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Wednesday
May 20, 1987

Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: June 9, at 9 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: Gertrude E. Belton, 202–523–5237

CHICAGO, IL

WHEN: July 8, at 9 a.m.
WHERE: Room 204A,
Everett McKinley Dirksen Federal Building,
219 S. Dearborn Street,
Chicago, IL.
RESERVATIONS: Call the Chicago Federal Information Center, 312–353–0339.

BOSTON, MA

WHEN: July 15, at 9 a.m.
WHERE: Main Auditorium, Federal Building,
10 Causeway Street,
Boston, MA.
RESERVATIONS: Call the Boston Federal Information Center, 617–565–8129

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service.
ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations established under the marketing order covering California-Arizona lemons to increase, from 250 to 350 cartons per week, the amount of organic lemons handlers may ship without regard to volume and size regulations under the order. The amendment recognizes additional opportunity to market organic lemons to organic or health food wholesalers and retailers.

EFFECTIVE DATE: May 20, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, 20250, telephone (202) 447-5697.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act", and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 85 handlers of California-Arizona lemons under the marketing order for lemons grown in California and Arizona will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. However, this rule will not have a significant effect on the vast majority of handlers subject to regulation because there are only 2 handlers who currently ship organic lemons. There are an estimated 2000-2500 lemon growers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those producers having average annual gross revenues for the last three years of less than $100,000, and agricultural service firms have been defined as those whose gross annual receipts are less than $3,500,000. The majority of growers and handlers of California-Arizona lemons may be classified as small entities.

This action was recommended by the Lemon Administrative Committee, the committee responsible for local administration of the marketing order, and has been implemented in previous seasons, but at a lower level of exempted shipments. This action will have a beneficial economic impact on small entities because it will relieve restrictions on handlers and provide them with increased marketing flexibilities. In addition, there are no additional reporting or recordkeeping requirements associated with this rule.

Based on the above, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Act. Interested persons were invited to submit comments on the proposed rule (52 FR 12537; April 17, 1987). No comments were received. This action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Section 910.80 of the order authorizes the committee, with the approval of the Secretary, to establish minimum quantities and types of shipments which shall be free from regulation under this order. Section 910.180(d)(3) of the rules and regulations prescribes procedures governing the exemption from volume and size regulations for organic lemons handled in minimum quantities. This amendment will increase to 350 cartons the amount of organic lemons handlers may ship each week to organic or health food wholesalers and retailers. Currently, handlers can ship up to 250 cartons of such lemons weekly (51 FR 39854; November 3, 1986). Handlers have indicated that organic fruit markets have absorbed this level of shipments and that additional marketing opportunity exists for organic lemons. This action is designed to facilitate the marketing of organic lemons and will provide increased flexibility in the scheduling of organic lemon shipments by those handlers currently utilizing this exemption.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers of organic lemons need to be allowed to fully utilize available marketing opportunities as soon as possible.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, Lemons, California, Arizona.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

Subpart—Lemon Administrative Committee Rules and Regulations

2. Section 910.180 is amended by revising the first sentence in paragraph (d)(3) to read as follows:

§ 910.180 Lemons not subject to regulation.

* * * * *

(d) * * *

(3) Any person may be granted an exemption of up to 350 cartons per week, or an equivalent amount thereof, to market or distribute organic lemons to organic or health food wholesalers and retailers. * * *

* * * * *

Dated: May 13, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87-11396 Filed 5-19-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-24-AD; Amdt. 39-5627]

Airworthiness Directives: Boeing Model 737-100 and 737-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of the Boeing model 737-100 and 737-200 series airplanes by individual telegrams. This AD requires inspections and repair, if necessary, for cracks in the front spar upper chord of the wing from the side of the body to front spar station 110 and from front spar station 195 to 206. This action is prompted by reports of cracks greater than two inches in length found in this area of the wing. This condition, if not corrected, could compromise the ultimate load capability of the wing.

DATES: Effective June 6, 1987. This AD was effective earlier to all recipients of telegraphic AD T87-05-52, dated March 11, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle Washington.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Hart, Jr., Airframe Branch, ANM-120S; telephone (206) 431-1920. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On March 11, 1987, the FAA issued Telegraphic AD T87-05-52, applicable to certain Boeing Model 737-100 and -200 series airplanes, which requires inspections and repair, if necessary, of the wing front spar upper chord in two areas. The specific areas to be inspected are bounded by the side of the body and front spar station (FSS) 110, and FSS 195 to FSS 206. Cracks have been reported in the wing front spar upper chord on four airplanes which had been modified to comply with the terminating action of AD 74-01-01, Amendment 39-2799. Cracks were found in the modified areas as well as beyond the modification area. The ultimate load capability of the wing is compromised if the cracks exceed two inches in length; since cracks greater than this were found, the FAA has determined that inspections and repair, if necessary, are required to ensure the airplanes operate at an acceptable level of safety.

It should be noted that AD 74-01-01 requires inspections of Boeing Model 737-100 and 737-200 series airplanes for cracks in areas between the aforementioned locations. Since cracks have been found in areas located beyond the area required to be inspected by AD 74-01-01, the FAA is considering further rulemaking to revise AD 74-01-01 to require additional inspections for all affected airplanes, including those incorporating the terminating modification described in Boeing Service Bulletin 737-57A1081, Revision 4.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the wing front spar upper chord as discussed above.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 29, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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.

2. By adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 737-100 and 737-200 series airplanes, delivered prior to November 1, 1972 (Line Number 310 and below), certificated in any category. Compliance required are indicated, unless previously accomplished.

To prevent structural degradation of the wing accomplish the following within 75 flight hours after receipt of this AD, unless accomplished within the last 1,000 flight hours:

A. Visually inspect for cracks the forward side of the wing front spar upper chord from the side of the body to front spar station (FSS) 110 and from FSS 195 to FSS 206, both left and right wings. Spar chords found cracked must be repaired prior to further flight in accordance with an FAA-approved method or in accordance with paragraph B., below.

B. If cracks less than two inches in length are found, stop drill prior to further flight in accordance with Boeing Service Bulletin 737-57-1081, Revision 9, or later FAA-approved revisions. Thereafter, reinspect daily, using eddy current or dye penetrant inspection methods. If crack growth is observed, or prior to the accumulation of an additional 400 hours time-in-service, whichever occurs first, repair in accordance with an FAA-approved method.

C. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety and

which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, 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 inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents 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 June 6, 1987, as to all persons, except those persons to whom it was made immediately effective by Telegraphic AD T87-05-52, issued March 11, 1987.

Issued in Seattle, Washington, on May 13, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-11437 Filed 5-19-97; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 86-AWP-18]

Alteration of VOR Federal Airway and Jet Routes—Nevada

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airway V-32 and Jet Routes J-32 and J-94 located in the vicinity of Lovelock, NV. The Lovelock very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been relocated and this action alters the descriptions of all airways and jet routes affected by this relocation.

EFFECTIVE DATE: 0901 UTC, July 30, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace 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) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 20, 1987, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign VOR Federal Airway V-32 and Jet Routes J-32 and J-94 located in the vicinity of Lovelock, NV (52 FR 8920). 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, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign VOR Federal Airway V-32 and Jet Routes J-32 and J-94 located in the vicinity of Lovelock, NV. The Lovelock VORTAC has been moved approximately 5 miles north of its current location to lat. 40°07'30"N., long. 118°34'35"W. Also, the centerline of J-32 and J-94 has been realigned to the north to provide additional separation from the Gabbs North MOA. This action increases safety.

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 Parts 71 and 75

Aviation safety, VOR Federal airways and Jet routes.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are 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. § 71.123 is amended as follows:

V-32 [Amended]

By removing the words "INT Lovelock 053° and Battle Mountain, NV, 264° radials" and substituting the words "INT Lovelock 057° and Battle Mountain, NV, 264° radials"

PART 75—[AMENDED]

3. The authority citation for Part 75 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.

§ 75.100 [Amended]

4. § 75.100 is amended as follows:

J-32 [Amended]

After "Mustang, NV;" insert "Lovelock, NV;"

J-94 [Amended]

After "Mustang, NV;" insert "Lovelock, NV;"

Issued in Washington, DC, on May 12, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-11434 Filed 5-19-87; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 300

[OST Docket No. 1; Amdt. 300-7]

Aviation Proceedings; Rules of Conduct in DOT Proceedings

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule broadens an existing exception to the prohibition of substantive communications between concerned DOT employees and interested persons regarding public proceedings, to make clear that it includes all communications with Executive departments and agencies in connection with the section 801 Presidential review process.

EFFECTIVE DATE: This rule is effective May 20, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel (C-20), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; (202) 366-9183.

SUPPLEMENTARY INFORMATION: Section 801 of the Federal Aviation Act (49 U.S.C. 1461) provides for Presidential review of DOT orders affecting carrier operating rights or prices in foreign air

transportation. The President may disapprove any such order for foreign relations or national defense reasons, within 60 days in the case of orders affecting carrier certificates or permits, and within 10 days in the case of orders affecting fares, rates or charges.

Executive orders implementing this review process have permitted federal departments and agencies to advise the President on the foreign relations and national defense implications of such orders. Executive Order 12547, issued February 6, 1986, assigned to the Department the function of transmitting its reviewable orders to certain specified Executive departments and agencies and soliciting their recommendations, if any, for transmittal to the President. If no agency or department recommended disapproval, or a statement of reasons for non-disapproval, the Order directed the Department to so indicate in a memorandum to the President through the Assistant to the President for National Security Affairs. If any such recommendations were received, the Department was to forward them to the Assistant to the President for National Security Affairs for his or her summary and recommendation to the President.

A new procedure was adopted by Executive Order 12597, of May 13, 1987 (52 FR 18335). By that Order the President authorized the Secretary to receive reviewable DOT orders on his behalf, and delegated to her the exercise of his statutory review authority in the case of orders which elicit no written recommendations from the coordinating Executive departments and agencies within specified response periods. In such cases, the Secretary may determine not to disapprove the order and issue it for immediate effectiveness. Where written recommendations are received, the existing procedure is to be followed.

In a companion rule, the Secretary's review authority is delegated to the General Counsel.

This rule broadens an existing exception to the prohibition of substantive communications "between any concerned DOT employee and any interested person outside DOT, concerning a public proceeding" in § 300.2 of this Part to make clear that communications with Executive departments and agencies provided for by Executive Order in connection with the section 801 Presidential review process are not prohibited or restricted in hearing as well as nonhearing cases. Specifically, it amends paragraph (e) of § 300.2 expressly to permit communications on national defense or foreign policy matters in hearing cases, if the communicator's position cannot otherwise be fairly presented. Such communications are not included as part of the hearing record.

The explicit exception provided for herein is for certification only. It is not intended to narrow the current scope of paragraph (e). Nor does it imply that the coordinating departments and agencies are "interested persons" within the rule, or that such communications are not otherwise exempt because they take place "after final disposition of the proceeding" or because they are "as provided by Federal statute". In this instance, an amendment appears preferable to an interpretive rule.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in less than thirty days after publication in the **Federal Register**. This rule is a nonsignificant rule under the Department of Transportation's Regulatory Policies and Procedures.

List of Subjects in 14 CFR Part 300

Prohibited communications (exceptions).

As Secretary of the Department of Transportation, I amend 14 CFR Part 300, *Rules of Conduct in DOT Proceedings* under this Chapter, as follows:

PART 300—[AMENDED]

1. The authority of Part 300 continues to read as follows:

Authority: 49 U.S.C. 1324, 1371–1389, 1471, 1473, 1481, 1482 and 1487; 18 U.S.C. 20(b)(c); 49 U.S.C. Subtitle 1.

2. Revise paragraph (e) of § 300.2 to read as follows:

§ 300.2 Prohibited communications.

* * * * *

(e) *National defense and foreign policy.* In nonhearing cases, paragraph (a) of this section shall not apply to communications concerning national defense or foreign policy matters, including international aviation matters. In hearing cases, any communications on those subjects that would be barred by paragraph (a) of this section are permitted if the communicator's position with respect thereto cannot otherwise be fairly presented, but such communications shall not be included as part of the record on which decisions must be made.

* * * * *

Issued in Washington, DC, on May 13, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87–11519 Filed 5–19–87; 8:45 am]

BILLING CODE 4910–62–M

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14 CFR Part 385

[OST Docket No. 1; Amdt. 385–3]

Aviation Proceedings; Staff Assignments and Review of Action Under Assignments

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This rule assigns to the Chief, Coordination Section, Documentary Services Division, the authority to perform the coordination functions assigned to the Department by Executive orders establishing procedures for Presidential review of certain Departmental decisions.

EFFECTIVE DATE: This rule is effective May 20, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel (C–20), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–9183.

SUPPLEMENTARY INFORMATION: Section 801 of the Federal Aviation Act (49 U.S.C. 1461) provides for Presidential review of DOT decisions affecting carrier operating rights or prices in foreign air transportation. The President may disapprove any such order for foreign relations or national defense reasons, within 60 days in the case of orders affecting carrier certificates or permits, and within 10 days in the case of orders affecting fares, rates or charges.

Executive Order 12597, issued May 13, 1987 (52 FR 18335) assigned to the Department various coordination functions incident to the exercise of that authority, including the transmittal of the Department's decisions to specified Executive departments and agencies, the receipt of the decisions on behalf of the President, the receipt and implementation of classification determinations under Executive Order 12356, the receipt of clearances or written recommendations to the President from the coordinating departments and agencies, and the timely transmittal of any such written recommendations to the Assistant to the President for National Security Affairs for further action. In the case of decisions which elicit no written recommendations to the President,

Executive Order 12597 delegates to the Secretary the authority to exercise the President's authority to determine not to disapprove them and to issue such decisions for immediate effectiveness. In a companion rule, the Secretary's review authority is delegated to the General Counsel.

This rule assigns the authority to perform all coordination functions incident to the section 801 review process, except the authority to act for the President delegated to the Secretary as indicated above, to the Chief, Coordination Section, Documentary Services Division.

In a companion final rule, the Department is amending its Rules of Conduct in DOT proceedings, 14 CFR Part 300, to make clear that all communications incident to the section 801 review process are exempted from the prohibitions and restrictions contained in that part, and are consistent with the rules on Employee Responsibilities and Conduct in 49 CFR Part 99.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in less than thirty days after publication in the **Federal Register.** This rule is a nonsignificant rule under the Department of Transportation's Regulatory Policies and Procedures.

List of Subjects in 14 CFR Part 385

Assignments of functions to staff members.

As Secretary of the Department of Transportation, I amend 14 CFR Part 385, *Staff Assignments and Review of Action under Assignments,* as follows:

PART 385—[AMENDED]

1. The authority of Part 385 continues to read as follows:

Authority: 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377 and 1386.

2. Add a new § 385.21 to read as follows:

§ 385.21 Authority of the Chief, Coordination Section, Documentary Services Division.

The Chief, Coordination Section, Documentary Services Division, has the authority to coordinate and perform all administrative functions of the Department provided for in sections 2, 3 and 5 of Executive Order 12597 issued May 13, 1987, except that this delegation shall not include the exercise of the authority delegated by the President to the Secretary by sections 2 and 5 of that Order to determine not to disapprove orders of the Department in certain cases.

Issued in Washington, DC, on May 13, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87-11518 Filed 5-19-87; 8:45 am]

BILLING CODE 4910-62-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1206

Availability of Agency Records to Members of the Public

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule with comments requested.

SUMMARY: This action implements certain provisions regarding fees of the Freedom of Information Reform Act (FOIA) of 1986 (Pub. L. 99-570). The Freedom of Information Reform Act permits agencies to charge for the direct costs of providing FOIA services such as search, duplication, and in certain cases, review. NASA interprets this "direct cost" provision to mean the actual costs incurred in operating its FOIA program.

NASA invites interested parties to provide comments on this proposal.

DATE: Comments must be submitted in writing on or before June 19, 1987. Unless a notice is published in the **Federal Register** indicating changes to be made, this interim regulation shall take effect as a final regulation July 15, 1987.

ADDRESS: Freedom of Information Act Officer, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Patricia M. Riep, 202-453-8346, or Teresa Stremel, 202-453-2465.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1206

Freedom of Information, Information.

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

For reasons set out in the Preamble, 14 CFR Part 1206 is amended as follows:

1. The authority citation for 14 CFR Part 1206 is revised to read as follows:

Authority: Sec. 203, National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473 and 5 U.S.C. 552 as amended by Pub. L. 93-504, 88 Stat. 1561, Pub. L. 99-507; the Privacy Act of 1974 (5 U.S.C. 552a).

2. The table of contents for Subpart 7 is revised to read as follows:

Subpart 7—Search and Duplication Fees

Sec.

3. Section 1206.101 is amended by adding paragraphs (g) through (o) to read as follows:

§ 1206.101 Definitions.

* * * * *

(g) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency to set the level of fees for particular types of records in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

(h) The term "direct costs" means those expenditures which NASA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to an FOIA request. District costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not

included in direct costs are overhead expenses such as costs of space and heating or lighting the facility in which the records are stored.

(i) The term "search" includes all time spent looking or material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. NASA will ensure that searching for material is done in the most efficient, least expensive manner so as to minimize costs for both the agency and the requester and will only utilize line-by-line, page-by-page search when consistent with this policy. "Search" should be distinguished, however, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (k) of this section). Searches may be done manually or by computer using existing programming.

(j) The term "duplication" refers to the process of making a copy of a document necessary to respond to an FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others.

(k) The term "review" refers to the process of examining documents located in response to a commercial use request (see paragraph (l) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(l) The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, NASA will look first to the use to which requester will put the documents requested. Where NASA has reasonable cause to doubt the use to which a requester will put the records sought or where that use is not clear from the request itself, NASA will seek additional clarification before assigning the request to a specific category.

(m) The Term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(n) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (l) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(o) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to published or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals [but only in those instances when they can qualify as disseminators of "news"] who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as nontraditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. NASA will consider such factors as a publication contract and the requester's past publication record in making this determination.

4. Section 1206.601(c) is revised to read as follows:

§ 1206.601 Mail requests.

* * * * *

(c) If a fee is chargeable under Subpart 7 of this part for search or duplication costs incurred in connection with a request for an agency record, and the requester knows the amount of the fee at the time of the request, the request should be accompanied by a check or money order payable in that amount to the "National Aeronautics and Space Administration." Cash or stamps should not be sent by mail. If the amount of the fee chargeable is not known at the time of the request, the requester will be notified in the initial determination (or in a final determination) of the amount of the fee chargeable (see § 1206.608(c)). For circumstances in which advance payment of fees is required, see § 1206.704.

* * * * *

5. Section 1206.603 is amended by revising paragraph (c) to read as follows:

§ 1206.603 Procedures and time limits for initial determination.

* * * * *

(c) If it is determined that the requested record (or portions thereof) will be made available and the fee chargeable is $250.00 or less, a copy of the record requested (or portions thereof) shall be sent to the requester with the initial determination or, if that is not feasible, promptly after the initial determination is made. The amount to be charged and the fact that interest will be charged from the 31st day after the date of the response, shall be stated in the response. If the fee chargeable exceeds $250.00, the requester will be informed of the fee in the initial determination, and the requested record will be sent to the requester promptly upon receipt of the required fee.

* * * * *

6. Subpart 7 is revised to read as follows:

Subpart 7—Search and Duplication Fees

§ 1206.700 Schedule of fees.

The fees specified in this section shall be charged for searching for, reviewing, and/or duplicating an agency record made available in response to a request under this part.

(a) *Copies.* For copies of documents such as letters, memoranda, statements, reports, contracts, etc., $0.10 per copy of each page. For copies of oversize documents, such as maps, charts, blueprints, etc., $0.15 for each reproduced copy per square foot. These charges for copies include the time spent in duplicating the documents. For copies of still photographs, videotapes, etc., the fee charged will reflect the full direct cost to NASA of reproducing or copying the record.

(b) *Clerical searches.* For each one quarter hour spent by clerical personnel in searching for an agency record in response to a request under this part, $2.25.

(c) *Nonroutine, nonclerical searches.* Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the

requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent by such higher level personnel in searching for a requested record, $4.50.

(d) *Computerized records.* Because of the diversity in the types and configurations of computers which may be required in responding to requests for agency records maintained in whole or in part in computerized form, it is not feasible to establish a uniform schedule of fees for search and printout of such records. In most instances, records maintained in computer data banks are available also in printed form and the standard fees specified in paragraph (a) of this section shall apply. If the request for an agency record required to be made available under this part requires a computerized search or printout, the charge for the time of personnel involved shall be at the rates specified in paragraphs (b)(and (c) of this section. The charge for the computer time involved and for any special supplies or materials used, shall not exceed the direct cost to NASA. This charge may be as high as $125.00 per quarter hour. Before any computer search or printout is undertaken in response to a request for an agency record, the requester shall be notified of the applicable unit costs involved and the total estimated cost of the search and/or printout.

(e) *Other search and duplication costs.* Reasonable standard fees, other than as specified in paragraphs (a) through (f) of this section, may be charged for additional direct costs incurred in searching for or duplicating an agency record in response to a request under this part. Charges which may be made under this paragraph include, but are not limited to, the transportation of NASA personnel to places of record storage for search purposes or freight charges for transporting records to the personnel searching for or duplicating a requested record.

(f) *Charges for special services.* Complying with requests for special services such as those listed in (f) (1) and (2) of this section is entirely at the discretion of NASA. Neither the FOIA nor its fee structure cover these kinds of services. To the extent that NASA elects to provide the following services, it will levy a charge equivalent to the full cost of the service provided:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail, etc.

(g) *Unsuccessful or unproductive searches.* Search charges, as set forth in paragraphs (b) and (c) of this section, may be made even when an agency record which has been requested cannot be identified or located after a diligent search and consultation with a professional NASA employee familiar with the subject area of the request, or if located, cannot be made available under Subpart 3 of this part. Ordinarily, however, fees will not be charged in such instances unless they are substantial (over $50.000) and the requester has consented to the search after having been advised that it cannot be determined in advance whether any records exist which can be made available (see § 1206.704) and that search fees will be charged even if no record can be located and made available.

(h) *Review of records.* For commercial use requests only, where time is spent reviewing to determine whether they are exempt from mandatory disclosure, a charge may be made at the rate for each one quarter hour spent by an attorney, $5.50. No charge shall be made for the time spent in resolving general legal or policy issues regarding the application of exemptions. This charge will only be assessed the first time NASA reviews a record and not at the administrative appeal level.

(i) *Fees not chargeable.* (1) NASA will not charge for the first 100 pages of duplication and the first 2 hours of search time (meaning manual search) except to requesters seeking documents for commercial use.

(2) If the cost to be billed to the requester is equal to or less than $5.00, no charges will be billed.

§ 1206.701 Categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and noncommercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When NASA receives a request for documents appearing to be for commercial use, it will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Moreover, in the case of such a request, NASA will not consider a request for waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of documents.

(b) *Educational and Noncommercial Scientific Institution Requesters.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not being sought for a commercial use, but are being sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a noncommercial scientific institution) research. Requesters eligible for free search must reasonably describe the records sought.

(c) *Requesters who are Representatives of the News Media.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 1206.101(a) of this part, and his/her request must not be made for a commercial use. Requesters eligible for free search must reasonably describe the records sought.

(d) *All Other Requesters.* NASA shall charge requesters who do not fit into any of the categories mentioned in this section, fees which recover the full direct reasonable cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first 2 hours of search time shall be furnished without charge. Moreover, requests from record subjects for records about themselves filed in NASA's systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permits fees only for reproduction. Requesters must reasonably describe the records sought.

§ 1206.702 Waiver or reduction of fees.

(a) NASA shall furnish documents without charge or at reduced charges in accordance with 5 U.S.C. 552(a)(4)(A)(iii), provided that: (1) Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and (2) is not primarily in the commercial interest of the requester.

(b) Where these two statutory

requirements are satisfied, based upon information supplied by the requester or otherwise made known to NASA, the FOIA fee shall be waived or reduced. Where one or both of these requirements is not satisfied, a fee waiver or reduction is not warranted under the statute.

(c) In determining whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the following considerations shall be applied:

(1) Whether the subject of the requested records concerns "the operations or activities of the government";

(2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) Whether disclosure of the requested information will contribute to "public understanding"; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(d) In determining whether disclosure of the information "is not primarily in the commercial interest of the requester," the following considerations shall be applied:

(1) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so,

(2) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

§ 1206.703 Aggregation of requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When NASA has reason to believe that a requester or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NASA will aggregate any such requests and charge accordingly. NASA will consider that multiple requests made within a 30-day period were so intended, unless there is evidence to the contrary. Where the relevant time period exceeds 30 days, NASA will not assume such a motive, unless there is evidence to the contrary. In no case will NASA aggregate multiple requests on unrelated subjects from one requester.

§ 1206.704 Advance payments.

(a) Where NASA estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250.00, NASA will require a requester to make an advance payment of the entire fee before continuing to process the request.

(b) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), NASA will require the requester to pay the full amount owed plus any applicable interest as provided in § 1206.706(a) and to make an advance payment of the full amount of the estimated fee before NASA begins to process a new request or a pending request from that requester.

(c) When NASA acts under paragraphs (a) or (b) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after NASA has received fee payments described in §§ 1206.705 and 1206.706.

§ 1206.705 Form of payment.

Payment by mail shall be made by check or money order payable to the "National Aeronautics and Space Administration" and sent to the NASA office which processed the request.

§ 1206.706 Nonpayment of fees.

