.2. Assemble the dilution tunnel sealing joints and seams to prevent air leakage. Clean the dilution tunnel with an appropriately sized, wire chimney brush before each certification test.

4.1.1 *Draft Determination.* Prepare the wood heater as in Method 28, Section 6.2.1. Locate the dilution tunnel hood centrally over

the wood heater stack exhaust. Operate the dilution tunnel blower at the flow rate to be used during the test run. Measure the draft imposed on the wood heater by the dilution tunnel (i.e., the difference in draft measured with and without the dilution tunnel operating) as described in Method 28, Section 6.2.3. Adjust the distance between the top of the wood heater stack exhaust and the dilution tunnel hood so that the dilution tunnel induced draft is less than 1.25 Pa (0.005 in. H₂O). Do not operate the wood heater during this adjustment.

4.1.2 *Smoke Capture.* During the pretest ignition period described in Method 28, Section 6.3, operate the dilution tunnel and visually monitor the wood heater stack exhaust. Determine that 100 percent of the exhaust gas is collected by the dilution tunnel hood. If less than 100 percent of the wood heater exhaust gas is collected, adjust the distance between the wood heater stack and the dilution tunnel hood until no visible exhaust gas is escaping. Stop the pretest ignition period, and repeat the draft determination procedure described in Section 4.1.1.

4.2 *Velocity Measurements.* During the pretest ignition period described in Method 28, Section 6.3, conduct a velocity traverse to identify the point of average velocity. This single point shall be used for measuring velocity during the test run.

4.2.1 *Velocity Traverse.* Measure the diameter of the duct at the velocity traverse port location through both ports. Calculate the duct area using the average of the two diameters. A pretest leak check of pitot lines as in Method 2, Section 3.1, is recommended. Place the calibrated pitot tube at the centroid of the stack in either of the velocity traverse ports. Adjust the damper or similar device on the blower inlet until the velocity indicated by the pitot is approximately 220 m/min (715 fpm). Continue to read the Δp and temperature until the velocity has remained constant (less than 5 percent change) for 1 minute. Once a constant velocity is obtained at the centroid of the duct, perform a velocity traverse as outlined in Method 2, Section 3 using four points per traverse as outlined in Method 1. Take two readings at each point and record the readings. Calculate the total gas flow rate using calculations contained in Method 2, Section 5. Verify that the flow rate is $4 \pm 0.45 \text{ sm}^3/\text{min}$ ($140 \pm 14 \text{ scfm}$); if not, readjust the damper, and repeat the velocity traverse. The moisture may be assumed to be 4 percent (100 percent relative humidity at 85°F). Direct moisture measurements such as outlined in EPA Method 4 are also permissible.

Note.—If burn rates exceed 3 kg/hr (6.6 lb/hr), dilution tunnel duct flow rates greater than $4 \text{ sm}^3/\text{min}$ (140 scfm) and sampling section duct diameters larger than 150 mm (6 in.) are allowed. If larger ducts or flow rates are used, the sampling section velocity shall be at least 220 m/min (715 fpm). In order to assure measurable particulate mass catch, it is recommended that the ratio of the average mass flow rate in the dilution tunnel to the average fuel burn rate be less than 150:1 if larger duct sizes or flow rates are used.

4.2.2 *Testing Velocity Measurements.* After obtaining velocity traverse results that

meet the flow rate requirements, choose a point of average velocity and place the pitot and thermocouple at that location in the duct. Alternatively, locate the pitot and thermocouple at the duct centroid and calculate a velocity correction factor for the centroidal position. Mount the pitot to ensure no movement during the test run and seal the port holes to prevent any air leakage. Align the pitot to be parallel with the duct axis, at the measurement point. Check that this condition is maintained during the test run (about 30-minute intervals). Monitor the temperature and velocity during the pretest ignition period to ensure the proper flow rate is maintained. Make adjustments to the dilution tunnel flow rate as necessary.

4.3 Sampling.

4.3.1 *Pretest Preparation.* It is suggested that sampling equipment be maintained and calibrated according to the procedure described in APTD-0576.

Check and desiccate filters as described in Method 5, Section 4.1.1.

4.3.2 Preparation of Collection Train.

During preparation and assembly of the sampling train, keep all openings where contamination can occur covered until just prior to assembly or until sampling is about to begin.

Using a tweezer or clean disposable surgical gloves, place one labeled (identified) and weighed filter in each of the filter holders. Be sure that each of the filters is properly centered and the gasket properly placed so as to prevent the sample gas stream from circumventing the filter. Check each of the filters for tears after assembly is completed.

Mark the probe with heat resistant tape or by some other method to denote the proper distance into the stack or duct.

Set up the train as in Figure 5G-1.

4.3.3 Leak-Check Procedures.

4.3.3.1 *Pretest Leak-Check.* A pretest leak-check is recommended, but not required. If the tester opts to conduct the pretest leak-check, conduct the leak-check as described in Method 5, Section 4.1.4.1.

4.3.3.2 *Post-Test Leak-Check.* A leak-check is mandatory at the conclusion of each test run. The leak-check shall be done in accordance with the procedures described in Method 5, Section 4.1.4.1.

4.3.4 Preliminary Determinations.

Determine the pressure, temperature and the average velocity of the tunnel gases as in Section 4.2. Moisture content of diluted tunnel gases is assumed to be 4 percent for making flow rate calculations; the moisture content may be measured directly as in Method 4.

4.3.5 *Sampling Train Operation.* Position the probe inlet at the stack centroid, and block off the openings around the probe and porthole to prevent unrepresentative dilution of the gas stream. Be careful not to bump the probe into the stack wall when removing or inserting the probe through the porthole; this minimizes the chance of extracting deposited material.

Begin sampling at the start of the test run as defined in Method 28, Section 6.4.1. During the test run, maintain a sample flow rate proportional to the dilution tunnel flow rate

(within 10 percent of the initial proportionality ratio) and a filter holder temperature of no greater than 32 °C (90 °F). The initial sample flow rate shall be approximately 0.015 m³/min (0.5 cfm).

For each test run, record the data required on a data sheet such as the one shown in Figure 5G-3. Be sure to record the initial dry gas meter reading. Record the dry gas meter readings at the beginning and end of each sampling time increment and when sampling is halted. Take other readings as indicated on Figure 5G-3 at least once each 10 minutes during the test run. Since the manometer level and zero may drift because of vibrations and temperature changes, make periodic checks during the test run.

BILLING CODE 6560-50-M

During the test run, make periodic adjustments to keep the temperature between the filters at the proper level. Do not change sampling trains during the test run.

At the end of the test run (see Method 28, Section 6.4.6), turn off the coarse adjust valve, remove the probe from the stack, turn off the pump, record the final dry gas meter reading, and conduct a post-test leak-check, as outlined in Section 4.3.3. Also, leak-check the pitot lines as described in Method 2, Section 3.1; the lines must pass this leak-check in order to validate the velocity head data.

4.3.6 Calculation of Proportional Sampling Rate. Calculate percent proportionality (see Calculations, Section 6) to determine whether the run was valid or another test run should be made.

4.4 Sample Recovery. Begin recovery of the probe and filter samples as described in Method 5, Section 4.2, except that an acetone blank volume of about 50 ml may be used.

Treat the samples as follows:

Container No. 1. Carefully remove the filter from the primary filter holder and place it in its identified (labeled) petri dish container. Use a pair of tweezers and/or clean disposable surgical gloves to handle the filter. If it is necessary to fold the filter, do so such that the particulate cake is inside the fold. Carefully transfer to the petri dish any particulate matter and/or filter fibers which adhere to the filter holder gasket, by using a dry Nylon bristle brush and/or a sharp-edged blade. Seal the container.

Container No. 2. Remove filter from the second filter holder using the same procedures as described above.

Note: The two filters may be placed in the same container for desiccation and weighing. Use the sum of the filter tare weights to determine the sample mass collected.

Container No. 3. Taking care to see that dust on the outside of the probe or other exterior surfaces does not get into the sample, quantitatively recover particulate matter or any condensate from the probe and filter holders by washing and brushing these components with acetone and placing the wash in a labeled (No. 3) glass container. At least three cycles of brushing and rinsing are necessary.

Between sampling runs, keep brushes clean and protected from contamination.

After all acetone washings and particulate matter have been collected in the sample containers, tighten the lids on the sample containers so that the acetone will not leak out when transferred to the laboratory weighing area. Mark the height of the fluid levels to determine whether leakage occurs during transport. Label the containers clearly to identify contents. Requirements for capping and transport of sample containers are not applicable if sample recovery and analysis occur in the same room.

4.5 Analysis. Record the data required on a sheet such as the one shown in Figure 5G-4.

Stove _____
Date _____
Run No. _____
Filter Nos. _____
Liquid lost during transport, ml _____
Acetone blank volume, ml _____

Acetone wash volume, ml _____
Acetone blank concentration, mg/mg _____
Acetone wash blank, mg _____

Container No.	Weight of particulate collected, mg		
	Final weight	Tare weight	Weight gain
1			
2			
3			

Total _____
Less acetone blank _____
Weight of particulate matter _____

STACK MOISTURE MEASUREMENT DATA (OPTIONAL)

	Volume of liquid water collected	
	Impinger volume, ml	Silica gel weight, g
Final		
Initial		
Liquid collected		
Total volume collected		g ¹ ml

¹ Convert weight of water to volume by dividing total weight increase by density of water (1 g/ml).

$$\frac{\text{Increase, g}}{(1 \text{ g/ml})} = \text{Volume water, ml}$$

Figure 5G-4. Analysis data sheet.

Use the same analytical balance for determining tare weight and final sample weights. Handle each sample container as follows:

Container Nos. 1 and 2. Leave the contents in the sample containers or transfer the filters and loose particulate to tared glass weighing dishes. Desiccate for at least 24 hours but no more than 36 hours. Weigh to a constant weight, and report the results to the nearest 0.1 mg. For purposes of this section, the term "constant weight" means a difference of no more than 0.5 mg or 1 percent of total sample weight (less tare weight), whichever is greater, between two consecutive weighings, with no more than 2 hours and no less than 1 hour between weighings.

Container No. 3. Note the level of liquid in the container, and confirm on the analysis sheet whether leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Determination of sample leakage is not applicable if sample recovery and analysis occur in the same room. Measure the liquid in this container either volumetrically to within 1 ml or gravimetrically to within 0.5 g. Transfer the contents to a tared 250-ml or smaller beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for at least 24 hours but no more than 36 hours, and weigh to a constant weight. Report the results to the nearest 0.1 mg.

"Acetone Blank" Container. Measure acetone in this container either volumetrically or gravimetrically. Transfer the acetone to a tared 250-ml or smaller

beaker and evaporate to dryness at ambient temperature and pressure. Desiccate for at least 24 hours but no more than 36 hours, and weigh to a constant weight. Report the results to the nearest 0.1 mg.

5. Calibration

Maintain a laboratory record of all calibrations.

5.1 Pitot Tube. The Type S pitot tube assembly shall be calibrated according to the procedure outlined in Method 2, Section 4, prior to the first certification test and checked semiannually, thereafter.

5.2 Volume Metering System.

5.2.1 Initial and Periodic Calibration. Before its initial use and at least semiannually thereafter, calibrate the volume metering system as described in Method 5, Section 3.1.1, except that the wet test meter with a capacity of 3.0 liters/rev (0.1 ft³/rev) may be used. Other liquid displacement systems accurate to within 1 percent, may be used as calibration standards.

Procedures and equipment specified in Method 5, Section 7, for alternative calibration standards are allowed for calibrating the dry gas meter in the sampling train. A dry gas meter used as a calibration standard shall be recalibrated at least once annually.

5.2.2 Calibration After Use. After each certification or audit test (four or more test runs conducted on a wood heater at the four burn rates specified in Method 28), check calibration of the metering system by performing three calibration runs at a single, intermediate flow rate as described in Method 5, Section 5.3.2.

Procedures and equipment specified in Method 5, Section 7, for alternative calibration standards are allowed for the post-test dry gas meter calibration check.

5.2.3 Acceptable Variation in Calibration. If the dry gas meter coefficient values obtained before and after a certification test differ by more than 5 percent, the certification test shall either be voided and repeated, or calculations for the certification test shall be performed using whichever meter coefficient value (i.e., before or after) gives the lower value of total sample volume.

5.3 Temperature Gauges. Use the procedure in Method 2, Section 4.3, to calibrate temperature gauges before the first certification or audit test and at least semiannually, thereafter.

5.4 Leak-Check of Metering System Shown in Figure 5G-1. That portion of the sampling train from the pump to the orifice meter shall be leak-checked prior to initial use and after each certification or audit test. Leakage after the pump will result in less volume being recorded than is actually sampled. Use the procedure described in Method 5, Section 5.6.

Similar leak checks shall be conducted for other types of metering systems (i.e., without orifice meters).

5.5 Barometer. Calibrate against a mercury barometer before the first certification test and at least semiannually, thereafter.

6. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

6.1 Nomenclature.

- B_{ws} = Water vapor in the gas stream, proportion by volume (assumed to be 0.04).
 c_s = Concentration of particulate matter in stack gas, dry basis, corrected to standard conditions, g/dsm³ (g/dscf).
 E = Particulate emission rate, g/hr.
 L_a = Maximum acceptable leakage rate for either a pretest or post-test leak-check, equal to 0.00057 m³/min (0.02 cfm) or 4 percent of the average sampling rate, whichever is less.
 L_p = Leakage rate observed during the post-test leak-check, m³/min (cfm).
 m_a = Mass of residue of acetone blank after evaporation, mg.
 m_{aw} = Mass of residue from acetone wash after evaporation, mg.
 m_n = Total amount of particulate matter collected, mg.

- M_w = Molecular weight of water, 18.0 g/g-mole (18.0 lb/lb-mole).
 P_{bar} = Barometric pressure at the sampling site, mm Hg (in. Hg).
 PR = Percent of proportional sampling rate.
 P_s = Absolute gas pressure in dilution tunnel, mm Hg (in. Hg).
 P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
 Q_{std} = Average gas flow rate in dilution tunnel, calculated as in Method 2, Equation 2-10, dsm³/hr (dscf/hr).
 T_m = Absolute average dry gas meter temperature (see Figure 5G-3), °K (°R).
 T_{mi} = Absolute average dry gas meter temperature during each 10-minute interval, *i*, of the test run, °K (°R).
 T_a = Absolute average gas temperature in the dilution tunnel (see Figure 5G-3), °K (°R).
 T_{ai} = Absolute average gas temperature in the dilution tunnel during each 10 minute interval, *i*, of the test run, °K (°R).
 T_{std} = Standard absolute temperature, 293 °K (528 °R).
 V_a = Volume of acetone blank, ml.
 V_{aw} = Volume of acetone used in wash, ml.
 V_m = Volume of gas sample as measured by dry gas meter, dm³ (dcf).

- V_{mi} = Volume of gas sample as measured by dry gas meter during each 10-minute intervals, *i*, of the test run, dm³ (dcf).
 $V_{m(std)}$ = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dsm³ (dscf).
 v_a = Average gas velocity in dilution tunnel, calculated by Method 2, Equation 2-9, m/sec (ft/sec).
 v_{ai} = Average gas velocity in dilution tunnel during each 10-minute interval, *i*, of the test run, calculated by Method 2, Equation 2-9, m/sec (ft/sec).
 Y = Dry gas meter calibration factor.
 ΔH = Average pressure differential across the orifice meter, if used (see Figure 5G-2), mm H₂O (in. H₂O).
 θ = Total sampling time, min.
 10 = 10 minutes, length of first sampling period.
 13.6 = Specific gravity of mercury.
 100 = Conversion to percent.
- 6.2 *Dry Gas Volume.* Correct the sample volume measured by the dry gas meter to standard conditions (20 °C, 760 mm Hg or 68 °F, 29.92 in. Hg) by using Equation 5G-1. (If no orifice meter is used in sampling train, assume $\Delta H=0$ or measure static pressure at dry gas meter outlet.)

$$V_{m(std)} = V_m Y \left(\frac{T_{std}}{T_m} \right) \left(\frac{P_{bar} + \frac{\Delta H}{13.6}}{P_{std}} \right) = K_1 V_m Y \left(\frac{P_{bar} + (\Delta H/13.6)}{T_m} \right) \quad \text{Eq. 5G-1}$$

where:

- $K_1 = 0.3858$ °K/mm. Hg for metric units.
 $= 17.64$ °R/in. Hg for English units.

Note.—If L_p exceeds L_a , Equation 5G-1 must be modified as follows: Replace V_m in Equation 5G-1 with the expression:
 $[V_m - (L_p - L_a)\theta]$

6.3 Solvent Wash Blank.

$$m_{aw} = \frac{m_a V_{aw}}{V_a} \quad \text{Eq. 5G-2}$$

6.4 *Total Particulate Weight.* Determine the total particulate catch, m_n , from the sum of the weights obtained from containers 1, 2, and 3, less the acetone blank (see Figure 5G-5).

6.5 Particulate Concentration.

$$c_s = (0.001 \text{ g/mg}) (m_n / V_{m(std)}) \quad \text{Eq. 5G-3}$$

6.6 Particulate Emission Rate.

$$E = c_s Q_{std} \quad \text{Eq. 5G-4}$$

Note.—Particulate emission rate results produced using the sampling train described in Section 2 and shown in Figure 5G-1 shall

be adjusted for reporting purposes by the following methods adjustment factor:

$$E_{adj} = 1.82 (E)^{0.83} \quad \text{Eq. 5G-5}$$

6.7 *Proportional Rate Variation.* Calculate PR for each 10-minute interval, *i*, of the test run.

$$PR = \frac{\theta (V_{mi} v_{ai} T_m T_{ai})}{10 (V_m v_{ai} T_a T_{mi})} \times 100 \quad \text{Eq. 5G-6}$$

Alternate calculation procedures for proportional rate variation may be used if other sample flow rate data (e.g., orifice flow meters or rotameters) are monitored to maintain proportional sampling rates. The proportional rate variations shall be calculated for each 10-minute interval by comparing the stack to nozzle velocity ratio for each 10-minute interval to the average stack to nozzle velocity ratio for the test run.

6.8 *Acceptable Results.* If no more than 10 percent of the PR values for all the intervals exceed 90 percent <PR <110 percent, and if no PR value for any interval exceeds 80 percent <PR <120 percent, the results are

acceptable. If the PR values for the test run are judged to be unacceptable, report the test run emission results, but do not include the results in calculating the weighted average emission rate, and repeat the test run.

7. Alternative Sampling and Analysis Procedure

7.1 *Method 5H Sampling Train.* The sampling and analysis train and procedures described in Method 5H, Sections 2.1, 3.1, 4.1, 4.2, and 4.4 may be used in lieu of similar sections in Method 5G. Operating of the Method 5H sampling train in the dilution tunnel is as described in Section 4.3.5. Filter temperatures and condenser conditions are as described in Method 5H. No methods adjustment factor as described in Equation 5G-5, Section 6.6, is to be applied to the particulate emission rate data produced by this alternative method.

7.2 *Dual Sampling Trains.* The tester may operate two sampling trains simultaneously at sample flow rates other than that specified in Section 4.3.5 provided the following specifications are met.

7.2.1 *Sampling Train.* The sampling train configuration shall be the same as specified in Section 2.1, except the probe, filter, and

filter holder need not be the same sizes as specified in the applicable sections. Filter holders of plastic materials such as Nalgene or polycarbonate materials may be used (the Gelman 1119 filter holder has been found suitable for this purpose). With such materials, it is recommended not to use solvents in sample recovery. The filter face velocity shall not exceed 150 mm/sec (30 ft/min) during the test run. The dry gas meter shall be calibrated for the same flow rate range as encountered during the test runs. Two separate, complete sampling trains are required for each test run.

7.2.2 Probe Location. Locate the two probes in the dilution tunnel at the same level (see Section 2.2.3). Two sample ports are necessary. Locate the probe inlets within the 50-mm (2-in.) diameter centroidal area of the dilution tunnel no closer than 25 mm (1 in.) apart.

7.2.3 Sampling Train Operation. Operate the sampling trains as specified in Section 4.3.5, starting and stopping the two sampling trains simultaneously. The pitot values as described in Section 4.2.2 shall be used to adjust sampling rates in both sampling trains.

7.2.4 Recovery and Analysis of Sample. Recover and analyze the samples from the two sampling trains separately, as specified in Sections 4.4 and 4.5.

For this alternative procedure, the probe and filter holder assembly may be weighed without sample recovery (use no solvents) described above in order to determine the sample weight gains. For this approach, weigh the clean, dry probe and filter holder assembly upstream of the front filter (without filters) to the nearest 0.1 mg to establish the tare weights. The filter holder section between the front and second filter need not be weighed. At the end of the test run,

carefully clean the outside of the probe, cap the ends, and identify the sample (label). Remove the filters from the filter holder assemblies as described for containers Nos. 1 and 2 above. Reassemble the filter holder assembly, cap the ends, identify the sample (label), and transfer all the samples to the laboratory weighing area for final weighing. Descriptions of capping and transport of samples are not applicable if sample recovery and analysis occur in the same room.

For this alternative procedure, filters may be weighed directly without a petri dish. If the probe and filter holder assembly are to be weighed to determine the sample weight, uncap the openings of the probe and the filter holder assembly. Desiccate for at least 24 hours but no more than 36 hours and weigh to a constant weight. Report the results to the nearest 0.1 mg.