(a) *Interest to be charged.* Requesters are advised that should they fail to pay the fees assessed, they may be charged interest on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C.

(b) *Applicability of Debt Collection Act of 1982 (Pub. L. 97–365).* Requesters are advised that if full payment is not received within 60 days after the billing was sent, the procedures of the Debt Collection Act may be invoked (14 CFR 1261.400 through 1261.407). These procedures include three written demand letters at not more than 30-day intervals, disclosure to a consumer reporting agency, and the use of a collection agency where appropriate.

James C. Fletcher,

Administrator.

[FR Doc. 87–11255 Filed 5–19–87; 8:45 am]

BILLING CODE 7510-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 15 and 16

Filing of Delivery Notice Information; Reporting of Transfer and Other Trades by Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting final amendments to § 1.42, 17 CFR 1.42(1986), § 16.00(a), 17 CFR 16.00(a) (1986) and § 15.03(a), 17 CFR 15.03(a) (1986), of its regulations as part of its continuing efforts to reduce unnecessary paperwork and reporting burdens on its regulated entities. As part of its ongoing review of various reporting requirements, the Commission has determined that it is no longer necessary to have certain data reported to the Commission daily by contract markets. In this regard the Commission has determined that the filing of notices of delivery under § 1.42 will be required only in response to a special call to a contract market. Under this regulation, as amended, the Commission will be able to analyze delivery notice data for selected contracts on selected exchanges, as needed. In the case of transfer trades, the Commission has determined that the routine filing of such information under § 16.00(a) will be discontinued. Contract markets, however, are still required to maintain records of transfer trades pursuant to Commission §§ 1.35 and 1.38.

With respect to § 15.03(a), the Commission has reviewed the data it currently receives for market surveillance from members of contract markets, futures commission merchants (FCMs), foreign brokers and individual traders. For a number of markets it has found that the growth in trading volume, open interest, and account size of individual traders enables the Commission to carry out its market surveillance program with fewer reports. Accordingly, the Commission has adopted amendments to its reporting regulations under the Commodity Exchange Act, as amended ("Act"), to raise position levels in certain commodities for which forms 103 and 40 must be filed by traders and series '01 reports and Form 102s must be filed by members of contract markets, FCMs and foreign brokers.

DATE: These rules shall be effective June 19, 1987.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Mr. John Mielke, Associate Director, Division of Economic Analysis at the above address. Telephone: (202) 254–3310.

SUPPLEMENTARY INFORMATION: Commission §§ 1.42 and 16.00(a), respectively, require all contract markets to file reports of delivery notices and transfer trades. These data periodically are needed by the Commission for market surveillance, regulatory analysis or investigative purposes. After re-evaluating its current use of these data, however, the Commission has determined that the frequency of their use no longer justifies a requirement that all exchanges submit or cause to be submitted daily reports of delivery notices and transfer trades for each of their contracts. The Commission believes that it can use these data more efficiently through specific requests or special calls to exchanges only for those contracts regarding which a study or investigation is being conducted or the data are needed routinely. Contract markets need not otherwise be burdened with filing such data. The Commission, for similar reasons, is also raising the position levels in certain commodities for which daily reports are filed by members of contract markets, FCM's, foreign brokers and traders.

The Commission for good cause finds that the notice and public comment procedure for amending the above reporting rules is unneccessary. 5 U.S.C. 533(b). The amendments to these reporting rules are routine determinations, and in this particular instance are insignificant in nature and impact. As a result, these amendments are inconsequential to the industry and public. The Commission requires reports of delivery notices, transfer traders and traders' futures positions to carry-out certain provisions of the Commodity Exchange Act ("Act"), as amended. As noted below, the Commission has determined that the routine reporting of certain of the information collected under §§ 1.42, 16.00(a)(3) and 15.03(a) is no longer necessary for these purposes. In this respect, eliminating the routine filing of delivery notice information and transfer trades and the increase in reporting levels for certain commodities reduce an existing reporting burden. Moreover, the information required under §§ 1.42 and 16.00(a)(3) is available on call, so that the Commission will retain access to that portion of the information which may be needed for enforcement of the Act. With respect to reporting levels, the Commission reviews such levels on a routine basis to ensure that the reporting burdens are in the public interest. Accordingly, the Commission is adopting the amendments to §§ 1.42, 15.03 and 16.00 effective June 19, 1987.

I. Amendments to § 1.42—Delivery Notice, Filing of Copy

Section 1.42 of the Commission's regulations currently requires each contract market to furnish or cause to be furnished to the Commission a copy of each delivery notice issued by any member for any futures or option contract of the contract market. Exchanges comply with this requirement in a variety of ways. Some exchanges require their clearing members to provide copies of delivery notices and/or invoices directly to the Commission. Other exchanges directly provide the notices or substitute summary schedules of this information.

Delivery notices provide valuable information for some markets. An analysis of these notices can yield information on the location of deliveries, the quality or type of commodity being delivered, and changes in the ownership of that commodity through consecutive deliveries. While this information can be very valuable for some markets, for others, or at certain times, it provides little useful information. As amended, § 1.42 requires contract markets to file delivery notices with the Commission only in response to a special call from the Commission or its designee. The Commission plans routinely to collect delivery notices for a few of the more than 100 futures and option contracts that currently are being traded. These special calls will be limited to specified contracts on markets for which the Commission's surveillance staff routinely analyzes the information obtained from delivery notices. Other contract markets may be subject to special calls for delivery notices if analyses are needed, for example, to study the relative frequency with which certain grades of a commodity are delivered or certain delivery points or facilities are used. By limiting the filing of delivery notices to special calls, the reporting burden will be reduced significantly for all contract markets and for the members of those contract markets.

II. Amendment to Part 16—Reports by Contract Markets

Section 16.00 requires each contract market to file daily reports with the Commission, both in hard copy and in machine-readable form, of data separately for each clearing member and for each of its futures and option contracts. These data include total positions, trades, deliveries, transfer trades, and exchanges of futures for physical commodities. Most of this information is used daily in the Commission's market surveillance program and is vital to the effectiveness of that program. However, a review of this requirement revealed that only infrequent use is being made of the data provided on transfer trades. A transfer trade assigns positions that are open on the books of one clearing member to another clearing member but involves no change in beneficial ownership of the positions. Furthermore, some exchanges provide this information on transfer trades in distinct reports as opposed to part of a consolidated report. Given the infrequent use of these data, the Commission has determined that the daily reporting requirement found in § 16.00(a)(3) is no longer justified. Accordingly, the Commission is deleting that paragraph.

Data on transfer trades are of value in certain investigations which may from time to time be conducted by the Commission or by contract markets. Sections 1.35(e) of the Commission's regulations requires contract markets to maintain records regarding transfer trades and § 1.38(b) requires persons handling transfer trades appropriately to mark and identify such trades. Consequently, the Commission reminds contract markets to continue collecting these data. The deletion of current § 16.00(a)(3) simply relieves exchanges of the responsibility to report all transfer trades to the Commission on a daily basis. Similarly, other existing recordkeeping requirements for office trades will remain in effect.

III. Amendments to § 15.03(a)—Quantities Fixed for Reporting

Reporting levels are set in commodities to ensure that the Commission receives adequate information to carry out its market surveillance programs, which include detection and prevention of market congestion and price manipulation and enforcement of speculative limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants and other matters of public and/or Congressional concern.

Generally, Parts 17 and 18 of the regulations require reports from members of contract markets, FCMs or foreign brokers and traders, respectively, when a trader holds a "reportable position," i.e. any open

position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03(a) of the regulations. See § 15.00(b) 17 CFR 15.00(b) (1986).

Members of contract markets, FCMs and foreign brokers who carry accounts in which there are "reportable positions" of traders are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a Form 103 showing positions and transactions in the commodity specified in the call.

The Commission has determined that the growth in trading volume, open interest, and position sizes of individual traders in certain markets enables the Commission to maintain effective surveillance of those markets with fewer reports from members of contract markets, FCMs, foreign brokers and the trading public. Accordingly, as part of its ongoing efforts to reduce reporting burdens, where possible, the Commission has determined that reporting levels should be raised for the following commodities:

Crude Oil from 100 contracts to 200 contracts; No. 2 Heating Oil from 75 contracts to 150 contracts; Unleaded Gasoline from 25 contracts to 100 contracts and three-month Eurodollar time deposit rates from 200 contracts to 400 contracts.[1]

IV. Other Related Issues

The Regulatory Flexibility Act

As the Commission has not published a prior general notice of proposed rulemaking with respect to these amendments which are relief measures, the amendments are not "rules" as that term is defined in section 3(a) of the Regulatory Flexibility Act ("RFA"), Pub. L. 96-354, 94 Stat. 1165 (5 U.S.C. 601(2)).[2]

[1] The Commission is also amending § 15.03(a) by deleting specific reference to commodities for which all contract markets are now dormant. These are silver coins and leaded gasoline.

[2] That section defines the term "rules" as "any rule for which the agency publishes a general notice of propose rulemaking pursuant to section 553(b) of this title. . . ."

V. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, Pub. L. 96-511, 94 Stat. 2812 et seq. ("PRA"), imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by PRA 44 U.S.C. 3501 et seq. OMB control number 3038-0009 has previously been assigned to §§ 16.00 and 15.03(a) and 3038-0018 to § 1.42. In compliance with the PRA the Commission has submitted this final rule and its associated information collection requirement to the Office of Management and Budget. Copies of the information collection submission to OMB are available from Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254-9735.

List of Subjects

17 CFR Part 1

General regulations.

17 CFR Part 15

Reports—General provisions.

17 CFR Part 16

Reports by contract markets.

In consideration of the foregoing, the Commission is amending Parts 1, 15 and 16 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 12a, 13a, 13a-1, 19, and 21, unless otherwise noted.

2. Section 1.42 is amended by revising paragraph (a) to read as follows:

§ 1.42 Delivery notice: filing of copy.

(a) Upon special call from the Commission or its designee, each contract market shall furnish or cause to be furnished promptly to the Commission for the futures or option contracts specified in the call a copy of each notice of delivery issued by any member thereof subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made. For the purposes of this paragraph the Commission hereby delegates to the Director of the Division of Economic Analysis, or to such other person designated by the Director, authority to issue calls for information contained in this section.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

3. The authority citation for Part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, (a)-(d), 6f, 6g, 6i, 6k, 6m, 6n 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b) unless otherwise noted.

4. Section 15.03(a) is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybean (bushels)	500,000
Oats (bushels)	300,000
Cotton (bales)	5,000
Soybean oil (contracts)	150
Soybean meal (contracts)	150
Live cattle (contracts)	100
Hogs (contracts)	50
Sugar No. 11 (contracts)	200
Sugar No. 12 (contracts)	100
Copper (contracts)	200
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 Heating oil (contracts)	150
Crude oil (contracts)	200
Unleaded gasoline (contracts)	100
Long-term U.S. Treasury bonds (contracts)	500
GNMA (contracts)	100
Three-month (13-week) U.S. Treasury bills (contracts)	100
Long-term U.S. Treasury notes (contracts)	200
Domestic certificates of deposit (contracts)	50
Three-month Eurodollar time deposit rates (contracts	400
Foreign currencies (contracts)	200
Standard and Poor's 500 stock price index (contracts)	300
New York Stock Exchange composite index (contracts)	100
Amex Major Market stock index (contracts)	100
Amex Major Market index-maxi (contracts)	50
Municipal bonds (contracts)	50
Value Line Average index (contracts)	100
All other commodities (contracts)	25

PART 16—REPORTS BY CONTRACT MARKETS

5. The authority citation for Part 16 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6c(a)-(d), 6f, 6g, 6k, 6m, 6n, 7, 12a, 19 and 21; 5 U.S.C. 552 and 552 (b) unless otherwise noted.

§ 16.00 [Amended]

6. Section 16.00 is amended by removing and reserving paragraph (a)(3).

Dated: May 13, 1987.

Jean Anderson Webb,

Secretary to the Commission.

[FR Doc. 87-11355 Filed 5-19-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 87N-0143]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Editorial Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is correcting a printer's error in § 172.210(b)(4) (21 CFR 172.210(b)(4)). This document corrects the word "or" in the phrase "Calcium salt or partially dimerized rosin" to the word "of".

DATES: Effective May 20, 1987; written objections by June 19, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The agency is amending 21 CFR 172.210(b)(4) by correcting the word "or" in the phrase "Calcium salt or partially dimerized rosin" to the word "of"

Any person who will be adversely affected by this regulation may at any time on or before June 19, 1987 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual infomation intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the dockets number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 172 continues to read as follows:

Authority: Secs. 201(s) 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

§ 172.210 [Amended]

2. Section 172.210 *Coatings on fresh citrus fruit* is amended in the table under "Component" in paragraph (b)(4) by correcting the word "or" in the phrase "Calcium salt or partially dimerized rosin" to the word "of".

Dated: May 11, 1987

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-11448 Filed 5-19-87; 8:45 am]

BILLING CODE 4160-01-M

POSTAL SERVICE

39 CFR Parts 224, 225, 916, and 963

Addition to Judicial Officer's Authority

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule transfers responsibility for proceedings under the pandering advertisements statute from Postal Service Regional Counsel to the Judicial Officer. It replaces the Regional Counsel's existing rules of practice for these proceedings with new rules of practice issued by the Judicial Officer. This transfer is based on a policy determination that the Judicial Officer should be responsible for administrative adjudications whenever possible. The transfer also permits Regional Counsel to concentrate more on the demands of the core of their practice having to do with contracts and real property matters.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: John Ventresco, (202) 268-3085.

SUPPLEMENTARY INFORMATION: Under section 3008 of title 39, United States Code, any recipient of a mailed advertisement who considers the matter the advertisement offers for sale to be "erotically arousing or sexually provocative" may request the Postal Service to issue a prohibitory order against the mailer of the advertisement. The order prohibits the mailer from, among other things, making any further mailings whatsoever to the addressee. If the Postal Service believes such an order has been violated, it issues a complaint and provides the mailer an opportunity to respond and request a hearing. Section 3008 provides that the Administrative Procedure Act (subchapter II of chapter 5, and chapter 7 of title 5, U.S.C.) does not apply as this procedure is intended to be more informal.

In accordance with the rules of practice in 39 CFR Part 916, Regional Counsel have been conducting the administrative hearings. However, as the Judicial Officer is the Postal Service official having responsibility for administrative adjudications under most other postal laws, the Postal Service has decided to add section 3008 proceedings to this responsibility. Title 39, CFR 224.1(c)(4)(ii)(A), the regulation defining the Judicial Officer's authority, is being amended to include section 3008 matters. New rules of practice adopted by the Judicial Officer replace the rules now codified as 39 CFR Part 916. The new rules are designated 39 CFR Part 963. Title 39, CFR 225.9(b)9, defining Regional Counsel's authority, is being amended to reflect the change in responsibility from that of conducting hearings to that of acting as Postal Service counsel as directed by the General Counsel. Accordingly, 39 CFR is hereby amended as follows:

List of Subjects in 39 CFR Parts 224, 225, 916, and 963

Organization and functions (Government agencies), Administrative practice and procedure, Pandering advertisements, Postal Service.

PART 224—[AMENDED]

1. The authority citation for Part 224 continues to read as follows:

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404, and 409.

§ 224.1 [Amended]

2. In § 224.1, paragraph (c)(4)(ii)(A) is amended by removing the words "and 3007 of Title 39," and adding, in their place, the words "3007, and 3008 of Title 39,".

PART 225—[AMENDED]

3. The authority citation for Part 225 continues to read as follows:

Authority: 39 U.S.C. 201, 401, 402, 403, 404.

4. In § 225.9, paragraph (b)(9) is revised to read as follows:

§ 225.9 Regional Counsel, Law Division.

* * * * *

(b) * * *

(9) As directed by the General Counsel, represents the Postal Service in proceedings under 39 CFR Part 963, relative to alleged violations of the pandering advertisements statute, 39 U.S.C. 3008.

PART 916—[REMOVED AND RESERVED]

5. Part 916 is removed and reserved.

6. New Part 963 is added to read as follows:

PART 963—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO VIOLATIONS UNDER 39 U.S.C. 3008.

Sec.

Authority: 39 U.S.C. 204, 401, 3008.

§ 963.1 Authority for the rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General (39 CFR 224.1(c)(4).

§ 963.2 Scope of the rules.

These rules of practice are applicable to cases in which a Field Division General Manager/Postmaster (hereinafter, "Postmaster") has issued a complaint, pursuant to 39 U.S.C. 3008(d), alleging violation of a prohibitory order, and in which the alleged violator has petitioned for a hearing in the matter. As provided in 39 U.S.C. 3008(h), Subchapter II of Chapter 5 (relating to administrative procedure) and Chapter 7 (relating to judicial review) of Part I of Title 5, U.S.C., do not apply to the hearings authorized by 39 U.S.C. 3008(d).

§ 963.3 Petition; notice of hearing; answer; filing and copies of documents; summary judgment.

(a) *Petition.* Anyone against whom a complaint has been issued pursuant to 39 U.S.C 3008(d) may submit to the Postmaster a petition for hearing on the alleged violation. The petition must be in writing, signed by the petitioner or his attorney, and filed with the Postmaster on or before the 15th day after receipt of the complaint. The petition shall state the reasons why the petitioner believes the complaint to be erroneous. No petition received after the 15th day will be considered to have been filed on time, unless it was duly sent to the Postmater via certified mail, deposited in the U.S. mail on or before the 15th day. The Postmaster will forward each timely petition to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, DC 20260–6101.

(b) *Notice of hearing.* Upon receiving a petition, the Recorder shall schedule a hearing for a date not later than 30 days after the date of receipt, issue and send a notice of hearing to the parties, and send a copy of the petition to the General Counsel of the U.S. Postal Service.

(c) *Answer.* The General Counsel shall file with the Recorder an answer to the petition within 15 days after the date of receiving a copy thereof. A certified copy of the material documents from the Postmaster's case file (i.e., of the PS Forms 2150, *Notice for Prohibitory Order Against Sender of Pandering Advertisement in the Mails*, 2152, *Prohibitory Order*, and 2153, *Complaint*, underlying mail pieces, and pertinent return receipts) shall be appended to the answer.

(d) *Filing and copies of documents.* With the exception of the initial petition, all documents shall be filed with the Recorder in triplicate at the address set forth above. The Recorder shall promptly provide copies to the other party to the proceeding and to the presiding officer.

(e) *Summary Judgment.* Upon motion of either the General Counsel or the petitioner, or on his or her own initiative, the presiding officer may find that the petition and answer present no genuine and material issues of fact requiring an evidentiary hearing, and thereupon may render an initial decision upholding or dismissing the complaint. The initial decision shall become the final agency decision if a timely appeal is not taken.

§ 963.4 Presiding Officer.

(a) The presiding officer shall be an Administrative Law Judge or an Administrative Judge qualified in accordance with law. The Judicial Officer assigns cases under this part. Judicial Officer includes Associate Judicial Officer upon delegation thereto. The Judicial Officer may, on his own initiative or for good cause found, preside at the reception of evidence.

(b) The presiding officer has authority to:

(1) Take such action as may be necessary properly to preside over the proceeding and render decision therein;

(2) Render an initial decision, if the presiding officer is not the Judicial Officer, which becomes the final agency decision unless a timely appeal is taken; the Judicial Officer may issue a tentative or a final decision.

§ 963.5 Appearances.

(a) *Petitioner.* A petitioner may appear and be heard in person or by attorney. An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter). When a petitioner is represented by an attorney, all pleadings and other papers to be served on petitioner after entry of the attorney's appearance shall be mailed to the attorney. A petitioner must promptly file notice of any change of attorney.

(b) *Postal Service.* The Postal Service will be represented by its General Counsel or any attorney designated by the General Counsel.

§ 963.6 Computation of time.

A designated period of time under these rules means calendar days, excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which case the period runs until the close of business on the next business day.

§ 963.7 Location of hearing.

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

§ 963.8 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the

notice. The party shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify;

(c) The reasons why such evidence cannot be produced at Washington, DC. The presiding officer shall consider the convenience and necessity of the parties and the relevance of the evidence to be offered.

§ 963.9 Election as to hearing.

If both parties elect, an oral hearing may be waived and the matter submitted for decision on the basis of the petition and answer, and of any documentary evidence or briefs requested by the presiding Officer. The written election to waive oral hearing must be received by the Recorder no later than 10 days prior to the scheduled hearing date.

§ 963.10 Continuances and extensions.

Continuances and extensions will be granted by the presiding officer for good cause shown.

§ 963.11 Default.

If a petitioner, without notice or cause satisfactory to the presiding officer, fails to appear at the hearing or comply with any of the provisions of these rules or an order issued by the presiding officer, the petitioner may be deemed to have abandoned his petition and to have acquiesced in the allegations of the complaint. The presiding officer thereupon may find the petitioner to be in default and refer the matter to the Judicial Officer for dismissal of the petition.

§ 963.12 Settlement agreements.

These rules do not preclude the disposition of any matter by agreement between the parties at any stage of the proceeding.

§ 963.13 Subpoenas and witness fees not authorized.

The Postal Service is not authorized to issue subpoenas requiring the attendance or testimony of witnesses, nor to pay fees and expenses for a petitioner's witnesses or for depositions requested by a petitioner.

§ 963.14 Discovery.

Discovery is to be conducted on a voluntary basis to the extent possible. The presiding officer may, upon application of either party, order such discovery as he deems reasonable and necessary. Discovery may include one or more of the following: production of documents, requests for admissions, interrogatories, depositions, and witness lists. The presiding officer will establish the terms upon which requested discovery will be allowed.

§ 963.15 Evidence.

(a) In general, admissibility will hinge on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(b) Testimony shall be given under oath or affirmation and witnesses are subject to cross-examination.

(c) Agreed statements of fact are encouraged and may be received in evidence.

§ 963.16 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer otherwise orders. Transcripts or copies of the proceedings are supplied to the parties at such rate as may be fixed by contract between the reporter and Postal Service. Any party desiring a copy of the transcript shall order it from the contract reporter in a timely manner to avoid delay in filing briefs.

§ 963.17 Proposed findings of fact and conclusions of law.

(a) Each party who participates in the hearing may, unless the presiding officer orders otherwise, submit proposed findings of fact, conclusions of law, orders, and supporting reasons, either in writing or orally at the discretion of the presiding officer. Unless given orally, the date set for filing of proposed findings of fact, conclusions of law, orders, and supporting reasons shall be within 15 days after the delivery of the official transcript to the Recorder, who shall notify both parties of the date of its receipt. The filing date for proposed findings of fact, conclusions of law, orders, and supporting reasons shall be the same for both parties. If not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be stated separately.

§ 963.18 Initial decision.

Unless given orally at the conclusion of the hearing, the presiding officer shall render an initial decision as expeditiously as practicable following the conclusion of the hearing and the receipt of the proposed findings and conclusion, if any. The initial decision becomes the final agency decision if a timely appeal is not taken.

§ 963.19 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 15 days after receipt of the initial or tentative decision unless additional time is granted. A reply brief may be filed within 15 days after the receipt of the appeal brief by the opposing party. The Judicial Officer has all powers of a presiding officer and is authorized to decide all issues de novo.

§ 963.20 Final agency decision.

The Judicial Officer, or by delegation the Associate Judicial Officer, renders the final agency decision which will be served upon the parties. If the decision is that the Postal Service's prohibitory order was violated, the Recorder shall provide a certified copy of the record to the General Counsel for use in seeking court enforcement of the order.

§ 963.21 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding constitute the official record of the proceeding.

§ 963.22 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initital, tentative, and final agency decisions and orders. The Recorder maintains the complete official record of every proceeding.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-11489 Filed 5-19-87; 8:45 am]

BILLING CODE 7710-12-M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Levels for Individuals Eligible for Legal Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule; Revised Appendix.

SUMMARY: The Legal Services Corporation is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual

amendments to the official Federal Poverty Income Guidelines as defined by the Department of Health and Human Services .

EFFECTIVE DATE: May 20, 1987.

FOR FURTHER INFORMATION CONTACT: Timothy B. Shea, General Counsel, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024–2751; (202) 863–1823.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2), of the Legal Services Corporation Act, 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that income shall be taken into account along with other specified factors. Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one-hundred and twenty-five percent (125%) of the official Federal Poverty Income Guidelines as defined by the Office of Management and Budget. Responsibility for revision of the official Federal Poverty Income Guidelines was shifted in 1982 from the Office of Management and Budget to the Department of Health and Human Services. The revised figures for 1987 equivalent to 125% of the current official Federal Poverty Income Guidelines as set out at 52 FR 5341 (Feb. 20, 1987) are set forth below:

List of Subjects in 45 CFR Part 1611

Legal services, Eligibility.

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Sec. 1006(b)(1), 1007(a)(1), 1007(a)(2) Legal Services Corporation Act of 1974, as amended, 42 U.S.C. 2996(e)(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

Appendix A of Part 1611—Legal Services Corporation Poverty Guideline

Size of family unit	All States but Hawaii and Alaska [1]	Alaska [2]	Hawaii [3]
1	6,875	8,575	7,887
2	9,250	11,550	10,625
3	11,625	14,525	13,362
4	14,000	17,500	16,100
5	16,375	20,475	18,837
6	18,750	23,450	21,575
7	21,125	26,425	24,312
8	23,500	29,400	27,050

[1] For family units with more than eight members, add 2,375 for each additional member in a family.

[2] For family units with more than eight members, add 2,975 for each additional member in a family.

[3] For family units with more than eight members, add 2,737 for each additional member in a family.

Dated: May 15, 1987.

Timothy B. Shea,

General Counsel.

[FR Doc. 87–11559 Filed 5–19–87; 8:45 am]

BILLING CODE 6820–35–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–269; Rm–5319]

Radio Broadcasting Services; Lafayette, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 260A to Lafayette, Florida, at the request of Family Group Broadcasting, as the community's first FM service. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987. The window period for filing applications will open on June 30, 1987, and close on July 29, 1987.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–269, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, in the entry for Florida, Lafayette, Channel 260A, is added.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–11500 Filed 5–19–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–186; RM–5063]

Radio Broadcasting Services; Greenwood, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 294A to Greenwood, Indiana as that community's first FM channel in response to a petition filed by Morgan County Broadcasters Inc.

With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987. The window period for filing applications will open on June 30, 1987, and close on July 29, 1987.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–186, adopted March 27, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended by adding the entry of Channel 294A to Greenwood, Indiana.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-11502 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-371; RM-5350]

Radio Broadcasting Services; Georgetown, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 293C2 for Channel 292A at Georgetown, South Carolina, at the request of Seacoast Broadcasting Corp. and modifies its license for Station WAZX(FM) to specify operation on the higher powered channel. Channel 293C2 can be allocated to Georgetown in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-371, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202(b) [Amended]

2. Section 73.202(b), the Table of FM Allotments for Georgetown, South Carolina is amended by adding Channel 293C2 and deleting Channel 292A.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-11501 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-307; RM-4910]

Television Broadcasting Services; Salem, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 58 to Salem, Indiana as that community's first television channel at the request of J.R. Broadcasting. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-307, adopted March 27, 1987, and released May 15, 1987. The full text of this Commission decision is availalbe for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Allotments in the entry for Salem, Indiana, Channel 58+ is added.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-11512 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-276; RM-5326]

Television Broadcasting Services; Palestine, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 43 to Palestine, Texas, as that community's first commercial television service, at the request of Jeffery L. Ward. A site restriction of 12.4 miles north of the community is required. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-276, adopted April 17, 1987, and released May 15, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Allotments, is amended by adding Channel 43 at Palestine, Texas.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-11511 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-99; RM-5100]

Television Broadcasting Services; Sulphur Springs, TX and Lake Charles, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF-TV Channel 18 to Sulphur Springs, Texas, as that community's first commercial television service, at the request of Harold Hardgrave. In addition, the offset on Channel 18 at Lake Charles, Louisiana must be changed from "zero" to "minus" in order to accomplish the Sulphur Springs allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 29, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-99, adopted April 17, 1987, and released May 15, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Allotments, is amended under Louisiana, by revising Channel *18 to *18- for Lake Charles and by adding in the entry for Texas, Channel 18 at Sulphur Springs.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-11513 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 85-196; FCC-87-158]

Amendment of the Amateur Radio Service Rules To Permit Volunteer-Examiner Coordinators (VECs) To Maintain Pools of Questions for Amateur Operator Examinations; Action on Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The attached Memorandum Opinion and Order requires that all VEC's maintain the existing examination questions until January 30, 1988, and develop common question pools for use on and after that date. This action is necessary so that there will be examination standardization during the transition period while maintenance of the question pools is being transferred from the FCC to VECs. The effect of this action is to assure fairness in the examination process for all examinees.

EFFECTIVE DATE: July 21, 1987.

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

SUPPLEMENTARY INFORMATION: This a summary of the Commission's Memorandum Opinion and Order, adopted April 29, 1987 and released May 14, 1987.

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

Summary of Memorandum Opinion and Order

2. In responding to Petitions for Reconsideration from American Radio Relay League, Inc. (ARRL), Arthur H. Ekblad and Lyndell C. Miller (Miller), the FCC clarified the matter of standardization of amateur operator license examinations. The FCC ordered VECs to maintain the existing examination questions until January 30, 1988. During the interim period, which runs from the adoption of this Memorandum Opinion and Order until January 30, 1988, the VECs must develop common question pools which must be used beginning on the latter date. Petitioners ARRL, Gordon G. Girton, Frederick O. Malia, Miller and David B. Popkin had made other requests concerning the telegraph requirement, the topics covered on the written examinations, review of administering VEC's judgment in determining the correctness of the examinee's answers and readministration of the same telegraphy message or the same question set to the same person. These requests in their Petitions for Reconsideration were denied.

3. It is ordered that Part 97 is amended as set forth at the end of this document. It is further ordered that all VEC's must maintain the existing examination questions until January 30, 1988, without change except for necessary typographical or grammatical corrections and for question revisions required by amendments to FCC rules. It is further ordered that, during the interim period which runs from the adoption of this Memorandum Opinion and Order until January 30, 1988, the VECs must develop common question pools which must be used beginning on the latter date. It is further ordered that the Petitions for Reconsideration are granted insofar as they are consistent with this Memorandum Opinion and Order and are denied in all other respects. It is further ordered that this proceeding is terminated.

4. The authority for this action is contained in 47 U.S.C. 154 (i) and 303 (r).

List of Subjects in 47 CFR Part 97

Amateur radio, Examinations, Radio.

William J. Tricarico,

Secretary.

Amended rule

PART 97—[AMENDED]

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended, as follows:

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

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

2. Section 97.521 is revised to read, as follows:

§ 97.521 VEC question pools.

All VECs must cooperate in maintaining one standard question pool for each written examination element. Each standard question pool must contain at least ten times the number of questions required for a single examination. See § 97.21. No question in a question set may be used for a written examination in an examination session coordinated by any VEC unless it appears on the standard question pool. The standard question pools must be published and made available to the public prior to their use for making question sets.

[FR Doc. 87-11495 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-217]

Aviation Proceedings; Organization and Delegation of Powers and Duties

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final Rule.

SUMMARY: This rule delegates to the General Counsel the authority of the Secretary to exercise, in certain cases, the President's statutory authority to review and determine not to disapprove orders of the Department in foreign air transportation.

EFFECTIVE DATE: This rule is effective [May 20, 1987].

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel (C-20), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; (202) 366-9183.

SUPPLEMENTARY INFORMATION: Section 801 of the Federal Aviation Act (49 U.S.C. 1461) provides for Presidential review of DOT orders affecting carrier operating rights or prices in foreign air transportation. The President may disapprove any such order for foreign relations or national defense reasons, within 60 days in the case of orders affecting carrier certificates or permits, and within 10 days in the case of orders affecting fares, rates or charges.

Executive orders implementing this review process have permitted federal departments and agencies to advise the President on the foreign relations and national defense implications of such DOT orders. Executive Order 12547, issued February 6, 1986, assigned to the Department the function of transmitting its reviewable orders to certain specified Executive departments and agencies and soliciting their recommendations, if any, for transmittal to the President. If no agency or department recommended disapproval, or a statement of reasons for non-disapproval, the Order directed the Department to so indicate in a memorandum to the President through the Assistant to the President for National Security Affairs. If any such recommendations were received, the Department was to forward them to the Assistant to the President for National Security Affairs for his or her summary and recommendation to the President.

A new procedure was adopted by Executive Order 12597, of May 13, 1987 (52 FR 18335). By that Order the President authorized the Secretary to receive reviewable DOT orders on his behalf and delegated to her the exercise of his statutory review authority in the case of orders which elicit no written recommendations from the coordinating Executive departments and agencies within specified response periods. In such cases, the Secretary may determine not to disapprove the order and issue it for immediate effectiveness. Where written recommendations are received, the existing procedure is to be followed.

This rule delegates the Secretary's new authority to act for the President to the General Counsel, including the acting General Counsel in his or her absence. The Office of the General Counsel is vested with the responsibility for administering the current Executive Order and receiving recommendations from other agencies under that Order. Thus, the General Counsel will, in the future, be able to determine the effective date of orders subject to the 801 review process where no written recommendations are received from other agencies. Under §§ 1.43 and 1.55 of this Part, the Secretary or the Deputy Secretary may exercise the authority delegated herein.

Since this amendment relates to Departmental management, procedures, and practices, notice and comment on it are unnecessary and it may be made effective in less than thirty days after publication in the **Federal Register.** This rule is a nonsignificant rule under the Department of Transportation's Regulatory Policies and Procedures.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies).

As Secretary of the Department of Transportation, I amend 49 CFR Part 1 *Organization and Delegation of Powers and Duties*, to read as follows:

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322, 1652 and 1657(e)

§ 1.57 [Amended]

2. In paragraph 1.57, *Delegations to General Counsel*, a new paragraph (r) is added at the end thereof, to read as follows:

(r) Exercise the review authority delegated to the Secretary by the President in Executive Order 12597 of May 13, 1987.

Issued in Washington, DC, on May 13, 1987

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87-11520 Filed 5-19-87; 8:45 am]

BILLING CODE 4910-62-M

Proposed Rules

Federal Register
Vol. 52, No. 97
Wednesday, May 20, 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

Agricultural Stabilization and Conservation Service

7 CFR Parts 725 and 726

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations at 7 CFR Parts 725 and 726 with respect to the flue-cured and burley tobacco. The rule redefines the term "leaf account" and provides that a tobacco dealer, warehouseman, or other person who acquires tobacco from a processor or manufacturer and wishes purchase credit for such tobacco for a leaf account must obtain from the processor or manufacturer a certification stating that the tobacco is in the form normally marketed by producers. This rule provides that no purchase credit will be allowed for tobacco acquired by any person from a processor or manufacturer which is (1) in the form not normally marketed by producers and (2) blended with tobacco in the form normally marketed by producers and such action causes the warehousemen or dealers resales to exceed purchases. A marketing penalty will be due on the excess resales resulting from this action. The proposed rule also provides that processors and manufacturers shall report to the Director of Tobacco and Peanuts Division, ASCS, all sales of tobacco to dealers and warehousemen that is in the form not normally marketed by producers.

DATE: Comments on the proposed rule must be received by June 19, 1987.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this notice will be made available for public inspection in room 5750-South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Raymond S. Fleming, Chief, Tobacco Program Adjustment Branch, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 (202) 447–4318.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 29, 1983).

Background

A by-product that results from processing tobacco prior to the redrying of the tobacco is the accumulation of inferior quality leaves, bits of leaves and scraps of tobacco. This low value tobacco is generally referred to in the tobacco trade as "pickings". Since pickings result from the processing of tobacco, such tobacco is considered to be tobacco in the form not normally marketed by producers. The annual volume of pickings is estimated at 5 million pounds. Historically, pickings have been utilized directly in the manufacture of tobacco products. A recent audit by the Department concluded that some dealers and warehousemen may be acquiring low cost pickings for the express purpose of blending it with unidentified tobacco so as to avoid the payment of marketing quota penalties with respect to the sale of the unidentified tobacco. The audit presented evidence to show that pickings were acquired by some dealers and destroyed shortly thereafter yet the dealers' resales were as much as their purchases indicating that other tobacco was being substituted for the pickings.

The intent of this regulation is to close the outlet for unidentified tobacco provided by the acquisition of pickings or any other tobacco in the form not normally marketed by producers. This regulation would not prohibit the blending of low cost pickings with other tobacco but it would deny purchase credit to a dealer or warehouseman when such tobacco is acquired from a processor or manfacturer.

The current regulations which deal with the marketing of tobacco in the form not normally marketed by producers are not adequate to close the outlet for unidentified tobacco where pickings are involved. The current regulations require any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers to report the intended purchase of such tobacco to the respective State ASCS office so that an ASCS representative can determine the marketable value of the tobacco and whether the tobacco is in the form normally marketed by producers. If it is determined by an ASCS representative that the tobacco is not in the form normally marketed by producers, the dealer or warehouseman must provide an opportunity for an ASCS representative to observe the disposition or blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been notified timely is considered to have been substituted for excess tobacco, and a penalty at the full rate is due on each pound of such tobacco.

This proposed rule defines pickings as the residue of tobacco which accumulates in the course of processing tobacco prior to being redried.

consisting of scrap, stems, portions of leaves and leaves of poor quality. Such tobacco is considered to be tobacco in the form not normally marketed by producers and no purchase credit will be allowed for such tobacco when acquired by any person from a processor or manufacturer. Furthermore, no dealer, warehouseman, or other person will receive a purchase credit for any purchase from a processor or manufacturer unless the processor or manufacturer certifies that the tobacco involved in the purchase is tobacco in the form normally marketed by producers. The certification by the processor or manfacturer will be a certification to ASCS that the acquired tobacco is in the form normally marketed by producers.

List of Subjects in 7 CFR Parts 725 and 726

Acreage allotment, Marketing quota, Reporting and recordkeeping requirements.

Proposed Rule

For the reasons set forth in the preamble, Chapter VII, Title 7 of the CFR is amended as follows.

PART 725—[AMENDED]

1. In Part 725:

a. The authority citation continues to read as follows:

Authority: Sec. 301, 313, 314, 314A, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 215, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b, 1314b–1, 1314c 1363, 1372–75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 725.51 is amended by revising paragraph (s) and adding paragraph (oo-1) to read:

§ 725.51 Definitions.

* * * * *

(s) *Leaf account tobacco.* The quantity of tobacco purchased or otherwise acquired by or for the amount of a warehouseman (except floor sweepings which accumulate on the warehouse floor and tobacco in the form not normally marketed by producers), as adjusted by the debits and credits to the buyer's correction account, and including floor sweepings purchased from another warehouseman or dealer.

* * * * *

(oo-1) *Tobacco pickings.* The residue which accumulates in the course of processing tobacco prior to the redrying of such tobacco, consisting of scrap, stems, portions of leaves, and leaves of poor quality. Such tobacco shall be considered to be tobacco in the form not normally marketed by producers.

* * * * *

c. Section 725.94 is amended by revising paragraph (c) and adding paragraph (i) to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers and others excluding producer.

* * * * *

(c) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketings shall be considered to be a marketing of excess tobacco unless such warehouseman furnishes evidence acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State committee shall not be based on the warehouseman's proof of purchase of tobacco that is not in the form normally marketed by producers even though such evidence indicates that resales exceed prior leaf account purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the warehouseman's prior purchases of leaf account tobacco.

* * * * *

(i) *Blending tobacco not in the form normally marketed by producers.* Tobacco purchased from processors or manufacturers that is considered not in the form normally marketed by producers that is blended with tobacco in the from normally marketed by producers shall not be credited as a purchase to the dealer's or warehouseman's account by the State committee when reconciling the warehouseman's leaf account or the purchases and resales. Tobacco not in the form normally marketed by producers that is blended with other tobacco shall be deemed to be excess tobacco and a penalty shall be due on the pounds of tobacco by which warehouseman's or dealer's resales exceed prior purchases.

§ 725.100 [Amended]

d. Section 725.100 is amended by removing paragraph (g).

e. Section 725.101 is amended by revising paragraphs (b) and (c) to read:

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

* * * * *

(b) *Purchase from processor or manufacturer.* (1) Any tobacco purchased by a dealer, warehouseman, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to ASCS that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouseman, or other person of MQ–79, Dealer's Record, for any purchase of tobacco which is in the form not normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(2) Any dealer, warehouseman or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall, prior to purchase, report such plans to the State ASCS office issuing form MQ–79, Dealer Record Book, to such person. Such report shall be made timely so that a representative of ASCS may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers. Any tobacco purchased from processors or manufacturers before (i) such plans are reported to the State ASCS office and (ii) the tobacco is inspected by an ASCS representative or an inspection is declined by an ASCS representative shall be deemed to be excess tobacco and a penalty at the rate provided in § 725.92 shall be due.

(c) *Report by processor and manufacturer.* For the 1987–88 and subsequent marketing years, each processor or manufacturer shall make a report to the Director that shows the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processors or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold and shall show the name of the purchaser, the date of the sale and the pounds sold.

PART 726—[AMENDED]

2. In Part 726:

a. The authority citation continues to read as follows:

Authority: Sec. 301, 313, 314, 314A, 316B, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96

Stat. 215, 210, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b–2, 1314c 1363, 1372–75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 726.51 is amended by revising paragraph (r) and adding paragraph (nn–1) to read:

§ 726.51 Definitions.

* * * * *

(r) *Leaf account tobacco.* The quantity of tobacco purchased or otherwise acquired by or for the account of a warehouseman (except floor sweepings which accumulate on the warehouse floor and tobacco in the form not normally marketed by producers), as adjusted by the debits and credits to the buyers correction account, and including floor sweepings purchased from another warehouseman or dealer.

* * * * *

(nn–1) *Tobacco pickings.* The residue which accumulates in the course of processing tobacco prior to the redrying of such tobacco, consisting of scrap, stems, portions of leaves, and leaves of poor quality. Such tobacco shall be considered to be tobacco in the form not normally marketed by producers.

* * * * *

c. Section 726.88 is amended by revising paragraph (c) and adding paragraph (i) to read as follows:

§ 726.88 Penalties considered to be due from warehousemen, dealers, buyers and others excluding producer.

* * * * *

(c) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketings shall be considered to be a marketing of excess tobacco unless such warehouseman furnishes evidence acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State committee shall not be based on the warehouseman's proof of purchase of tobacco that is not in the form normally marketed by producers even though such evidence indicates that resales exceed prior leaf account purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the warehouseman's prior purchases of leaf account tobacco.

* * * * *

(i) *Blending tobacco not in the form normally marketed by producers.* Tobacco purchased from processors or manufacturers that is considered not in the form normally marketed by producers, which is blended with tobacco in the form normally marketed by producers, shall not be credited as a purchase to the dealer's or warehouseman's account by the State committee when reconciling the warehouseman's leaf account or the dealer's purchases and resales. Tobacco not in the form normally marketed by producers that is blended with other tobacco shall be deemed to be excess tobacco and a penalty shall be due on the pounds of tobacco that a warehouseman's or dealer's resales exceeds prior purchases.

d. Section 726.94 is amended by revising paragraph (e) (2) and (3), adding (e) (4) and removing paragraph (h), to read:

§ 726.94 Dealer's records and reports.

* * * * *

(e)(1) * * *

(2) *Purchase from processor or manufacturer.* Any tobacco purchased by a dealer, warehouseman, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to ASCS that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouseman, or other person on MQ–79, Dealer's Record, for any purchase of tobacco which is in the form not normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(3) *Certification.* Any dealer, warehouseman or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing form MQ–79, Dealer Record Book, to such person. Such report shall be made timely so that a representative of ASCS may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers.

Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative or an inspection is declined by an ASCS representative shall be deemed to be excess tobacco and the penalty at the full rate shall be due.

(4) *Report of processor or manufacturer.* For the 1987–88 and subsequent marketing years, each processor or manufacturer shall make a report to the Director, showing the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processors or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold and shall show the name of the purchaser, the date of the sale and the pounds sold.

* * * * *

(h) [Removed]

Signed in Washington, DC, on May 14, 1987.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87–11529 Filed 5–19–87; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ACE–1]

Proposed Alteration of VOR Federal Airways—MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to alter the description of Federal Airways V–12, V–44 and V–504 located in the vicinity of Jefferson City, MO. The Jefferson City very high frequency omni-directional radio range and distance measuring equipment (VOR/DME) will be decommissoned and the Tiger, MO, VOR/DME will be relocated to the Columbia Regional Airport, MO. This action alters the descriptions of all airways affected by the decommissioning and relocation of these navigational aids (NAVAID).

DATE: Comments must be received on or before July 6, 1987.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 87–ACE–1, Federal Aviation Administration 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and

5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace 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) 267-9250.

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 in triplicate 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. 87-ACE-1." 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 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 in the Rules Docket 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, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. 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 the Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions, in part, of V-12, V-44 and V-504 located in the vicinity of Jefferson City, MO. The Jefferson City VOR/DME will be decommissioned during fiscal year 1987. In addition, Tiger, MO, VOR/DME will be relocated to the Columbia Regional Airport, MO, (lat. 38°48'38" N., 92°13'05" W.) due to nonrenewal of the lease. This action alters the descriptions of all airways affected by the decommissioning and relocation of the these NAVAID's. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C date January 2, 1987.

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 Polices and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so miminal. 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, VOR Federal airways.

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.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-12 [Amended]

By removing the words "TIGER, MO; Foristell, MO;" and by substituting the words "INT Napolean 096°T(088°M) and Columbia, MO, 292°T (292°M) radials; Columbia; Foristell, MO;"

V-44 [Amended]

By removing the words "From Jefferson City, MO, via Foristell, MO;" and by substituting the words "From Columbia, MO; INT Columbia 131°T(128°M) and Foristell, MO, 262°T(257°M) radials; Foristell;"

V-504 [Removed]

3. § 71.203 is amended as follows:

Columbia, MO [Added]

Issued in Washington, DC, on May 12, 1987.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 87-11435 Filed 5-19-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 102 and 161

[Docket No. 84N-0081]

Bonito and Canned Tuna; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of amending the U.S. standard of identity for canned tuna and for establishing a U.S. standard of identity for canned bonito, based on the Codex Alimentarius Commission Standard for Canned Tuna and Bonito in Water or Oil (Codex Standard No. CAC/RS70-1974) (Codex standard) because there is neither sufficient interest nor need to warrant either action.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1984 (49 FR 16807), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability of and need to amend the U.S. standard for canned tuna (21 CFR

161.190) and to establish a U.S. standard for canned bonito. The Codex standard was submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission.

Three comments were received in response to the advance notice of proposed rulemaking. None of the comments were in favor of adopting the Codex standard for canned tuna or of establishing a standard of identify for canned bonito.

Having considered the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant amending the U.S. standard of identity for canned tuna to adopt the Codex standard, nor to establish a U.S. standard of identity for canned bonito at this time, under authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of amending the U.S. standard for canned tuna and of establishing a U.S. standard for canned bonito based on the Codex standard. This action is without prejudice to further consideration of amending the standard for tuna or of developing a standard for canned bonito upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may mover freely in interstgate commerce in this country, provided that it complies with applicable U.S. laws and regulations.

Dated: May 11, 1987

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-11449 Filed 5-19-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 103 and 165

[Docket No. 82N-0319]

Nonalcoholic Beverages; Proposal To Repeal Standard of Identity for Soda Water

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to repeal the standard of identity for soda water and is inviting comments regarding this proposed action. FDA is issuing this proposal in conjunction with its proposal, published elsewhere in this issue of the **Federal Register**, to codify a prior sanction for the use of added caffeine in nonalcoholic carbonated beverages.

DATE: Comments by July 20, 1987.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James F. Lin, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0122.

SUPPLEMENTARY INFORMATION: FDA is proposing to repeal the standard of identity for soda water, which appears at 21 CFR 165.175, and is inviting comments regarding the need to retain this standard. Consistent with the proposed repeal of this standard, FDA is also proposing to delete the reference to the soda water standard that appears in the standard of quality for bottled water in 21 CFR 103.35(a).

Elsewhere in this issue of the **Federal Register**, FDA is proposing to codify a prior sanction for the use of caffeine in nonalcoholic carbonated beverages at a level of not more than 0.02 percent. The reasons for that action are set forth in the preamble to that document. In view of the proceeding to codify the prior sanction, FDA believes that the limit of 0.02 percent of caffeine in the standard of identity for soda water would be duplicative and, therefore, would be unnecessary.

The standard of identity for soda water, established in the **Federal Register** of January 27, 1966 (31 FR 1066), specifies, among other things, that (1) products described by names that include "cola" or "pepper" "* * * shall contain caffeine from kola nut extract and/or other natural caffeine-containing extracts"; (2) the total caffeine content in the finished food shall not exceed 0.02 percent by weight; and (3) soda water may contain any safe and suitable optional ingredient, except that vitamins, minerals, and proteins added for nutritional purposes and artificial sweeteners are not suitable ingredients.

FDA believes that it is both timely and sensible to propose to remove the standard of identity for soda water because some provisions of the standard are being adequately dealt with by other regulations, while other provisions are no longer necessary. The proposed regulation to codify the prior-sanctioned use of added caffeine in nonalcoholic carbonated beverages would specify the same maximum level of use, 0.02 percent, as that established by the standard of identify. FDA's finding in § 165.175 that vitamins, minerals, and proteins are unsuitable ingredients in carbonated beverages is also set forth in the nutritional fortification policy statement (21 CFR 104.20). Finally, the statement in the soda water standard regarding artificially sweetened carbonated beverage products is outdated. For some time, the agency has considered artificially sweetened carbonated beverage products to be nonstandardized foods.

On October 21, 1980 (45 FR 69816), FDA proposed to amend the standard of identity for soda water (1) to designate kola nut extract, rather than caffeine, as the mandatory ingredient in "cola-" and "pepper-" type beverages; (2) to provide for decaffeinated "cola" or "pepper" soda water beverages under the standard of identity; and (3) to continue to permit the use of added caffeine in these beverages as an optional ingredient. If FDA repeals the soda water standard, as it is now proposing to do, the October 21, 1980, proposed amendment to the soda water standard will be withdrawn.

Economic Impact

The proposed rule to appeal the soda water standard, if promulgated, would make mandatory the label declaration of all ingredients used, including caffeine, in nonalcoholic carbonated beverages. Currently, cola- and pepper-type beverages are the only soda water beverages allowed by this standard of identity to exclude caffeine from the label. Because manufacturers of cola- and pepper-type beverages have voluntarily disclosed the presence of caffeine on the label, a final rule based on this proposal would require no changes in current industry labeling practices of both small and large entities. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

Request for Comments

Interested persons may, on or before July 20, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 103

Beverages, Food standards.