7.2.5 Calculations. Calculate an emission rate (Section 6.6) for the sample from each sampling train separately and determine the average emission rate for the two values. The two emission rates shall not differ by more than 7.5 percent from the average emission rate, or 7.5 percent of the weighted average emission rate limit in the applicable standard, whichever is greater. If this specification is not met, the results are unacceptable. Report the results, but do not include the results in calculating the weighted average emission rate. Repeat the test run until acceptable results are achieved, report the average emission rate for the acceptable test run, and use the average in calculating the weighted average emission rate.

8. Bibliography

1. Same as for Method 5, citations 1 through 11, with the addition of the following:

2. Oregon Department of Environmental Quality Standard Method for Measuring the Emissions and Efficiencies of Woodstoves, June 8, 1984. Pursuant to Oregon Administrative Rules Chapter 340, Division 21.

3. American Society for Testing Materials. Proposed Test Methods for Heating Performance and Emissions of Residential Wood-fired Closed Combustion-Chamber Heating Appliances. E-6 Proposal P 180. August 1986.

Method 5H—Determination of Particulate Emissions From Wood Heaters From a Stack Location

1. Applicability and Principle

1.1 Applicability. This method is applicable for the determination of particulate matter and condensable emissions from wood heaters.

1.2 Principle. Particulate matter is withdrawn proportionally from the wood heater exhaust and is collected on two glass fiber filters separated by impingers immersed in an ice bath. The first filter is maintained at a temperature of 120 ± 14 °C (248 ± 25 °F). The second filter and the impinger system are cooled such that the exiting temperature of the gas is maintained at 20 °C (68 °F) or less. The particulate mass collected in the probe, on the filters, and in the impingers is determined gravimetrically after removal of uncombined water.

2. Apparatus

2.1 Sampling Train. The sampling train configuration is shown in Figure 5H-1. APTD-0576 is suggested for operating and maintenance procedures. The train consists of the following components:

BILLING CODE 6560-50-M

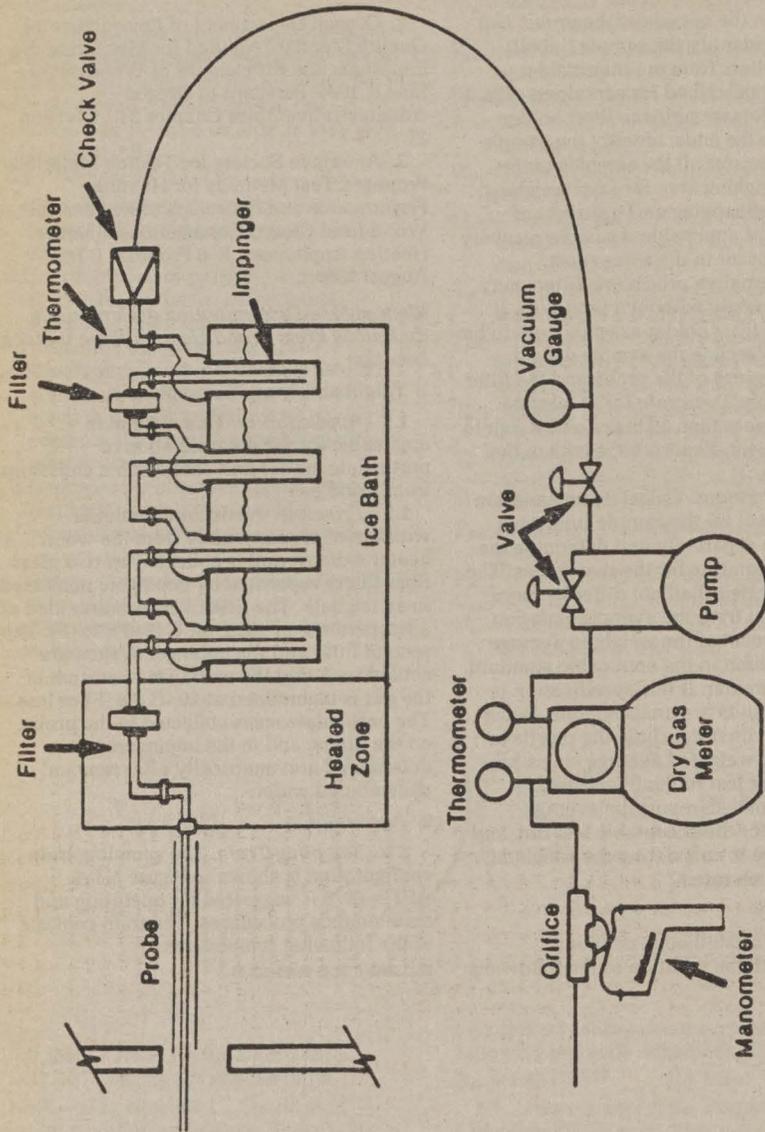


Figure 5H-1. Sampling train.

2.1.1 *Probe Nozzle.* Same as Method 5, Section 2.1.1, except that calibration of the nozzle is not necessary.

2.1.2 *Probe Liner.* Same as Method 5, Section 2.1.2, except that the maximum length of the sample probe shall be 0.6 m (2 ft).

Note.—Mention of trade names or specific product does not constitute endorsement by the Environmental Protection Agency.

2.1.3 *Differential Pressure Gauge.* Same as Method 5, Section 2.1.4.

2.1.4 *Filter Holders.* Two each of borosilicate glass, with a glass frit or

stainless steel filter support and a silicone rubber, Teflon, or Viton gasket. The holder design shall provide a positive seal against leakage from the outside or around the filter. The front filter holder shall be attached immediately at the outlet of the probe and prior to the first impinger. The second filter holder shall be attached on the outlet of the third impinger and prior to the inlet of the fourth (silica gel) impinger.

2.1.5 *Filter Heating System.* Same as Method 5, Section 2.1.6.

2.1.6 *Condenser.* Same as Method 5, Section 2.1.7, used to collect condensible

materials and determine the stack gas moisture content.

2.1.7 *Metering System.* Same as Method 5, Section 2.1.8.

2.1.8 *Barometer.* Mercury, aneroid, or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg).

2.2 *Stack Flow Rate Measurement System.* A schematic of an example test system is shown in Figure 5H-2.

BILLING CODE 6560-50-M

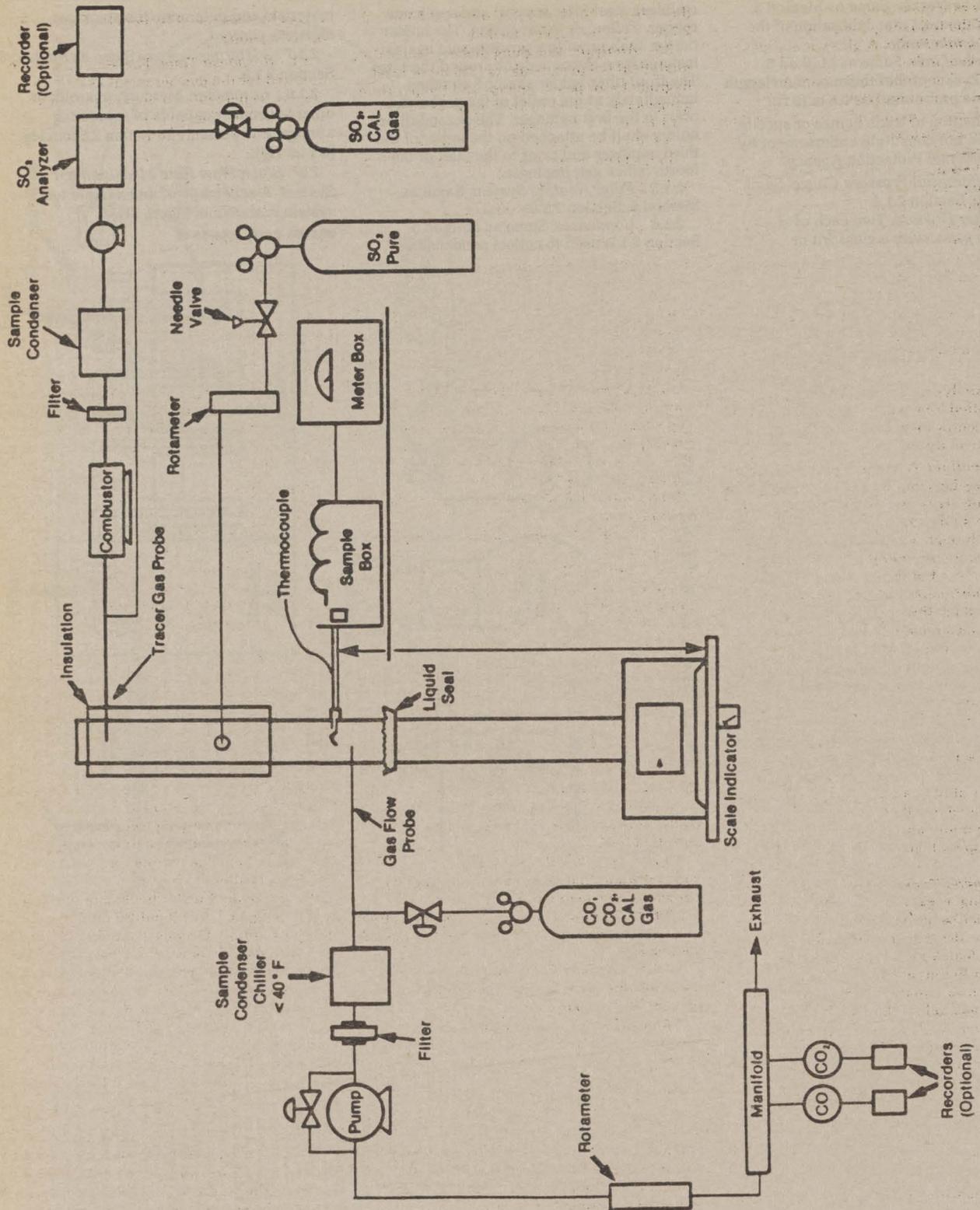


Figure 5H-2. Test system schematic for Method 5H.

The flow rate measurement system consists of the following components:

2.2.1 *Sample Probe.* A glass or stainless steel sampling probe.

2.2.2 *Gas Conditioning System.* A high density filter to remove particulate matter and a condenser capable of lowering the dew point of the gas to less than 5 °C (40 °F).

2.2.3 *Pump.* An inert (i.e., Teflon or stainless steel heads) sampling pump capable of delivering more than the total amount of sample required in the manufacturer's instructions for the individual instruments.

2.2.4 *CO Analyzer.* Any analyzer capable of providing a measure of CO in the range of 0 to 10 percent by volume at least once every 10 minutes.

2.2.5 *CO₂ Analyzer.* Any analyzer capable of providing a measure of CO₂ in the range of 0 to 25 percent by volume at least once every 10 minutes.

Note.—Analyzers with ranges less than those specified above may be used provided actual concentrations do not exceed the range of the analyzer.

2.2.6 *Manifold.* A sampling tube capable of delivering the sample gas to two analyzers and handling an excess of the total amount used by the analyzers. The excess gas is exhausted through a separate port.

2.2.7 *Recorders (optional).* To provide a permanent record of the analyzer outputs.

2.3 *Proportional Gas Flow Rate System.* To monitor stack flow rate changes and provide a measurement that can be used to adjust and maintain particulate sampling flow rates proportional to the stack flow rate. A schematic of the proportional flow rate system is shown in Figure 5H-2 and consists of the following components.

2.3.1 *Tracer Gas Injection System.* To inject a known concentration of SO₂ into the flue. The tracer gas injection system consists of a cylinder of SO₂, a gas cylinder regulator, a stainless steel needle valve or flow controller, a nonreactive rotameter, and an injection loop to disperse the SO₂ evenly in the flue.

2.3.2 *Sample Probe.* A glass or stainless steel sampling probe.

2.3.3 *Gas Conditioning System.* A combustor as described in Method 16A, Sections 2.1.5 and 2.1.8, followed by a high density filter to remove particulate matter, and a condenser capable of lowering the dew point of the gas to less than 5 °C (40 °F).

2.3.4 *Pump.* As described in Section 2.2.3.

2.3.5 *SO₂ Analyzer.* Any analyzer capable of providing a measure of the SO₂ concentration in the range of 0 to 1000 ppm by volume (or other range necessary to measure the SO₂ concentration) at least once every 10 minutes.

2.3.6 *Recorder (optional).* To provide a permanent record of the analyzer outputs.

Note.—Other tracer gas systems, including a helium gas system, or use of a mass balance approach, are allowed for determining instantaneous proportional sampling rates.

2.4 *Sample Recovery.* Probe liner and probe nozzle brushes, wash bottles, sample storage containers, petri dishes, graduated cylinder or balance, plastic storage containers, funnel and rubber policeman, as

described in Method 5, Sections 2.2.1 through 2.2.8, respectively, are needed.

2.5 *Analysis.* Weighing dishes, desiccator, analytical balance, beakers (250 ml or less), hygrometer or psychrometer, and temperature gauge as described in Method 5, Sections 2.3.1 through 2.3.7, respectively, are needed. In addition, a separatory funnel, glass or teflon, 500 ml or greater, is needed.

3. Reagents

3.1 *Sampling.* The reagents used in sampling are as follows:

3.1.1 *Filters.* Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. Gelman A/E 61631 filters have been found acceptable for this purpose.

3.1.2 *Silica Gel.* Same as Method 5, Section 3.1.2.

3.1.3 *Water.* Deionized distilled to conform to ASTM Specification D1193-77, Type 3 (incorporated by reference—see § 60.17). Run blanks prior to field use to eliminate a high blank on test samples.

3.1.4 *Crushed Ice.*

3.1.5 *Stopcock Grease.* Same as Method 5, Section 3.1.5.

3.2 *Sample Recovery.* Same as Method 5, Section 3.2.

3.3 *Cylinder Gases.* For the purposes of this procedure, span value is defined as the upper limit of the range specified for each analyzer as described in Section 2.2 or 2.3. If an analyzer with a range different than that specified in this method is used, the span value shall be equal to the upper limit of the range for the analyzer used (see **Note** in Section 2.2.6).

3.3.1 *Calibration Gases.* The calibration gases for the CO₂, CO and SO₂ analyzers shall be CO₂, CO, or SO₂, as appropriate, in N₂. CO₂ and CO calibration gases may be combined in a single cylinder. Four calibration gas levels are required as specified below:

3.3.1.1 *High-level Gas.* A gas concentration that is equivalent to 80 to 90 percent of the span value.

3.3.1.2 *Mid-level Gas.* A gas concentration that is equivalent to 45 to 55 percent of the span value.

3.3.1.3 *Low-level Gas.* A gas concentration that is equivalent to 20 to 30 percent of the span value.

3.3.1.4 *Zero Gas.* A gas concentration of less than 0.25 percent of the span value. Purified air may be used as zero gas for the CO₂, CO, and SO₂ analyzers.

3.3.2 *SO₂ Injection Gas.* A known concentration of SO₂ in N₂. The concentration must be at least 2 percent SO₂ with a maximum of 100 percent SO₂. The cylinder concentration shall be certified by the manufacturer to be within 2 percent of the specified concentration.

3.4 *Analysis.* Three reagents are required for the analysis:

3.4.1 *Acetone.* Same as 3.2.

3.4.2 *Dichloromethane (Methylene Chloride).* Reagent grade, <0.001 percent residue in glass bottles.

3.4.3 *Desiccant.* Anhydrous calcium sulfate, calcium chloride, or silica gel, indicating type.

4. Gas Measurement System Performance Specifications

4.1 *Response Time.* The amount of time required for the measurement system to display 95 percent of a step change in gas concentration. The response time for each analyzer and gas conditioning system shall be no more than 2 minutes.

4.2 *Zero Drift.* The zero drift for each analyzer shall be less than 5 percent of the span value over the period of the test run.

4.3 *Calibration Drift.* The calibration drift measured with the mid-level calibration gas for each analyzer shall be less than 5 percent of the span value over the period of the test run.

4.4 *Resolution.* The resolution of the output for each analyzer shall be 0.5 percent of span value or less.

4.5 *Calibration Error.* The linear calibration curve produced using the zero and mid-level calibration gases shall predict the actual response to the low-level and high-level calibration gases within 2 percent of the span value.

5. Procedure

5.1 Pretest Preparation.

5.1.1 *Filter and Desiccant.* Same as Method 5, Section 4.1.1.

5.1.2 *Sampling Probe and Nozzle.* The sampling location for the particulate sampling probe shall be 2.45±0.15 m (8±0.5 ft) above the sampling platform (i.e., the top of the scale).

Select a nozzle size based on the range of velocity heads, such that it is not necessary to change the nozzle size in order to maintain proportional sampling rates. During the run, do not change the nozzle size.

Select a suitable probe liner and probe length to effect minimum blockage.

5.1.3 *Preparation of Particulate Sampling Train.* During preparation and assembly of the particulate sampling train, keep all openings where contamination can occur covered until just prior to assembly or until sampling is about to begin.

Place 100 ml of water in each of the first two impingers, leave the third impinger empty, and transfer approximately 200 to 300 g of preweighed silica gel from its container to the fourth impinger. More silica gel may be used, but care should be taken to ensure that it is not entrained and carried out from the impinger during sampling. Place the container in a clean place for later use in the sample recovery. Alternatively, the weight of the silica gel plus impinger may be determined to the nearest 0.5 g and recorded.

Using a tweezer or clean surgical gloves, place one labeled (identified) and weighed filter in each of the filter holders. Be sure that each of the filters is properly centered and the gasket properly placed so as to prevent the sample gas stream from circumventing the filter. Check the filters for tears after assembly is completed.

When glass liners are used, install the selected nozzle using a Viton A O-ring. Other connecting systems using either 316 stainless steel or Teflon ferrules may be used. Mark the probe with heat resistant tape or by some other method to denote the proper distance into the stack or duct.

Set up the train as in Figure 5H-1, using (if necessary) a very light coat of silicone grease on all ground glass joints, greasing only the outer portion (see APTD-0576) to avoid possibility of contamination by the silicone grease.

Place crushed ice around the impingers.

5.1.4 Leak-Check Procedures.

5.1.4.1 *Pretest Leak-Check.* A pretest leak-check is recommended, but not required. If the tester opts to conduct the pretest leak-check, conduct the leak-check as described in Method 5, Section 4.1.4.1.

5.1.4.2 *Leak-Checks During Sample Run.* If, during the sampling run, a component (e.g., filter assembly or impinger) change becomes necessary, conduct a leak-check as described in Method 5, Section 4.1.4.2.

5.1.4.3 *Post-Test Leak-Check.* A leak-check is mandatory at the conclusion of each sampling run. The leak-check shall be done in accordance with the procedures described in Method 5, Section 4.1.4.1.

5.1.5 *Tracer Gas Procedure.* A schematic of the tracer gas injection and sampling systems is shown in Figure 5H-2.

5.1.5.1 *SO₂ Injection Probe.* Install the SO₂ injection probe and dispersion loop in the stack at a location 2.0 ± 0.15 m (9.5 ± 0.5 ft) above the sampling platform.

5.1.5.2 *SO₂ Sampling Probe.* Install the SO₂ sampling probe at the centroid of the stack at a location 4 ± 0.15 m (13.5 ± 0.5 ft) above the sampling platform.

5.1.6 *Flow Rate Measurement System.* A schematic of the flow rate measurement system is shown in Figure 5H-2. Locate the flow rate measurement sampling probe at the centroid of the stack at a location 2 ± 0.15 m (6.5 ± 0.5 ft) above the sampling platform.

5.2 *Test Run Procedures.* The start of the test run is defined as in Method 28, Section 6.4.1.

5.2.1 *Tracer Gas Procedure.* Within 1 minute after closing the wood heater door at the start of the test run, meter a known concentration of SO₂ tracer gas at a constant flow rate into the wood heater stack. Monitor the SO₂ concentration in the stack, and record the SO₂ concentrations at 10-minute intervals or more often at the option of the tester. Adjust the particulate sampling flow rate proportionally to the SO₂ concentration changes using Equation 5H-6 (e.g., the SO₂ concentration at the first 10-minute reading is measured to be 100 ppm; the next 10 minute SO₂ concentration is measured to be 75 ppm, and no temperature change has occurred; the particulate sample flow rate is adjusted from the initial 0.5 cfm to 0.67 cfm). A check for proportional rate variation shall be made at the completion of the test run using Equation 5H-10.

5.2.2 *Volumetric Flow Rate Procedure.* Apply stoichiometric relationships to the wood combustion process in determining the exhaust gas flow rate as follows:

5.2.2.1 *Test Fuel Charge Weight.* Record the test fuel charge weight in kilograms as specified in Method 28, Section 6.4.2. The wood is assumed to have the following weight percent composition: 51 percent carbon, 7.3 percent hydrogen, 41 percent oxygen; alternatively, it may be measured for each test. Record the wood moisture for each wood charge as described in Method 28, Section 6.2.5. The ash is assumed to have negligible effect on associated C, H, O concentrations after the test burn.

5.2.2.2 *Measured Values.* Record the CO and CO₂ concentrations in the stack on a dry basis every 10 minutes during the test run or more often at the option of the tester. Average these values for the test run. Use as a mole fraction (e.g., 10 percent CO₂ is recorded as 0.10) in the calculations to express total flow Equation 5H-7.