21 CFR Part 165

Beverages, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that Parts 103 and 165 be amended as follows:

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

1. The authority citation for 21 CFR Part 103 is revised to read as follows:

Authority: Secs. 401, 403, 701, 52 Stat. 1046–1048 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 343, 371); 21 CFR 5.10.

2. Section 103.35 is amended in paragraph (a)(1) by revising the second sentence to read as follows:

§ 103.35 Bottled water.

(a) * * * (1) * * * Bottled water does not include mineral water or any beverage made by absorbing carbon dioxide in potable water.

* * * * *

PART 165—[REMOVED]

3. Part 165, consisting of Subpart A, which is reserved, and Subpart B, which consists of § 165.175 *Soda water*, is removed.

Dated: April 17, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–11450 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 181

[Docket No. 82N–0318]

Caffeine in Nonalcoholic Carbonated Beverages

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to codify a prior sanction for the use of added caffeine in nonalcoholic carbonated beverages. This action is based on a review of comments on the question of whether there is a prior sanction for this use. The agency received these comments in response to a proposal, published in the **Federal Register** of October 21, 1980, to delete caffeine from the list of substances that are generally recognized as safe (GRAS). Elsewhere in this issue of the **Federal Register**, FDA is proposing to repeal the food standard for soda water.

DATE: Comments by July 20, 1987.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION:

I. Introduction

Caffeine has been widely consumed for many years, both as a naturally occurring component of coffee, tea, and chocolate and as an added ingredient in colas, pepper drinks, and other soda water beverages. Despite caffeine's well-known stimulant properties, FDA has listed its use in cola-type beverages as GRAS (21 CFR 182.1180) and has permitted its use in soda water (21 CFR 165.175) up to a maximum of 0.02 percent by weight.

Since 1970, FDA has been conducting a comprehensive review of the safety of those human food ingredients that are currently listed as GRAS or subject to a prior sanction. As a result of its review of caffeine, FDA published a proposal in the **Federal Register** of October 21, 1980 (45 FR 69817), to delete caffeine from the GRAS list, to declare that no prior sanction exists for the use of caffeine as an added food ingredient, and to list caffeine as an interim food additive. The proposed interim food additive regulation would have permitted current food uses of added caffeine pending the completion of studies considered necessary by FDA to resolve questions about caffeine's safety.

The agency stated in the proposal that any person who wished to assert a prior sanction for added caffeine should submit proof of the existence of the prior sanction in response to the proposal. The proposal stated that if FDA received acceptable evidence of a prior sanction, or became otherwise convinced that a prior sanction exists, the agency would propose to recognize the prior-sanction use and would exclude that use from the coverage of the interim food additive regulation.

II. Prior Sanction

Section 201(s)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s)(4)) exempts from the definition of a food additive "any substance used in accordance with a sanction or approval granted" under the act, the Meat Inspection Act, or the Poultry Products Inspection Act before the enactment of the Food Additives Amendment of 1958. This type of sanction or approval is generally referred to as a "prior sanction." Neither the act nor its legislative history defines the term "prior sanction." However, FDA has adopted a regulation (21 CFR 170.3(l)) that defines this term as "an explicit approval granted with respect to use of a substance in food prior to September 6, 1958 * * *" under any of the three statutes listed above. Another FDA regulation (21 CFR 181.5(a)) states that a prior sanction "shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval * * *."

The "explicit approval" required to establish a prior sanction may be either formal or informal. In the event that a formal approval, such as a food standard regulation promulgated under the act before 1958, does not exist, the agency recognizes that correspondence issued by authorized agency officials can constitute an informal prior sanction. As stated in the October 21, 1980, proposal, FDA searched its correspondence files for letters that might constitute a prior sanction for the use of caffeine in food before issuing that proposal, and, based on the letters that it could locate, the agency tentatively determined that a prior sanction did not exist.

III. Comments on Prior Sanction Issue

FDA received six comments on the prior sanction issue. Two comments (one each from a consumer group and a public interest group) stated their belief that no prior sanctions exist for food uses of caffeine. However, these comments did not present any new information to support their assertions. Four additional comments (three from manufacturers and one from a trade association) stated that a prior sanction does exist for use of caffeine in all soda water beverages. Among these four comments, two did not present new information; one presented a photocopy of a letter dated August 20, 1958, from FDA to the Coca-Cola Co. (discussed in more detail below); and one, from the National Soft Drink Association, presented a substantial number of documents in support of its prior sanction claim. None of the comments presented any information alleging that a prior sanction exists for food uses of caffeine other than in soda water.

The comment from the National Soft Drink Association (Ref. 1) alleged that a

prior sanction exists for the soda water use of caffeine based on the following facts:

(1) When FDA entered into a court-approved settlement in the case *United States* v. *Forty Barrels and Twenty Kegs Coca-Cola* in 1917, the agency thereby approved the use of caffeine in cola drinks at a level equal to that used by the Coca-Cola Co.

(2) FDA stated in a letter dated May 8, 1940, that, pending the adoption of a standard of identity, it had no objection to the use of 0.69 grain of caffeine, without label declaration, in carbonated beverages that ordinarily contain added caffeine. After 1940, it issued several similar letters.

(3) In letters to consumers from 1938 through 1958, FDA stated that it had no evidence to show that caffeine, in amounts of no more than ½ to ¾ grain in a bottle of the finished carbonated beverage, was injurious to health.

(4) During World War II, FDA participated in the allocation of caffeine to the soft drink industry and did not object to such allocation on grounds that the use of caffeine in soft drinks might be harmful.

(5) In a letter dated August 20, 1958, from FDA to the Coca-Cola Co., the agency stated that it had "long sanctioned the distribution of Coca-Cola." The comment asserted that FDA had the knowledge of the use of caffeine in the product.

A. Analysis of Evidence of a Prior Sanction

FDA considers that the most significant document submitted with the comments is the letter dated August 20, 1958, from John L. Harvey, then Deputy Commissioner of Food and Drugs, to Edgar J. Forio of the Coca-Cola Co. (Ref. 2). FDA first became aware of the existence of this letter when it searched its files in response to a request for documents under the Freedom of Information Act that was made after the publication of the 1980 proposal. This letter states "[T]he beverage Coca-Cola has been, in our opinion, in such common use for such a long period of time that its safety, as well as the safety of its components, is well established by this history of food experience. Under the Food Additives Bill, it would not be necessary for your company to disclose your secret formula, or processes, and there would be no requirement that we publish such formula, or processes. We have long sanctioned the distribution of Coca-Cola and the enactment of H.R. 13254, 'The Food Additives Amendment of 1958,' would not affect our sanction in any way."

This letter was sent less than a week after the U.S. House of Representatives passed the Food Additives Amendment and just before the U.S. Senate passed that legislation. Therefore, FDA believes that Mr. Harvey understood the significance of his use of the term "sanctioned" when he referred to the distribution of Coca-Cola and the impact of the Food Additives Amendment on the components of Coca-Cola. Accordingly, because the agency was aware of the presence of added caffeine in Coca-Cola, as evidenced by the fact that it analyzed the level of this ingredient in Coca-Cola from 1915 through 1959 (Ref. 4) FDA believes that the reference in this letter to the well-established history of safe use of the ingredients of Coca-Cola represents a prior sanction for the use of added caffeine in carbonated beverages.

As for the other evidence cited by the National Soft Drink Association, FDA finds that the court settlement in 1917 does not constitute a prior sanction. Under 21 U.S.C. 321(s)(4), the sanction or approval must have been issued under the act. The 1917 court settlement predates the effective date of the act by 22 years. Moreover, because the agency believes that the 1958 Harvey letter by itself constitutes a prior sanction for the use of caffeine in nonalcoholic carbonated beverages, FDA finds that there is no need to determine the adequacy of any of the other evidence as a basis for establishing the existence of a prior sanction for the use of caffeine in soda water.

B. The Scope of the Prior Sanction

Although the 1958 Harvey letter refers to Coca-Cola only, the agency believes that consideration of the historical background on the use of caffeine together with this letter supports the conclusion that the prior sanction covers not only Coca-Cola but also other cola and noncola carbonated beverages.

Before 1958, FDA did not have formal approval authority over added food ingredients. Firms using food ingredients were not required to obtain approval before marketing. FDA would, however, respond to inquiries as to whether it considered the use of certain food ingredients to be safe. It was in this context that FDA issued the 1958 Harvey letter. The letter was apparently in response to an inquiry from the Coca-Cola Co. about the impact that the pending food additive legislation would have on the use of caffeine in Coca-Cola.

However, FDA has never licensed the use of food ingredients. FDA's traditional position has been that if it advised one manufacturer that a use of an ingredient is safe, that finding would apply to the same use of the ingredient by other manufacturers. The agency has considered that there is no need for each manufacturer to obtain its own letter from FDA advising that the use of the ingredient was safe.

Consistent with the agency's traditional position, in response to comments on FDA regulations establishing criteria for GRAS and prior sanction determinations, the agency stated that "it is inequitable if one manufacturer who knows of a prior sanction is permitted to take advantage of it, while his competitors are constrained * * *. If the prior-sanctioned use is safe, all users should be permitted to rely upon it" (41 FR 53603; December 7, 1976). Thus, a prior sanction is not limited to specific products but rather applies to all similar products. Therefore, the 1958 Harvey letter would cover any comparable use of caffeine in products similar to Coca-Cola regardless of manufacturer.

The question then is how to determine which products are similar to Coca-Cola and thus are covered by the proposed prior sanction. FDA tentatively concludes that products are similar if they are of the same class. The product class to which Coca-Cola belongs is nonalcoholic carbonated beverages. Recognition that FDA raised no objections to the addition of caffeine to this class of beverages is consistent with the available information. Other carbonated beverages that FDA knew contained added caffeine included root beer and peper-type beverages (e.g., see the letter dated July 19, 1944, that is included in Ref. 3). There is no evidence that FDA was more concerned about caffeine used in these other carbonated beverages than about that used in Coca-Cola before 1958.

C. The Level of Use That Is Prior Sanctioned

Although the 1958 Harvey letter refers to Coca-Cola and its components, the letter did not specify use levels for the components. Nevertheless, FDA analyzed the level of caffeine in cola drinks, including Coca-Cola, periodically from 1915 through 1958 (Ref. 4). In correspondence with consumers during that period (Ref. 3), FDA often informed them of the concentration of caffeine in various carbonated beverages.

The actual caffeine content in a specific beverage can vary from time to time, depending on the amount of syrup (containing the caffeine) used by the bottler in formulating the product. FDA's analytical records (Ref. 4) show that the carbonated beverages it analyzed from

1915 through 1959 contained between ¼ and ¾ grain (or 16.2 and 48.6 milligrams) of caffeine per 6-ounce bottle, with most carbonated beverages containing between ⅓ and ⅔ grain. There was also a trend in which the amounts of caffeine used in cola beverages decreased over this 44-year period. For instance, in the 1930's and early 1940's, most cola beverages contained ½ to ¾ grain of caffeine per 6-ounce bottle, while after the later 1940's most of them contained ⅓ to ½ grain.

In the later 1560's, all of the cola beverages contained ⅓ to ½ grain of caffeine per 6-ounce bottle. At that time, Coca-Cola contained ⅓ grain of caffeine in the size bottle. One-half grain of caffeine in a 6-ounce bottle equals approximately 0.02 percent of caffeine by weight. Because of the then prevailing use levels of caffeine (no soda water was known to exceed ½ grain of caffeine per 6-ounce bottle), FDA set a limitation of ⅓ to ½ grain for caffeine in cola beverages when it assembled a GRAS list in a proposed rule published in the **Federal Register** of December 9, 1958 (23 FR 9511, 9517). FDA adopted a limitation of 0.02 percent in the final rule it published in the **Federal Register** of November 20, 1959 (24 FR 9368).

FDA considers it appropriate to adopt the maximum use level of caffeine in cola beverages used in the later 1950's as a limitation of the prior sanction, i.e., a limitation set at ½ grain (or 32.4 milligrams) of caffeine per 6-ounce bottle or 0.02 percent by weight. Although FDA is aware that the contents of caffeine in cola beverages were much higher in the early 1940's and before, it does not consider it necessary to set a limitation at a level higher than the maximum use level that has been followed by the beverage industry since the late 1940's. Moreover, because the Harvey letter sanctioned Coca-Cola and its components in 1958, using the caffeine contents in the late 1950's for setting the limitation is more appropriate than using those of the early 1940's or earlier.

In summary, based on comments received on the October 21, 1980, proposal, this new proposal announces FDA's tentative conclusion that a prior sanction exists for caffeine in nonalcoholic carbonated beverages at a maximum level of 0.02 percent by weight. This prior sanction is consistent with the current use of caffeine permitted by the GRAS regulation (21 CFR 182.1180) and by the food standard for soda water (21 CFR 165.175). If this proposal is adopted as a final rule, this use of caffeine will be exempt from the food additive provisions of the act.

Furthermore, because no prior sanction was asserted for uses of caffeine in foods other than nonalcoholic carbonated beverages, this proposal does not address the other uses. FDA will, however at some future date, address (1) the remaining uses of caffeine and (2) comments received in response to the October 21, 1980, proposal.

IV. Safety of the Prior-Sanctioned Use

Based on the foregoing evaluation, the agency has tentatively concluded that the documentation supplied in the comments supports the existence of a prior sanction for the use of caffeine in nonalcoholic carbonated beverages at a maximum level of 0.02 percent. However, before the agency can recognize this prior sanction, the agency must assure that this use is safe. Section 181.5(b) (21 CFR 181.5(b)) states that "the existence of a prior sanction exempts the sanctioned use(s) from the food additive provisions of the Act but not from other adulteration or misbranding provisions of the Act." Furthermore, under § 181.1(b) (21 CFR 181.1(b)) the agency may modify or prohibit a prior-sanctioned use of an ingredient "based on scientific data or information that show that use of a prior-sanctioned food ingredient may be injurious to health, and thus in violation of section 402 of the Act."

In its 1980 proposal, FDA identified several safety issues about caffeine. These issues included the potential fetotoxic and teratogenic properties of caffeine; the comparative metabolism and pharmacokinetic handling of caffeine in humans and experimental animals; the potential behavioral effects of caffeine, particularly in children; the potential reproductive effects of caffeine; and the potential carcinogenicity of caffeine. These issues formed the basis for the agency's decision to propose to regulate caffeine as an interim food additive pending completion of further studies regarding these issues. Section 180.1(a) (21 CFR 180.1(a) stipulates that an interim food additive regulation may be promulgated only if "there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of this substance for a limited period of time while the question being raised is being resolved by further study."

FDA concluded in the proposal that "[a]lthough the existing data raise questions about the safety of caffeine, they do not demonstrate that a hazard to the public actually exists" (October 21, 1980; 45 FR 69830). FDA had earlier considered several possible regulatory actions that could arise from these questions, including a proposed ban on the use of added caffeine in food. FDA rejected the option to ban added caffeine because "the existing data * * * do not demonstrate any actual risk to humans" (October 21, 1980; 45 FR 69830). Therefore, it is clear that FDA in 1980 considered that the then available data did not show that the presence of caffeine in food would render that food injurious to health.

Since the publication of the 1980 proposal, a large number of studies that address the concerns outlined in the proposal have been completed and submitted to the agency. FDA has also carried out a literature search to determine if there is new published information that has a bearing on any adverse health effects of caffeine. The data assembled by the agency since 1980 include studies on teratology, reproduction, behavior, carcinogenicity, and cardiovascular disease.

The agency reviewed these data (Ref. 5) but found no evidence to show that the use of caffeine in carbonated beverages would render these beverages injurious to health. Therefore, the agency tentatively concludes that nonalcoholic carbonated beverages containing a maximum level of 0.02 percent caffeine by weight would not be adulterated under section 402 of the act, and that codificaton of a prior sanction for this use be proposed.

Prior-sanctioned ingredients may also be regulated under the misbranding provisions of the act, as discussed in the 1980 proposal. Thus, under section 403(a) of the act (21 U.S.C. 343(a)), the agency could require warning labels on caffeine-containing nonalcoholic carbonated beverages if it determines that such products present a potential health hazard to consumers. Although FDA does not believe that a requirement for such a warning label is warranted at this time, such a requirement can be proposed at any time the available data indicate a need for such action.

V. References

The following references are on file with the Dockets Management Branch (address above), and may be seen between 9 a.m. to 4 p.m., Monday through Friday.

1. Comment No. 114 in response to the October 21, 1980, proposal, submitted by the National Soft Drink Association.

2. Letter, August 20, 1958, John L. Harvey, FDA, Washington, DC, to Edgar J. Forio, the Coca-Cola Co., Atlanta, GA.

3. FDA correspondence with consumers on caffeine from 1938 through 1958.

4. FDA analyses of caffeine contents in soda water beverages from 1915 through 1959.

5. A paper entitled "Caffeine, Review of Toxicological Studies from 1980 to Present," by Carl B. Johnson, Samuel I. Shibko, and Jean M. Taylor, FDA, September 1986, and the references cited therein.

VI. Environmental, Regulatory, and Economic Analyses

The agency has determined that this action is not specifically designated in 21 CFR 25.22(a) and does not fall within the scope of the general provision (21 CFR 25.22(a)(19)) because the action could not significantly affect the quality of the human environment. Since the action is not covered by 21 CFR 25.22(a), the preparation of an environmental assessment and consideration by the agency of the need for preparing an environmental impact statement are not required.

This proposed prior sanction regulation for caffeine, if promulgated, will not impose any additional costs on firms manufacturing or using caffeine in connection with soda water. The proposed regulation would not require any changes in the manufacture or uses of this ingredient. Because this proposed rule, if promulgated, would therefore have no economic effects, FDA has determined that it is not a major rule under Executive Order 12291. Further, because the effect of the final rule would be to maintain the current known uses of caffeine by large and small soda water manufacturers, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act of 1980 that the proposed rule, if promulgated, would have no significant economic impact on a substantial number of small entities.

VII. Request for Comments

Interested persons may, on or before July 20, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, expect that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 181

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 181 be amended as follows:

PART 181—PRIOR-SANCTIONED FOOD INGREDIENTS

1. The authority citation for 21 CFR Part 181 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

2. By adding new § 181.35 to read as follows:

§ 181.35 Caffeine.

Caffeine ($C_8H_{10}N_4O_2$, CAS Reg. No. 58–08–2) may be used as a component of nonalcoholic carbonated beverages. The total caffeine content in the finished beverage shall not exceed 0.02 percent by weight.

Dated: April 17, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–11451 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Removal of National Forest System Timber

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: In the past 5 years the Forest Service has witnessed an upsurge in the numer of purchasers who are not completing National Forest timber sales contracts. These defaults and resultant delays in timber harvest can adversely impact attaining management objectives for visual quality, watershed management, wildlife habitat, and other activities as well as the planned flow of forest products to market. They also reduce timber revenues to the Federal Treasury and revenue sharing payments to local units of Government. Therefore, the Forest Service is proposing to require additional downpayments from those purchasers whose recent history demonstrates a lack of timely performance on their timber contracts. The Agency believes that additional downpayments are necessary to reduce the Government's risk of nonperformance by purchasers with a demonstrated history of failure to perform their contracts. Secondly, the Agency believes that the requirement for a larger downpayment from purchasers who have a history of performance will act as an effective incentive for all purchasers to fulfill their timber sale contracts on time.

The second part of this proposed rule would establish broader standards for a Contracting Officer to use in determining whether a prospective purchaser is responsible and capable of performing a particular contract before the Government enters into a contract with that prospective purchaser. The Forest Service believes this proposal would improve timber sale contracting. The Agency also believes that future default-related contract delays would be reduced if Agency regulations are modified to permit consideration of all elements of performance in determining whether a prospective purchaser is responsible and, therefore, eligible for award of new timber contracts. Elements of responsibility include, among others, a bidder's tenacity, perseverance, integrity, and intent to operate in addition to the current determination that a bidder is financially able and capable of performing the contract.

DATE: Comments must be received by June 19, 1987.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20013.

The public may inspect comments received on this proposed rule in the office of the Director, Timber Management Staff, Room 3207, South Building, 14th and Independence SW, Washington, DC., between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, (202) 447–4051.

SUPPLEMENTARY INFORMATION: Delayed performance of Federal timber sale contracts can adversely affect natural resource management. A timber sale program is designed so that every year the cumulative effects of the program are compatible with, and contribute to, the planned management of a National Forest. When a timber sale contract is defaulted, the harvest of that timber is delayed until the timber can be resold and cut under the resale contract.

A default-delayed harvest may result in adverse economic, multiple use, and environmental effects which are both direct and indirect, as well as cumulative. The major impacts are as follows:

(1) Some timber sales are sold to remove trees for the benefit of other resources. Timber harvest can improve cover/forage ratios for wildlife, increase available water supplies, open vistas for public viewing along roadsides, improve range conditions for livestock and wildlife, or remove potentially

hazardous trees in a recreation area. A default-caused delay in the harvest of such a sale will delay these benefits.

(2) If an uncompleted timber sale expires, it is often necessary to resell the remaining timber as soon as possible in order to minimize the impacts of the delayed harvest and/or to support the collection of damages from the defaulter. This can result in more open areas in a drainage at one time than originally planned. The increased opening affect visual quality objectives, wildlife habitat, water flow, erosion, and water temperature.

(3) Some timber harvests are timed to minimize logging damage to the remaining timber, or to reduce the spread of pathogens from the overstory to the understory (for example, to reduce the spread of mistletoe). When operations are delayed, the logging may be too late minimize damage to the remaining timber or to reduce the spread of pathogens.

(4) Some logging is planned to remove some, or all, of the overstory in order to maintain or increase the growth of the understory. Delays in harvesting the overstory can slow the growth of the remaining smaller trees, resulting in increased brush competition, or can postpone precommercial thinning of the remaining timber.

(5) If a timber sale contract was planned and offered to achieve commercial thinning of the timber in the sale area, a harvest delay could delay the increased growth of the remaining timber.

(6) Other silviculture treatments, such as timber stand improvement, in nearby areas may be delayed because the slash in the default-delayed area was not treated when originally planned. This can result in growth losses in those stands and/or an increased cost of treating the logging debris.

(7) Sales are designed to leave a healthy residual stand of timber. Default-caused delays may mean that the planned residual stand would not meet management objectives if the sale were logged as originally designed. This can result in additional delay and expense, if the sale has to be redesigned to meet the objectives.

(8) Many sales are made to salvage timber that has been damaged by fire, insects, diseases, or other causes. Such timber is often subject to rapid deterioration. Default-caused delay in the harvest of this timber can cause a significant loss in the timber's volume and value and thus a significant loss of receipts to the American public.

(9) Some sales are prepared to assist control of forest pest epidemics. Failure to remove such timber in a timely manner can increase the damage to adjacent stands.

(10) If a timber sale default delays construction of a road, the resulting delay in access could affect management of the resources which would be tributary to the road.

Many purchasers have defaulted Federal timber sale contracts in the last five years. These defaults have caused some serious resource problems. In addition, the economies of many communities, particularly in the West, are heavily dependent upon the employment generated by the harvest and manufacture of timber from the National Forests. Timber sale defaults can interrupt the flow of timber to those communities.

Defaults also reduce receipts to the Federal Treasury and revenue sharing payments to local counties that are based on those receipts. The public services provided by many western counties are heavily dependent on these payments.

Inequities among purchasers also result from timber sale defaults. Purchasers who default with the expectation of delaying the payment of damages are in a stronger financial position to bid on new contracts than they would have been had they performed the defaulted contracts. An inequity exists when purchasers, who have conscientiously performed their high-priced contracts and have suffered economic losses as a result, are required to compete for new contracts against purchasers whose financial ability to bid has been enhanced as a result of their failure to perform their own high-priced contracts.

The Forest Service believes that purchasers who fail to operate timber sale contracts in a timely manner demonstrate that they present an increased risk of failing to perform on new contracts. Therefore, increased downpayments are needed on new contracts which may be awarded to such purchasers.

Under the proposed rule, if a purchaser or its affiliate(s) defaults one or more Forest Service or Bureau of Land Management timber sale contracts within 12 calendar months before the bid date of a new sale that the purchaser is bidding on, and the contract value of the previously defaulted timber is $100,000 or more, the downpayment on that new contract, if awarded to that purchaser, will be twice the amount as that normally required pursuant to 36 CFR 223.49. Further, the purchaser will not be able to apply funds deposited as the downpayment to other uses until the last timber on the sale is being harvested. This provision would apply to defaults occurring 30 calendar days after the effective date of this rule.

The second part of this proposed rule addresses the determination of whether a purchaser is responsible and able to perform a timber sale contract it has bid on. The large number of contract defaults in recent years indicates that some contracts were awarded to purchasers who were either not able or who chose not to operate sales in accordance with the contract terms. It is clear that the Government, operating in the public's interest, should only do business with responsible entities who are willing and able to operate under the terms of the contracts.

Presently, under existing rules at 36 CFR 223.103, a bidder may be required to make a satisfactory showing of financial ability to operate a new sale before the bid is acted on. This provision has not proven sufficiently effective in minimizing the potential for default. Additional standards are needed to ensure that successful bidders are capable of fulfilling a timber sale contract. The Forest Service proposes to incorporate in a new § 223.101 many of the bidder responsibility standards found in the Federal Acquisition Regulations (48 CFR 9.104–3(c)). Before any bidder could be awarded a Forest Service timber sale contract, the contracting officer would have to determine that the bidder has met all of the conditions of the sale offer and that the bidder is responsible.

Regulatory Impact

This action has been submitted to the Office of Management and Budget for review pursuant to Executive Order 12291. The Assistant Secretary for Natural Resources and Environment has determined that this regulation is not a major rule. It does not change the total amount a purchase would pay for national forest timber, although it would affect the timing of when a purchaser with a recent history of poor timber sale contract performance would pay for the timber.

The procedures implemented by this rule will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs for consumers, individual industries, Federal, State or local Government agencies or geographic regions, and will not have significant adverse effects on the ability of United States-based industries to compete with foreign based enterprises in domestic or export markets. On the contrary, the proposed requirements will contribute to the economic well-being of timber-

dependent communities, the orderly flow of timber to market and receipts to Treasury, strengthen the orderly accomplishment of resource management objectives and reduce administrative costs associated with settling claims against defaulting purchasers.

The Assistant Secretary of Agriculture for Natural Resources and Environment has also determined that this rule will not have significant economic impact on a substantial number of small entities. There are very few small entities that have defaulted more than $100,000 worth of Federal timber within a 12 month period. In addition the Certificate of Competency procedures as applied by the Small Business Administration will continue to cover small business firms under the proposed bidder responsibility standards.

Based on both past experience and environmental analysis, the proposed rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4). Furthermore, the proposed rule will not result in additional procedures or paperwork not already required by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) are not applicable.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forest, Reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth above, it is proposed to amend Part 223 of Chapter II of Title 36 of the Code of Federal Regulations as follows:

PART 223—[AMENDED]

1. The authority citation for Part 223 continues to read as follows:

Authority: Sec. 14, Pub. L. 94–588, 90 Stat. 2958, 16 U.S.C. 472a, unless otherwise noted. Secs. 223.49 and 223.50 also issued under Sec. 2 Pub. L. 98–478, 98 Stat. 2213, 16 U.S.C. 618.

2. Amend § 223.49 by adding new paragraphs (a)(5), and (e) through (h) to read as follows:

§ 223.49 Downpayment.

(a) * * *

(5) *Affiliate.* Concerns are affiliates if directly or indirectly, either one controls or has the power to control the other, or one or more third parties controls or has the power to control both. In determining whether or not affiliation exists, the Forest Service shall consider all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

* * * * *

(e) A purchaser, or any affiliate of that purchaser, that is awarded a Forest Service timber sale contract must meet the additional downpayment requirements of paragraph (f) of this section under the following circumstances:

(1) The purchaser, or its affiliate, fails to perform in accordance with the terms of the contract which results in the contract expiring uncompleted or the contract is terminated;

(2) The contract expired or was terminated within a 12-month period prior to the bid date of the new sale at issue and after [*insert date 30 days after the effective date of this paragraph*]; and the estimated value of the unscaled timber on scaled sales and the estimated value of the timber that has not been shown on the timber sale statement of account to have been cut and removed on tree measurement sales included in those terminated or expired contracts exceeds $100,000.

(f) Notwithstanding the provisions of paragraphs (c) and (d) of this section, the minmum downpayment for a pruchaser meeting the criteria of paragraph (e) of this section shall be the equivalent of 20 percent of the total bid value of each sale, except in those areas where the Chief of the Forest Service determines before advertisement of the sale, that another downpayment rate is necessary to achieve the management objectives of the National Forest System.

(1) For sales on National Forests where the average bid ratio has exceeded 1.6 in the previous fiscal year or where the bid ratio on a significant number of timber sales exceeds a 1.6 ratio and the average bid premium on those sales is at least $25 per thousand board feet or equivalent, the amount of the downpayment will be equal to 20 percent of the advertised value, plus 40 percent of the total bid premium. In calculating bid ratios and bid premiums for the downpayment requirement, the Forest Service will not use the portion of the bid premium that offsets ineffective purchaser credit.

(2) To determine the amount of the downpayment due on a sale where the timber is measured in units other than board feet, the Forest Service shall convert the measure to board feet, using appropriate conversion factors with any necessary adjustments.

(g) A purchaser subject to the additional downpayment requirements of paragraph (f) of this section cannot apply to other uses the amount deposited as a downpayment until:

(1) On scaled sales, the estimated value of the unscaled timber is less than the amount of the downpayment; or

(2) *On tree measurement sales*, the estimated value remaining to be cut and removed as shown on the timber sale statement of account is less than the amount of the downpayment.

(h) For the purpose of releasing funds deposited as downpayment by a purchaser subject to paragraph (f) of this section, the Forest Service shall compute the estimated value of timber as follows:

(1) *On scaled sales* the estimated value of the unscaled timber is the sum of the products obtained by multiplying the current contract rate for each species by the difference between the advertised volume and the volume that has been scaled of that species.

(2) *On tree measurement sales*, the estimated value of the timber outstanding (that not shown on the timber sale statement of account as cut and removed) is the sum of the products obtained by multiplying the current contract rate for each species by the difference between the advertised volume and the volume that has been shown on the timber sale statement to have been cut and removed of that species. The current contract rate for each species is that specified in each Forest Service timber sale contract.

3. Revise the introductory text and paragraph (c) of § 223.100 to read as follows:

§ 233.100 Award to highest bidder.

Advertised timber will be awarded to the responsible bidder submitting the highest bid that conforms to the conditions of the sale unless: * * *

* * * * *

(c) The highest bidder is notoriously or habitually careless with fire.

* * * * *

§ 223.103 [Removed]

§ 223.101 and § 223.102 [Redesignated as § 223.102 and § 223.103]

4. Remove § 223.103, redesignate §§ 223.101 and 223.102 as §§ 223.102 and 223.103 respectively, and add a new § 223.101 to read as follows:

§ 223.101 Determination of purchaser responsibility.

(a) A contracting officer shall not award a timber sale contract unless that officer makes an affirmative determination of purchaser responsibility. In the absence of information clearly indicating that the prospective purchaser is responsible, the

contracting officer shall conclude that the prospective purchaser does not qualify as a responsible purchaser.

(b) To be determined responsible, a contracting officer must find that the purchaser:

(1) Has adequate financial resources to perform the contract or the ability to obtain them;

(2) Is able to perform the contract within the contract term taking into consideration all existing commercial and governmental business commitments;

(3) Has a satisfactory performance record on timber sale contracts. A prospective purchaser that has been seriously deficient in contract performance within the 12 calendar months before the bid date of a new sale that the purchase is bidding on shall be presumed not to be responsible, unless the contracting officer determines that the circumstances were properly beyond the purchaser's control or that the purchaser has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably under a contract is strong evidence that a purchaser is not a responsible contractor. The contracting officer shall consider the number of contracts involved and extent of deficiency of each in making this evaluation;

(4) Has a satisfactory record of integrity and business ethics;

(5) Has or is able to obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract;

(6) Is otherwise qualified and eligible to receive an award as of the bid opening date under applicable laws and regulations.

(c) If the prospective purchaser is a small business concern and the contracting officer determines that the purchaser does not qualify as a responsible purchaser on an otherwise acceptable bid, the contracting officer shall refer the matter to the Small Business Administration, which will decide whether or not to issue a Certificate of Competency.

(d) Affiliated concerns, as defined in § 223.49(a)(5), are normally considered separate entities in determining whether the concern that is to peform the contract meets the applicable standards for responsibility. However, the Contracting Officer shall consider an affiliate's past performance and integrity when they may adversely affect the prospective purchaser's responsiblity.

Dated: May 1, 1987.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 87-11397 Filed 5-19-87; 8:45 am]

BILLING CODE 3410-11-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the flood insurance commission allowances paid to property insurance agents and brokers ("producers") for the procurement of new flood insurance policies, and renewals thereof, on behalf of policyholders insured by the National Flood Insurance Program (NFIP) through its Servicing Company. The commissions would be increased in connection with the procurement of new business, as an incentive to increase the NFIP's policies-in-force base, and decreased with respect to the renewals of policies to reflect the reduced level of activity required of producers by reason of the NFIP's fully automated renewal billing system whereby payees of renewal premiums are billed directly by and make premium payments directly to the NFIP, with the producer being advised of the renewal activity. The immediate effect of the revised commission schedule, if adopted, will be to save the federal government approximately $7 million per annum, which is an extremely desirable cost containment result in light of the fiscal constraints placed upon the NFIP by reason of the Gramm-Rudman-Hollings Act (Pub. L. 99-177, signed on December 12, 1985).

DATE: Comments must be received on or before July 20, 1987.

ADDRESS: Send comments to—Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472; telephone number (202) 646-3419.

SUPPLEMENTARY INFORMATION: With the introduction in 1981 of a detailed planning system, the Federal Insurance Administration of the Federal Emergency Management Agency established as one of its primary goals that the National Flood Insurance Program be placed on a fiscally sound basis by 1988. This was in recognition of the fact that premiums generated by the sale of flood insurance coverage are, traditionally, insufficient to defray the expenses attendant the sale of policies, including producers' commissions, and the payment of flood losses and the expenses of adjusting these losses. Loss adjustment fees paid to independent claims adjusters, after consultation with that industry, were reduced by way of a new, general schedule of fees, in lieu of time and expense payments, in FY 1984. To reach its goal of being on a fiscally sound basis by 1988, by which FIA means that the NFIP should generate sufficient premium to cover expenses and losses in the normal or historical average loss year, not including the influence of catastrophic flood loss years, FIA proposed a general rate increase in FY 1987 of 27%, which would have placed the NFIP at a level of about 90% of its, then, historical average loss year. The proposed rate increase was based upon FIA's annual review of the NFIP's available underwriting experience.

In furtherance of a general rate increase, FEMA published a proposed rule for comment in the **Federal Register** on April 10, 1986 (51 FR 12348) to increase the NFIP's subsidized rates, which are rates applicable to buildings located in communities participating in the Emergency Program of the NFIP and to certain structures in communities in the Regular Program.

Subsequent to the publication of the proposed rule on April 10, 1986, the House Appropriations Committee in its Report (dated July 31, 1986) accompanying H.R. 5313 directed that NFIP premium rates not be increased "during the period beginning on the date of enactment of this bill and ending on September 30, 1987, by more than a prorated annual rate of 10 percent." Also, the Senate Appropriations Committee in its Report (dated September 25, 1986) accompanying H.R. 5313 stated that it was "in agreement with the House Appropriations Committee and both authorizing committees that premium rate changes

for flood insurance during fiscal year 1987 may not be increased by more than 10 percent."

To comply with this Congressional limit, the increase in the subsidized rates made by the final rule (February 27, 1987, 52 FR 5977) was adjusted downward which, of course, has the effect of impairing FIA's ability to meet its goal of placing the NFIP on a fiscally sound basis by 1988.

Given the need to contain costs in this taxpayer subsidized program, FIA has undertaken a review of the commissions paid to producers and has found that certain adjustments may be in order, as recommended in this proposed rule. Publication of this proposed rule is in furtherance of the NFIP's statutory direction that the Director should, from time to time, negotiate with appropriate representatives of the insurance industry for the purpose of establishing the NFIP's operating costs, including reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers (42 U.S.C. 4018). To assure appropriate dissemination of the proposed rule and invite a wide response, FIA will, coincident with its publication, forward copies of the proposed rule to the national trade association representing property insurance agents and brokers.

Regarding the review of the NFIP's commission arrangement with its producers, the current commission arrangement is as follows:

The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures for an insured, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Policy term	Premium amount	Commissions (percent)
1 year	1st of $2,000	15
	Excess of $2,000	5
3 years	1st of $6,000	15
	Excess of $6,000	5

(2) In the case of mid-term increases in amounts of insurance added by endorsement, the following commissions shall apply based on the total premium paid for the increased amounts of insurance:

Premium amounts	Commissions (percent)
1st of $2,000	15
Excess of $2,000	5

From the early beginnings of the NFIP in the late sixties, producers were paid a commission of 15% of the written premium, but no less than a minimum commission of $10.00, for the procurement of policies of flood insurance. In connection with each new policy and each renewal of a policy, the producer was required to, manually complete and submit an application for flood insurance coverage detailing the description of the risk and the rating elements including the premium calculation, accompanied by the premium payment. In the mid-seventies, the NFIP began to move toward a system whereby preprinted and partially completed renewal application forms ware sent to producers, usually in a format under which the producer was only required to add the dollar amounts of premium and rates to the renewal application, supply any missing information, and return the renewal application, accompanied by a check for the appropriate premium to the NFIP servicing company. The commission rates during this period remained at the same levels.

Then, on March 25, 1981, the producers' commission schedule was changed as part of a general revision to the NFIP's coverage, sales and loss prevention provisions in an effort to deliver enhanced coverage to the policyholders, but at rates more reflective of the risk (46 FR 13513, published on February 23, 1981). Included in these changes was the decrease in the commission schedule impacting only on those policies generating premiums in excess of $2,000, in the case of polices for a term of one year, and $6,000, in the case of policies written for a three-year term. The change was made "consistent with private sector practices of providing graduated commission arrangements as between insurers and producers" and in recognition of the fact that the commission schedule adjustment was being effected simultaneously with a general, countrywide, flood insurance premium rate increase of 32%, which, of course, generated significantly increased amounts of commission income for the producers of NFIP policies.

By 1981, the NFIP's systems procedures had improved to the point where renewals of policies were fully automated, in that the producer was no longer, except in a limited number of instances, required to manually complete an application for a policy renewal or even to calculate the appropriate premium on a preprinted renewal application made available to the producer by the NFIP. At this stage of the program's development, the NFIP would determine the applicable rates and calculate renewal premiums for a given policy and, via a computerized, automatic direct billing system, send a renewal premium notice directly to the insured, agent, mortgagee (if the mortgagee was to pay the renewal premium) or other payor. This is the business practice under which the NFIP operates today and generally parallels insurance industry practices. Typically, the policyholder or mortgagee is the payor of the premium and the producer's copy of the premium notice is for the producer's records. Exceptions to this automatic renewal procedure, engendered in cases where the NFIP does not have sufficient data on file to properly rate the policy, are handled buy mailing a renewal application form to the producer, along with the premium notice, and, in such cases, the producer is requested to attend to the furnishing of the needed rating information on behalf of the producer's client, the policyholder, in much the same way as this was accomplished, as to all renewals, in the early years of the NFIP.

The level of effort required of a producer to attend to his or her NFIP renewal business has diminished considerably since the program's beginnings. Yet, during the almost two decades of the NFIP's existence the commission schedule has virtually remained the same. Also weighing heavily in FEMA's deliberations leading to this proposed adjustment in the producers' commission schedule is the fact that recent and multiple rate increases to policyholders, made necessary by FEMA's need in deference to the taxpaying public to place the NFIP on a fiscally sound basis by 1988, have resulted in substantial increases in the dollars of commissions paid to producers. For example, the average commission paid in 1978 more than doubled by 1986 and, even adjusting for inflation, has risen by 50%. The following chart depicts the steady rise in average commission paid, as adjusted for inflation:

NATIONAL FLOOD INSURANCE PROGRAM

[Agent Commissions]

Mar. 31 year	Average written premium [1]	Actual average commission	Inflation adjustment factor	Average commission (adjustment to 1987 dollars)
1978	$97.41	$14.21	1.729	$24.57
1979	80.78	12.12	1.550	18.69
1980	81.19	12.18	1.366	16.64
1981	121.61	18.24	1.240	22.62
1982	174.52	26.18	1.169	30.60
1983	195.66	29.35	1.135	33.31
1984	218.48	32.77	1.099	36.01
1985	213.64	32.05	1.061	34.01
1986	224.05	33.61	1.030	34.62

[1] Includes one-year and three-year policies.

It is also important to note that the number of policies in force has substantially increased since 1978, along with the written premium rise due to rate increases to the policyholder, which has resulted in additional commission payments.

Another salient fact which FEMA considered in arriving at the determination to propose a change in the commission schedule is the NFIP's distribution of buisness. The following listing shows the percentage of the NFIP's renewal policies which are issued pursuant to the automated direct billing system as compared with policies issued pursuant to new applications for flood insurance, which require the producer to complete the application form and forward it to the NFIP with the premium payment.

NATIONAL FLOOD INSURANCE PROGRAM

[Direct Business Distribution of Policies]

	Percent
First $2,000 of premium:	
Direct bill renewals	71
Renewal applications	4
New business applications that pass rating edits	17
Applications which cannot pass rating edits	8
Excess of $2,000:	
All business	(1)

[1] Less than 1/2%.

As a review of the current policy distribution information indicates, 71% of the NFIP's direct business policies are placed in force without the need for the producers to address the task of completing an application form calculating the premium, and mailing the application for flood insurance, with the correct premium, to the NFIP. FEMA believes this to be a major change in the way the NFIP operates, among the beneficiaries of which is the producer.

Having given due consideration to the matters discussed herein, FEMA believes it would not be fair to the taxpayers to continue to provide remuneration to the producers of NFIP policies, at the same rates as have been in effect, virtually, since the beginning of the NFIP, in compensation for a level of effort which has been sharply reduced by the introduction of FEMA's direct billing system for renewal policies. FEMA is obliged to follow the statutory mandate that it establish "reasonable compensation . . . for . . . commissions or service fees paid to producers" (42 U.S.C. 4018) and believes it is no longer reasonable to continue a commission level established for a given level of effort at a time when the level of effort is no longer required. FEMA recognizes the long-term and valued commitment to the NFIP made over the years by the producers, who are held in high regard by the NFIP and who are considered vital to the program's long-term success.

Along with the proposed reduction in commission rates as to direct billing of renewal policies, FEMA is proposing and increase in commission rates for new business, to encourage the sale of more flood insurance policies, a reduction in rates for applications which cannot pass the computer system's rating edits due to errors in the insurance application submitted to FEMA, and continuation of the traditional 15% commission when the producer is called upon to complete a renewal application form. The proposed commission rate adjustments, as respects the renewal business, will reduce commission costs by about $5 million annually, and the reduced rate for applications which cannot pass rating edits will reduce commission costs by about $2 million annually, based on NFIP's current written premiums for its direct business. Thus, the government stand to save upward of $7 million, annually, by virtue of the revised commission schedule. The proposed revision to the commission schedule is as follows:

NATIONAL FLOOD INSURANCE PROGRAM, DIRECT BUSINESS

[Proposed Agent's Commission Schedule]

	Distribution of business	Commission
First $2,000 of Premium:		
Direct bill renewals	71	12
Renewal applications	4	15
New business applications that pass rating edits	17	16
Applications which cannot pass rating edits	8	5
Excess of $2,000:		
All business	(1)	5

[1] Less than ½%.

It has been calculated that this revision will produce, in 1987, an actual average commission, based upon an average written premium of $249.95, of $30.62, which is $2.99 (or $4.00, adjusted for inflation) less than the 1986 actual average commission. However, commissions are still substantially higher, even after allowing for inflation, than commissions paid prior to 1982. The proposed increase in commissions is an attempt to focus the marketing emphasis of producers on the area of the program's greatest need—new business. It has been estimated that there is a potential market for new flood insurance business, countrywide, of at least double the NFIP's present book of business, which stands at over two million policyholders.

The adjustment in the NFIP direct business commission schedule will also produce an effective average commission, for all activities under the schedule, of 12 ¼%. This average commission rate will be consistent with State and industry practices in both State property insurance plans and beach plans in which producers' commissions are fixed, variously, at about on the average, 10.2% to 12.9%, respectively. Some of the State plans also make the distinction between new business and renewal business, for example, in Missouri, where 12% is the commission rate for new business and 10% is the rate for renewal business (NFIP's rates will be 16% and 12%, respectively). Not unlike the federal flood insurance program, State property insurance plans and windstorm pools are statutory creations historically founded upon a recognition by

numerous State legislatures that a decided absence of essential insurance coverage existed among certain segments of the population. While the initial enabling legislation and characterization differed widely among the States (i.e., the Plans are variously referred to as Joint Insurance Associations, Insurance Faciliities, Windstorm Underwriting Associations, and Catastrophe Pools), a central characteristic of these organizations is the provision of property insurance coverage to the public, e.g., windstorm coverage to those living in hurricane hazardous coastal areas. As an aside, the NFIP has arrangements (under guidelines developed by the National Committee on Property Insurance and the FIA) with these coastal insurer associations to, in a combined flood and windstorm hurricane situation, share loss adjusters in furtherance of providing better service to the affected policyholders.

The proposed adjustment to the commission schedule, if adopted, will be made at this time only as respects flood insurance policies issued by the NFIP as direct business and not as respects flood insurance policies issued by private sector property insurance companies under the NFIP's Write-Your-Own (WYO) Program. Commission arrangements under the WYO Program will be addressed in Fiscal Year 1988 in connection with general revisions to the WYO Arrangement with insurers participating in the program. The WYO Program contemplates that the standard flood insurance policy (the form and substance of which is approved by the Administrator) may be issued by insurers signatory to the arrangement in their own names. Insurers are then responsible for all aspects of service, including policy issuance to new policyholders and to those policyholders insured by them under other lines of property insurance; endorsements to and renewals of policies; and the adjustment of claims brought under the policies. The insurers pay losses and loss adjustment expenses, as well as the commissions of agents, out of written premiums. Under the arrangement, the government backs the policies. Thus, insurers are able to offer flood insurance in the private insurance market, the NFIP is increasing its policy-in-force base by reason of WYO companies' marketing efforts, and policyholders are benefitting from an infusion into the NFIP of considerable private sector insurance expertise and service.

FEMA has determined, based upon an Environmental Assessment, that this proposed rule does not have significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

This proposed rule does not have a significant economic impact on a substantial number of small entities and has not undergone regulatory flexibility analysis.

This proposed rule is not a "major rule" as defined in Executive Order 12291, dated February 27, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this proposed rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, it is proposed to amend 44 CFR Chapter I, Subchapter B as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

2. The introductory text to § 62.6(a) and paragraph (a)(i) are proposed to be revised to read as follows:

§ 62.6 Minimum commissions.

(a) The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures on behalf of the insured, in connection with policies of flood insurance placed with the NFIP at the offices of its servicing agent, but not as respects policies of flood insurance issued pursuant to Subpart C of this part, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Premium amount	Commissions (percent)
First $2,000 of Premium:	
Direct bill renewals	12
Renewal applications	15
New business applications that pass rating edits	16
Applications which cannot pass rating edits	5
Excess of $2,000:	
All Business	5

* * * * *

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 87-11347 Filed 5-19-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 31 and 32

[CC Docket 87-135; FCC 87-162]

Common Carrier Services; Revision of the Uniform System of Accounts for Telecommunications Companies; Furniture and Office Equipment Capitalization

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is inviting comments on changing the expense limits to $500 for capitalizing individual items of furniture and office equipment or in lieu thereof amending the new Part 32 to eliminate requirements to maintain continuing property records for furniture type items.

DATES: Comments due on or before June 12, 1987. Reply comments due on or before June 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John T. Curry, Accounting Systems Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted April 28, 1987, and released May 14, 1987.

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

(202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC.

On October 20, 1986, the American Telephone and Telegraph Company (AT&T) filed for a partial waiver of the Commission's rules (Part 31) to permit AT&T to expense the cost of individual items of equipment costing $500 or less and to amortize the previously capitalized, undepreciated investment in these items over a three-year period commencing January 1, 1986. The equipment items would include tools, test sets, furniture and office equipment that are now subject to a $200 expense limitation. In addition, several LECs have filed a joint petition for rulemaking requesting that Part 31 be amended to eliminate the requirement of detailed continuing property records for furniture type items, which are also included among the items covered by the AT&T petition. In the Notice of Proposed Rulemaking the Commission has denied AT&T's petition for waiver and instead invited comments on amending §§ 31.2-20(d), 31.221 and 31.262 of Part 31 and § 32.2000(a)(4) of Part 32 to permit telephone companies to expense the cost of individual items of equipment costing $500 or less. Raising the expense limit from $200 to $500 would reduce the administrative burden associated with the large volume of items with small dollar value that are now being carried in the rate base and, over time, would result in a reduction in the rate base. In addition, an increase in the capitalization limits would grant the joint petitioners requesting elimination of continuing property records a large measure of the relief they are seeking.

The regulation contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval of the Office of Management and Budget as prescribed by the Act.

Ordering Clause

Accordingly, it is ordered, that petition of the American Telephone and Telegraph Company for partial waiver of § 31.2-20(d), 31.221, and 31.262 of this Commission's rules to expense the cost of individual items of equipment costing $500 or less and amortize the previously capitalized undepreciated investment in such items over a three year period commencing January 1, 1986, is denied.

Pursuant to the provisions of sections 4(i), 4(j), 220, 221, and 403 of the Communications Act of 1934, as amended, section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and § 1.411 *et. seq.*, of the Commission's Rules there is hereby instituted a rulemaking concerning the matters described herein. Members of the public are notified that any polices that may be established in this proceeding may be embodied in the Rules.

List of Subjects

47 CFR Part 31

Uniform System of Accounts for Class A and Class B Telephone Companies.

47 CFR Part 32

Uniform System of Accounts for Telecommunications Companies.

William J. Tricarico,

Secretary.