5.2.3 *Particulate Train Operation.* For each run, record the data required on a data sheet such as the one shown in Figure 5H-3. Be sure to record the initial dry gas meter reading. Record the dry gas meter readings at the beginning and end of each sampling time increment, when changes in flow rates are made, before and after each leak-check, and when sampling is halted. Take other readings as indicated on Figure 5H-3 at least once each 10 minutes during the test run.

BILLING CODE 6560-50-M

Remove the nozzle cap, verify that the filter and probe heating systems are up to temperature, and that the probe is properly positioned. Position the nozzle in the 50-mm (2-in.) centroidal area of the stack with the tip pointing directly into the gas stream.

Be careful not to bump the probe nozzle into the stack wall when removing or inserting the probe through the porthole; this minimizes the chance of extracting deposited material.

When the probe and nozzle are in position, block off the openings around the probe and porthole to prevent unrepresentative dilution of the gas stream.

Begin sampling at the start of the test run as defined in Method 28, Section 6.4.1, start the sample pump, and adjust the sample flow rate to about 0.015 m³/min (0.5 cfm). Adjust the sample flow rate proportionally to the stack flow during the test run (Section 5.2.1), and maintain a proportional sampling rate (within 10 percent of the desired value) and a filter holder temperature of 120 ± 14 °C (248 ± 25 °F).

During the test run, make periodic adjustments to keep the temperature around the filter holder at the proper level. Add more ice to the impinger box and, if necessary, salt to maintain a temperature of less than 20 °C (68 °F) at the condenser/silica gel outlet.

If the pressure drop across the filter becomes too high, making sampling difficult to maintain, either filter may be replaced during a sample run. It is recommended that another complete filter assembly be used rather than attempting to change the filter itself. Before a new filter assembly is installed, conduct a leak-check (see Section

5.1.4.2). The total particulate weight shall include the summation of all filter assembly catches. The total time for changing sample train components shall not exceed 10 minutes. No more than one component change is allowed for any test run.

At the end of the test run, turn off the coarse adjust valve, remove the probe and nozzle from the stack, turn off the pump, record the final dry gas meter reading, and conduct a post-test leak-check, as outlined in Section 5.1.4.3.

5.3 Sample Recovery. Begin recovery of the probe and filter sample as described in Method 5, Section 4.2, except that an acetone blank volume of about 50 ml may be used. Treat the samples as follows:

Container No. 1. Carefully remove the filter from the front filter holder and place it in its identified petri dish container. Use a pair of tweezers and/or clean disposable surgical gloves to handle the filter. If it is necessary to fold the filter, do so such that the particulate cake is inside the fold. Carefully transfer to the petri dish any particulate matter and/or filter fibers which adhere to the filter holder gasket, by using a dry Nylon bristle brush and/or a sharp-edged blade. Seal and label the container.

Container No. 2. Remove filter from the back filter holder using the same procedures as described above.

Container No. 3. Same as Method 5, Section 4.2 for *Container No. 2*, except that descriptions of capping and sample transport are not applicable if sample recovery and analysis occur in the same room.

Container No. 4. Treat the impingers as follows: Measure the liquid which is in the

first three impingers to within 1 ml by using a graduated cylinder or by weighing it to within 0.5 g by using a balance (if one is available). Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas.

Transfer the water from the first, second and third impingers to a glass container. Tighten the lid on the sample container so that water will not leak out. Rinse impingers and graduated cylinder, if used, with acetone three times or more. Add these rinse solutions to sample Container No. 3.

Whenever possible, containers should be transferred in such a way that they remain upright at all times. Descriptions of capping and transport of samples are not applicable if sample recovery and analysis occur in the same room.

Container No. 5. Transfer the silica gel from the fourth impinger to its original container and seal. A funnel may make it easier to pour the silica gel without spilling. A rubber policeman may be used as an aid in removing the silica gel from the impinger. It is not necessary to remove the small amount of dust particles that may adhere to the impinger wall and are difficult to remove. Since the gain in weight is to be used for moisture calculations, do not use any water or other liquids to transfer the silica gel. If a balance is available, follow the procedure for Container No. 5 in Section 5.6.

5.6 Analysis. Record the data required on a sheet such as the one shown in Figure 5H-4.

BILLING CODE 6560-50-M

Stove _____ Dichloromethane blank volume, ml _____
 Date _____ Dichloromethane wash volume, ml _____
 Run No. _____ Dichloromethane blank concentration, mg/ml _____
 Filter Nos. _____ Dichloromethane wash blank, mg _____
 Amount liquid lost during transport (ml) _____ Water blank volume, ml _____
 Acetone blank volume, ml _____ Water wash volume, ml _____
 Acetone wash volume, ml _____ Water blank concentration, mg/ml _____
 Acetone blank concentration, mg/ml _____ Water wash blank, mg _____
 Acetone wash blank, mg _____

Container number	Weight of particulate collected, mg		
	Final weight	Tare weight	Weight gain
1 _____			
2 _____			
3 _____			
4 _____			
5 _____			
Total _____			
Less acetone blank _____			
Less dichloromethane blank _____			
Less water blank _____			
Weight of particulate matter _____			

	Volume of liquid water collected	
	Impinger volume, ml	Silica gel weight, g
Final _____		
Initial _____		
Liquid collected _____		
Total volume collected _____		g ¹ ml

¹ Convert weight of water to volume by dividing total weight increase by density of water (1 g/ml).

$$\frac{\text{Increase, g}}{(1 \text{ g/ml})} = \text{Volume water, ml}$$

Figure 5H-4. Analysis data sheet.

Handle each sample container as follows:

Containers No. 1 and 2. Leave the contents in the shipping container or transfer both of the filters and any loose particulate from the sample container to a tared glass weighing dish. Desiccate for at least 24 hours and no more than 36 hours in a desiccator. Weigh to a constant weight and report the results to the nearest 0.1 mg. For purposes of this Section, 5.6, the term "constant weight" means a difference of no more than 0.5 mg or 1 percent of total weight less tare weight, whichever is greater, between two consecutive weighings, with no more than 2 hours and no less than 1 hour between weighings.

Container No. 3. Note the level of liquid in the container and confirm on the analysis sheet whether leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Determination of sample leakage is not applicable if sample recovery and analysis occur in the same room. Measure the liquid in this container either volumetrically to within 1 ml or gravimetrically to within 0.5 g. Transfer the contents to a tared 250-ml or smaller beaker, and evaporate to dryness at ambient temperature and pressure. Desiccate for at least 24 hours and no more than 36 hours, and weigh to a constant weight. Report the results to the nearest 0.1 mg.

Container No. 4. Note the level of liquid in the container and confirm on the analysis sheet whether leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Determination of sample leakage is not applicable if sample recovery and analysis occur in the same room. Measure the liquid in this container either volumetrically to within 1 ml or gravimetrically to within 0.5 g. Transfer the contents to a 500-ml or larger separatory funnel. Rinse the container with water, and add to the separatory funnel. Add 25 ml of dichloromethane to the separatory funnel, stopper and vigorously shake 1 minute, let separate and transfer the dichloromethane (lower layer) into a tared beaker or evaporating dish. Repeat twice more. It is necessary to rinse the Container No. 4 with dichloromethane. This rinse is added to the impinger extract container. Transfer the remaining water from the separatory funnel to a tared beaker or evaporating dish and evaporate to dryness at 220 °F (105 °C). Desiccate for at least 24 hours and no more than 36 hours and weigh to a constant weight. Evaporate the combined impinger water extracts at ambient temperature and pressure. Desiccate for at least 24 hours and no more than 36 hours and weigh to a constant weight. Report both results to the nearest 0.1 mg.

Container No. 5. Weigh the spent silica gel (or silica gel plus impinger) to the nearest 0.5 g using a balance.

"Acetone Blank" Container. Measure acetone in this container either volumetrically or gravimetrically. Transfer the acetone to a tared 250-ml or smaller beaker, and evaporate to dryness at ambient

temperature and pressure. Desiccate for at least 24 hours and no more than 36 hours, and weigh to a constant weight. Report the results to the nearest 0.1 mg.

"Dichloromethane" Container. Measure 75 ml of dichloromethane in this container and treat it the same as the "acetone blank."

"Water Blank" Container. Measure 200 ml water into this container either volumetrically or gravimetrically. Transfer the water to a tared 250-ml beaker and evaporate to dryness at 105 °C (221 °F). Desiccate for at least 24 hours and no more than 36 hours and weigh to a constant weight.

6. Calibration

Maintain a laboratory record of all calibrations.

6.1 Volume Metering System.

6.1.1 Initial and Periodic Calibration.

Before the first certification or audit test and at least semiannually, thereafter, calibrate the volume metering system as described in Method 5G, Section 5.2.1.

6.1.2 *Calibration After Use.* Same as Method 5G, Section 5.2.2.

6.1.3 *Acceptable Variation in Calibration.* Same as Method 5G, Section 5.2.3.

6.2 *Probe Heater Calibration.* The probe heating system shall be calibrated before the first certification or audit test. Use the procedure described in Method 5, Section 5.4.

6.3 *Temperature Gauges.* Use the procedure in Method 2, Section 4.3, to calibrate in-stack temperature gauges before the first certification or audit test and semiannually, thereafter.

6.4 *Leak-Check of Metering System Shown in Figure 5H-1.* That portion of the sampling train from the pump to the orifice meter shall be leak-checked after each certification or audit test. Use the procedure described in Method 5, Section 5.6.

6.5 *Barometer.* Calibrate against a mercury barometer before the first certification test and semiannually, thereafter.

6.6 *SO₂ Injection Rotameter.* Calibrate the SO₂ injection rotameter system with a soap film flowmeter or similar direct volume measuring device with an accuracy of ± 2 percent. Operate the rotameter at a single reading for at least three calibration runs for 10 minutes each. When three consecutive calibration flow rates agree within 5 percent, average the three flow rates, mark the rotameter at the calibrated setting, and use the calibration flow rate as the SO₂ injection flow rate during the test run. Repeat the rotameter calibration prior to each certification test.

6.7 *Analyzer Calibration Error Check.* Conduct the analyzer calibration error check prior to each certification test.

6.7.1 *Calibration Gas Injection.* After the flow rate measurement system and the tracer gas measurement system have been prepared for use (Sections 5.1.5.2 and 5.1.6), introduce zero gases and then the mid-level calibration gases for each analyzer. Set the analyzers output responses to the appropriate levels. Then introduce the low-level and high-level calibration gases, one at a time, for each analyzer. Record the analyzer responses.

6.7.2 *Acceptability Values.* If the linear curve for any analyzer determined from the zero and mid-level calibration gases

responses does not predict the actual responses of the low-level and high-level gases within 2 percent of the span value, the calibration of that analyzer shall be considered invalid. Take corrective measures on the measurement system before repeating the calibration error check and proceeding with the test runs.

6.8 *Measurement System Response Time.* Introduce zero gas at the calibration gas valve into the flow rate measurement system and the tracer gas measurement system until all readings are stable. Then, quickly switch to introduce the mid-level calibration gas at the calibration value until a stable value is obtained. A stable value is equivalent to a change of less than 1 percent of span value for 30 seconds. Record the response time. Repeat the procedure three times. Conduct the response time check for each analyzer separately before its initial use and at least semiannually thereafter.

6.9 *Measurement System Drift Checks.* Immediately prior to the start of each test run (within 1 hour of the test run start), introduce zero and mid-level calibration gases, one at a time, to each analyzer through the calibration valve. Record the output responses. Immediately following each test run (within 1 hour of the end of the test run), or if adjustments to the analyzers or measurement systems are required during the test run, reintroduce the zero and mid-level calibration gases and record the responses, as described above. Make no adjustments to the analyzers or the measurement system until after the drift checks are made. If the drift values, the differences between the initial and final responses exceed the specified limits (Section 4.3), the test run will be considered invalid and shall be repeated following corrections to the measurement system. Alternatively, recalibrate the measurement system and recalculate the measurement data. Report the test run results using both the initial and final calibration data.

7. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

7.1 Nomenclature.

- a = Sample flow rate adjustment factor.
- BR = Dry wood burn rate, Kg/hr (lb/hr), from Method 28, section 8.3.
- B_w = Water vapor in the gas stream, proportion by volume.
- c_s = Concentration of particulate matter in stack gas, dry basis, corrected to standard conditions, g/dsm³ (g/dscf).
- E = Particulate emission rate, g/hr.
- ΔH = Average pressure differential across the orifice meter (see Figure 5H-1), mm H₂O (in. H₂O).
- L_a = Maximum acceptable leakage rate for either a post-test leak-check or for a leak-check following a component change; equal to 0.00057 m³/min (0.02 cfm) or 4 percent of the average sampling rate, whichever is less.
- L_i = Individual leakage rate observed during the leak-check conducted before a component change, m³/min (cfm).

L_p = Leakage rate observed during the post-test leak-check, m^3/min (cfm).
 m_n = Total amount of particulate matter collected, mg.
 m_s = Mass of residue of solvent after evaporation, mg.
 N_c = Gram atoms of carbon/gram of dry fuel (lb/lb) =

$$\frac{W_c}{12.011}$$

N_T = Total dry moles of exhaust gas/ Kg of dry wood burned, g-moles/kg (lb-moles/lb).
 PR = Percent of proportional sampling rate.
 P_{bar} = Barometric pressure at the sampling site, mm Hg (in. Hg).
 P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
 Q_{sd} = Total gas flow rate, dm^3/hr (dscf/hr).
 Q_T = Flow of tracer gas, liters/min.
 S_i = Concentration measured at the SO_2 analyzer for the "ith" 10-minute interval, ppm.
 S_1 = Concentration measured at the SO_2 analyzer for the first 10-minute interval, ppm.

T_a = Absolute average stack gas temperature for the first 10-minute interval, °K (°R).
 T_1 = Absolute average stack gas temperature at the "ith" 10-minute interval, °K (°R).
 T_m = Absolute average dry gas meter temperature (see Figure 5H-3), °K (°R).
 T_{std} = Standard absolute temperature, 293 °K (528 °R).
 V_a = Volume of solvent blank, ml.
 V_{aw} = Volume of solvent used in wash, ml.
 V_{lc} = Total volume of liquid collected in impingers and silica gel (see Figure 5H-4), ml.
 V_m = Volume of gas sample as measured by dry gas meter, dm^3 (dcf).
 $V_{m(std)}$ = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dm^3 (dscf).
 $V_{m1(std)}$ = Volume of gas sample measured by the dry gas meter during the first 10-minute interval, corrected to standard conditions, dm^3 (dscf).
 $V_{m1(std)}$ = Volume of gas sample measured by the dry gas meter during the "ith" 10-minute interval, dm^3 (dscf).
 $V_{w(std)}$ = Volume of water vapor in the gas sample, corrected to standard conditions, sm^3 (scf).
 W_a = Weight of residue in solvent wash, mg.

W_c = Weight fraction of carbon in the wood (dry basis)—it can be assumed to be 0.51 or it can be measured by ASTM Method D3178.
 Y = Dry gas meter calibration factor.
 Y_{CO} = Measured mole fraction of CO (dry), average from section 5.2.2.2, g/g-mole (lb/lb-mole).
 Y_{CO_2} = Measured mole fraction of CO_2 (dry), average from section 5.2.2.2, g/g-mole (lb/lb-mole).
 Y_{HC} = Assumed mole fraction of HC (dry), g/g-mole (lb/lb-mole);
 = 0.0088 for catalytic wood heaters;
 = 0.0132 for non-catalytic wood heaters.
 10 = Length of first sampling period, minutes.
 13.6 = Specific gravity of mercury.
 100 = Conversion to percent.
 θ = Total sampling time, min.
 θ_1 = Sampling time interval, from the beginning of a run until the first component change, min.
 7.2 Average dry gas meter temperature and average orifice pressure drop. See data sheet (Figure 5H-3).
 7.3 Dry Gas Volume. Correct the sample volume measured by the dry gas meter to standard conditions (20 °C, 760 mm Hg or 68 °F, 29.92 in. Hg) by using Equation 5H-1.

$$V_{m(std)} = V_m Y \left(\frac{T_{std}}{T_m} \right) \left(\frac{P_{bar} + \frac{\Delta H}{13.6}}{P_{std}} \right) = K_1 V_m Y \left(\frac{P_{bar} + (\Delta H/13.6)}{T_m} \right) \quad \text{Eq. 5H-1}$$

where:
 $K_1 = 0.3858$ °K/mm. Hg for metric units.
 = 17.64 °R./in. Hg for English units.

Note.—Equation 5H-1 can be used as written unless the leakage rate observed during any of the mandatory leak-checks (i.e., during the post-test leak-check or leak-check conducted before a component change) exceeds L_a .

If L_p exceeds L_a , Equation 5H-1 must be modified as follows:

(a) Case I. No component changes made during sampling run. In this case, replace V_m in Equation 5H-1 with the expression:

$$[V_m - (L_p - L_a)\theta]$$

(b) Case II. One component change made during the sampling run. In this case, replace V_m in Equation 5H-1 by the expression:

$$V_m - (L_1 - L_n)\theta_1$$

and substitute only for those leakage rates (L_1 or L_p) which exceed L_a .

7.4 Volume of Water Vapor.

$$V_{w(std)} = K_2 V_{lc} \quad \text{Eq. 5H-2}$$

where:
 $K_2 = 0.001333$ m^3/ml for metric units;
 = 0.04707 ft^3/ml for English units.

7.5 Moisture Content.

$$B_{wa} = \frac{V_{w(std)}}{V_{m(std)} + V_{w(std)}} \quad \text{Eq. 5H-3}$$

7.6 Solvent Wash Blank.

$$W_a = \frac{m_a V_{aw}}{V_a} \quad \text{Eq. 5H-4}$$

7.7 Total Particulate Weight. Determine the total particulate catch from the sum of the weights obtained from containers 1, 2, 3, and 4 less the appropriate solvent blanks (see Figure 5H-4).

Note.—Refer to Method 5, section 4.1.5 to assist in calculation of results involving two filter assemblies.

7.8 Particulate Concentration.

$$C_p = (0.001 \text{ g/mg } (m_n/V_{m(std)})) \quad \text{Eq. 5H-5}$$

7.9 Sample Flow Rate Adjustment.

$$a = \frac{S_1 T_1}{S_1 T_1} \quad \text{Eq. 5H-6}$$

7.10 Carbon Balance for Total Moles of Exhaust Gas (dry)/Kg of Wood Burned in the Exhaust Gas.

$$N_T = \frac{K_3 N_C}{(Y_{CO_2} + Y_{CO} + Y_{HC})}$$

where:

$K_3 = 1000$ gr/kg for Metric units.

$K_3 = 1.0$ lb/lb for English units.

Note.—The NO_x/SO_x portion of the gas is assumed to be negligible.

$$PR = \frac{\theta S_i T_i V_{m(Std)}}{10 S T_a V_{m(Std)}} \times 100 \quad \text{Eq. 5H-10}$$

where:

\bar{S} = Average concentration of SO_2 for the test interval, ppm.

\bar{T}_a = Average absolute stack gas temperature, °K (°R).

7.14 Acceptable Results. If no more than 10 percent of the PR values for all the intervals exceed 90 percent <PR <110 percent, and if no PR value for any interval exceeds 80 percent <PR <120 percent, the results are acceptable. If the PR values for the test runs are judged to be unacceptable, report the test run emission results, but do not include the test run results in calculating the weighted average emission rate, and repeat the test.

7. Bibliography

1. Same as for Method 5, citations 1 through 11, with the addition of the following:

2. Oregon Department of Environmental Quality Standard Method for Measuring the emissions and efficiencies of Woodstoves, July 8, 1984. Pursuant to Oregon Administrative Rules Chapter 340, Division 21.

3. American Society for Testing Materials. Proposed Test Methods for Heating Performance and Emissions of Residential Wood-fired Closed Combustion-Chamber Heating Appliances. E-6 Proposal P 180. August 1986.

Method 28—Certification and Auditing of Wood Heaters

1. Applicability and Principle

1.1 Applicability. This method is applicable for the certification and auditing of wood heaters. This method describes the test facility, test fuel charge, and wood heater operation as well as procedures for determining burn rates and particulate emission rates and for reducing data.

1.2 Principle. Particulate matter emissions are measured from a wood heater burning a prepared test fuel crib in a test facility maintained at a set of prescribed conditions.

2. Definitions

2.1 Burn Rate. The rate at which test fuel is consumed in a wood heater. Measured in

7.11 Total Stack Gas Flow Rate.

$$Q_{sd} = K_4 N_T BR \quad \text{Eq. 5H-8}$$

where:

$K_4 = 0.02406$ for metric units, $ds m^3/kg\text{-mole}$.

$= 384.8$ for English units, $dscf/lb\text{-mole}$.

7.12 Particulate Emission Rate.

$$E = c_s Q_{sd} \quad \text{Eq. 5H-9}$$

7.13 Proportional Rate Variation. Calculate PR for each 10-minute interval, i , of the test run.

kilograms of wood (dry basis) per hour (kg/hr).

2.2 Certification or Audit Test. A series of at least four test runs conducted for certification or audit purposes and which meets the burn rate specifications in Section 5.

2.3 Firebox. The chamber in the wood heater in which the test fuel charge is placed and combusted.

2.4 Secondary Air Supply. An air supply that introduces air to the wood heater such that the burn rate is not altered by more than 25 percent when the secondary air supply is adjusted during the test run. The wood heater manufacturer can document this through design drawings that show the secondary air is introduced only into a mixing chamber or secondary chamber outside of the firebox.

2.5 Test Facility. The area in which the wood heater is installed, operated, and sampled for emissions.

2.6 Test Fuel Charge. The collection of test fuel pieces placed in the wood heater at the start of the emission test run.

2.7 Test Fuel Crib. The arrangement of the test fuel charge with the proper spacing requirements between adjacent fuel pieces.

2.8 Test Fuel Loading Density. The weight of the as-fired test fuel charge per unit volume of usable firebox.

2.9 Test Fuel Piece. The 2 x 4 or 4 x 4 wood piece cut to the length required for the test fuel charge and used to construct the test fuel crib.

2.10 Test Run. An individual emission test which encompasses the time required to consume the mass of the test fuel charge.

2.11 Usable Firebox Volume. The volume of the firebox determined using the following definitions:

2.11.1 Height. The vertical distance extending above the loading door, if fuel could reasonably occupy that space, but not more than 2 inches above the top of the loading door, to the floor of the firebox (i.e., below a grate) if the grate allows a 1-inch diameter piece of wood to pass through the grate, or, if not, to the top of the grate. Firebox height is not necessarily uniform but must account for variations caused by

internal baffles, air channels, or other permanent obstructions.

2.11.2 Length. The longest horizontal fire chamber dimension that is parallel to a wall of the chamber.

2.11.3 Width. The shortest horizontal fire chamber dimension that is parallel to a wall of the chamber.

2.12 Wood Heater. An enclosed, woodburning appliance capable of and intended for space heating, domestic water heating, or indoor cooking, as defined in the applicable regulation.

3. Apparatus

3.1 Insulated Solid Pack Chimney. For installation of wood heaters. Solid Pack Insulated chimneys shall have a minimum of 2.5-cm (1-in.) solid pack insulating material surrounding the entire flue and possess an Underwriters Laboratories (U.L.) listed label demonstrating conformance to U.L. 103.

3.2 Platform Scale and Monitor. For monitoring of fuel load weight change. The scale shall be capable of measuring weight to within 0.05 kg (0.1 lb) or 1 percent of the initial test fuel charge weight, whichever is greater.

3.3 Wood Heater Temperature Monitors. Seven, each capable of measuring temperature to within 1 percent of expected temperatures.

3.4 Test Facility Temperature Monitor. A thermocouple located centrally in a vertically oriented 150 mm (6 in.) long, 50 mm (2 in.) diameter pipe shield that is open at both ends, capable of measuring temperature to within 1 percent of expected temperatures.

3.5 Balance (optional). Balance capable of weighing the test fuel charge to within 0.05 kg (0.1 lb).

3.6 Moisture Meter. Calibrated electrical resistance meter for measuring test fuel moisture to within 1 percent moisture.

3.7 Anemometer. Hot wire or vane, for measuring air velocities near the test appliance.

3.8 Barometer. Mercury, aneroid or other barometer capable of measuring atmospheric pressure to within 2.5 mm Hg (0.1 in. Hg).

3.9 Draft Gauge. Electromanometer or other device capable of measuring flue draft or static pressure to within 1.25 Pa (0.005 in. H_2O).

3.10 Humidity Gauge. Psychrometer or hygrometer for measuring room humidity.

3.11 Sampling Methods. Use particulate emission measurement Method 5G or Method 5H to determine particulate concentrations, gas flow rates, and particulate emission rates.

4. Test Facility, Test Fuel Properties, and Test Fuel Charge Specifications

4.1 Test Facility.

4.1.1 Wood Heater Flue. Steel flue pipe extending to 2.6 ± 0.15 m (8.5 ± 0.5 ft) above the top of the platform scale, and above this level, insulated solid pack type chimney extending to 4.6 ± 0.3 m (15 ± 1 ft) above the platform scale. This applies to both freestanding and insert type wood heaters.

4.1.2 Test Facility Conditions. The test facility temperature shall be maintained between 18 and 32 °C (65 and 90 °F) during each test run.

Air velocities within 0.6 m (2 ft) of the test appliance and exhaust system shall be less than 0.25 m/sec (50 ft/min) without fire in the unit.

The flue shall discharge into the same space or into a space freely communicating with the test facility. Any hood or similar device used to vent combustion products shall not induce a draft greater than 1.25 Pa (0.005 in. H₂O) on the wood heater measured when the wood heater is not operating.

The barometric pressure in the test facility shall not exceed 1033 mb (30.5 in. Hg) during any test run.

4.2 *Test Fuel Properties.* The test fuel shall conform to the following requirements:

4.2.1 *Fuel Species.* Untreated, air-dried, Douglas fir lumber. Kiln-dried lumber is not permitted. The lumber shall be certified C grade (standard) or better Douglas Fir by a lumber grader at the mill of origin.

4.2.2 *Fuel Moisture.* The test fuel shall have a moisture content range between 16 to 20 percent on a wet basis (19 to 25 percent dry basis).

Addition of moisture to previously dried wood is not allowed. It is recommended that the test fuel be stored in a temperature and humidity-controlled room.

4.2.3 *Fuel Temperature.* The test fuel shall be at the test facility temperature (18 to 32 °C).

4.3 *Test Fuel Charge Specifications.*

4.3.1 *Fuel Dimensions.* The dimensions of each test fuel piece shall conform to the nominal measurements of 2 x 4 and 4 x 4 lumber. Each piece of test fuel (not including spacers) shall be of equal length and shall closely approximate 1/2 the dimensions of the width or length of the usable firebox, whichever is longer. The fuel piece dimensions shall be determined in relation to the appliance's firebox volume according to guidelines listed below:

4.3.1.1 If the usable firebox volume is less than or equal to 0.043 m³ (1.5 ft³), use 2 x 4 lumber.

4.3.1.2 If the usable firebox volume is greater than 0.043 m³ (1.5 ft³) and less than or equal to 0.085 m³ (3.0 ft³), use 2 x 4 and 4 x 4 lumber. About half the weight of the test fuel charge shall be 2 x 4 lumber, and the remainder shall be 4 x 4 lumber.

4.3.1.3 If the usable firebox volume is greater than 0.085 m³ (3.0 ft³), use 4 x 4 lumber.

4.3.2 *Test Fuel Spacers.* Air-dried, Douglas fir lumber meeting the fuel properties in Section 4.2. The spacers shall be 130 x 40 x 20 mm (5 x 1.5 x 0.75 in.).

4.3.3 *Test Fuel Charge Density.* The test fuel charge density shall be 112 ± 11.2 kg/m³ (7 ± 0.7 lb/ft³) of usable firebox volume on a wet basis.

4.4 *Wood Heater Thermal Equilibrium.* The average of the wood heater surface temperatures at the end of the test run shall agree with the average surface temperature at the start of the test run to within 70 °C (125 °F).

5. Burn Rate Criteria

5.1 *Burn Rate Categories.* One emission test run is required in each of the following burn rate categories:

BURN RATE CATEGORIES

[Average kg/hr, dry basis]

Category 1	Category 2	Category 3	Category 4
<0.80.....	0.80 to 1.25.	1.26 to 1.90.	Maximum burn rate.

5.1.1 *Maximum Burn Rate.* For Category 4, the wood heater shall be operated with the primary air supply inlet controls fully open (or, if thermostatically controlled, the thermostat shall be set at maximum heat output) during the entire test run, or the maximum burn rate setting specified by the manufacturer's written instructions.

5.1.2 *Other Burn Rate Categories.* For burn rates in Categories 1 through 3, the wood heater shall be operated with the primary air supply inlet control, or other mechanical control device, set at a predetermined position necessary to obtain the average burn rate required for the category.

5.2 *Alternative Burn Rates For Burn Rate Categories 1 and 2.* If a wood heater cannot be operated at a burn rate below 0.80 kg/hr, two test runs shall be conducted with burn rates within Category 2. If a wood heater cannot be operated at a burn rate below 1.25 kg/hr, the flue shall be dampered in order to achieve two test runs within Category 2.

Note.—After July 1, 1990, if a wood heater cannot be operated at a burn rate less than 0.80 kg/hr, at least one test run with an average burn rate of 1.00 kg/hr or less shall be conducted. Additionally, if flue dampering is used to achieve burn rates below 1.25 kg/hr (or 1.0 kg/hr), results from a test run conducted at burn rates below 0.90 kg/hr need not be reported or included in the test run average provided that such results are replaced with results from a test run meeting the criteria above.

6. Procedures

6.1 *Catalytic Combustor And Wood Heater Aging.* The catalyst-equipped wood heater or a wood heater of any type shall be aged before the certification test begins.

6.1.1 *Catalyst-equipped Wood Heater.* Operate the catalyst-equipped wood heater using fuel described in Section 4.2 or cordwood with a moisture content between 15 and 25 percent on a wet basis. Operate the wood heater at a medium burn rate (Category 2 or 3) with a new catalytic combustor in place and in operation for at least 50 hours. Record catalyst temperature data (Sections 6.2.2) and the hours of operation.

6.1.2 *Non-Catalyst Wood Heater.* Operate the wood heater using the fuel described in Section 6.1.1 at a medium burn rate for at least 10 hours. Record the hours of operation.

6.2 *Pretest Preparation.* Record the test fuel charge dimensions and weights, and wood heater and catalyst descriptions as shown in the example in Figure 28-3.

6.2.1 *Wood Heater Installation.* Assemble the wood heater appliance and parts in conformance with the manufacturer's written installation instructions. Place the wood

heater centrally on the platform scale and connect the wood heater to the flue described in Section 4.1.1.

6.2.2 *Wood Heater Temperature Monitors.* For catalyst-equipped wood heaters, locate a temperature monitor (optional) about 25 mm (1 in.) upstream of the catalyst at the centroid of the catalyst face area, and locate a temperature monitor (mandatory) that will indicate the catalyst exhaust temperature. This temperature monitor is generally located within 25 mm (1 in.) downstream at the centroid of catalyst face area. Record these locations.

Locate wood heater surface temperature monitors at five locations on the wood heater firebox exterior surface. Position the temperature monitors centrally on the top surface, on two sidewall surfaces, and on the bottom and back surfaces. Position the monitor sensing tip on the firebox exterior surface inside of any heat shield, air circulation walls, etc. Surface temperature locations for unusual design shapes (e.g., spherical, etc.) shall be positioned to conform to the intent of the descriptions above.

6.2.3 *Test Facility Conditions.* Locate the test facility temperature monitor on the horizontal plane that includes the primary air intake opening for the wood heater. Locate the temperature monitor 1 to 2 m (3 to 6 ft) centrally from the front of the wood heater.

Use a hot wire or vane anemometer to measure the air velocity. Measure and record the room air velocity before the pretest ignition period (Section 6.3) and once immediately following the test run completion.

Measure and record the test facility's ambient relative humidity, barometric pressure, and temperature before and after each test run.

Measure and record the flue draft or static pressure in the flue at a location no greater than 0.3 m (1 ft) above the flue connector at the wood heater exhaust.

6.2.4 *Wood Heater Firebox Volume.* Determine the firebox volume using the definitions for height, width, and length in Section 2. Volume adjustments due to presence of firebrick and other permanent fixtures may be necessary. Adjust width and length dimensions to extend to the metal wall of the wood heater above the firebrick if the firebrick on the walls extends less than the one-third of the useable firebox height. Use the width or length dimensions inside the firebrick if the firebrick extends more than one-third of the useable firebox height. If a log retainer or grate is a permanent fixture and the manufacturer recommends that no fuel be placed outside of the retainer, the area outside of the retainer is excluded from the firebox volume calculations.

In general, exclude the area above the ash lip if that area is less than 10 percent of the useable firebox volume. Otherwise, take into account consumer loading practices. For instance, if fuel is to be loaded front-to-back, an ash lip may be considered useable firebox volume.

Include areas adjacent to and above a baffle (up to two inches above the fuel loading opening) if four inches or more horizontal space exists between the edge of

the baffle and a vertical obstruction (e.g., sidewalls or air channels).

6.2.5 Test Fuel Charge. Prepare the test fuel pieces in accordance with the specifications in Section 4.3. Determine the test fuel moisture content with a calibrated electrical resistance meter or other equivalent performance meter. (To convert moisture meter readings from the dry basis to the wet basis: $(100)/(\text{percent dry reading}) \div (100 + \text{percent dry reading}) = \text{percent moisture wet basis}$.) Determine fuel moisture for each fuel piece (not including spacers) by averaging at least three moisture meter readings, one from each of three sides, measured parallel to the wood grain. Average all the readings for all the fuel pieces in the test fuel charge. If an electrical resistance type meter is used, penetration of insulated electrodes shall be $\frac{1}{4}$ to $\frac{1}{2}$ the thickness of the test fuel piece. Measure the moisture content within a 4-hour period prior to the test run. Determine the fuel temperature by measuring the temperature of the room where the wood has been stored for at least 24 hours prior to the moisture determination.

Attach the spacers to the test fuel pieces with uncoated, ungalvanized nails or staples as illustrated in Figure 28-1.

To avoid stacking difficulties, or when a whole number of test fuel pieces does not result, all piece lengths shall be adjusted uniformly to remain within the specified loading density. The shape of the test fuel crib shall be geometrically similar to the shape of the firebox volume.

6.2.6 Sampling Method. Prepare the sampling equipment as defined by the selected method. Collect one particulate emission sample for each test run.

6.2.7 Secondary Air Adjustment Validation. If design drawings do not show the introductions of secondary air into a chamber outside the firebox (Section 2.4), conduct a separate test of the wood heater's secondary air supply. Operate the wood heater at a burn rate in Category 1 (Section 5.1) with the secondary air supply operated following the manufacturer's written instructions. Adjust the secondary air supply as per the manufacturer's written instructions and record the burn rate for at least 20 minutes.

Repeat the procedure three times at equal intervals over the entire burn period as defined in Section 6.4. If the secondary air adjustment results in a burn rate change of more than an average of 25 percent between the 20-minute periods before and after the secondary adjustments, the secondary air supply shall be considered a primary air supply, and no adjustment to this air supply is allowed during the test run.

6.3 Pretest Ignition. Build a fire in the wood heater in accordance with the manufacturer's written instructions.

6.3.1 Pretest Fuel Charge. Crumpled newspaper loaded with kindling may be used to help ignite the pretest fuel. The pretest fuel, used to sustain the fire, shall meet the same fuel requirements prescribed in Section 4.2. The pretest fuel charge shall consist of whole 2×4 lumber pieces that are no less than $\frac{1}{2}$ the length of the test fuel pieces.

6.3.2 Wood Heater Operation and Adjustments. Set the air inlet supply controls

at any position that will maintain combustion of the pretest fuel load. At least one hour before the start of the test run, set the air supply controls at the approximate positions necessary to achieve the burn rate desired for the test run. Adjustment of the air supply controls, fuel addition or subtractions, and coalbed raking shall be kept to a minimum but are allowed up to 15 minutes prior to the start of the test run. Record all adjustments made to the air supply controls, adjustments to and additions or subtractions of fuel, and any other changes to wood heater operations that occur during pretest ignition period. During the 15-minute period prior to the start of the test run, the wood heater loading door shall not be open more than a total of 1 minute. Coalbed raking is the only adjustment allowed during this period.

Note.—One purpose of the pretest ignition period is to achieve uniform charcoalization of the test fuel bed prior to loading the test fuel charge. Uniform charcoalization is a general condition of the test fuel bed evidenced by an absence of large pieces of burning wood in the coal bed. Manipulations to the fuel bed prior to the start of the test run should be done to achieve uniform charcoalization while maintaining the desired burn rate. In addition, some wood heaters (e.g., high mass units) may require extended pretest burn time and fuel additions to reach an initial average surface temperature sufficient to meet the thermal equilibrium criteria in Section 4.4.

6.4 Test Run. Complete a test run in each burn rate category, as follows:

6.4.1 Test Run Start. When the kindling and pretest fuel have been consumed to leave a fuel weight between 20 and 25 percent of the weight of the test fuel charge, record the weight of the fuel remaining and start the test run. Record all wood heater surface temperatures, catalyst temperatures, any initial sampling method measurement values, and begin the particulate emission sampling. Within 1 minute following the start of the test run, open the wood heater door, load the test fuel charge, and record the test fuel charge weight.

The wood heater door may remain open up to five minutes after the start of the test run in order to make adjustments to the test fuel charge and air supply controls according to the manufacturer's written instructions and to assure ignition of the test fuel charge has occurred.

Position the fuel charge so that the spacers are parallel to the floor of the firebox, with the spacer edges abutting each other. If loading difficulties result, some fuel pieces may be placed on edge. If the usable firebox volume is between 0.043 and 0.085 m^3 (1.5 and 3.0 ft^3), alternate the piece sizes in vertical stacking layers to the extent possible. For example, place 2×4 's on the bottom layer in direct contact with the coal bed and 4×4 's on the next layer, etc. (See Figure 28-2).

Load the test fuel in appliances having unusual or unconventional firebox design maintaining air space intervals between the test fuel pieces and in conforming with the manufacturer's written instructions. For any appliance that will not accommodate the loading arrangement specified in the paragraph above, the test facility personnel

shall contact the Administrator for an alternative loading arrangement.

No other adjustments to the air supply controls or the test fuel charge are allowed (except as specified in Sections 6.4.3 and 6.4.4) during the remainder of the test run.

6.4.2 Data Recording. Record fuel weight data, wood heater temperature measurements, other wood heater operational data, and sampling method data at 10-minute intervals (or more frequently at the option of the tester) as shown on example data sheet, Figure 28-4.

6.4.3 Test Fuel Charge Adjustment. The test fuel charge may be adjusted (i.e., repositioned) once during a test run if more than 60 percent of the initial test fuel charge weight has been consumed and more than 10 minutes have elapsed without a measurable ($<0.05 \text{ kg}$ (0.1 lb)) weight change. The time used to make this adjustment shall be less than 15 seconds.

6.4.4 Air Supply Adjustment. Secondary air supply controls may be adjusted once during the test run following the manufacturer's written instructions. No other air supply adjustments are allowed during the test run.

6.4.5 Auxiliary Wood Heater Equipment Operation. Heat exchange blowers sold with the wood heater shall be operated during the test run following the manufacturer's written instructions. If no manufacturer's written instructions are available, operate the heat exchange blower in the "high" position. (Automatically operated blowers shall be operated as designed.) Shaker grates, by-pass controls, or other auxiliary equipment may be adjusted only one time during the test run following the manufacturer's written instructions.

Record all adjustments on a wood heater operational written record.

Note.—If the wood heater is sold with a heat exchange blower as an option, test the wood heater with the heat exchange blower operating as described in Sections 5 and 6 and report the results. As an alternative to repeating all test runs without the heat exchange blower operating, the tester may conduct one test run without the blower operating as described in Section 6.4.5 at a burn rate in Category 2 (Section 5.1). If the emission rate resulting from this test run without the blower operating is equal to or less than the emission rate plus 1.0 g/hr for the test run in burn rate Category 2 with the blower operating, the wood heater may be considered to have the same average emission rate with or without the blower operating. Additional test runs with the blower operating are unnecessary.

6.4.6 Test Run Completion. The test run is completed when the remaining weight of the test fuel charge is $0.00 \pm 0.05 \text{ kg}$ ($0.0 \pm 0.1 \text{ lb}$). Stop the particulate sampling and record the run time and all final measurement values.

6.5 Consecutive Test Runs. Test runs on a wood heater may be conducted consecutively provided that a minimum one-hour interval occurs between test runs.

6.6 Additional Test Runs. The testing laboratory may conduct more than one test run in each of the burn rate categories specified in Section 5.1. If more than one test

run is conducted at a specified burn rate, the results from at least two-thirds of the test runs in that burn rate category shall be used in calculating the weighted average emission rate (see Section 8.1). The measurement data and results of all test runs shall be reported regardless of which values are used in calculating the weighted average emission rate (see Note: in Section 5.2).

7. Calibrations

7.1 Platform Scale. Perform a multipoint calibration (at least five points spanning the operational range) of the platform scale before its initial use. The scale manufacturer's calibration results are sufficient for this purpose. Before each certification test, audit the scale with the wood heater in place by weighing at least one calibration weight (Class F) that corresponds to 20 percent to 80 percent of the expected test fuel charge weight. If the scale does not reproduce the value of the calibration weight within 0.05 kg (0.1 lbs), recalibrate the scale before use with at least five calibration weights spanning the operational range of the scale.

7.2 Balance (optional). Calibrate as described in Section 7.1.

7.3 Temperature Monitor. Calibrate against a mercury-in-glass thermometer or other procedures as in Method 2 before the first certification test and semiannually, thereafter.

7.4 Moisture Meter. Calibrate as per the manufacturer's instructions before each certification test.

7.5 Anemometer. Calibrate the anemometer as specified in Method 14, Section 4.1.1 before the first certification test and semiannually, thereafter.

7.6 Barometer. Calibrate against a mercury barometer before the first certification test and semiannually, thereafter.

7.7 Draft Gauge. Calibrate as per the manufacturer's instructions; a liquid manometer does not require calibration.

7.8 Humidity Gauge. Calibrate as per the manufacturer's instructions before the first certification test and semiannually, thereafter.

8. Calculations and Reporting

Carry out calculations retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation.

8.1 Weighted Average Emission Rate.

$$E_w = \frac{\sum_{i=1}^n (K_i E_i)}{\sum_{i=1}^n K_i}$$

Eq. 28-1

where:

E_w = Weighted average emission rate, g/hr;

E_i = Emission rate for test run, i , from Method 5G or 5H, g/hr;

K_i = Test run weighting factor = $P_{i+1} - P_{i-1}$;

n = Total number of test runs.