[FR Doc. 87-11496 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-127, RM-5674]

Radio Broadcasting Services; Mokelumne Hill, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document requests comments on a petition by Eric R. Hilding proposing the allotment of Channel 259A to Mokelumne Hill, California, as a first local service.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Eric R. Hilding, 12130 Calle Uvas, Gilroy, CA 95020.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket 87-127, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-11504 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-156, RM-4938; RM-5403; RM-5808]

Radio Broadcasting Services; Claremore, Locust Grove and Nowata, OK, and Barling, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document request comments on mutually exclusive proposals. KXOJ, Inc. and Doyal Hoover request the allocation of Channel 233A to Claremore, OK, and Channel 264A to Locust Grove, OK. These allotments could provide each community with its first local FM service. Station KNFB, Channel 232A, Nowata, OK, must relocate its transmitter to an area northwest of the community in order for Channel 233A to be allocated to Claremore. Channel 233A can be allocated to Claremore in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.6 kilometers (7.2 miles) south in order to avoid a short-spacing to the application site specified by Station KNFB-FM, if Channel 233C2 is not allocated to Barling, AR. KXOJ is requested to furnish a signal coverage study showing that a site is available from which a Channel 233A operation could provide the required 70 dBu signal over the entire community of Claremore. Channel 264A can be allocated to Locust Grove in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. Teresa Brown, permittee of a new FM station at

Barling, AR, seeks the substitution of Channel 233C2 for Channel 233A at Barling and the modification of her permit to specify the higher powered channel. The allocation of Channel 233C2 at Barling could provide the community with its first local wide coverage area FM service. Channel 233C2 can be allocated to Barling and used at the site specified in Brown's construction permit if Channel 233A is not allocated to Claremore. Mike Warrren requests the allocation of Channel 264A to Claremore, OK.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Julian P. Freret, Esq., Booth, Freret & Imlay, 1920 N Street, NW., Suite 520, Washington, DC 20036 (Counsel to Mike Warren); M. Scott Johnson, Esq., Lynn M. Clancy, Esq., Gardner, Carton & Douglas, 1875 Eye Street NW., Washington, DC 20006–5472 (Counsel to KXOJ and Doyal Hoover); Richard R. Zaragoza, Esq., Fisher, Wayland, Cooper and Leader, 1255–23rd Street NW., Suite 800, Washington, DC 20037–1125 (Counsel to Special Services Radio, Inc.); Aaron Shanis, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 203, Washington, DC 20036 (Counsel to Teresa Brown).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 85–156, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments. See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–11505 Filed 5–19–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–126, RM–5570]

Radio Broadcasting Services; Bradford, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by David N. Tucker proposing the allotment of Channel 249A to Bradford, Vermont, as that community's first FM service. Canadian concurrence must be obtained.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: David N. Tucker, 25 Churchill Street, Springfield, MA 01108.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–126, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230) 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve chanel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–11498 Filed 5–19–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–129, RM–5681]

Radio Broadcasting Services; Marlboro, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Marrian Akley proposing the allotment of Channel 268A to Marlboro, Vermont, as that community's first FM service. A site restriction of 2.7 kilometers (1.7 miles) northwest of the community is required.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Marrian Akley, c/o Brian Dodge, Harvest Broadcasting Services, Box 105FM, Hinsdale, NH 03451 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–129, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transportation Service, (202) 857–3800.

2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Mass Media Bureau.

[FR Doc. 87-11503 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-130, RM-5669]

Radio Broadcasting Service, Wells River, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Puffer Broadcasting, Inc., proposing the allotment of Channel 229A to Wells River, Vermont, as that community's first FM service.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESS: Federal Communications, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: John R. Wilner, Esquire, Gary P. Schonman, Esquire, Bryan, Cave, McPheeters & McRoberts, 1015 Fifteenth Street, NW., Washington, DC 20005 (Counsels to petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-130, adopted April 17, 1987, and released May 15, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-11514 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-125, RM-5653]

Television Broadcasting Services; Columbia, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Columbia Television, Inc. to allot UHF TV Channel 47 to Columbia, South Carolina, as the community's fourth local commercial television service. Channel 47 can be allotted to Columbia in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.1 kilometers northeast to avoid a short-spacing to unused and unapplied for noncommercial educational Channel *47 at Macon, Georgia.

DATES: Comments must be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Aaron Shainis, Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 203, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shaprio, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-125, adopted April 17, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcashing.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-11499 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[Docket No. 86-37; FCC 87-157]

Restriction of Use of Radio Transmitters With External Frequency Controls; Further Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is revising its initial proposals to incorporate into Part 90 of its Rules restrictions against the use of certain radio transmitters with external frequency programming capabilities that would permit front

panel selection of frequencies allocated to the private land mobile radio services. The proposed rules would inhibit willful or unintentional transmissions on unauthorized frequencies, resulting in less interference to authorized operations.

DATES: Comments may be filed on or before July 6, 1987, and reply comments on or before July 21, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, telephone (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, PR Docket No. 86–37, adopted April 29, 1987, and released May 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037. Telephone (202) 857–3800.

Summary of Further Notice of Proposed Rulemaking

The Commission proposes to amend § 90.203 of the Rules and Regulations to deny type acceptance for equipment for use under Part 90 if the operator can, by using the equipment's external operating controls, program, select, and transmit on unauthorized frequencies. Additionally, transmitters designed to operate above 25 MHz that are capable of user programming with front panel controls, and that have been type accepted prior to the date of the Report and Order in this proceeding, shall not be manufactured within or imported into the United States after the effective date of the Report and Order. Transmitters with frequency programming capability will be exempt from the proposed rules if the design of such transmitters requires programming by methods and equipment not normally accessible to the operator. Also exempted are transmitters specifically designed for and utilized in aircraft operations pursuant to § 90.423 of the Rules.

Ex parte

This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Anaylsis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The major impact of the proposed rules will be on a few equipment manufacturers. However, since the proposals in this Further Notice of Proposed Rulemaking are those submitted by the electronics Industries Association with concurrence from equipment manufacturers, it would appear that the equipment manufacturers are prepared to absorb any resulting impact.

Paperwork Reduction Act Statement

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

Procedure Matters

Authority for issuance of this Further Notice of Proposed Notice of Proposed Rulemaking is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Interested persons may file comments on or before July 6, 1987, and reply comments on or befor July 21, All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

In accordance with the provision of § 1.149 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments an other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M. Street, NW., Washington, DC.

For further information concerning this rulemaking contact Eugene Thomson, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio service, Type acceptance.

William J. Tricarico,

Secretary.

[FR Doc. 87 11497 Filed 5–19–87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 97
Wednesday, May 20, 1987

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

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Agreements Regarding Forest Service Activities in North Carolina and Florida

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute two Programmatic Agreements pursuant to § 800.13 of the Council's regulations, "Protection of Historic Properties" (36 CFR Part 800), with the USDA Forest Service, and the North Carolina and Florida State Historic Preservation Officers, respectively, providing for the integration of historic property protection with other Forest Service management needs on all lands under Forest Service jurisdiction or control within the two states. The proposed Programmatic Agreements will establish mechanisms for identification, evaluation, and treatment of historic properties in conjunction with Forest planning and site-specific undertakings, and provide for regular consultation with the State Historic Preservation Officers throughout Forest planning. The Forest Service has proposed these Agreements in order to meet the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f) in a manner compatible with its ongoing programs in the two states.

Comments Due: June 19, 1987.

Address: Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, Washington, DC 20004 [Attn: Ronald D. Anzalone] Telephone Number: 202–786–0505.

Dated: May 11, 1987.

John M. Fowler,

Acting Executive Director.

[FR Doc. 87–11447 Filed 5–19–87; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 20, 1987.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (a)(1), (a)(2), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than May 31, 1988.

Antidumping duty proceedings and firms	Periods to be reviewed
Sugar and Syrups from Canada:	
Lantic Sugar	04/01/86–03/31/87
Sorbitol from France:	
Roquette Freres	04/01/86–03/31/87
Spun Acrylic Yarn from Italy:	
Aniclibre	04/01/86–03/31/87
Cofisa	04/01/86–03/31/87
Emmepi	04/01/86–03/31/87
Fantasia	04/01/86–03/31/87
Lanificio Di Nervesa/International Fibre	04/01/86–03/31/87
Mister Joe	04/01/86–03/31/87
Saberfil	04/01/86–03/31/87
Turriddo Torracchi	04/01/86–03/31/87
Calcium Hypochlorite from Japan:	
Nankai	04/01/86–03/31/87
Nippon Soda	04/01/86–03/31/87
Nissin Denka	04/01/86–03/31/87
Cyanuric Acid from Japan:	
Shikoku Chemicals/Mitsubishi	04/01/86–03/31/87
Dichloroisocyanurates from Japan:	
Nissan Chemical Ind./Toyomenka	04/01/86–03/31/87
Shikoku Chemicals/Mitsubishi	04/01/86–03/31/87
Trichloroisocyanuric Acid from Japan:	
Nissan Chemical Ind./Toyomenka	04/01/86–03/31/87
Shikoku Chemicals/Mitsubishi	04/01/86–03/31/87
Roller Chain, Other Than Bicycle, from Japan:	
Daido Kogyo/Daido Corp	04/01/86–03/31/87
Enuma/Daido Corp	04/01/86–03/31/87
Hitachi Metals	04/01/86–03/31/87
Honda	04/01/86–03/31/87
Izumi	04/01/86–03/31/87
Nissan	04/01/86–03/31/87
Pulton	04/01/86–03/31/87
Sugiyama	04/01/86–03/31/87
Takasago	04/01/86–03/31/87
Toyota	04/01/86–03/31/87
Tsubakimoto	04/01/86–03/31/87
Spun Acrylic Yarn from Japan:	
Asahi Chemical	04/01/86–03/31/87
C. Itoh	04/01/86–03/31/87
Gunze Sangyo	04/01/86–03/31/87
Itoman	04/01/86–03/31/87
Mitsubishi	04/01/86–03/31/87
Mitsui	04/01/86–03/31/87
Nichimen	04/01/86–03/31/87
Nissho	04/01/86–03/31/87
Teijin Shoji	04/01/86–03/31/87
Television Receiving Sets from Japan:	
Fujitsu General	03/01/86–02/28/87
Funai	03/01/86–02/28/87
Hitachi	03/01/86–02/28/87
Mitsubishi	03/01/86–02/28/87
Nippon Electric	03/01/86–02/28/87
Sanyo	03/01/86–02/28/87
Bicycle Tires & Tubes from South Korea:	
Korea Inoue Kasei	04/01/86–04/21/87
Color Television Receivers from South Korea:	
Cosmos Electronic	04/01/86–03/31/87
Daewoo	04/01/86–03/31/87
Goldstar	04/01/86–03/31/87
Quantronics	04/01/86–03/31/87
Samsung	04/01/86–03/31/87
Color Television Receivers from Taiwan:	
AOC	04/01/86–03/31/87
Capetronic (BSR)	04/01/86–03/31/87
Fulet	04/01/86–03/31/87
Funai	04/01/86–03/31/87
Hitachi (Taiwan)	04/01/86–03/31/87
Kuang Yuan	04/01/86–03/31/87
Nettek	04/01/86–03/31/87
Paramount	04/01/86–03/31/87
Philips	04/01/86–03/31/87
RCA (Taiwan)	04/01/86–03/31/87
Sampo	04/01/86–03/31/87
Sanyo Electric (Tanwan)	04/01/86–03/31/87
Shin-Shirasuna	04/01/86–03/31/87
Tatung	04/01/86–03/31/87
Teco Electric	04/01/86–03/31/87

Countervailing duty proceedings	Periods to be reviewed
Wood from Argentina	01/01/86-12/31/86
Leather Wearing Apparel from Mexico	01/01/86-12/31/86
Rice from Thailand	01/27/86-12/31/86

We also received requests to review four Japanese television manufacturers but, due to injunctive orders issued by the Court of International Trade, we are deferring initiation of those reviews until the injunctive orders may be dissolved.

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: May 12, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-11545 Filed 5-19-87; 8:45 am]

BILLING CODE 3510-DS-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Commitee will be held June 9, 1987, 1:00 p.m. Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue NW., Washington, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technology & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: May 14, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 87-11546 Filed 5-19-87; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held June 9, 1987, 9:30 a.m. Herbert C. Hoover Building, Room B-841, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

1. Introduction of attendees and opening remarks by the Chairman.
2. Review and approval of the minutes of April 21, 1987.
3. Presentation of papers or comments by the public.
4. Request for suggestions for decontrol to the Bloc and relaxations to the PRC. Attention should be focused specifically on ECCNs 1501, 1502, and 1531. However, consideration will be given to all the entries in the telecommunications area.
5. Discussion of need for annual work plan and annual report.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, call Betty Ferrell at (202) 377-4959.

Dated: May 15, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87-11547 Filed 5-19-87; 8:45 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

May 15, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 18, 1987. For further information contact Kim Pham, International Trade Specialist (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 682-3075. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

CITA directives dated May 24, 1985 and May 22, 1986 (50 FR 21923 and 51 FR 19249) established import limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month periods which began, in the case of Category 347, on June 1, 1985 and extended through May 31, 1986; and, in the case of Categories 342, 347, 348 and 363, on June 1, 1986 and extends through May 31, 1987.

A subsequent directive dated April 2, 1987 (52 FR 11306) established an import limit for cotton textile products in Category 350, among others, for the twelve-month period which began on June 1, 1986 and extends through May 31, 1987.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, and at the request of the Government of Sri Lanka, the 1986/1987 restraint limits for Categories 347 and 348 are being increased by application of swing. Carryover is also being applied to Category 347 for the 1986/1987 agreement year. The limits for Categories 350 and 363 are being reduced to account for swing applied to Category 347. The limit for Category 342 is being reduced to account for swing applied to Category 348. The limit for Category 347 for the 1985/1986 agreement year is being reduced to account for carryover applied to the current year's limit.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the previously established restraint limits for the foregoing categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 20768) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 15, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives of May 24, 1985 and May 22, 1986 concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month periods which began, in the case of Category 347, on June 1, 1985 and extended through May 31, 1986; and, in the case of Categories 342, 347, 348 and 363, on June 1, 1986 through May 31, 1987.

This directive also amends, but does not cancel, the directive of April 2, 1987 concerning cotton textile products in Category 350, among others, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1986 and extends through May 31, 1987.

Effective on May 18, 1987, the directives of May 24, 1985, May 22, 1986 and April 2, 1987 are hereby amended to include the following adjustments to the previously established restraint limits for cotton textile products in Categories 342, 347, 348, 350 and 363, provided under the terms of the bilateral agreement of May 10, 1983, as amended: [1]

Category	Adjusted 12-mo. limit [1] June 1, 1985–May 31, 1986
347	343,854 dozen.

[1] The limit has not been adjusted to account for any imports exported after May 31, 1985.

Category	Adjusted 12-mo. limit [2] June 1, 1986–May 31, 1987
342	162,997 dozen.
347	436,116 dozen.
348	292,802 dozen.
350	40,879 dozen.
363	5,939,670 numbers.

[1] The provisions of the bilateral agreement provide, in part, that: (1) Specific limits may be exceeded by designated percentages, provided an equal amount in equivalent square yards is deducted from another specific limit; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable limit; and (3) administrative arrangements and adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limits have not been adjusted to account for any imports exported after May 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-11548 Filed 5-19-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Procurement; Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Instrument Flight Simulator Console Operation at Randolph AFB, TX will be examined for possible conversion to contract.

For further information contact Mr. Bob Moore, HQ ATC/XPMRC, Randolph AFB, TX 78150, telephone (512) 925–2384.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-11550 Filed 5-19-87; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Supplement to the Environmental Impact Statement for the Aquatic Plant Management Program for the Control of Eurasian Watermilfoil in the State of Washington

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Notice of Intent.

SUMMARY: This NOI describes major issues being considered in the preparation of an Environmental Impact Statement Supplement (EISS) to the 1979 Final Environmental Impact Statement (FEIS) for this program. The program addresses the need for management of the introduced aquatic weed, *Myriophyllum spicatum*, Eurasian watermilfoil, in the State of Washington. The proposed action is to use a variety of mechanical, biological and chemical methods to control this plant. The EISS will assess potential impacts of changes and developments since the FEIS; these changes and developments include new areas of infestation that are proposed

for treatment, new methods for treatment, and new information on treatment effects and efficacies. The EISS will provide the basis for use of a broader range of environmentally compatible control methods.

DATES: Written comments regarding initial scoping by May 27, 1987. The draft EISS will be available for comment in late July 1987.

ADDRESS: Comments may be directed to the attention of Planning Branch, U.S. Army Corps of Engineers, Seattle District, Post Office Box C–3755, Seattle, Washington 98124–2255.

FOR FURTHER INFORMATION CONTACT: Mr. John Wakeman, Environmental Coordinator, at (206) 764–3624 (FTS 446–3624) or at the above address.

SUPPLEMENTARY INFORMATION: Heavy infestations of Eurasian watermilfoil were first discovered in western Washington and in tributaries to the Columbia River in the mid-1970's. Infestations have since spread to additional lakes and down the Columbia River from near the Canada–U.S. border to the present downstream limit near Richland, Washington. A program was initiated in 1980 to alleviate impacts that occur when growth or spread of watermilfoil obstructs public use, blocks navigable waters or fouls dams, and damages fish and wildfowl habitat. This program is cost-shared between the State of Washington Department of Ecology and local governments and the U.S. Army Corps of Engineers. The Corps' authority for involvement is a directive by the Office of the Chief of Engineers on June 17, 1980 in accordance with Pub. L. 89–298 and section 302 of the Rivers and Harbors Act of 1965. Federal waters are specifically excluded from treatment under this program. Several alternative treatment methods were approved for use in the 1979 FEIS and Design Memorandum. The sponsors determine which of these are to be utilized. As the infestation has spread, treatment areas have changed with the addition of the Pend Oreille River and the pool above Wells Dam at Malott on the Columbia and Okanogan Rivers. Also, new information has become available on the impacts of some of the treatments originally considered, and new treatments (more efficient tillage and a new herbicide) have been developed. The 1979 FEIS is updated with yearly Environmental Assessments detailing the work plans provided by the sponsors.

Alternatives. The EISS will summarize changes in the program and review recent information on treatment methodologies, with a view to providing the environmentally acceptable flexibility to the sponsors for their treatment programs. The proposed alternative is for use of appropriate mechanical, chemical and biological control options. A no-action alternative will also be considered. Options which will be considered individually for incorporation into the proposed alternative are (a) mechanical harvesting and sediment tillage (rotovation), (b) chemical methods (2,4–D, endothall, diquat and fluridone), (c) bottom barriers such as fiberglass screens, and (d) biological methods such as white amur (grass carp), fungal pathogens or insects. Issues raised for consideration may all be present in the proposed combined-action control alternative; however, specific methods could be fit to particular sites or conditions in a manner to increase the effectiveness of the treatment and to minimize negative environmental or human health impacts. Some of the methods considered will probably be found to be inappropriate or improper for certain circumstances; accordingly, the proposed alternative will state where they are appropriate for use in this program.

Significant Issues. In the *no-action* alternative, the major concerns are (a) that watermilfoil would continue to cause distruption to human recreational use, e.g., endangering swimmers, entangling boat propellors and fishing lines; (b) that attached or floating masses of watermilfoil would hamper navigation and be costly to remove from bathing beaches or trash-racks of dams, (c) that native aquatic plant species would be competitively excluded by watermilfoil; and (d) that aquatic communities would be disturbed, or fish and wildlife habitat would be made unsuitable by watermilfoil overgrowth. In the *mechanical* option for control, issues include (a) entrainment of fish by the machinery, (b) damage to aquatic invertebrate communities, and (c) effects of resuspending and potentially redissolving nutrients and pollutants from the sediments, and (d) the potential for bottom tilling to disturb flooded historic or prehistoric sites with significant cultural resources value. In the *chemical* option, issues include (a), the effects of herbicides released into the water on human health via ingestion of the water or of organisms living in or feeding on aquatic organisms, (b) effects on aquatic communities and (c) effects on wildlife or livestock ingesting treated water. In the *bottom barrier* option, issues include (a) exclusion of oxygen from benthic animal communities and (b) reducing fish habitat. In the *biological* option for control, issues include (a) impacts to nontarget species of aquatic plant and (b) effects of introduction of exotic species into new environments.

Scoping and Public Involvement. Scoping letters are being sent to key agencies, groups and individuals; and coordination is occurring with the U.S. Fish and Wildlife Service pursuant to the requirements of section 7(c) of the Endangered Species Act. The Advisory Council on Historic Preservation and the State Historic Preservation Office is also being contacted as required under the National Historic Preservation Act.

Dated: April 22, 1987.

Philip L. Hall,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 87–11443 Filed 5–19–87; 8:45 am]

BILLING CODE 3710-GR-M

Draft Environmental Impact Statement (DEIS) for Snoqualmie River Flood Damage Reduction Study

AGENCY: Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The project area consists of lands along the Snoqualmie River in and near the city of Snoqualmie in King County, Washington. The city of Snoqualmie and surrounding county land are susceptible to flooding. Major floods occurred in 1959 and 1986, and lesser floods in 1975 and 1977. The November 1986 flood, an 18-year event, damaged 123 homes and 36 businesses within the city. Should the 100-year flood occur (an event which would have a 1 percent chance of occurring on any year), then almost every home would receive damage. The most likely flood damage reduction alternative is channel widening and overbank excavation along the river in and near Snoqualmie. Channel widening would occur downstream of the Highway 202 bridge along 1,000 feet of shoreline on the right bank and 1,000 feet of shoreline on the left bank. Overbank excavation would occur upstream of the Highway 202 bridge on 35 acres of right bank land and 25 acres of left bank land. A railroad bridge would also be removed upstream of Highway 202 bridge. This potential project would remove a hydraulic bottleneck in the river and result in the lowering of flood waters in and near the city. In general, the 10-year flood would be lowered by about 2 feet in downtown Snoqualmie and the 100-year flood would be lowered by about 3 feet.

This alternative would require work within the Snoqualmie River, it would eliminate 63 acres of wildlife habitat,

and it would require the disposal of almost 700,000 cubic yards of material. Appropriate mitigation measures will be made an integral part of the eventual recommended plan.

DATES: Written comments regarding scoping are due by June 26, 1987. The DEIS is presently scheduled to become available for review in February 1988.

ADDRESS: Comments may be directed to the attention of Planning Branch, U.S. Army Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle, Washington 98124-2255.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Brunner, Environmental Coordinator, at (206) 764-3624 (FTS 446-3624) or at the above address.

SUPPLEMENTARY INFORMATION:

Alternatives. Two variations of the channel widening and overbank excavation alternative are also being considered. These variations would both result in less adverse environmental impacts, but they would also not lower flood heights as much as the preferred alternative. The no-action plan will also be studied in detail. Several other flood damage reduction alternatives for the Snoqualmie area have been studied previously and have been shown to be economically infeasible. These include: Upstream storage dams and reservoirs, levees and floodwalls, and raising homes. Results of these past studies will be presented in the EIS.

Significant Concerns. Several concerns have been identified during agency meetings and the public workshop. The more important concerns are listed below:

a. Develop an alternative that will avoid or minimize impacts to nursery and rearing habitat of fingerling and juvenile fishes, minimize downstream sedimentation that may result from the project, and identify appropriate mitigation measures.

b. Develop an alternative that minimizes impacts to wildlife habitat and identify appropriate migitation needs.

c. Perform a cultural resources reconnaissance that will identify historic and prehistoric resources within the project area and prescribe necessary salvage or mitigation measures.

d. Determine whether the Puget Sound Railway bridge need to be removed, and if so, determine appropriate mitigation required by Puget Sound Railway Historical Association.

e. Determine the location of the most acceptable site for disposal of excavated materials.

f. Determine the extent of potential increased downstream flooding and its possible effects on communities such as Carnation.

g. Preserve esthetic values in the Snoqualmie River area.

Public Involvement Program. Major meetings with agencies have been held on November 6, 1985, April 23, 1986, and September 18, 1986. A public workshop was held in the city of Snoqualmie on November 20, 1986. Numerous smaller meetings with local sponsors, agencies, and interest groups have been held over the past 2 pears. Additional public involvement, including meetings and public workshops, will be held through the remainder of the study.

Environmental Review and Consultation Requirements. This project investigation is being coordinated with the U.S. Fish and Wildlife Service and will satisfy requirements of the Fish and Wildlife Coordination Act and section 7(c) of the Endangered Species Act. Section 404 of Pub. L. 92-500 requires an evaluation of the effects of activities on aquatic ecosystems involving the discharge of dredged or filled material in waters of the United States. A section 404(b) evaluation which discusses the project impacts on the aquatic ecosystems will be developed.

Dated: May 1, 1987.

Rance H. Rountree,

Lt. Colonel, Corps of Engineers, Acting District Engineer.

[FR Doc. 87-11444 Filed 5-19-87; 8:45 am]

BILLING CODE 3710-GR-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 27, 1987 beginning at 1:30 p.m. in the Jefferson Room of the Holiday Inn at 4th and Arch Streets, Philadelphia, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or section 3.8 of the Compact:

1. *Holdover Project: Borough of Dublin D-81-75 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 27,000 gallons per day (gpd) (seven day average) from Well Nos. 1 and 2. Commission approval on December 12, 1984 was limited to two years and has expired. The applicant requests that the total withdrawal from the two wells remain the same, but that the control pumping levels be modified. The project is located in Bucks County in the Southeastern Pennsylvania Ground Water Protected Area. This hearing continues that of April 22, 1987.

2. *Holdover Project: Mid-Atlantic Canners Association D-86-83.* An application for approval of a ground water withdrawal project to supply up to 5.1 million gallons (mg)/30 days of water to the applicant's bottling and canning facility from existing Well Nos. 1, 2, and 3, not previously approved by the Commission. The project is located in Hamburg Borough, Berks County, Pennsylvania. This hearing continues that of April 22, 1987.