P_i = Probability for burn rate during test run, i , obtained from Table 28-1.

Note: P_0 always equals 0, $P_{(n+1)}$ always equals 1, P_1 corresponds to the probability of the lowest recorded burn rate, P_2 corresponds to the probability of the next lowest burn rate, etc. An example calculation is shown on Figure 28-5.

8.2 Average Wood Heater Surface Temperatures. Calculate the average of the wood heater surface temperatures for the start of the test run (Section 6.3.1) and for the test run completion (Section 6.3.6). If the two average temperatures do not agree with 70 °C (125 °F), report the test run results, but do not include the test run results in the test average. Replace such test run results with results from another test run in the same burn rate category.

8.3 Burn Rate.

$$BR = \left[\frac{60W_{wd}}{\theta} \right] \left[\frac{100 - \%M_w}{100} \right]$$

Eq. 28-2

where:

BR = Dry wood burn rate, kg/hr (lb/hr)

W_{wd} = Total mass of wood burned during the test run, kg (lb)

θ = Total time of test run, min.

$\%M_w$ = Average moisture in test fuel charge, wet basis, percent.

8.4 Reporting Criteria. Submit both raw and reduced test data for wood heater tests. Specific reporting requirements are as follows:

8.4.1 Wood Heater Identification. Report wood heater identification information. An example data form is shown on Figure 28-4.

8.4.2 Test Facility Information. Report test facility temperature, velocity, and humidity information. An example data form is shown on Figure 28-4.

8.4.3 Test Equipment Calibration and Audit Information. Report calibration and audit results for the platform scale, test fuel balance, test fuel moisture meter, and sampling equipment including volume metering systems and gaseous analyzers.

8.4.4 Pretest Procedure Description. Report all pretest procedures including pretest fuel weight and air supply settings. An example data form is shown on Figure 28-4.

8.4.5 Particulate Emission Data. Report a summary of test results for all test runs and the weighted average emission rate. Submit copies of all data sheets and other records collected during the testing. Submit examples of all calculations.

8.4.6 Suggested Test Report Format.

a. Introduction.

1. Purpose of test—certification, audit, efficiency, research and development.

2. Wood heater identification—manufacturer, model number, catalytic/noncatalytic, options.

3. Laboratory—name, location (altitude), participants.

4. Test information—date wood heater received, date of tests, sampling methods used, number of test runs.

b. Summary and Discussion of Results.

1. Table of results (in order of increasing burn rate)—test run number, burn rate, particulate emission rate, efficiency (if determined), averages (indicate which test runs are used).

2. Summary of other data—test facility conditions, surface temperature averages, catalyst temperature averages, pretest fuel weights, test fuel charge weights, run times.

3. Discussion—Burn rate categories achieved, test run result selection, specific test run problems and solutions.

c. Process Description.

1. Wood heater dimensions—volume, height, width, lengths (or other linear dimensions), weight, volume adjustments.

2. Firebox configuration—air supply locations and operation, air supply induction location, refractory location and dimensions, catalyst location, baffle and by-pass location and operation (include line drawings or photographs).

3. Process operation during test—air supply settings and adjustments, fuel bed adjustments, draft.

4. Test fuel—test fuel properties (moisture and temperature), test fuel crib description (include line drawing or photograph), test fuel charge density.

d. Sampling Locations.

Describe sampling location relative to wood heater. Include drawing or photograph.

e. Sampling and Analytical Procedures.

1. Sampling methods.

2. Analytical methods.

f. Quality Control and Assurance Procedures and Results.

1. Calibration procedures and results—certification procedures, sampling and analysis procedures.

2. Test method quality control procedures—leak checks, volume meter checks, stratification (velocity) checks, proportionality results.

Appendices

1. Results and Sample Calculations.
2. Raw Field Data.
3. Sampling and Analytical Procedures.
4. Analytical Data.
5. Participants.

6. Sampling And Operation Records.
7. Additional Information.
9. Bibliography.

1. Oregon Department of Environmental Quality Standard Method for Measuring the Emissions and Efficiencies of Wood stoves, June 8, 1984. Pursuant to Oregon Administrative Rules Chapter 340, Division 21.

2. American Society for Testing Materials. Proposed Test Methods for Heating Performance and Emissions of Residential Wood-Fired Closed Combustion-Chamber Heating Appliances. E-6 Proposal P 180. August, 1986.

3. Radian Corporation, OMNI Environmental Services, Inc., Cumulative Probability for a Given Burn Rate Based on Data Generated in the CONEG and BPA Studies. Package of materials submitted to the Fifth Session of the Regulatory Negotiation Committee, July 16-17, 1986.

TABLE 28-1.—BURN RATE WEIGHTED PROBABILITIES FOR CALCULATING WEIGHTED AVERAGE EMISSION RATES

Burn rate (kg/hr-dry)	Cumulative probability (P)	Burn rate (kg/hr-dry)	Cumulative probability (P)	Burn rate (kg/hr-dry)	Cumulative probability (P)
0.00	0.000	2.00	0.912	4.00	0.994
0.05	0.002	2.05	0.920	4.05	0.995
0.10	0.007	2.10	0.925	4.10	0.995
0.15	0.012	2.15	0.932	4.15	0.995
0.20	0.016	2.20	0.936	4.20	0.995
0.25	0.021	2.25	0.940	4.25	0.995
0.30	0.028	2.30	0.945	4.30	0.996
0.35	0.033	2.35	0.951	4.35	0.996
0.40	0.041	2.40	0.956	4.40	0.996
0.45	0.054	2.45	0.959	4.45	0.996
0.50	0.065	2.50	0.964	4.50	0.996
0.55	0.086	2.55	0.968	4.55	0.996
0.60	0.100	2.60	0.972	4.60	0.996
0.65	0.121	2.65	0.975	4.65	0.996
0.70	0.150	2.70	0.977	4.70	0.996
0.75	0.185	2.75	0.979	4.75	0.997
0.80	0.220	2.80	0.980	4.80	0.997
0.85	0.254	2.85	0.981	4.85	0.997
0.90	0.300	2.90	0.982	4.90	0.997
0.95	0.328	2.95	0.984	4.95	0.997
1.00	0.380	3.00	0.984	>5.00	1.000
1.05	0.407	3.05	0.985		

TABLE 28-1.—BURN RATE WEIGHTED PROBABILITIES FOR CALCULATING WEIGHTED AVERAGE EMISSION RATES—Continued

Burn rate (kg/hr-dry)	Cumulative probability (P)	Burn rate (kg/hr-dry)	Cumulative probability (P)	Burn rate (kg/hr-dry)	Cumulative probability (P)
1.10	0.460	3.10	0.986		
1.15	0.490	3.15	0.987		
1.20	0.550	3.20	0.987		
1.25	0.572	3.25	0.988		
1.30	0.620	3.30	0.988		
1.35	0.654	3.35	0.989		
1.40	0.695	3.40	0.989		
1.45	0.722	3.45	0.989		
1.50	0.750	3.50	0.990		
1.55	0.779	3.55	0.991		
1.60	0.800	3.60	0.991		
1.65	0.825	3.65	0.992		
1.70	0.840	3.70	0.992		
1.75	0.857	3.75	0.992		
1.80	0.875	3.80	0.993		
1.85	0.882	3.85	0.994		
1.90	0.895	3.90	0.994		
1.95	0.906	3.95	0.994		

BILLING CODE 5560-50-M

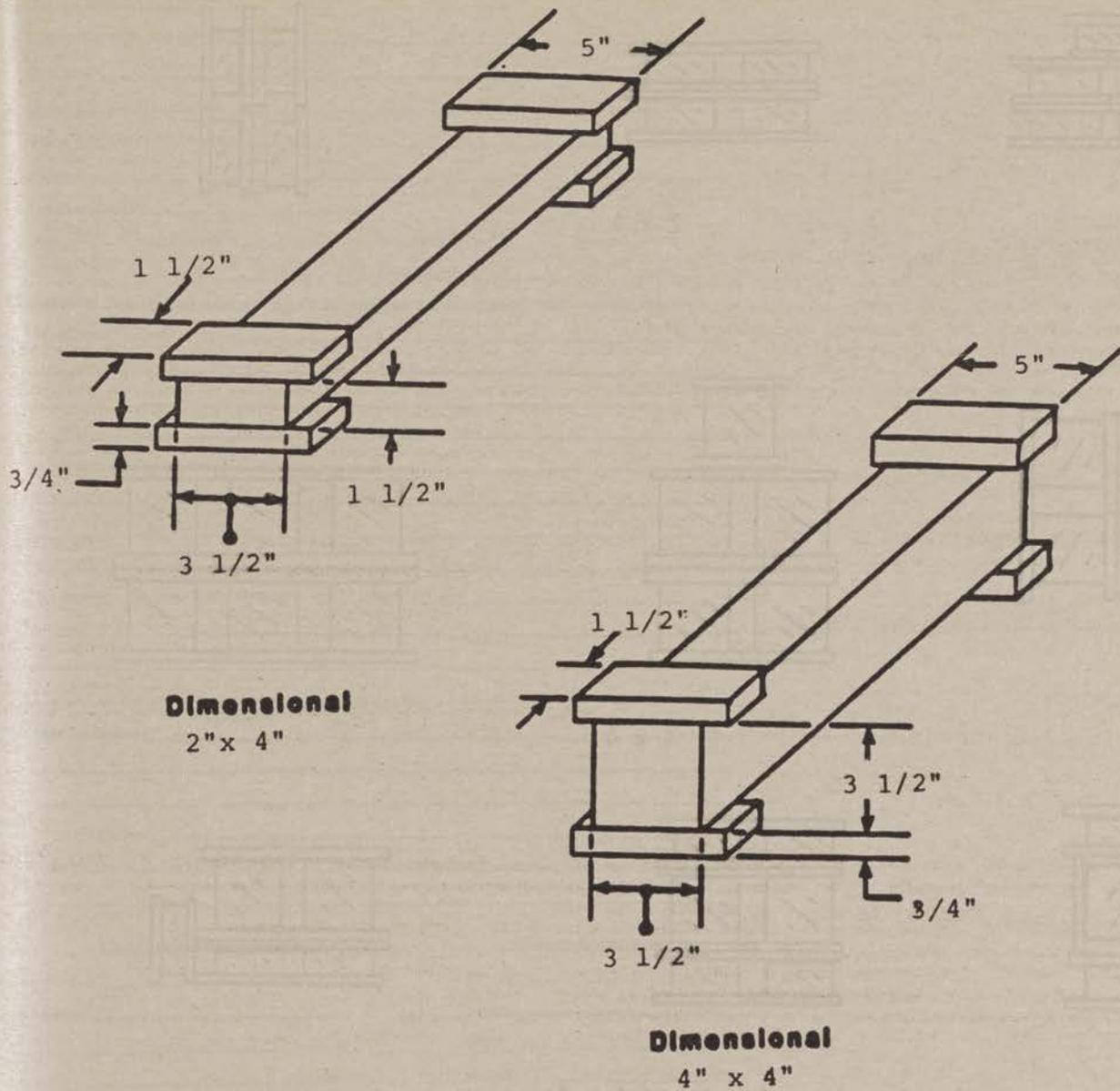


Figure 28-1. Test fuel spacer dimensions.

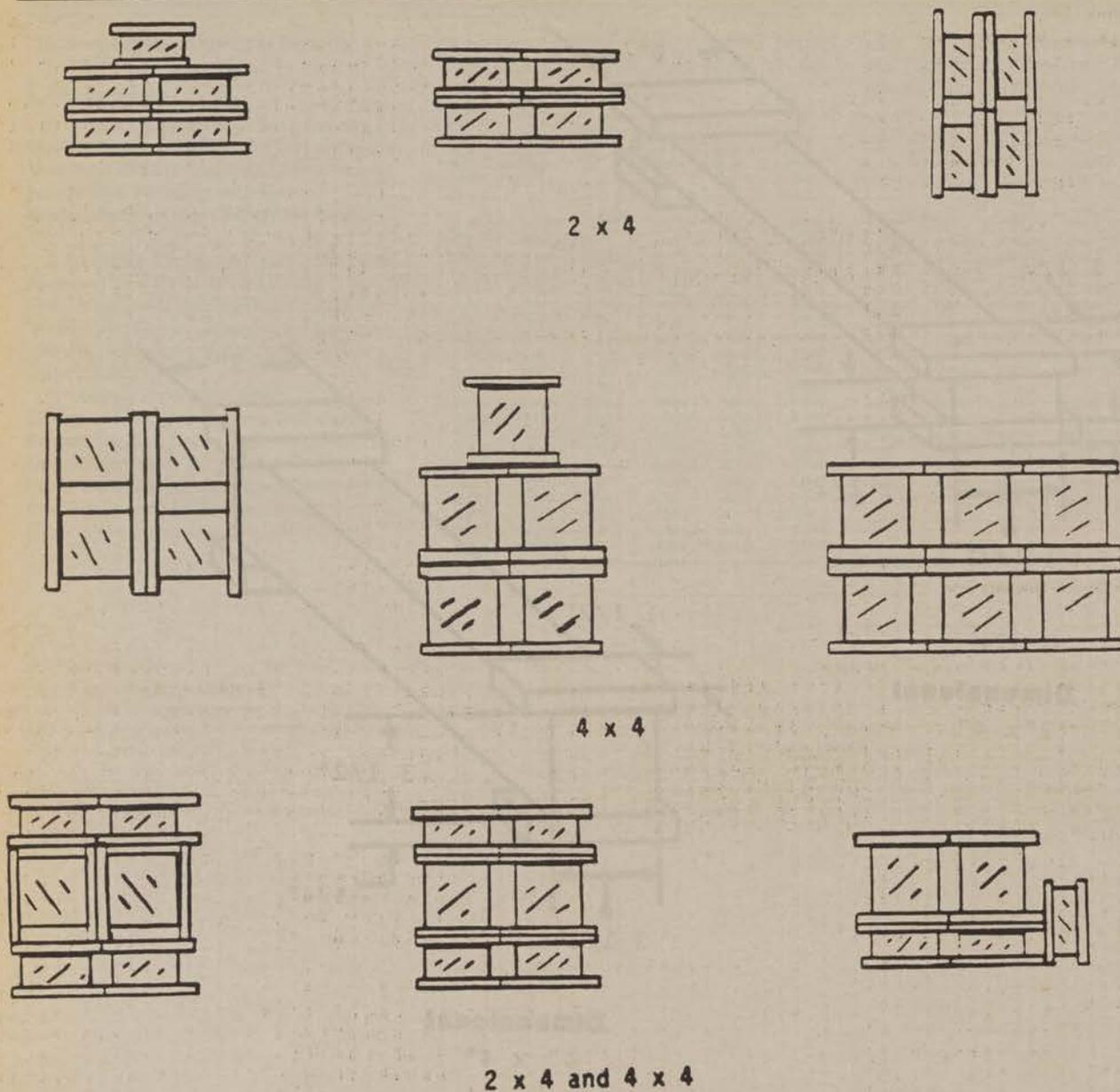


Figure 28-2. Test fuel crib arrangements.

Appliance Identification

Appliance Manufacturer _____
 Address _____
 Agent and phone number _____
 Name and Model number _____
 Weight _____
 Serial number _____
 Design: Catalytic _____ Noncatalytic _____
 Insert _____ Freestanding _____

Woodheater Description: (Attach figure showing air supplies and firebox configuration)

Materials of construction: _____

 Air Introduction System: _____

 Combustion Control Mechanisms: _____

 Internal Baffles: _____

 Other Features: _____

Catalyst Specifications

Manufacturer _____
 Serial Number _____
 Age _____ (Hours)
 Dimensions _____ (in.)

Firebox Dimensions:

Volume _____ (ft³)
 Length _____ (in.)
 Width _____ (in.)
 Height _____ (in.)
 Adjustments (Describe): _____ (in.)

Test Fuel Information
 (For each Test Run)

Weight of Test Charge _____ (lb)
 Number of 2 x 4's _____
 Number of 4 x 4's _____
 Length of test pieces _____ (in.)
 Fuel Grade (Certification) _____
 Fuel Moisture Content _____ (%)

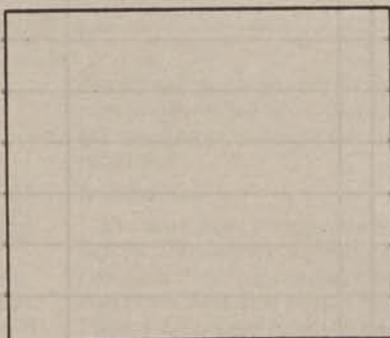


Diagram or Photograph of Test Fuel Crib

Figure 28-3. Wood Heater and Test Fuel Information.

Sheet _____ of _____

Date _____

Operator _____

Sampling Method _____

Wood Heater Information

Test Run Information

Manufacturer _____

Test Run No. _____

Model _____

Burn Rate _____

Flue Draft _____

Primary Air Setting _____

Room Temperature before/after _____ / _____

Secondary Air Setting _____

Barometric Pressure before/after _____ / _____

Thermostat Setting _____

Relative Humidity before/after _____ / _____

Other Settings _____

Room Air Velocity before/after _____ / _____

Surface Temp Average Pretest _____ end _____

Test Run Time (minutes)	Test Fuel Scale Reading (lb)	Surface Temp	Catalyst Temperature	
			Inlet (°F)	Outlet (°F)
(Pretest period)				
(Test Run Start)				

Figure 28 - 4. Test run wood heater operation data sheet.

FIGURE 28-5.—EXAMPLE CALCULATION OF WEIGHTED AVERAGE EMISSION RATE

Burn rate category	Test number	Burn rate (dry-kg/hr)	Emissions (g/hr)
1	1	0.65	5.0
2	2	0.85	6.7
2	3	0.90	4.7
2	4	1.00	5.3
3	5	1.45	3.8
4	6	2.00	5.1

¹ As permitted in Section 6.3.8, this test run may be omitted from the calculation of the weighted average emission rate because three runs were conducted for this burn rate category.

Test number	Burn rate	P _i	E _i	K _i
1	0.65	0.121	5.0	0.300
2	0.90	0.300	4.7	0.259
3	1.00	0.380	5.3	0.422
4	1.45	0.722	3.8	0.532
5	2.00	0.912	5.1	0.278

$$\begin{aligned}
 K_1 &= P_2 - P_0 = 0.300 - 0 = 0.300 \\
 K_2 &= P_3 - P_1 = 0.380 - 0.121 = 0.259 \\
 K_3 &= P_4 - P_2 = 0.722 - 0.300 = 0.422 \\
 K_4 &= P_5 - P_3 = 0.912 - 0.380 = 0.532 \\
 K_5 &= P_6 - P_4 = 1 - 0.722 = 0.278 \\
 K_i &= 0.300 + 0.259 + 0.422 + 0.532 + 0.278 = 1.791
 \end{aligned}$$

$$E_w = \frac{\sum_{i=1}^n (K_i E_i)}{\sum_{i=1}^n K_i}$$

$$E_w = \frac{(0.3)(5.0) + (0.259)(4.7) + (0.422)(5.3) + (0.532)(3.8) + (0.278)(5.1)}{1.791}$$

1.791

$$E_w = 4.69 \text{ g/hr.}$$

Method 28A—Measurement of Air to Fuel Ratio for Wood-Fired Appliances

1. Applicability and Principle

1.1 *Applicability.* This method is applicable for the measurement of air to fuel ratios, for determining whether a wood-fired appliance is an affected facility, as specified in 40 CFR 60.530.

1.2 *Principle.* A gas sample is extracted from a location in the stack of a wood-fired appliance while the appliance is operating at a prescribed set of conditions. The gas sample is analyzed for percent carbon dioxide (CO₂), percent oxygen (O₂), and percent carbon monoxide (CO). These stack gas components are measured for determining dry molecular weight of exhaust gas. Total moles of exhaust gas are

determined stoichiometrically. Air to fuel ratio is determined by relating the mass of dry combustion air to the mass of dry fuel consumed.

2. Definitions

2.1 *Burn Rate, Firebox, Secondary Air Supply, Test Facility, Test Fuel Charge, Test Fuel Crib, Test Fuel Loading Density, Test Fuel Piece, Test Run, Usable Firebox Volume, and Wood Heater.* Same as Method 28, Section 2.1 and 2.3 to 2.12.

2.2 *Air to Fuel Ratio.* Ratio of the mass of dry combustion air introduced into the firebox, to the mass of dry fuel consumed (grams of dry air per gram of dry wood burned).

3. Apparatus

3.1 *Test Facility.* Insulated Solid Pack Chimney, Platform Scale and Monitor, Wood Heater Temperature Monitors, Room Temperature Monitor, Balance, Moisture Meter, Anemometer, Barometer, Draft Gauge, and Humidity Gauge. Same as Method 28, Sections 3.1 to 3.10, respectively.

3.2 *Sampling System.* Probe, Condenser, Valve, Pump, Rate Meter, Flexible Bag, Pressure Gauge, and Vacuum Gauge. Same as Method 3, Sections 2.2.1 to 2.2.8, respectively. The sampling systems described in Method 3A, Section 5.1 and Method 10, Section 5.1 may be used.

3.3 *Analysis.* Orsat analyzer, same as Method 3, Section 2.3; or instrumental analyzers, same as Method 3A, Section 5.1.4, and Method 10, Section 5.3.1.

4. Test Preparation

4.1 *Test Facility, Wood Heater Appliance Installation, and Test Facility Conditions.*

Same as Method 28, Sections 4.1.1 and 4.1.2, respectively, with the exception that barometric dampers or other devices designed to introduce dilution air downstream of the firebox shall be sealed.

4.2 *Wood Heater Air Supply Adjustments.*

This section describes how dampers are to be set or adjusted and air inlet ports closed or sealed during Method 28A tests. The specifications in this section are intended to assure that affected facility determinations are made on the facility configurations that could reasonably be expected to be employed by the user. They are also intended to prevent circumvention of the standard through the addition of an air port that would often be blocked off in actual usage. These specifications are based on the assumption that consumers will remove such items as damper or other closure mechanism stops if this can be done readily with household tools; that consumers will block air inlet passages not visible during normal operation of the appliance using aluminum tape or parts generally available at retail stores; and that consumers will cap off any threaded or flanged air inlets. They also assume that air leakage around glass doors, sheet metal joints or through inlet grilles visible during normal operation of the appliance would not be further blocked or taped off by a consumer.

It is not the intention of this section to cause an appliance that is clearly designed, intended, and, in most normal installations, used as a fireplace to be converted into a wood heater for purposes of applicability testing. Such a fireplace would be identifiable by such features as large or multiple glass doors or panels that are not gasketed, relatively unrestricted air inlets intended, in large part, to limit smoking and fogging of glass surfaces, and other aesthetic features not normally included in wood heaters.

4.2.1 *Adjustable Air Supply Mechanisms.*

Any damper, other adjustment mechanism or other air inlet port that is designed, intended or otherwise reasonably expected to be adjusted or closed by consumers, installers, or dealers and which could restrict air into the firebox shall be set so as to achieve

minimum air into the firebox, i.e., closed off or set in the most closed position.

Dampers, mechanisms and air inlet ports which could reasonably be expected to be adjusted or closed would include:

(a) All internal or externally adjustable mechanisms (including adjustments that affect the tightness of door fittings) that are accessible either before and/or after installation.

(b) All mechanisms, other inlet ports, or inlet port stops that are identified in the owners manual or in any dealer literature as being adjustable or alterable. For example, an inlet port that could be used to provide access to an outside air duct but which is identified as being closable through use of additional materials whether or not supplied with the facility.

(c) Any combustion air inlet port or damper or mechanism stop, which would readily lend itself to closure by consumers that are handy with household tools by the removal of parts or the addition of parts generally available at retail stores (e.g., addition of a pipe cap or plug, addition of a small metal plate to an inlet hole on a nondecorative sheet metal surface, or removal of riveted or screwed damper stops).

(d) Any damper, other adjustment mechanisms or other air inlet ports that are found and documented in several (e.g., a number sufficient to reasonably conclude that the practice is not unique or uncommon) actual installations as having been adjusted to a more closed position, or closed by consumers, installers, or dealers.

4.2.2 *Air Supply Adjustments During Test.* The test shall be performed with all air inlets identified under this section in the closed or most closed position or in the configuration which otherwise achieves the lowest air inlet, (e.g., greatest blockage).

For the purposes of this section, air flow shall not be minimized beyond the point necessary to maintain combustion or beyond the point that forces smoke into the room.

Notwithstanding Section 4.2.1, any damper, adjustment mechanism or air inlet port (whether or not equipped with dampers or adjusting mechanisms) that is visible during normal operation of the appliance and which could not reasonably be closed further or blocked except through means that would significantly degrade the aesthetics of the facility (e.g., through use of duct tape) will not be closed further or blocked.

4.3 *Test Fuel Properties and Test Fuel Charge Specifications.* Same as Method 28, Sections 4.2 to 4.3, respectively.

4.4 *Sampling System.*

4.4.1 *Sampling Location.* Same as Method 5H, Section 5.1.2.

4.4.2 *Sampling System Set Up.* Set up the sampling equipment as described in Method 3, Section 3.2, or as in Method 3A, Section 7.

5. Procedures

5.1 *Pretest Preparation.* Same as Method 28, Section 6.2.

5.2 *Pretest Ignition.* Same as Method 28, Section 6.3. Set the wood heater air supply settings to achieve a burn rate in Category 1

or the lowest achievable burn rate (see Section 4.2).

5.3 *Test Run.* Same as Method 28, Section 6.4. Begin sample collection at the start of the test run as defined in Method 28, Section 6.4.1. If Method 3 is used, collect a minimum of two bag samples simultaneously at a proportional rate using the procedure described in Method 5H, Section 5.2.1, for the duration of the test run. A minimum sample volume of 30 l per bag is recommended. If Method 3A is used, sample at a constant rate (tracer gas system is not required) for the duration of the test run.

5.3.1 *Data Recording.* Record wood heater temperature and operational data, sample train flow rate, and fuel weight data at 10 minute intervals.

5.3.2 *Test Run Completion.* Same as Method 28, Section 6.4.6.

5.4 *Analysis Procedure.*

5.4.1 *Method 3 Integrated Bag Samples.* Within 4 hours after the sample collection, analyze each bag sample for percent CO₂, O₂, and CO using an Orsat analyzer as described in Method 3, Sections 4.2.5 through 4.2.7.

5.4.2 *Method 3A and Method 10 Analyzer Data.* Average the percent CO₂, CO, and O₂ values for the test run.

5.5 *Quality Control Procedures.*

5.5.1 *Data Validation.* The following quality control procedure is suggested to provide a check on the quality of the data.

5.5.1.1 Calculate a fuel factor, F_o, using the following equation:

$$F_o = \frac{20.9 - \% O_2}{\% CO_2} \quad \text{Eq. 28a-4}$$

where:

%O₂ = Percent O₂ by volume (dry basis).

%CO₂ = Percent CO₂ by volume (dry basis).

20.9 = Percent O₂ by volume in ambient air.

If CO is present in quantities measurable by this method, adjust the O₂ and CO₂ values before performing the calculation for F_o as follows:

%CO₂ (adj) = %CO₂ + %CO

%O₂ (adj) = %O₂ - 0.5 %CO

where:

%CO = Percent CO by volume (dry basis).

5.5.1.2 Compare the calculated F_o factor with the expected F_o range for wood (1.000—

1.120). Calculated F_o values beyond this acceptable range should be investigated before accepting the test results. For example, the strength of the solutions in the gas analyzer and the analyzing technique should be checked by sampling and analyzing a known concentration, such as air: the fuel factor should be reviewed and verified.

5.5.1.3 *Method 3 Analyses.* Compare the results of the analyses of the two bag samples. If all the gas components (O₂, CO, and CO₂) values for the two analyses agree within 0.5 percent (e.g., 6.0 percent O₂ for bag 1 and 6.5 percent O₂ for bag 2, agree within 0.5 percent), the results of the bags analyses may be averaged for the calculations in Section 6. If the analyses results do not agree within 0.5 percent for each component, calculate the air-to-fuel ratio using both sets of analyses and report the results.

6. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figure after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

6.1 *Nomenclature.*

M_d = Dry molecular weight, g/g-mole.

%CO₂ = Percent CO₂ by volume (dry basis).

%O₂ = Percent O₂ by volume (dry basis).

%CO = Percent CO by volume (dry basis).

%N₂ = Percent N₂ by volume (dry basis).

N_T = Total gram-moles of dry exhaust gas per kg of wood burned.

Y_{CO2} = Measured mole fraction of CO₂ (e.g., 10 percent CO₂ = .10 mole fraction).

Y_{CO} = Measured mole fraction of CO (e.g., 1 percent CO = .01 mole fraction).

Y_{HC} = Assumed mole fraction of HC (dry as CH₄), assumed .0099 for catalytic stoves, assumed .0124 for noncatalytic stoves.

0.280 = Molecular weight of N₂ or CO, divided by 100.

0.320 = Molecular weight of O₂ divided by 100.

0.440 = Molecular weight of CO₂ divided by 100.

42.5 = Gram-moles of carbon in 1 kg of dry wood (assuming 51 percent carbon by weight dry basis)

510 = Grams of carbon in exhaust gas per kg of wood burned.

1000 = Grams in 1 kg.

6.2 *Dry Molecular Weight.* Use Equation 28a-1 to calculate the dry molecular weight of the stack gas.

$$M_d = 0.440(\%CO_2) + 0.320(\%O_2) + 0.280(\%N_2 + \%CO) \quad \text{Eq. 28a-1}$$

Note.—The above equation does not consider argon in air (about 0.9 percent, molecular weight of 37.7). A negative error of about 0.4 percent is introduced. The tester may opt to include argon in the analysis using procedures subject to approval of the Administrator.

6.3 *Dry Moles of Exhaust Gas.* Use Equation 28a-2 to calculate the total moles of dry exhaust gas produced per kilogram of dry wood burned.

$$N_T = \frac{42.5}{(Y_{CO_2} + Y_{CO} + Y_{HC})}$$

Eq. 28a-2

6.4 *Air to Fuel Ratio.* Use Equation 28a-3 to calculate the air to fuel ratio on a dry mass basis.

$$A/F = \frac{(N_T \times M_d) - (510)}{(1000)}$$

Eq. 28a-3

6.5 *Burn Rate.* Calculate the fuel burn rate as in Method 28, Section 8.3.

7. Bibliography

Same as Method 3, Section 7, Method 3A, Section 10, and Method 10, Section 10.

4. By adding a new Appendix I as follows:

Appendix I—Removable Label and Owner's Manual

1. Introduction

The purpose of this appendix is to provide guidance to the manufacturer for compliance with the temporary labeling and owner's manual provisions of Subpart AAA, Section 2

provides guidance for the content and presentation of information on the temporary labels. Section 3 provides guidance for the contents of the owner's manual.

2. Temporary Labels

2.1 General

Temporary labels shall be printed on 90 pound bond paper and shall measure 5 inches wide by 7 inches long. All labels shall be printed in black ink on one side of the label only. Specific instructions for drafting labels are provided below depending upon the compliance status of the wood heater model.

2.2 Certified Wood Heaters

The design and content of certified wood heaters varies according to the following:

- Catalyst or noncatalyst,
- Measured or default thermal efficiency value, and
- Complies with 1988 or 1990 emission limit.

There are five parts of a label. These include:

- Identification and compliance status,
- Emission value,
- Efficiency value,
- Heat output value, and
- Caveats.

Instructions for drafting each of these five parts are discussed below in terms of the three variables listed above. Figures 1 and 2 illustrate the variations in label design. Figure 1 is a temporary label for a hypothetical catalyst wood heater that meets the 1990 standard, has a certification test emission composite value of 3.5 g/h, and has a default efficiency of 72 percent. Figure 2 is a hypothetical noncatalyst wood heater with a certification test emission composite value of 7.8 g/h and a measured efficiency of 68 percent. It meets the 1988 but not the 1990 standard. All labels for wood heaters which have been certified and tested should conform as much as possible to the general layout, the type font and type size illustrated in Figures 1 and 2.

BILLING CODE 6560-50-M

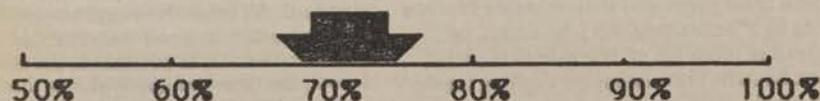
Manufactured by Acme Industries

Model Cleanburner MX4

U.S. ENVIRONMENTAL PROTECTION AGENCY

CATALYST EQUIPPED

Meets EPA particulate matter (smoke) control requirements for catalytic wood heaters built on or after July 1, 1990. See catalyst warranty. Illegal to operate when catalyst is not working. See owner's manual for operation and maintenance.

SMOKE**EFFICIENCY***

Wood heaters with higher efficiencies cost less to operate.

*Not tested for efficiency. The value indicated is for similar catalyst-equipped wood heaters.

HEAT OUTPUT

7,000 to 30,000 Btu/Hr

Use this to choose the right size appliance for your needs

ASK DEALER FOR HELP.

This wood heater will achieve low smoke output and high efficiency only if properly operated and maintained. See owner's manual.

Figure 1. Temporary Label for Hypothetical Wood Heater: That is (1) Catalyst Equipped, (2) With Estimated Efficiency, and (3) That Meets 1990 Standard.

Emissions: 3.5 g/h

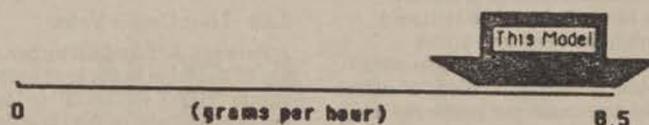
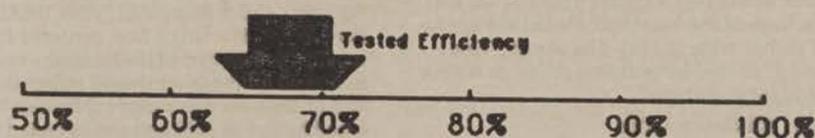
Efficiency: 72 percent

Manufactured by Acme Industries

Model Cleanburner B-3

U S ENVIRONMENTAL PROTECTION AGENCY

Meets EPA particulate matter (smoke) control requirements for NONCATALYTIC wood heaters built on or after July 1, 1988 and before July 1, 1990

SMOKE**EFFICIENCY**

Wood heaters with higher efficiencies cost less to operate.

HEAT OUTPUT

9,000 to 40,000 Btu/Hr

*Use this to choose the right size appliance for your needs.
ASK DEALER FOR HELP.*

This wood heater will achieve low smoke output and high efficiency only if properly operated and maintained. See owner's manual.

Figure 2. Hypothetical Wood Heater Temporary Label:
That is (1) Noncatalytic, (2) With
Measured Efficiency, and (3) That Meets
1988 Standard.
Emissions: 7.8 g/h
Efficiency: 68 percent

2.2.1 Identification and Compliance Status

The top 1.5 inches of the label should contain the following items (and location on the label).

- Manufacturer name (upper left hand corner).
- Model name/number (upper left hand corner).
- The words "U.S. ENVIRONMENTAL PROTECTION AGENCY" (centered at top and enclosed in a box with rounded edges).
- For catalytic wood heaters, in large bold print the words "CATALYST EQUIPPED" (centered below the words "U.S. ENVIRONMENTAL PROTECTION AGENCY").

• Text indicating compliance status for catalytic wood heaters. For those catalytic wood heaters which comply with the 1988 emission limits, but not the 1990 emission limits, the words: "Meets EPA particulate matter (smoke) control requirements for catalytic wood heaters built on or after July 1, 1988, and before July 1, 1990." For those catalytic wood heaters which comply with the 1990 emission limits, the words: "Meets EPA particulate matter (smoke) control requirements for catalytic wood heaters built on or after July 1, 1990." Finally, for all catalytic wood heaters, the following text should be included: "See catalyst warranty. Illegal to operate when catalyst is not working. See owner's manual for operation and maintenance."

• Text indicating compliance status for noncatalytic wood heaters. For those noncatalytic wood heaters which comply with the 1988 emission limits but not the 1990 emission limits, the words: "Meets EPA particulate matter (smoke) control requirements for NONCATALYTIC wood heaters built on or after July 1, 1988 and before July 1, 1990." For those noncatalytic wood heaters which comply with 1990 emission limits, the words: "Meets EPA particulate matter (smoke) control requirements for NONCATALYTIC wood heaters built on or after July 1, 1990."

2.2.2 Emission Value

Between 1.5 and 3.0 inches down from the top of the label is the part that graphically illustrates the particulate matter, or smoke, emission value. This part consists of the word

"SMOKE" in large bold print and a 3.0 inch line with words "(grams per hour)" centered beneath the line. A blunt end arrow with a base (blunt end) that spans 2 g/hr shall be centered over the point on the emissions line that represents the composite emission value for the model as measured in the certification test.

For catalyst equipped wood heaters the 3.0 inch line shall be labeled "0" on the left end of the line (centered below the end) and "5.5" on the right end (centered below the end). To find where to center the large blunt end arrow, measure 0.55 inches from the left end for each g/h of the composite emission value. Thus, a 4 g/h value would be 2.2 inches from the left end. The base of the blunt end should always be 1.1 inches wide (2 g/hr). The words "This Model" should be centered above or within the blunt end arrow.

For noncatalyst equipped wood heaters, the 3.0 inch line should be labeled "0" on the left end of the line (centered below the end) and "8.5" on the right end of the line (centered below the end). To find where to center the large blunt end arrow, measure 0.35 inches from the left end for each g/h of the composite emission value. Thus, a 4 g/h value would be 1.4 inches from the left end. The base of the blunt end should always be 0.7 inches wide (2 g/h). The words "This Model" should be centered above or within the blunt end arrow.

2.2.3 Efficiency Value

Between 3.0 and 4.75 inches down from the top of the label is the part that illustrates overall thermal efficiency value. The efficiency value may either be a measured value or a calculated or default value as provided in § 60.536(i)(3) of the regulation. Regardless of how the efficiency is derived, the words "EFFICIENCY" shall be centered above a 4 inch line. The 4 inch line should be divided into 5 equal lengths (each 0.8 inches) and labeled "50%," "60%," . . . "100%" as indicated in Figures 1 and 2. As with the smoke line in 2.2.2, a blunt end arrow shall be centered over the point on the line where the efficiency value would be located. The base of the blunt end arrow shall be 0.48 inches wide (6 percentage points). To find where to center the blunt end arrow, measure 0.08 inches for each percentage point to the right

of the nearest labeled value. For example, a value of 82 percent would be 0.16 inches to the right of the "80%" mark.

For default efficiency values, an asterisk shall follow the word "EFFICIENCY" as in Figure 1. The asterisk refers to a note in parentheses that shall say "Not tested for efficiency. Value indicated is for similar catalyst equipped (or noncatalytic, as appropriate) wood heaters."

For measured efficiency values measured with the method in Appendix J, the words "Tested Efficiency" shall be centered above the blunt end arrow as in Figure 2.

The last item required for this part is a sentence that says "Wood heaters with higher efficiencies cost less to operate."

2.2.4 Heat Output Value

Between 4.75 and 6.0 inches down from the top of the label is the heat output part. The words "HEAT OUTPUT" in large bold print are centered above the Heat Output range numbers in Btu/hr, as derived from the certification test. The words "Use this to choose the right size appliance for your needs. ASK DEALER FOR HELP." should follow the heat output range numbers as in Figures 1 and 2. (Note that "ASK DEALER FOR HELP" is a single line, centered in the label.) The low end of the burn rate range indicated on the label should reflect the low end of the burn rate range achievable by the wood heater as sold and not as tested in the laboratory (see § 60.536(i)(4)).

2.2.5 Caveats

In the lower 0.75 inch of the label, the following text shall be presented:

"This wood heater will achieve low smoke output and high efficiency only if properly operated and maintained. See owner's manual."

2.3 Coal-Only Heaters

For those heaters which meet the definition of "coal only heater" in § 60.531, the temporary label should contain the identical material (same layout and print font and size) as that illustrated in Figure 3, except that the hypothetical manufacturer and model name should be replaced with the appropriate actual names.