3. *Ralph Franceschini D-81-49 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 5.83 mg/30 days of water to the applicant agricultural irrigation system from an irrigation well. Commission approval on September 3, 1981 was limited to five years and has expired. The applicant requests that the total withdrawal from all wells remain limited to 5.83 mg/30 days. The project is located in the City of Vineland, Cumberland County, New Jersey.

4. *Fawn Lake Forest Water Company D-81-61 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 3.3 mg/30 days of water to the applicant's distribution system from Well Nos. 1, 2, 3, 4 and 5. Commission approval on August 5, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 3.3 mg/30 days. The project is located in Lackawaxen Township, Pike County, Pennsylvania.

5. *Jim Thorpe Municipal Authority D-81-71 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 14.1 mg/30 days of water to the applicant's distribution system from Well No. 4. Commission approval on August 5, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 14.1 mg/30 days. The project is located in Jim Thorpe Borough, Carbon County, Pennsylvania.

6. *Town of Middletown D-86-77 CP.* An application for approval of a ground water withdrawal project to supply up to 4.5 mg/30 days of water to the Arkville Water District from new Well

No. 4, and to limit the withdrawal from all wells to 4.5 mg/30 days. The project is located in the Town of Middletown, Delaware County, New York.

7. *Berks-Montgomery Municipal Authority D–87–7 CP.* An application for an upgrading and expansion of the West Swamp Creek Wastewater Treatment Facility, located in Douglass Township, Montgomery County, Pennsylvania. The existing facility consists of two secondary treatment plants which are operated in parallel. Docket No. D–70–210 CP rated the original plant at 0.312 million gallons per day (mgd) and the second plant approved by that docket at 0.8 mgd. The proposed expansion and upgrading is designed to provide tertiary treatment for a flow of 1.9 mgd. The applicant has applied for Sewerage Facilities Plan (537) approval from the Pennsylvania Department of Environmental Resources to expand the facility to 2.3 mgd in the future. The plant will continue to serve the Borough of Bechtelsville and portions of Colebrookdale Township in Berks County, plus portions of Douglass Township, Montgomery County. Treatment plant effluent will continue to discharge to Swamp Creek. A new parallel effluent line will be installed to convey the increased flow.

8. *Easton Area Joint Sewer Authority D–87–10 CP.* An application to upgrade a 10 mgd sewage treatment plant located off Pennsylvania State Highway 611 in Williams Township, Northampton County. The plant serves the City of Easton and surrounding environs. The proposed facility is designed to provide secondary treatment of wastewater through the year 1996. Treatment plant effluent will continue to discharge to the Delaware River through the existing outfall.

9. *The Cutler Group, Inc. D–87–12.* An application to construct a 0.06 mgd sewage treatment plant to serve a proposed housing development on 174 acres in Montgomery Township, Montgomery County, Pennsylvania. The proposed plant is designed to provide high quality secondary treatment of sewage from 174 new homes through the year 1990, at which time a phase II expansion is planned. The wastewater treatment plant effluent will be discharged to Little Neshaminy Creek.

10. *West Grove Borough Authority D–87–24 CP.* An application to expand a 0.2 mgd sewage treatment plant located off Valley Road in London Grove Township, Chester County, Pennsylvania. The proposed 0.25 mgd plant is designed to serve an equivalent population of over 3,300 persons through the year 2005. The applicant will continue to provide high quality secondary treatment of predominantly domestic waste from West Grove Borough and a portion of London Grove Township. Treatment plant effluent will continue to be discharged to Middle Branch White Clay Creek through the existing outfall.

11. *Trailer Marine Transport Corporation D–87–25.* An application to dredge along the north shore of Petty Island in the tidal Delaware River at Pennsauken Township, Camden County, New Jersey. The applicant plans to connect two 400 feet by 100 feet by 25 feet barges to eight 24 inch diameter steel spuds. These barges will serve as floating platforms linked to two proposed, 14 feet wide, pipe pile supported piers. The piers and associated facilities will be constructed on the river bank of a 50 acre lot adjacent to the applicant's existing 38-acre marine terminal. The applicant proposes to mechanically dredge approximately 300,000 cubic yards of materials. The dredged area will be 1,100 feet long and up to 450 feet from the shore. The applicant has proposed a maximum dredging depth of 40 feet below mean low water outshore of the floating platform mooring area, and 18 feet below mean low water inshore of that area. The proposed facilities will increase the applicant's rolling cargo handling capacity.

12. *Farda Associates Inc. D–87–27.* An application to construct a 0.2 mgd sewage treatment plant at the Summit Resort located off Pennsylvania Highway 715 in Pocono Township, Monroe County. The four season, 184 unit resort will be developed to provide an additional 621 dwelling units plus service facilities. The proposed plant is designed to provide high quality secondary treatment of sewage through the year 2000. Treatment plant effluent will be discharged to an unnamed tributary of Pocono Creek at River Mile 213.0–4.0–1.0–10.4–0.9.

13/ *Upper Gwynedd Township Authority D–87–29 CP.* An application to rerate a 2.2 mgd sewage treatment plant to process an average flow of 2.5 mgd. The tertiary treatment plant is located in Upper Gwynedd Township, Montgomery County, Pennsylvania. The plant will continue to serve only portions of Whitpain and Upper Gwynedd Townships. A primary effluent pump has been installed to handle the inceased flow. The project is designed to serve an equivalent population of 25,000 persons through the year 1990. Treatment plant effluent will continue to be discharged to Wissahickon Creek through the existing outfall.

14. *Country Place Water Company, Inc. D–87–23 CP.* An application for approval of a ground water withdrawal project to supply up to 4.32 and 6.48 mg/30 days of water to the applicant's distribution system from new Well Nos. 3 and 4, respectively, and increase the existing withdrawal limit of 8.64 mg/30 days, from all wells ot 19.44 mg/30 days. The project is located in Coolbaugh Township, Monroe County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

May 12, 1987.

[FR Doc. 87–11442 Filed 5–19–87; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI87–514–000 et al.]

Amoco Production Co. et al.; Notice of Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

May 12, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 28, 1987, file with the Federal Energy Regulatory Commisison, Washington, DC 20426, petitions to intervene or protests 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in acordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,00 ft.[3]	Pressure base
CI87-514-000, A, Apr. 29, 1987.	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Transcontinental Gas Pipe Line Corp., East Breaks Area Block 160 Field, Offshore Texas.	(1)	
CI87-518-000, A, Apr. 24, 1987.	.....do.....	Florida Gas Transmission Company, Eugene Island Blocks 301 and 322, Offshore Louisiana.	(2)	
CI87-519-000, A, Apr. 24, 1987.	.....do.....	South Timbalier Block 156, Offshore Louisiana.	(2)	
CI87-520-000, A, Apr. 24, 1987.	.....do.....	South Marsh Island Block 128, Offshore Louisiana.	(2)	
CI87-526-000, A, Apr. 24, 1987.	.....do.....	Ship Shoal Block 84, Offshore Louisiana....	(2)	
CI87-527-000, A, Apr. 24, 1987.	.....do.....	East Cameron Block 33, Offshore Louisiana.	(2)	
CI87-528-000, A, Apr. 24, 1987.	.....do.....	East Cameron Block 264, Offshore Louisiana.	(2)	
G-3762-000, D, Apr. 27, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O, Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Fulcher-Kutz Pict Cliffs, San Juan County, New Mexico.	(3)	
G-9980-001, D, Apr. 30, 1987.	.....do.....	Natural Gas Pipeline Company of America, Camrick Field, Texas County, Oklahoma.	(3)	
G-13635-000, D, Apr. 27, 1987.	.....do.....	Northwest Pipe Line Corporation, San Juan Basin Field, San Juan County, New Mexico.	(3)	
CI63-538-004, D, Apr. 27, 1987.	.....do.....	Northwest Lovedale Field, Harper Conty, Oklahoma.	(3)	
CI62-1331-000, D, Apr. 27, 1987.	.....do.....	Northern Natural Gas Company, Division of Enron Corp., Hunt Baggett Field, Corckett County, Texas.	(3)	
CI61-1032-001, D, Apr. 30, 1987.	.....do.....	ANR Pipeline Company, Laverne Area, Harper County, Oklahoma.	(3)	
CI66-572-000, D, Apr. 27, 1987.	.....do.....	K N Energy, Inc., Beauchamp Field, Stanton County, Kansas.	(3)	
CI62-1511-000, D, Apr. 30, 1987.	Arco Oil and Gas Company, Division of Atlantic Richfield Company.	Panhandle Eastern Pipe Line Company, Avard and Lenora Fields, Woods and Dewey Counties, Oklahoma.	(3)	
CI68-139-000, D, Apr. 30, 1987.	.....do.....	Northeast Waynoka Field, Woods County, Oklahoma.	(3)	
CI65-571-000, D, Apr. 30, 1987.	.....do.....	El Paso Natural Gas Company, Basin Dakota Field, San Juan County, New Mexico.	(4)	
CI61-1454-000, D, Apr. 30, 1987.	.....do.....	.....do.....	(4)	
CI65-461-000, D, Apr. 30, 1987.	.....do.....	.....do.....	(4)	
CI65-571-001, D, Apr. 30, 1987.	.....do.....	Northwest Pipe Line Corporation, Basin Dakota Field, San Juan County, New Mexico.	(4)	
CI64-207-000, D, Apr. 30, 1987.	.....do.....	Southern Union Gathering Company, Basin Dakota Field, San Juan County, New Mexico.	(4)	
CI62-47-003, D, May 1, 1987.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Colorado Interstate Gas Company, Patrick Draw Field, Sweetwater County, Wyoming.	(5)	
CI87-556-000, (CI75-612), B, May 1, 1987.	.....do.....	Mountain Fuel Resources, Inc., Spearhead Ranch Field, Converse County, Wyoming.	(6)	
CI87-562-000, (CI73-695), B, May 4, 1987.	.....do.....	Transwestern Pipeline Company, Worsham Ellenburger Field, Reeves County, Texas.	(7)	
G-14719-000, B, Apr. 24, 1987.	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Company of America (NGPL-Gilliland Unit), Texas County, Oklahoma.	(8)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,00 ft.[3]	Pressure base
CI83-64-001, D, May 1, 1987.	.....do.....	Transcontinental Gas Pipe Line Corp., OCS-G-3741, Galveston Block 393, Wells A-1 and A-2, Offshore Texas.	([9])	
CI87-534-000, B, Apr. 27, 1987.	Hamon Operating Company	El Paso Natural Gas Company, Carlsbad Field, Eddy County, New Mexico.	([10])	
CI87-535-000, B, Apr. 27, 1987.	.....do.....	Natural Gas Pipeline Company of America, Balko South Field, Beaver County, Oklahoma.	([11])	
CI87-532-000, B, Apr. 24, 1987.	Frank H. Walsh, P.O. Box 30, Sterling, Colorado 80751.	K N Energy, Inc., Sec. 7-T9N-R53W, Logan County, Colorado.	([12])	
CI87-541-000, B, Apr. 27, 1987.	Jogruss Oil Corp	El Pasco Natural Gas Company, Sprayberry Trend Area, Irion County, Texas.	([6])	
CI87-542-000, B, Apr. 24, 1987.	Evelyn Gruss Lipper & Evelyn Gruss Lipper Trust.	.....do.....	([6])	
CI87-543-000, B, Apr. 27, 1987.	Gruss Petroleum	.....do.....	([6])	
CI87-545-000, B, Apr. 27, 1987.	.....do.....	Sprayberry Trend Area, Upton County, Texas.	([6])	
CI87-544-000, B, Apr. 27, 1987.	Martin D. Gruss	Sprayberry Trend Area, Irion County, Texas.	([6])	
CI77-438-002, D, Apr. 24, 1987.	Texaco Producing Inc., P.O. Box 52322, Houston, Texas 77052.	United Gas Pipe Line Company, High Island Area, (E/2 of Block 110, W/2 of Block 111, and N/2 of Block 138), Offshore Texas.	([13])	
CI87-540-000, (CI87-471), B, Apr. 27, 1987.	Texaco Producing Inc. (Succ. in Interest to Dome Petroleum Corp.).	El Paso Natural Gas Company, Basin Dakota Field, San Juan County, New Mexico.	([14])	
CI87-552-000, F, May 1, 1987.	Texaco Producing Inc. (Succ. in Interest to Atlantic Richfield Company).	Texas Eastern Transmission Corp., Karon Slick Sand Unit, Live Oak County, Texas.	([15])	
CI84-498-003, B, Apr. 24, 1987.	Eastern Kentucky Production Co., 1989 East Stone Drive, Kingsport, Tenn 37660.	Kentucky West Virginia Gas Co., Well No. 6128, David Ritchie Farm, Knott County, Kentucky.	([17])	
CI87-537-000, (CI61-1655), B, Apr. 27, 1987.	Union Texas Petroleum Corp., P.O. Box 2120, Houston, Texas 77252-2120.	Oklahoma Natural Gas Gathering Corp., Kingwood Field, Major County, Oklahoma.	([18])	
CI87-539-000, (G20295), B, Apr. 27, 1987.	Camplin Petroleum Company, Four Allen Center, 1400 Smith Street, Suite 1500, Houston, Texas 77002.	Arkansas Louisiana Gas Company, E. Kremlin Field, Garfield County, Oklahoma.	([19])	
CI87-538-000, (CI78-739), B, Apr. 27, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	El Paso Natural Gas Company, Monument Grayburg (San Andres), Lea County, New Mexico.	([20])	
CI87-553-000, (CI73-340), B, Apr. 30, 1987.	Hondo Oil and Gas Company, P.O. Box Midland, Texas 79702.	Mountain Fuel Resources, Inc., Jake Shaeffer #1, Mam Creek Area, Sec. 12-R93W-T7S, Garfield County, Colorado.	([21])	
CI87-560-000, B, May 4,, 1987.	Mountain States Petroleum Corp., Roswell, New Mexico 88201.	El Paso Natural Gas Company Chaves County, New Mexico.	([22])	
G-4579-041, D, May 4, 1987..	Cities Service Oil & Gas Corp., P.O. Box 300 Tulsa, Okla. 74102.	Pennsylvanian formation in SW/4, Sec. 7-25S-37E-. Lea County, New Mexico.	([23])	
CI65-584-001, B, Mar. 17, 1987.	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Florida Gas Transmission Company, Various Fields and Blocks in South Louisiana.	([25])	
CI87-496-500, B, Apr. 24, 1987.	Hillin Production Company, P.O. 1521, Odessa, Texas 79760.	El Paso Natural Gas Company, Winchester Field, Eddy County, New Mexico.	([26])	
CI87-496-000, B, Apr. 24, 1987.	.....do.....	.....do.....	([26])	

[1] Applicant is filing under Gas Purchase Contract dated 3-27-87.
[2] Applicant is filing under Gas Purchase Contract dated 4-15-87.
[3] ARCO assigned its interest in certain acreage to Hondo Oil and Gas Company by assignment effective 1-1-87.
[4] ARCO assigned its interest in certain acreage to Amoco Production Company by assignment effective 3-1-86.
[5] Acreage has been assigned to Chriscor Oil and Gas Corporation.
[6] Uneconomical.
[7] The Pennzoil's TUBB "C" No. 1 well has been plugged an abandoned. Chevron U.S.A. Inc. plans no further development or production from the properties committee under the agreement.
[8] To facilitate contract administration Applicant proposes to terminate its certificate in Docket No. G-14719 and cancel its related Rate Schedule No. 53 since the subject acreage is currently covered by two certificates and Rate Schedules: Rate Schedule 46, Docket G-11020 and Rate Schedule No. 53, Docket G-14719.
[9] Wells permanently abandoned.
[10] Purchaser unable to obtain a market for this gas and has not requested volume since April, 1987. Well has been shut in and since this is a Morrow completion, it is possible the reservior has been damaged.

[11] Term of Contract expires 7-1-87, and Purchaser has stated it does not want to rollover this contract or continue purchasing the small volume available.

[12] Available supply of natural gas is depleted.

[13] Federal Lease OCS-G-2680 (North half of High Island Block 138) terminated 10-9-85.

[14] Effective 10-1-86, Texaco Oils Inc. (Succ. in Interest to Dome Petroleum Corporation) assigned to Curtis J. Little Oil and Gas Company, its right, title, and interest in and to the North half of Section 18-30N-10W, San Juan County, New Mexico. At time of assignment, the acreage was non-productive. The only well under the contract, Schumacher #3, was disconnected 10-31-81. Effective 12-31-86, Texaco Producing Inc. succeeded to the interests of Texaco Oils Inc.

[15] Atlantic Richfield Company assigned to Applicant certain acreage effective 5-1-86.

[16] Not used.

[17] Plugged and abandoned due to economic depletion; water encroachment and bailing operations made well uneconomical.

[18] Effective 10-1-86 Union Texas Petroleum Coporation conveyed its working interest in some of the leases dedicated under Rate Schedule 61 of American Exploration Acquisition Company and also effective 10-1-86, Union Texas Petroleum Corporation conveyed its working interest in other leases dedicated under Rate Schedule 61 of South Timbers Limited Partnership. Leases dedicated under Rate Schedule 61 and not conveyed to the aforementioned parties reverted to the Lessor and Union Texas Petroleum Corporation no longer holds a working interest in any acreage dedicated under Rate Schedule 61.

[19] Champlin has assigned all of its rights, title and interest in the dedicated acreage to Wheeler Energy Company, effective 3-1-87.

[20] Sun assigend PN 414114, Britt B, to Doyle Hartman effective 10-1-84.

[21] Mountain Fuel Resources, Inc. cancelled the contract effective 2-15-87, and rescinded its rollover offering citing lack of markets and an intercompany decision not to add any reserves to its system.

[22] To permit the sale of gas to Phillips 66 Natural Gas Company with the residue gas still entering into the El Paso mainline at the tailgate of the Phillips 66 NGC Lusk Plant in Lea County, New Mexico and thereby alleviate many of the accounting and bookeeping difficulties now handled by Mountain States.

[23] Gas Purchase Agreement dated 11-3-52, covering gas well gas only, expired 1-1-80, and there has been no gas well gas produced from this acreage.

[24] Application amended on April 30, 1987.

[25] Certificate expired on its own terms. Amoco requests cancellation of its related Rate Schedule No. 439.

[26] Applicant's original application for abandonment was received on April 13, 1987, and was noticed on May 6, 1987, (52 FR 16896). Applicant now requests a three-year limited-term abandonment with pregranted abandonment udner its small producer certificate.

Filing code: A—Initital Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-11410 Filed 5-19-87; 8:45 am]
BILLING CODE 6717-01-M

Western Area Power Administration

Final Post-1989 Allocations of Power; Salt Lake City Area Integrated Projects

In Federal Register Volume 52, No. 10620, April 2, 1987, make the following corrections:

On page 10626: In Table 1, fourth column entitled "Energy (MWH)," third line (Chandler Heights Citrus I.D.D.), change "671,748" to "671.748."

On page 10626: In Table 2, change the heading from "POST-1989 SLCA/IP ALLOCATIONS NORTHERN DIVISION EXISTING CUSTOMERS LOVELAND AREA," to "POST-1989 SLCA/IP ALLOCATIONS NORTHERN DIVISION EXISTING CUSTOMERS."

On page 10626: In Table 2, third column entitled "Capacity (MW)," seventh line (Subtotal, Loveland Area), change "446.471" to "466.471."

On page 10626: In Table 2, fourth column entitled "Energy (MWH)," first line (Center, CO), change "3,945.115" to "3,954.115."

On page 10626: In Table 2, fourth column entitled "Energy (MWH), nineteenth line (Brigham City, UT), change "27.577.769" to "27,577.770."

On page 10626: In Table 2, fifth column entitled "Capacity (MW)," fifteenth line (Wray, CO), change "0.051" to "0.501."

On page 10626: In Table 2, second column entitled "Customer," twenty-fifth line, change "Doe-Albuq. Oper. Off." to "DOE-Albuq. Oper. Off."

On page 10627: In Table 2, change the heading from "POST-1989 SLCA/IP ALLOCATIONS NORTHERN DIVISION EXISTING CUSTOMERS LOVELAND AREA—Continued," to "POST-1989 SLCA/IP ALLOCATIONS NORTHERN DIVISION EXISTING CUSTOMERS—Continued."

On page 10627: In Table 2, second column entitled "Customer," fourth line, change "Irea" to "IREA."

On page 10627: In Table 2, second column entitled "Customer," sixth line, change "Navajo Tribal UT. Ath." to "Navajo Tribal Util. Ath."

On page 10627: In Table 2, fourth column entitled "Energy (MWH)," twenty-second line (Subtotal, Salt Lake City Area), change "1.569,083.125" to, "1,569,083.125."

On page 10627: In Table 2, fifth column entitled "Capacity (MW)," twenty-second line (Subtotal, Salt Lake City Area), change "582,155" to "582.155."

On page 10627: In Table 2, sixth column entitled "Energy (MWH)," twenty-second line (Subtotal, Salt Lake City Area), change "1.275,922.954" to "1,275,922.954."

On page 10627: In Table 3, under "Load Factor," change "Summer: 2597.181" to "Summer: 2597.818."

On page 10628: In Table 3, second column entitled "Customer,"first line, change "Aspend, CO" to "Aspen, CO."

On page 10628: In Table 3, fourth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10628: In Table 3, sixth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10628: In Table 3, fourth column entitled "Energy (MWH)," thirteenth line (Holloman AFB), change "5,396.666" to "5,386.666."I11On page 10628: In Table 3, sixth column entitled "Energy (MH)," seventeen line (Lea County Elec. Co-op), change "9,092,366" to "9,092.366."

On page 10628: In Table 3, sixth column entitled "Energy (MWH)," twenty-fifth line (Springdale, UT), change "61.049" to "61.052."

On page 10628: In Table 3, sixth column entitled "Energy (MWH)," thirtieth line (West Bountiful, UT), change "1,126,827 " to "1,126.827."

On page 10628: In Table 3, fifth column entitled "Capacity (MW)," thirty-first line (Subtotal, Prospective Customers), change "47.107" to "47.108."

On page 10628: In Table 3, sixth column entitled "Energy (MWH)," thirty-first line (Subtotal, Prospective Customers), change "123,656.596" to "123,656.599."

On page 10628: In Table 3 (lower), second column entitled "Customer," change "DOE-Albuq. oper. off." to "DOE Albuq. Oper. Off."

On page 10628: In Table 3 (lower), fourth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10628: In Table 3 (lower), fifth column entitled "Adjusted Capacity

(MW)," third line (DOE-Albuq. Oper. Off.), change "3.655" to "3.555."

On page 10628: In Table 3 (lower), sixth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10629: In Table 3, fourth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10629: In Table 3, sixth column, change "Energy (NWH)" to "Energy (MWH)."

On page 10629: In Table 3, fifth column entitled "Adjusted Capacity (MW)," tenth line (Subtotal, Existing Customers), change "36.539" to "36.538."

On page 10627: In Table 2, third column entitled "Capacity (MW)", fifteenth line ("St. George"), change "35.495" to "31.915".

On page 10627: In Table 2, fifth column entitled "Capacity (MW)", fifteenth line ("St. George"), change "21.882" to "19.673".

On page 10627: In Table 2, third column entitled "Capacity (MW)", seventeenth line ("UAMPS"), change "156.134" to "159.714".

On page 10627: In Table 2, fifth column entitled "Capacity (MW)", seventeenth line ("UAMPS"), change "101.509" to "103.718".

On page 10629: In Table 3, sixth column entitled "Adjusted Energy (MWH)," eleventh line (Subtotal, Exist. + Prosp. (Excl. Spec. Alloc.)), change "217,297.138" to "217,297.141."

On page 10629: In Table 3 (lower), second column entitled "Customer," change "DOE-Albuq. oper. off." to "DOE Albuq. Oper. Off."

Issued at Golden, Colorado, April 29, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-11517 Filed 5-19-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180735; FRL 3201-]

Receipt of Applications for Emergency Exemptions From Delaware To Use Dinoseb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt.

SUMMARY: EPA has received specific exemption requests from the Delaware Department of Agriculture (hereafter referred to as "Delaware") to use dinoseb (CAS 88-85-7). Delaware proposes to use dinoseb on green peas, snap beans, lima beans, blackeyed peas, and dry beans to control broadleaf weeds. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemptions.

DATE: Comments must be received on or before June 4, 1987.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180735" should be submitted by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Office location and telephone number: Rm. 716, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557.7700)

SUPPLEMENTARY INFORMATION:

I. Background

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 or Federal agency from any provision of FIFRA if he determines that emergency conditions exist which require such exemption. The applicable EPA regulations for emergency exemptions are set forth at 40 CFR Part 166.

The Department of Agriculture for the state of Delaware, by letter received April 13, 1987, has requested the Administrator to issue specific exemptions for the use of dinoseb on green peas, snap beans, lima beans, dry beans, and blackeyed peas to control broadleaf weeds.

On October 7, 1986, EPA suspended all registrations of dinoseb products (51 FR 36634, October 14, 1986). The basis for the suspension of all dinoseb registrations was significant risk of developmental toxicity and other adverse health effects to applicators and other populations exposed to dinoseb.