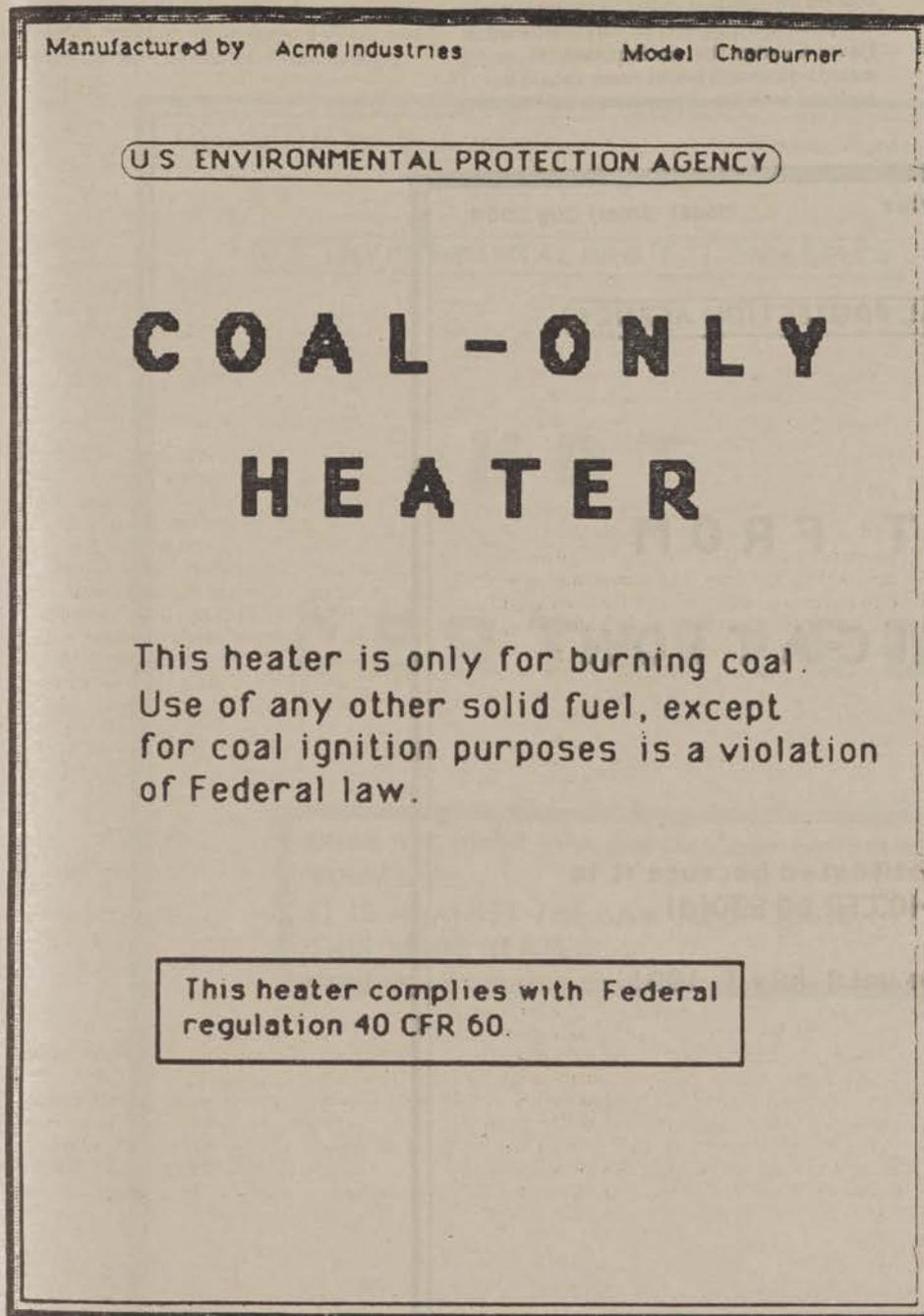


Figure 3. Temporary Label for Hypothetical Coal-Only Heater

BILLING CODE 6560-50-C

2.4 Small Manufacturer Exempted Wood Heaters

For those wood heaters exempted under § 60.530(d), the small manufacturer exemption, the temporary label should

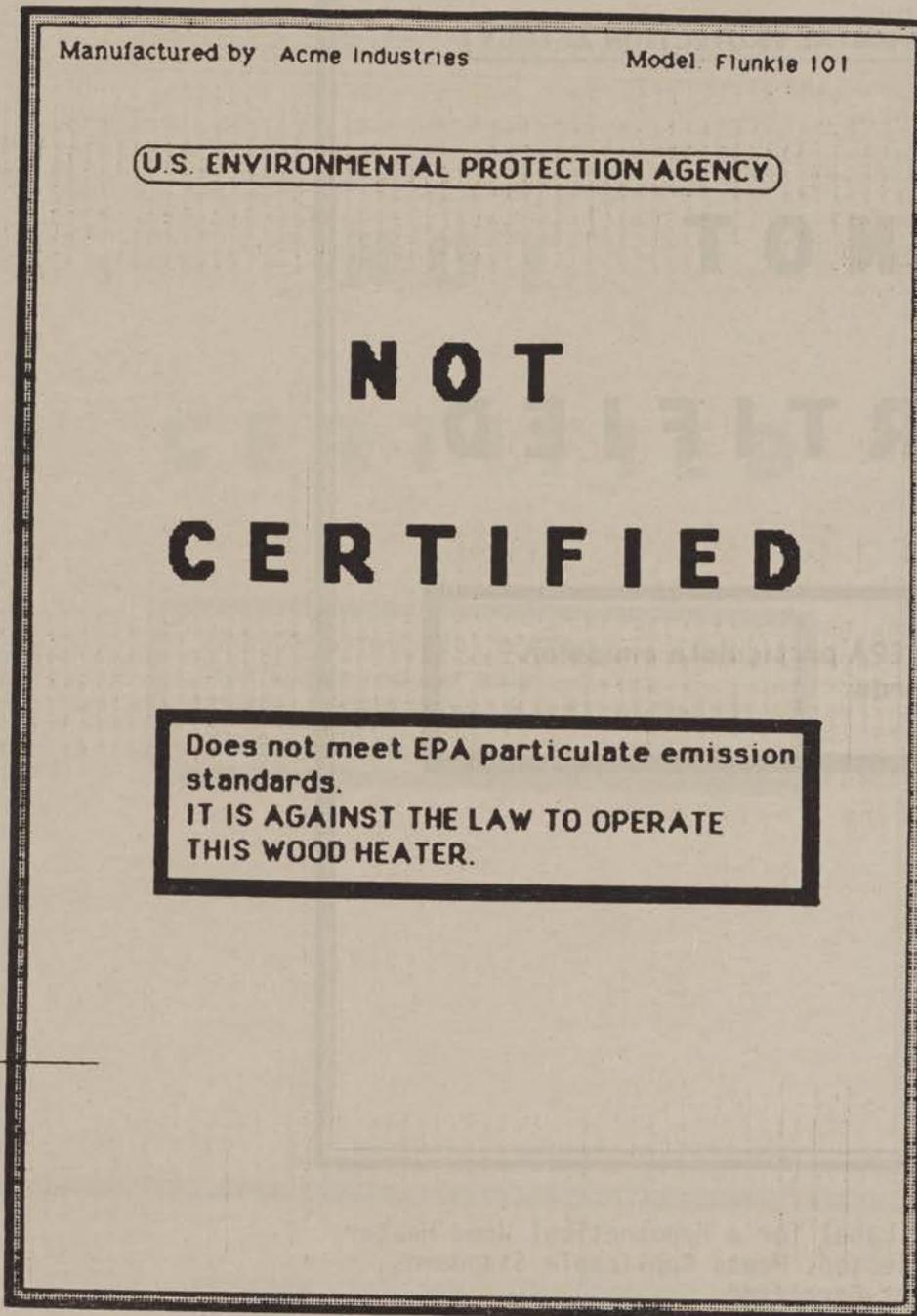
contain the identical material (same layout and print font and size) as that illustrated in Figure 4, except that the hypothetical manufacturer and model name should be replaced with the appropriate actual names.

Manufactured by Acme Industries	Model: Small Guy 2000
U S ENVIRONMENTAL PROTECTION AGENCY	
EXEMPT FROM CERTIFICATION	
<p>This model was not tested because it is exempted under 40 CFR 60.530(d).</p> <p>Approved for sale until July 1, 1991.</p>	
This heater complies with Federal regulation 40 CFR 60.	

Figure 4. Temporary Label for Hypothetical Wood Heater Exempted Under Small Manufacturer Provision

2.5 Wood Heaters That Are Not Certified
For those wood heaters that do not meet applicable emission limits under § 60.532 and are not otherwise exempted, the temporary

label should contain the identical material (same layout and print font and size) as those illustrated in Figures 5, 6, and 7, as appropriate.



Red Colored Label

Figure 5. Temporary Label for a Hypothetical Wood Heater that Had Been Tested, Does Not Meet Applicable Standards, and Is Not Certified

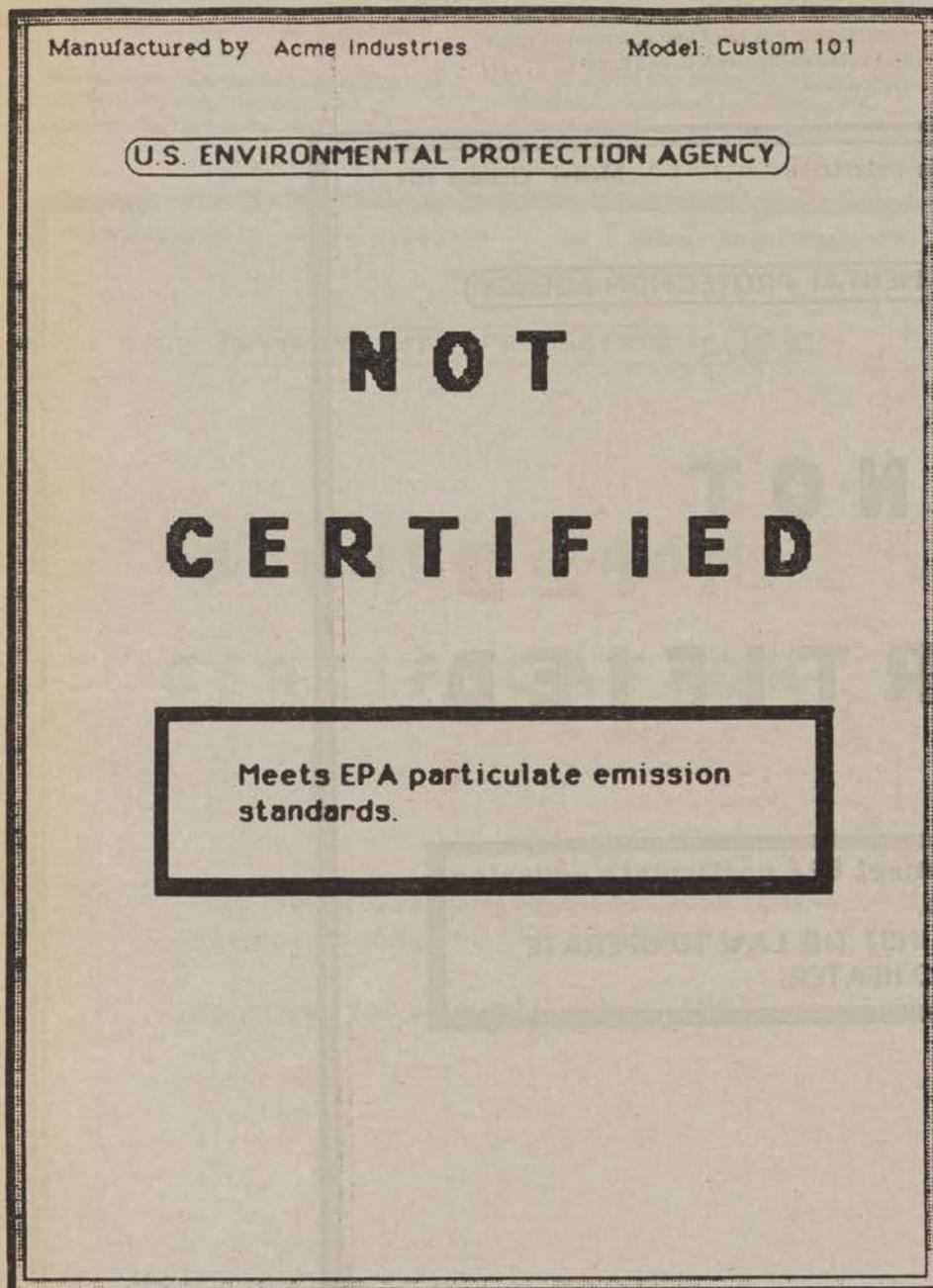


Figure 6. Temporary Label for a Hypothetical Wood Heater that Was Tested, Meets Applicable Standards, But Was Not Certified

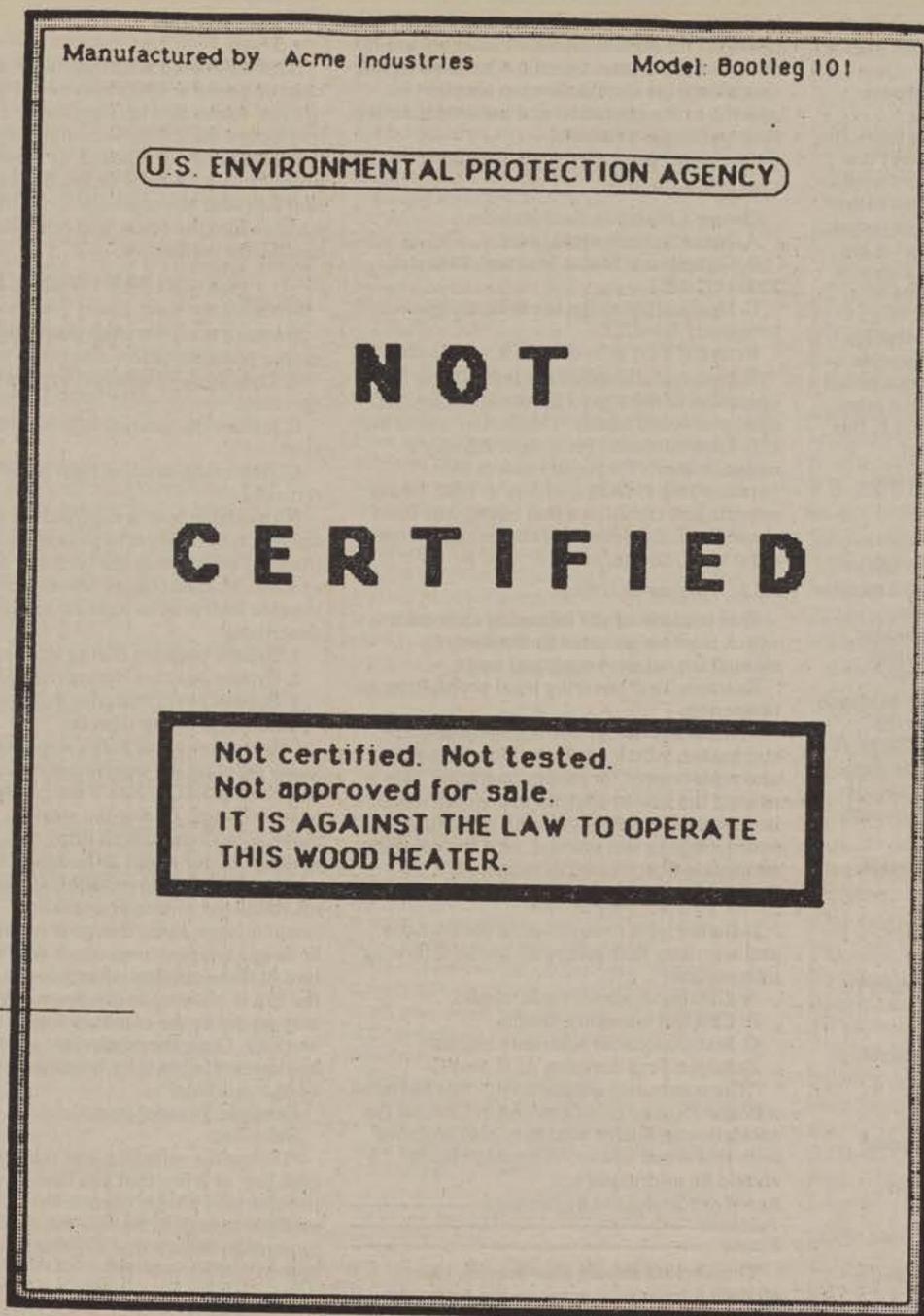


Figure 7. Temporary Label for a Hypothetical Wood Heater that Was Not Tested, Not Certified, and Does Not Meet Applicable Standards

The hypothetical manufacturer and model names should be replaced with the appropriate actual names.

There are three kinds of wood heaters which fall into this category of "not certified." Each requires a separate label. If a wood heater is tested but fails to meet the applicable limits, the label in Figure 5 applies. Such a label should be printed on red rather than white paper. If a wood heater is tested and does meet the emission limit but is not subsequently certified, the label in Figure 6 applies. (An example would be a one-of-a-kind wood heater which is not part of a model line. Because of the costs of testing, this circumstance is not expected to arise often, if at all.) If a wood heater is not tested and is not certified, it should bear the label illustrated in Figure 7. As with Figure 5, this label should be printed on red paper.

3.0 Guidance for Preparation of Wood Heater Owner's Manuals

3.1 Introduction

Although the owner's manuals do not require premarket approval, EPA will monitor the contents to ensure that sufficient information is included to provide heater operation and maintenance information affecting emissions to consumers. The purpose of this section is to provide guidance to manufacturers in complying with the owner's manual provisions of § 60.536(1). A checklist of topics and illustrative language is provided as a guideline. Owner's manuals should be tailored to specific wood heater models, as appropriate.

3.2 Topics Required to be Addressed in Owner's Manual

- Wood Heater Description and Compliance Status
- Tamper Warning
- Catalyst Information and Warranty (if catalyst equipped)
 - Fuel Selection
 - Achieving and Maintaining Catalyst Light-Off (if catalyst equipped)
 - Catalyst Monitoring (if catalyst equipped)
 - Troubleshooting Catalytic Equipped Heaters (if catalyst equipped)
 - Catalyst Replacement (if catalyst equipped)
- Wood Heater Operation and Maintenance
 - Wood Heater Installation: Achieving Proper Draft

3.3 Sample Text/Descriptions

The following are example texts and/or further descriptions illustrating the topics identified above. Although the regulation requires manufacturers to address (where applicable) the nine topics identified above, the exact language is not specified. Manuals should be written specific to the model and design of the wood heater. The following guidance is composed of generic descriptions and texts. If manufacturers choose to use the language provided as example, the portion in italics should be revised as appropriate. Any manufacturer electing to use the EPA example language shall be in compliance with owner's manual requirements provided that the particular language is printed in full with only such changes as are necessary to

ensure accuracy. Example language is not provided for certain topics, since these areas are generally heater specific. For these topics, manufacturers should develop text that is specific to the operation and maintenance of their particular products.

3.3.1 Wood Heater Description and Compliance Status

Owner's Manuals shall include:

- A. Manufacturer and Model.
- B. Compliance Status (exempt, 1988 std., 1990 std., etc.).
- C. Heat output range (as indicated on temporary label).

Example Text covering A, B, and C above:
 "This manual describes the installation and operation of the *Brand X, Model O catalytic equipped* wood heater. This heater meets the U.S. Environmental Protection Agency's emission limits for wood heaters sold between July 1, 1990, and July 1, 1992. Under specific test conditions this heater has been shown to deliver heat at rates ranging from 8,000 to 35,000 Btu/hr."

3.3.2 Tamper Warning

This consists of the following statement which must be included in the owner's manual for catalyst equipped units:

Example Text covering legal prohibition on tampering:

"This wood heater contains a catalytic combustor, which needs periodic inspection and replacement for proper operation. It is against the law to operate this wood heater in a manner inconsistent with operating instructions in this manual, or if the catalytic element is deactivated or removed."

3.3.3 Catalyst Information

Included with or supplied in the owner's and warranty manuals shall be the following information:

- A. Catalyst manufacturer, model.
 - B. Catalyst warranty details.
 - C. Instructions for warranty claims.
- Example Text covering A, B, and C:
 "The combustor supplied with this heater is a *Brand Z, Long Life Combustor*. Consult the catalytic combustor warranty also supplied with this wood heater. Warranty claims should be addressed to:
 Stove or Catalyst Manufacturer _____
 Address _____
 Phone _____

This section should also provide clear guidance on how to exercise the warranty (how to package for return shipment, etc.).

3.3.4 Fuel Selection

Owner's manuals shall include:

- A. Instructions on acceptable fuels.
- B. Warning against inappropriate fuels.

Example Text covering A and B:
 "This heater is designed to burn natural wood only. Higher efficiencies and lower emissions generally result when burning air dried seasoned hardwoods, as compared to softwoods or to green or freshly cut hardwoods.

- Do Not Burn:
- Treated Wood
 - Coal
 - Garbage
 - Cardboard
 - Solvents

- Colored Paper
- Trash

Burning treated wood, garbage, solvents, colored paper or trash may result in release of toxic fumes and may poison or render ineffective the catalytic combustor.

Burning coal, cardboard, or loose paper can produce soot, or large flakes of char or fly ash that can coat the combustor, causing smoke spillage into the room, and rendering the combustor ineffective."

3.3.5 Achieving and Maintaining Catalyst Light-Off

Owner's manuals shall describe in detail proper procedures for:

- A. Operation of catalyst bypass (stove specific).
- B. Achieving catalyst light off from a cold start.
- C. Achieving catalyst light off when refueling.

No example text is supplied for describing operation of catalyst bypass mechanisms (Item A) since these are typically stove-specific. Manufacturers however must provide instructions specific to their model describing:

1. Bypass position during start-up.
2. Bypass position during normal operation.
3. Bypass position during reloading.

Example Text for item B:

"The temperature in the stove and the gases entering the combustor must be raised to between 500° to 700 °F for catalytic activity to be initiated. During the start-up of a cold stove, a medium to high firing rate must be maintained for about 20 minutes. This ensures that the stove, catalyst, and fuel are all stabilized at proper operating temperatures. Even though it is possible to have gas temperatures reach 600 °F within two to three minutes after a fire is started, if the fire is allowed to die down immediately it may go out or the combustor may stop working. Once the combustor starts working, heat generated in it by burning the smoke will keep it working."

Example Text for item C:

Refueling:
 "During the refueling and rekindling of a cool fire, or a fire that has burned down to the charcoal phase, operate the stove at a medium to high firing rate for about 10 minutes to ensure that the catalyst reaches approximately 600 °F."

3.3.6 Catalyst Monitoring

Owner's manuals shall include:

- A. Recommendation to visually inspect combustor at least three times during the heating season.

- B. Discussion on expected combustor temperatures for monitor-equipped units.

- C. Suggested monitoring and inspection techniques.

Example Text covering A, B, and C:
 "It is important to periodically monitor the operation of the catalytic combustor to ensure that it is functioning properly and to determine when it needs to be replaced. A non-functioning combustor will result in a loss of heating efficiency, and an increase in creosote and emissions. Following is a list of items that should be checked on a periodic basis."

• "Combustors should be visually inspected at least three times during the heating season to determine if physical degradation has occurred. Actual removal of the combustor is not recommended unless more detailed inspection is warranted because of decreased performance. If any of these conditions exist, refer to Catalyst Troubleshooting section of this owner's manual.

• "This catalytic heater is equipped with a temperature probe to monitor catalyst operation. Properly functioning combustors typically maintain temperatures in excess of 500 °F, and often reach temperatures in excess of 1000 °F. If catalyst temperatures are not in excess of 500 °F, refer to Catalyst Troubleshooting section of this owner's manual.

• "You can get an indication of whether the catalyst is working by comparing the amount of smoke leaving the chimney when the smoke is going through the combustor and catalyst light-off has been achieved, to the amount of smoke leaving the chimney when the smoke is not routed through the combustor (bypass mode).

"Step 1—Light stove in accordance with instructions in 3.3.5.

"Step 2—With smoke routed through the catalyst, go outside and observe the emissions leaving the chimney.

"Step 3—Engage the bypass mechanism and again observe the emissions leaving the chimney.

"Significantly more smoke should be seen when the exhaust is not routed through the combustor (bypass mode). Be careful not to confuse smoke with steam from wet wood."

3.3.7 Catalyst Troubleshooting

The owner's manual should provide clear descriptions of symptoms and remedies to common combustor problems. It is recommended that photographs of catalyst peeling, plugging, thermal cracking, mechanical cracking, and masking be included in the manual to aid the consumer in identifying problems and to provide direction for corrective action.

3.3.8 Catalyst Replacement

The owner's manual should provide clear step-by-step instructions on how to remove and replace the catalytic combustor. The section should include diagrams and/or photographs.

3.3.9 Wood Heater Operation and Maintenance

Owner's manual shall include:

- Recommendations about building and maintaining a fire.
- Instruction on proper use of air controls.
- Ash removal and disposal.
- Instruction on gasket replacement.
- Warning against overfiring.

No example text is supplied for A, B, and D since these items are model specific. Manufacturers should provide detailed instructions on building and maintaining a fire including selection of fuel pieces, fuel quantity, and stacking arrangement. Manufacturers should also provide instruction on proper air settings (both primary and secondary) for attaining minimum and maximum heat outputs and any

special instructions for operating thermostatic controls. Step-by-step instructions on inspection and replacement of gaskets should also be included. Manufacturers should provide diagrams and/or photographs to assist the consumer. Gasket type and size should be specified.

Example Text for item C:

"Whenever ashes get 3 to 4 inches deep in your firebox or ash pan, and when the fire has burned down and cooled, remove excess ashes. Leave an ash bed approximately 1 inch deep on the firebox bottom to help maintain a hot charcoal bed."

"Ashes should be placed in a metal container with a tight fitting lid. The closed container of ashes should be placed on a noncombustible floor or on the ground, away from all combustible materials, pending final disposal. The ashes should be retained in the closed container until all cinders have thoroughly cooled."

Example Text covering item E: "Do Not Overfire This Heater".

"Attempts to achieve heat output rates that exceed heater design specifications can result in permanent damage to the heater and to the catalytic combustor if so equipped."

3.3.10 Wood Heater Installation: Achieving Proper Draft

Owner's manual shall include:

- Importance of proper draft.
- Conditions indicating inadequate draft.
- Conditions indicating excessive draft.

Example Text for Item A:

"Draft is the force which moves air from the appliance up through the chimney. The amount of draft in your chimney depends on the length of the chimney, local geography, nearby obstructions, and other factors. Too much draft may cause excessive temperatures in the appliance and may damage the catalytic combustor. Inadequate draft may cause backpuffing into the room and "plugging" of the chimney or the catalyst."

Example text for Item B:

"Inadequate draft will cause the appliance to leak smoke into the room through appliance and chimney connector joints."

Example text Item C:

"An uncontrollable burn or a glowing red stove part or chimney connector indicates excessive draft."

[FR Doc. 87-2540 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-3138-7(a)]

Standards of Performance for New Stationary Sources; Listing of Residential Wood Heaters for Development of New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Listing, notice of public hearing, and request for comments.

SUMMARY: This notice lists residential wood heaters as a new source category

for regulation under section 111 of the Clean Air Act. This listing is based on the Administrator's determination that residential wood heaters cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health and welfare.

DATES: Comments. Comments must be received on or before April 20, 1987.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by March 11, 1987, a public hearing will be held on April 6, 1987, beginning at 10:00 a.m.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-84-49, U.S. EPA, 401 M Street, SW., Washington, DC 20460.

Public Hearing: If a public hearing is held, it will be at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

Docket. Docket Number A-84-49 containing information used in this listing is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Mr. Rick Colyer, Standards Development Branch (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: Section 111(b)(1)(A) of the Clean Air Act provides:

The Administrator shall, within 90 days after December 31, 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.

Section 111(b)(1)(B) requires the Administrator to promulgate "standards of performance for new sources within such category."

The Administrator hereby adds the source category "residential wood heaters" to the section 111(b)(1)(A) list because, as discussed below, in his judgment it contributes significantly to

air pollution which may reasonably be anticipated to endanger public health and welfare.

In the Advance Notice of Proposed Rulemaking (50 FR 31504, August 2, 1985), EPA set out its rationale for considering regulation of residential wood combustion (RWC) devices. To summarize that notice, RWC particulate matter (PM) emissions are increasing; they include compounds which are carcinogens; they are released at low heights in residential areas (resulting in relatively high levels of exposure to human populations); and they are capable of being controlled by adequately demonstrated technology.

It is EPA's intention to regulate enclosed, combustion-controlled wood-fired appliances but not conventional open fireplaces. The primary difference between wood heaters and fireplaces is the extent to which combustion and excess air are controlled in the two types of sources. Fireplaces, including those with glass doors, allow relatively large quantities of air to enter the firebox or chamber. This air enters around the doors (if any), through leaks in sheet metal joints or sheet metal to masonry connections, through grilles, and around inlet dampers. Depending in part upon mixing conditions, the relatively large quantities of air that are available in the firebox typically result in high air-to-fuel ratios and/or high burn rates. Air-to-fuel ratios above 50 to 1 and/or burn rates above about 8 kg per hour are common. Generally, air-to-fuel ratios will be relatively higher when burn rates are relatively lower and vice-versa in fireplaces. In general, the large quantities of air entering fireplaces results in high gas volumes and

velocities, and relatively low concentrations of unburned material.

In contrast, wood heaters can limit the quantity of air entering the firebox; and although sufficient air is available for combustion, the limited supply of air and poor mixing result in low air-to-fuel ratios (compared to fireplaces) and low burn rates. Air-to-fuel ratios of less than 10-to-1 and burn rates less than 1 kg per hour are common. The low burn rates allow wood heaters to operate for periods as long as overnight. These are characteristics that have contributed to their practicality and widespread use. However, the starved air condition produces high concentrations of incomplete combustion products (PM, carbon monoxide (CO), and other partially oxidized organic compounds) which are released to the atmosphere as air pollutants.

The EPA estimates that over 12 million wood heaters were in use in 1986, and that sales of new wood heaters in 1985 were approximately 800,000 units per year.

The national annual PM emission total from all wood heaters is estimated at 2.5 million Mg/yr (2.8 million tons/yr) and accounts for about 15 percent of the total from all particulate sources. The PM from wood heaters is primarily condensed organic materials as opposed to fly ash. A portion of the PM emitted from wood heaters is in the form of polycyclic organic matter (POM), a class of compounds containing carcinogens. Wood heaters account for most of the POM emitted by stationary sources. Wood heaters also emit large quantities of CO.

Wood heaters create significant air quality problems in localities where they

are used in large numbers. Emissions from wood heaters are a growing problem throughout many areas of the country where wood supplies are abundant. In fact, several areas currently exceed the national ambient air quality standards for PM and CO due, in part, to residential wood heaters.

More than 80 percent of the PM emissions from wood heaters are smaller than 2.5 micrometers and almost all particles are less than 10 micrometers. The PM of this size can penetrate to the tracheo-bronchial and alveolar regions of the lung. Deposition in this region of the lung is of concern because the body may take years to remove the particles and repair the damage they cause. Exposure to these small particles can increase coughing and chest discomfort, aggravate cardiovascular diseases, and may increase the adverse health effects of gaseous air pollutants. (Air Quality Criteria for Particulate Matter and Sulfur Oxides (EPA-600/882-029aF, bF, and cF))

Standards of performance of this source category are proposed elsewhere in today's **Federal Register**. That proposal provides a public comment period and an opportunity for a public hearing. Comments and requests for a public hearing on the listing of this source category should be submitted as provided in the proposal for this source category.

Dated: January 31, 1987.

Lee M. Thomas,
Administrator.

[FR Doc. 87-2539 Filed 2-17-87; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Wednesday
February 18, 1987

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and
Plants; Extension of Proposed Rule To
List the Flattened Musk Turtle as
Threatened

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Proposed Rule To List the Flattened Musk Turtle as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Panel Report Available and Comment Period Closure.

SUMMARY: The U.S. Fish and Wildlife Service (Service) convened a panel of scientists to review the information on the status of the flattened musk turtle. The panel presented its report to the Director of the Service, on February 2, 1987. The report is now available for public review. The comment period will now close on the date given below.

DATES: The comment period will close on March 20, 1987. The deadline for final action on the proposal is May 1, 1987.

ADDRESSES: Requests for the panel report and comments and other materials concerning the status of the flattened musk turtle should be sent to: Director, U.S. Fish and Wildlife Service (Attention: Mr. Ken Stansell), Main Interior Building, 18th and C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Stansell at the above address (202/343-6351 or FTS/343-6351).

SUPPLEMENTARY INFORMATION:**Background**

On November 1, 1985 (50 FR 45638), the Service published a proposed rule to list the flattened musk turtle as a threatened species. Comments submitted on the proposed rule indicated the existence of disagreements concerning the interpretation of biological data on the turtle. The Service announced in the October 31, 1986 *Federal Register* (51 FR 39758) that there exists substantial scientific disagreement regarding the sufficiency and accuracy of the available data relevant to a decision on whether to list the turtle. The Service extended the deadline for making a final decision on the proposal until May 1, 1987, in accordance with section 4(b)(6)(B)(i) of the Endangered Species Act (Act).

The Service convened a panel, composed of scientists knowledgeable in herpetology (study of amphibians and reptiles), conservation biology, aquatic ecology, and/or population biology, to analyze biological data on the status of the flattened musk turtle. Following its review, the panel reported its findings to the Director of the Service on February 2, 1987. The report is now available to the public. So that the public may

comment on the findings of the review panel, the public comment period on the proposal will continue to remain open for 30 additional days from the date of publication of this notice.

The Service will consider the findings of the panel and any further information submitted during the comment period in determining whether the flattened musk turtle should be listed or whether the proposal should be withdrawn in accordance with section 4(b)(6)(B)(ii) of the Act.

Author

The primary author of this notice is Mr. Kenneth B. Stansell, U.S. Fish and Wildlife Service, Main Interior Building, 18th and C Street, NW., Washington, DC 20240 (202/343-6351 or FTS 343-6351).

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, plants (agriculture).

Dated: February 13, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-3566 Filed 2-17-87; 9:54 am]

BILLING CODE 4310-55-M

Reader Aids

Federal Register

Vol. 52, No. 32

Wednesday, February 18, 1987

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws	523-5230
------	----------

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230
---------------------------------	----------

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3101-3208	2
3209-3392	3
3393-3594	4
3595-3782	5
3783-3996	6
3997-4124	9
4125-4264	10
4265-4488	11
4489-4590	12
4591-4762	13
4763-4886	17
4887-5068	18

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	431	3213
Proclamations:	432	3213
5601 (<i>See</i> U.S. Trade Representative notice)	433	3213
	435	3213
	436	3213
	437	3213
	438	3213
	439	3213
	440	3213
Executive Orders:	441	3213
12582	442	3213
	443	3213
Administrative Orders:	444	3213
Letters:	445	3213
January 5, 1987	446	3213
Presidential Recommendations:	447	3213
January 20, 1987	448	3213
	449	3213
	450	3213
5 CFR	451	3213
831	3209, 3785	
842	4472, 4478	
870	3397	
871	3397	
872	3397	
873	3397	
890	3210, 3397	
911	4491	
Proposed Rules:	929	3411
735	3251	
890	3816	
	1030	3412
	1032	3215, 3412
	1033	3412
	1036	3412
	1049	3412
	1050	3412
	1065	3216
	1079	3216
	1468	4275
	1472	4275
	1477	4129
	3402	4712
Proposed Rules:	272	3817
	277	3817
	810	4151
	900	3119
	928	3433, 4462
	1011	3251
	1102	4775
	1106	4775
	1210	3587, 4783
	1240	3101
	1809	4913
	1900	4913
	1902	4913
	1910	4913
	1924	4913
	1941	4913
	1942	3433
	1943	4913
	1945	4913
	1951	4913
	1955	4913
7 CFR	51	3399, 4822
	271	3402
	272	3402, 3410
	273	3402, 3410
	275	3402
	276	3402
	400	4591
	402	3213
	403	3213
	405	3213
	409	3213
	410	3213
	411	3213
	413	3213
	414	3213
	415	3213
	416	3213
	417	3213
	418	3213
	419	3213
	420	3213
	421	3213
	422	3213
	423	3213
	424	3213
	425	3213
	427	3213
	428	3213
	429	3213
	430	3213

1962.....	4913	9.....	4021	26 CFR		34 CFR	
1965.....	4913	33.....	4154	1.....	3615, 3795, 4822	Proposed Rules:	
1980.....	4913	230.....	4502	5h.....	3623	270.....	4850
8 CFR		18 CFR		18.....	3615	271.....	4850
Proposed Rules:		37.....	4896	602.....	3615, 3623	272.....	4850
207.....	4913	157.....	3223	Proposed Rules:			
9 CFR		271.....	3112, 4137	1.....	3256	35 CFR	
77.....	4598	282.....	3114	27 CFR		119.....	3799
78.....	4599	Proposed Rules:		Proposed Rules:		36 CFR	
166.....	4889	Ch. I.....	4035	9.....	4036, 4350	Proposed Rules:	
308.....	3595	271.....	4154	178.....	4509	7.....	3285, 4511, 4784
318.....	3595	375.....	3128	270.....	3145	1190.....	4352
320.....	3595	382.....	3128	275.....	3145	37 CFR	
327.....	3595	19 CFR		28 CFR		Proposed Rules:	
381.....	3595	4.....	3602	16.....	3631	202.....	3146
10 CFR		20 CFR		64.....	4767	38 CFR	
20.....	4601	404.....	4001	551.....	3428	21.....	3428
50.....	3788	416.....	4001, 4282	29 CFR		Proposed Rules:	
Proposed Rules:		21 CFR		20.....	3772	3.....	3286
2.....	3442	74.....	3224	1600.....	4902	21.....	3288
50.....	3121, 3822	81.....	3224	1610.....	4902	39 CFR	
763.....	4151	176.....	3603	1691.....	4902	10.....	3225
12 CFR		177.....	4492	Proposed Rules:		111.....	4496
207.....	3217	207.....	4992	2200.....	4917	233.....	4496
220.....	3217	430.....	4610	30 CFR		40 CFR	
221.....	3217	436.....	4610, 4616	206.....	3796	52.....	3115-3117, 3226, 3430, 3640, 3644, 4288, 4292, 4619-4622, 4772, 4902
224.....	3217	449.....	4616	731.....	4244	60.....	4773
563.....	3207, 4891	455.....	4610	732.....	4244	62.....	3228
Proposed Rules:		524.....	4897	761.....	4244	65.....	3800
225.....	3447, 4629	558.....	4284, 4992	772.....	4244	81.....	3646, 3801
523.....	3450	1306.....	3604	773.....	4244	180.....	3916, 4292, 4905, 4906
545.....	3665	Proposed Rules:		779.....	4244	271.....	3651, 3652
563.....	3665, 3669	558.....	4822	780.....	4244	421.....	3230
564.....	3126	23 CFR		783.....	4244	712.....	4079
14 CFR		Proposed Rules:		784.....	4244, 4860	721.....	4079
21.....	3415	645.....	4349	817.....	4860	799.....	3230, 4622
25.....	3415	24 CFR		906.....	3632	Proposed Rules:	
39.....	3106-3111, 3415-3424, 3595, 3599, 3793, 3997- 3999, 4277-4280, 4604- 4607, 4764-4766, 4892	15.....	3794	2619.....	4617	52.....	3452, 3670, 4631, 4785, 4789, 4921
43.....	3380	17.....	3794	2676.....	4618	60.....	4994, 5065
61.....	4846	200.....	3606	Proposed Rules:		81.....	3452
71.....	3600, 4079, 4130, 4282, 4482, 4608, 4893	201.....	4493	202.....	4732	85.....	4512
73.....	4130, 4894, 4895	203.....	3606, 4138, 4493	206.....	4732	180.....	4356
91.....	3380	204.....	3606	902.....	4630	261.....	3748
95.....	4131	220.....	3606	906.....	3825	264.....	3748
97.....	3426, 4609	228.....	3606	914.....	4156	265.....	3748
121.....	3380	234.....	4138, 4493	935.....	3145, 4157	269.....	3748
127.....	3380	243.....	3794	31 CFR		270.....	3748
135.....	3380	250.....	3606	210.....	3917	271.....	3748
Proposed Rules:		251.....	3606	344.....	3115	421.....	4822
39.....	4021, 4914, 4915	255.....	3606	354.....	4495	41 CFR	
71.....	4348, 4629, 4916	510.....	3612, 4870	32 CFR		101-17.....	4293
75.....	4153	511.....	3794, 4870	166.....	3634	Proposed Rules:	
15 CFR		570.....	3612, 4870	706.....	4287, 4288, 4769	101-6.....	4631
303.....	3794	571.....	4897	Proposed Rules:		201-8.....	3671
374.....	3601	590.....	4870	557.....	3273	42 CFR	
375.....	3601	842.....	3794	33 CFR		405.....	4498
399.....	3601	905.....	4284	3.....	4771	409.....	4498
908.....	4896	942.....	3794	100.....	3798	410.....	4498
16 CFR		964.....	3794	117.....	3225, 3639, 4771	417.....	4498
13.....	3221, 3602	968.....	3794, 4284	165.....	3640, 3798	421.....	4498
Proposed Rules:		3280.....	4574	Proposed Rules:		431.....	4498
13.....	3252	3282.....	3794	95.....	4116	43 CFR	
17 CFR		Proposed Rules:		110.....	3284	Public Land Orders:	
Proposed Rules:		203.....	4507	165.....	4039	6637.....	3802
1.....	4154	905.....	4349	402.....	3826		
		968.....	4349				
		25 CFR					
		38.....	3428				

6638.....4774
6639.....4907

44 CFR

64.....3802
65.....3238, 3240
67.....3241, 4005

Proposed Rules:

67.....3289, 3828

45 CFR

96.....4624
1340.....3990

Proposed Rules:

205.....3146
689.....4158

46 CFR

502.....4140

Proposed Rules:

386.....4356
550.....4040

47 CFR

2.....4016
15.....4016
20.....4016
22.....4016
25.....4016, 4017
64.....3653
73.....3654, 3661, 3804, 3805,
4018, 4499, 4500
74.....3805
90.....3661, 4016, 4500
97.....3663, 4501

Proposed Rules:

Ch. I.....3672
22.....4360
65.....3828
69.....3672, 3829
73.....3674, 3678, 3830, 3831
90.....4041
94.....4161

48 CFR

204.....4318
252.....4318
725.....4144
728.....4144
732.....4144
733.....4144
752.....4144
1317.....3807
1352.....3807
2413.....3663
2433.....3663
2804.....4319
2807.....4319
2812.....4319

Proposed Rules:

9.....4082
15.....4084
31.....4084
45.....4086
52.....4082, 4084, 4086

49 CFR

171.....4824
172.....4824
571.....3244, 4774
1043.....3814
1050.....4626
1162.....4626
1201.....4321
1312.....3663, 4626

1313.....3663

Proposed Rules:

192.....4361
195.....4361
571.....3244
1135.....4790

50 CFR

17.....4907
611.....3248, 3916
642.....4019, 4627
651.....3250
652.....4019, 4020
661.....4146
663.....4910
672.....3916
675.....3916

Proposed Rules:

17.....5068
216.....4365
642.....4924
652.....4790

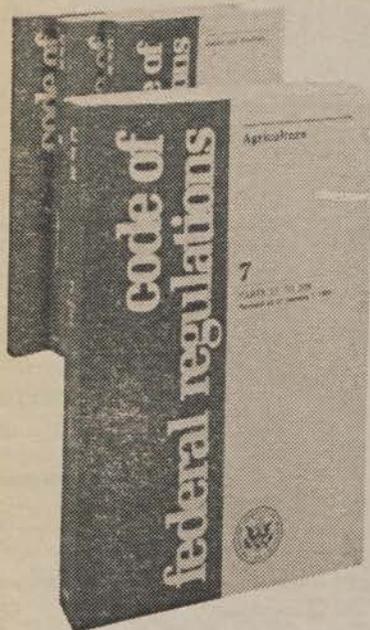
LIST OF PUBLIC LAWS**Last List February 13, 1987**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 102/Pub. L. 100-6

Making emergency additional funds available by transfer for the fiscal year ending September 30, 1987, for the Emergency Food and Shelter Program of the Federal Emergency Management Agency. (Feb. 12, 1987; 101 Stat. 92; 4 pages) Price: \$1.00

Just Released



Code of Federal Regulations

Revised as of October 1, 1986

Quantity	Volume	Price	Amount
_____	Title 45—Public Welfare (Parts 1-199) (Stock No. 822-007-00143-7)	\$13.00	\$ _____
		Total Order	\$ _____

A cumulative checklist of CFR issuances appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find \$ _____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.



Credit Card Orders Only

Total charges \$ _____ Fill in the boxes below.

Credit Card No.

Expiration Date
Month/Year

Charge to my Deposit Account No.

Order No. _____



Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City

State

ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		