Subsequently four registrants submitted 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 registrants withdrew their expedited hearing requests on the question of imminent hazard on October 30, 1986, resulting in the immediate entry, pursuant to the terms of the Agency's October 7, decision, of a final order suspending the registrations of their dinoseb products during the pendency of the cancellation hearing. The Applicant's specific exemption requests are, therefore, subject to EPA's Subpart D regulations, 40 CFR 164.130 to 164.133, in addition to the regulations at 40 CFR Part 166 governing the issuance of exemptions under section 18. Subpart D provides that any application for an emergency exemption under section 18 for a pesticide use that has been suspended or cancelled shall be considered a petition for reconsideration of the prior suspension or cancellation order. The Administrator will determine that reconsideration is warranted if, among other things, he finds that the Applicant has presented substantial new evidence which may materially affect the prior suspension or cancellation order (40 CFR 164.131(c)). If the Administrator finds that the substantial new evidence test in 40 CFR 164.131 is met, the Subpart D rules require a formal hearing to determine whether a modification of the suspension or cancellation order is justified (40 CFR 164.131(c)).

Should the Administrator decide to lift the suspension of certain dinoseb registrations, the Agency would then determine whether and under what terms and conditions dinoseb products might be used in accordance with the terms of the Administrator's order and 40 CFR Part 166.

II. Emergency Condition

Delaware states that there are a number of herbicides registered for use in green peas, snap beans, lima beans, dry beans and blackeyed peas. According to Delaware, trifluralin (Treflan), pendimethalin (Prowl), and

metolachlor (Dual) are mainly for control of annual grasses, and provide only fair to good control of a few broadleaf weeds. According to Delaware, chloramben (Amiben) has a high water solubility which results in rapid leaching in coarse-textured soils low in organic matter, common in Delaware. Rapid leaching results in poor crop tolerance and short-term, erratic weed control. Delaware states that bentazon (Basagran) controls only certain seedling broadleaf weeds and frequently causes crop injury which reduces yield and/or delays harvest. Harvest delays are not tolerable because planting is rigidly scheduled to stagger harvest. According to Delaware, MCPB gives postemergence control of Canada thistle and controls or suppresses lambsquarters, pigweed, smartweed, sowthistle, fanweed, annual morningglory and nightshade. However, Delaware points out that this compound is in the phenoxy family of herbicides, so some temporary twisting of some pea varieties may occur. In addition, spray drift has to be avoided as it may injure other broadleaf crops and ornamentals. Delaware has not recommended this herbicide in the past. Delaware points out that use of MCPB at temperatures above 80°F can cause crop injury. Delaware also states that MCPB works best early in the season when weeds are small and application use parameters described limit its use in peas in Delaware.

EPTC (Eptam) and DCPA (Dacthal) are labeled for use in snap beans only. According to Delaware these pesticides are primarily for control of annual grasses and control few broadleaf weeds.

According to Delaware mechanical cultivation only controls weeds between the rows. Weeds in the row can significantly reduce yields and result in fields that cannot be harvested. Cultivation cannot be done late in the season after the crop reaches a certain height, further limiting its effectiveness. According to Delaware, mechanical cultivation cannot be used in peas because the rows are narrow.

Delaware states that with the suspension of dnoseb, growers of green peas, dry beans, lima beans, snap beans and blackeyed peas have no effective and/or economically viable alternative herbicides. Delaware goes on to state that with the depressed economy of corn and soybean production, these crops represent the only other means for many Delaware farmers to make a profit in farming.

Delaware claims that without the use of dinoseb, pea, lima bean, and snap bean growers can expect a 25% loss in yield valued at $1.1 million for peas, $800 thousand for lima beans, and $300 thousand for snap beans. Monetary losses were not presented for blackeyed peas or dry beans.

III. Proposed Use

Delaware requested emergency exemptions for use of dinoseb on green peas, lima beans, snap beans, dry beans, and blackeyed peas between April 1 and August 31, 1987. The proposed specific exemption programs involve use of the following dinoseb products: Basanite, Caldon, Chemox General, Chemox PE, Chemsect DNBP, Dinitro, Dinitro-3, Dinitro General, Dynamyte, Elgetrol 318, Gebutox, Hel-Fire, Kiloseb, Nitropone C, Premerge 3, Sinox General, Subitex, Unicrop DNBP, Vertac Dinitro Weed Killer 5, Vertac General Weed Killer, and Vertac Selective Weed Killer.

Delaware proposes to use a total of 94,000 pounds active ingredient on 25,000 acres of crops in New Castle, Kent, and Sussex counties. By crop, the proposed uses involve: 36,000 pounds active ingredient to treat up to 10,000 acres of green peas; 40,000 pounds active ingredient to treat up to 11,000 acres of lima beans; 18,000 pounds of active ingredient to treat 4,000 acres of snap beans, blackeyed peas, or dry beans.

Dinoseb would be applied at a rate of 0.75 to 3 lbs active ingredient per acre to peas and 0.56 to 4.5 pounds active ingredient per acre to lima beans. A maximum of 2 applications would be made, one preemergence and the other postemergence. Dinoseb will be applied to dry beans, blackeyed peas, and snap beans at a rate of 3 to 4.5 pounds active ingredient. One preemergence application would be allowed. Other restrictions to be imposed include: (1) Application by ground row crop spray; (2) use by persons certified by State of Delaware in private or commercial categories; (3) no mixing/loading/application by females; (4) mixer/loader/applicator must wear tyvek suit and chemical resistant gloves; (5) do not mix with liquid fertilizers; (6) no aerial application; and (7) a 40-day pre-harvest intetrval would be observed.

IV. Notification and Comment

This notice does not constitute a decision by the Agency on the applications submitted. The Agency's final decision on the specific exemption requests from Delaware will be based on whether or not there is sufficient new information to open Subpart D hearings and, if so, the outcome of the Subpart D hearings and compliance with the regulations governing section 18.

The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application that proposes any emergency use of a pesticide if such pesticide were the subject of a suspension notice under section 6(c) of FIFRA. The regulations also provide for the opportunity for public comment on the applications (40 CFR 166.24).

Interested persons may submit written views on the applications for emergency exemption to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period.

Dated: May 4, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-11031 Filed 5-19-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140083; FRL-3203-8]

Access to Confidential Business Information by ICF, Inc.; Mathtech Inc. and Research Triangle Institute

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA has authorized its contractor ICF, Incorporated, and ICF's subcontractors, Mathtech Incorporated and Research Triangle Institute for access to information submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than June 4, 1987.

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

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical

Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, 7, and 8 of TSCA.

Under contract no. 68–02–4273, EPA's contractor ICF, Incorporated (ICF), 1850 K Street, NW, Suite 950, Washington, DC and ICF's subcontractors Mathtech Incorporated (Mathtech), Skyline Center, 5111 Leesburg Pike, Building 5, Falls Church, VA, and Research Triangle Institute (RTI), 3040 Cornwallis Road, Research Triangle Park, NC, will assist the Office of Toxic Substances' Economics and Technology Division in performing economic and regulatory analyses. Primarily these analyses will be of the costs, economic impacts, benefits, and regulatory impacts of actual or potential EPA actions taken under TSCA.

A significant portion of TSCA actions affect the chemical manufacturing and processing industry and related industries. The contractor may be required to develop industry profiles, analyze regulatory and non-regulatory alternatives, and estimate the costs, economic impacts, and benefits of options, as directed by the project officer.

In a previous notice published in the **Federal Register** of December 30, 1983 (48 FR 57620), EPA announced TSCA CBI access authorization for ICF and RTI under contract no. 68–02–4055, for information submitted under sections 4, 5, 6, and 8 of TSCA to perform functions similar to those under this contract. Contract no. 68–02–4273 replaces contract no. 68–02–4055.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract no. 68–02–4273, ICF, Mathtech, and RTI will require access to CBI submitted to EPA under TSCA to successfully perform the contract. ICF, Mathtech, and RTI personnel will require access to information submitted under section 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide ICF, Mathtech, and RTI access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters or at the contractor and subcontractor sites identified above. Upon completing review of the CBI materials under the contract, ICF, Mathtech, and RTI will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1989.

ICF, Mathtech, and RTI have been authorized for access to TSCA CBI at their facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved security plans prepared by ICF, Mathtech, and RTI and has performed the required inspection of their facilities and found them to be in compliance with the requirements of the manual. Contractor personnel will be required to sign non disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: May 15, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–11477 Filed 5–19–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51674; FRL 3204–2]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-nine such PMNs and provides a summary of each.

DATES:

Close of review period: P 87–1025, 87–1026, 87–1027, 87–1028, 87–1029, 87–1030, 87–1031, 87–1032, 87–1033, 87–1034 and 87–1035—July 23, 1987.

P 87–1036, 87–1037, 87–1038, 87–1039, 87–1040, 87–1041, 87–1042, 87–1043, 87–1044, 87–1045 and 87–1046—July 26, 1987.

P 87–1047, 87–1048, 87–1049 and 87–1050—July 27, 1987.

P 87–1051, 87–1052 and 87–1053—July 28, 1987.

Written comments by: P 87–1025, 87–1026, 87–1027, 87–1028, 87–1029, 87–1030, 87–1031, 87–1032, 87–1033, 87–1034 and 87–1035—July 22, 1987.

P 87–1036, 87–1037, 87–1038, 87–1039, 87–1040, 87–1041, 87–1042, 87–1043, 87–1044, 87–1045 and 87–1046—July 26, 1987.

P 87–1047, 87–1048, 87–1049 and 87–1050—June 27, 1987.

P 87–1051, 87–1052 and 87–1053 June 28, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51674]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Rm. L–100, 401 M Street, SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87–1025

Manufacturer. Dynamit Nobel Chemicals.

Chemical. (S) Methyltrioctylsinlane.

Use/Production. (S) Commercial lubricant oil and grease base. Prod. range: Confidential.

P 87–1026

Manufacturer. Dynamit Nobel Chemicals.

Chemical. (S) 2,3–Dimethylpropyldimethylchlorosilane.

Use/Production. (S) Industrial synthetic chemical intermediate for sales to chemical and pharmaceutical industries. Prod. range: Confidential.

P 87–1027

Manufacturer. Dynamit Nobel Chemicals.

Chemical. (S) 1 , 3–Diphenyltetrakis–1,1,3,3–(dimethylsiloxy) disiloxane.

Use/Production. (S) Industrial crosslinker for specialty silicone elastomers. Prod. range: Confidential.

P 87–1028

Manufacturer. Dynamit Nobel Chemicals.

Chemical. (S) Vinyltris(isopropenoxy)silane.

Use/Production. (S) Industrial crosslinker for specialty silicone elastomers. Prod. range: Confidential.

P 87–1029

Manufacturer. Confidential.
Chemical. (G) Block toluene diisocyanate prepolymer.
Use/Production. (S) Encapsulant in wire wheel and flap whell assembly. Prod. range: Confidential.

P 87–1030

Manufacturer. Confidential.
Substance. (G) *Bacillus subtilis* that has been recombinantly modified to contain a gene for protease from another *Bacillus* species, using a vector from *Staphyloccus aureus*
Use/Production. (G) The microorganism will be used for the biosynthesis of protease. Production range: Confidential.
Toxicity data. Pathogenicity study by oral instillation in mice showed no infectivity or pathogenicity in mice in a 21-day test. Microbial survival under post-production conditions in water, soil, and river water showed no survival advantage of the recombinant strain over the wild type. In the formulated enzyme product, bacterial cell number decreases; viable remaining cells are spores.
Exposure. Workers in production areas who maintain and process cultures of the microorganism.

P 87–1031

Manufacturer. Confidential
Chemical. (G) Alkylcycloalkanoneacetic acid.
Use/Production. (G) Site-limited reaction intermediate. Prod. range: Confidential.

P 87–1032

Importer. V.I.B. Company.
Chemical. (G) Cetazoneresin based on triazone.
Use/Import. (G) Industrial and commercial absorber for oils and liquid chemicals. Import range: 100,000,000 to 200,000,000 kg/yr.

P 87–1033

Manufacturer. Confidential.
Chemical. (G) Polyester polymer with neopentyl glycol.
Use/Production. (G) Industrially used coating with a dispersive use. Prod. range: 100,000 to 300,000 kg/yr.

P 87–1034

Manufacturer. Alkaril Chemicals, Incorporated.
Chemical. (G) Octyl iminodipropionate.
Use/Production. (G) Wetting agent. Prod. range: Confidential.

P 87–1035

Manufacturer. Henkel Corporation.
Chemical. (G) Aromatic sulfonate polymer salt.
Use/Production. (S) Tall oil separation aid. Prod. range: Confidential.

P 87–1036

Importer. Confidential.
Chemical. (G) Substituted 1,6-dihydroxynaphthalene.
Use/Import. (G) Component for preparing polymer composite. Import range: Confidential.
Toxicity Data. Acute dermal: >1.0 g/kg; Irritation: Skin—Irritant, Eye—Irritant.

P 87–1037

Manufacturer. Confidential.
Chemical. (G) Alkylmetallic mercaptide.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: 0.5 a/kg; Irritation: Skin—Nonirritant, Eye—Non-irritant.

P 87–1038

Manufacturer. Confidential.
Chemical. (G) Alkylmetallic mercaptide.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: 0.5 a/kg; Irritation: Skin—Nonirritant, Eye—Non-irritant.

P 87–1039

Manufacturer. Confidential.
Chemical. (G) Polyurethane polymer.
Use/Production. (G) Coatings/adhesives for open, non-dispersive use. Prod. range: Confidential.

P 87–1040

Manufacturer. Lilly Industrial Coatings, Incorporated.
Chemical. (G) Polymer of benzenedicarboxylic acid, cycloaliphatic diol, hexanedioic acid, aromatic anhydride, fatty acids, and aliphatic diols.
Use/Production. (G) Industrial liquid paints. Prod. range: 125,000 to 175,000 kg/yr.

P 87–1041

Manufacturer. Monsanto Company.
Chemical. (G) 1,2-Epoxypropionamide glycidamide melamine resin.
Use/Production. (G) Component of thermosetting paint formulations. Prod. range: Confidential.

P 87–1042

Importer. Shin Etsu Silicone of America, Inc.
Chemical. (S) 3-(2-aminoethyl)amino propyl methyl, dimethyl polysiloxane, dimethyl, methyl 3-(oxiranylmethoxy)-propyl polysiloxane.
Use/Import. (S) Silicone coating agent for general purpose. Import range: 500 to 3,000 kg/yr.

P 87–1043

Importer. Shin-Etsu Silicone of America, Inc.
Chemical. (S) Trichloromethylsilane, dichlorodimethylsilane. trichorophenysilane.
Use/Import. (G) Industrial varnish for electric insulation or vehicle of paints. Import range: 400 to 900 kg/yr.

P 87–1044

Importer. Shin-Etsu Silicone of America, Inc.
Chemical. (S) Dimethyl polysiloxane, hydroxy terminated copolymer of styrene and butyl acrylate methoxy methyl polysiloxane.
Use/Import. (S) Industrial and commercial coating agent for sheet products. Import range: 500 to 3,000 kg/yr.

P 87–1045

Manufacturer. Confidential.
Chemical. (G) Silanetriol with condensation products.
Use/Production. (S) Industrial primer for silicone rubber. Prod. range: Confidential.

P 87–1046

Importer. Ajinomoto U.S.A., Inc.
Chemical. (S) N,N'-dibutyl-2-[1-oxododecyl-amino].
Use/Import. (S) Industrial gelling agent for oils and industrial commercial and consumer gelling agent for epoxy adhesives. Import range: 500 to 1,000 kg/yr.

P 87–1047

Manufacturer. Confidential.
Chemical. (S) Butanamide,2-[4-[[4'-[N-(2,4-dimethylphenyl)-3-oxo-butanamide-2-yl]]azo](3,3'dichloro[1,1'-bipheny]-4,4'-diyl)]axo]-N-(2-methylphenyl)-3-oxo-,.
Use/Production. (G) Colorant for printing inks. Prod. range: Confidential.

P 87–1048

Manufacturer. The Dow Chemical Company.
Chemical. (G) Aromatic carboxylate, methyl ester.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.

P 87–1049

Manufacturer. Confidential.

Chemical. (G) Ester of substituted benzophenone and diazonaphthol sulfonic acid.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 87-1050

Manufacturer. The Dow Chemical Company.

Chemical. (G) Aromatic carboxylate, magnesium salt.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.

P 87-1051

Manufacturer. Confidential.

Chemical. (G) Polycarbonate polyurethane dispersive.

Use/Production. (S) Industrial, commercial and consumer general purpose coating, modifier for coatings inks and adhesives. Prod. range: Confidential.

P 87-1052

Importer. Confidential.

Chemical. (G) Styrenated methacrylate.

Use/Import. (G) Industrially used coating with dispersive use. Import range: 500 to 44,000 kg/yr.

P 87-1053

Manufacturer. Confidential.

Chemical. (G) Substituted spiro[isobenzofuranxanthenone].

Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: confidential.

Dated: May 14, 1987.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87-11491 Filed 5-19-87; 8:45 am]

BILLING CODE 6560-50-16

[OPP-00240; FRL 3203-7]

Nominations to the Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 *et seq.*). Public comment on the nominations is invited. Comments will be used to assist the Agency in selecting nominees to comprise the Panel and should be so oriented.

ADDRESS: By mail, submit comments to: Information Services Branch, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Proteciton Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

DATE: Comments should be postmarked not later than June 19, 1987.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1121, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7695).

SUPPLEMENTARY INFORMATION:

I. Background

FIFRA amendments enacted November 28, 1975, added, among other things, a requirement set forth in section 25(d) that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions.

II. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued in accordance with the requirements of section 9(c) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App I). The qualifications as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providng expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No person shall be ineligible to serve on the Panel by reason of his membership on any other advisory committee to a Federal department or agency or his employment by a Federal department or agency (except the Environmental Protection Agency). The Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of Title 40, CFR, Part 3, Subpart F—Standards of Conduct for Special Government Employees, which include rules regarding conflicts-of-interest. An officer and/or employee of an organization producing, selling, or distributing pesticides and any other person having a substantial financial interest (as determined by the Administrator) in such an organization, as well as an officer or employee of an organization representing pesticide users shall be excluded from consideration as a nominee for membership on the Panel. Each nominee selected by the Administrator shall be required, before being formally appointed, to submit a Confidential Statement of Employment and Financial Interests, which shall fully disclose the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, including information on their educational background, employment history, and scientific publications. Section 25(d) of FIFRA requires the Administrator to issue for publication in the **Federal Register** the name, address, and professional affiliations of each nominee.

B. Applicability of Existing Regulations

With respect to the requirement of section 25(d) that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special governmental employees (which include advisory committee members) will apply to the members of the Scientific Advisory Panel. These regulations appear at 40 CFR Part 3, Subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with provisions of section 25(d), EPA, in February 1987, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill four vacancies occurring on the SAP. NIH responded by letter dated April 7, 1987, enclosing a list of 8 nominees; NSF responded by letter dated March 13, 1987, with a list of 12 nominees.

III. Nominees

The following are the names, addresses, professional affiliations, and selected biographical data on nominees being considered for membership on the FIFRA Scientific Advisory Panel to fill four vacancies occurring during calendar year 1987.

Anthony, Robert Gene, Department of Fisheries and Wildlife, Oregon State University, Corvallis, Oregon. Expertise: wildlife ecology. Born: January 6, 1944. Education: Ft. Hays Kansas State College, BS 1966; Washington State University, MS 1968; University of Arizona, PhD (zoology) 1972. Professional experience: Assistant professor, Wildlife Management, Pennsylvania State University, University Park, 1972. Professor, Department of Fisheries and Wildlife, Oregon State University, Corvallis, Oregon 1972-present. Societies: Wildlife Society, American Society of Mammalogists; American Ecology Society. Research: Ecology and population dynamics of mammals: Effect of pollution and environmental alteration on wildlife biometrics.

Auerbach, Stanley Irving, Staff Advisor, Environmental Services Division, Oak Ridge National Laboratory, Oak Ridge, Tennessee. Expertise: Radiation ecology, system analysis. Born: May 21, 1921. Education: University of Illinois, BS 1946, MS 1947; Northwestern University, PhD (zoology) 1949. Professional experience: Assistant, Zoology and Animal Ecology, Northwestern University, 1947–1948; lecturer, biology, Roosevelt University, 1950–1951, instructor, 1951–1954, assistant professor, 1954–1970; associate scientist, 1954–1955; health physicist ecologist, 1954–1959, scientist, 1955–1959, section chief, radiation ecology, 1959–1970, director, Ecology Science Division, 1970–1972, director, Environmental Science Division, Oak Ridge National Laboratory, 1972–present; concurrent position: Lecturer, University of Tennessee, 1960; adjunct research professor, University of Georgia, 1964; director, Eastern Deciduous Forest Biome, International Biology Program, 1968; vice president, U.S. Executive Committee, 1971; member, board energy studies and various subcommittees, National Academy of Science-National Research Council, 1974–present; Societies: American Institute of Biology Scientists; American Society of Zoologists; AAAS; Ecology Society of America; British Ecology Society. Research: Ecosystem analysis; radioactive waste cycling in terrestrial ecosystems.

Castelman, William Laurence, Department of Pathobiological Sciences, School of Veterinary Medicine, University of Wisconsin-Madison, Madison, Wisconsin. Expertise: Pathology. Born: March 28, 1949. Educational background: University of California, Davis, BS 1971, MS 1972, D.V.M. 1977, PhD. (comparative pathology) 1979. Professional experience: Pathology resident and graduate student, School of Veterinary Medicine, University of California, Davis, California, 1977–1979; postdoctoral trainee in environmental pathology, School of Veterinary Medicine, University of California, Davis, California, 1977–1979; assistant professor of pathology, N.Y.S. College of Veterinary Medicine, Cornell University, 1979–1985; associate professor of pathology, N.Y.S. College of Veterinary Medicine, Cornell University, Ithaca, New York 1985–1986; associate professor of pathology, School of Veterinary Medicine, University of Wisconsin-Madison, 1986–present. Societies: American Association for the Advancement of Science, American Association of Pathologists, American Thoracic Society, American Veterinary Medical Association, International Academy of Pathology. Research: Morphogenesis and repair of respiratory bronchiolitis.

Dickson, Kenneth Lynn, Director, Institute of Applied Sciences, North Texas State University, Denton, Texas. Expertise: Aquatic biology, environmental sciences. Born: November 20, 1943. Education: North Texas State University, BS 1966; MS 1968, Polytechnical Institute and State University, PhD (zoology) 1971. Professional experience: From assistant professor to associate professor, zoology, Virginia Polytechnical Institute and State University, 1970–1978; assistant director, Center for Environmental Studies, 1970–1978; research scientist, 1978–1979, professor, Department of Biological Sciences, North Texas State University, 1981–present; director, Institute for Applied Sciences, 1979–present. Concurrent position: Consultant, National Academy of Science, 1971–present. Societies: American Fisheries Society; Society of Environmental Toxicologists and Chemists. Research: Limnology of reservoirs and rivers; microbiotic cycles in reservoirs; development of biological pollution monitoring systems; effects of pollution on aquatic organisms; biological diversity indices of community structure: Effects of carbon, nitrogen and phosphorus on aquatic communities; fate and effects of chemicals in aquatic life.

Giesy, John Paul, Jr., Professor, Pesticide Research Center, Michigan State University, East Lansing, Michigan. Born: August 9, 1948. Expertise: Limnology. Education: Alma College, BS 1970; Michigan State University, MS 1972; PhD (limnology) 1974. Professional experience: Research associate, limnology, Savannah River Ecology Laboratory, University of Georgia, 1974–1981; professor, Pesticide Research Center, Michigan State University, 1981–present. Concurrent positions: National Science Fellow, 1969–1970; fellow, Woodrow Wilson Foundation, 1970; instructor of ecology, Alma College, 1972; fellow, North Center Research Foundation, 1972–1974; instructor, ecology, University of South Carolina, 1975. Societies: Ecology Society of America; American Society of Limnologists and Oceanographers; Phycology Society of America; International Society for Theoretical Application of Limnology. Research: Cycling of heavy metals; update and availability of heavy metals in aquatic systems.

Hodgson, Ernest, William Neal Reynolds Professor, Chairman, Toxicology Program, North Carolina State University, Raleigh, North Carolina. Born: July 26, 1932. Educational background: University of Durham, BS 1954; Oregon State University, PhD 1959. Professional experience: Demonstrator, zoology, Kings College, University of Durham, 1954–1955; fellow in entomology, University of Wisconsin, 1959–1961; from assistant professor to professor 1961–1977; professor, entomology, North Carolina State University, 1977-present. Societies: American Association for the Advancement of Science; American Society for Pharmacology and Experimental Therapeutics; Society of Toxicologists; Entomological Society of America; American Chemical Society. Research: enzymatic aspects of toxicology; comparative toxicology.

Juchau, Mont Rawlings, Professor, Department of Phamacology, School of Medicine, University of Washington, Seattle, Washington. Expertise: Pharmacology. Born: November 11, 1934. Education: Idaho State University, BS 1960; Washington State University, MS 1963; University of Iowa, PhD (pharamcology) 1966. Professional experience: Pharmacist, Trolinger Pharmacy Tick Klock Drug, 1960–1963; from instructor to assistant professor, biochemical pharmacology, State University of New York, Buffalo, 1966–1969; assistant professor, 1969–1973;

associate professor, 1973–1980, professor, pharmacology, School of Medicine, University of Washington, 1980-present. Honors and awards: Delbert-Putnam Award, 1959; Rexall Award, 1960. Societies: AAAS, American Society of Phamacologists and Experimental Therapeutics; International Society of the Biochemical Pharmacologists. Research: Investigation of the biotransformation of drugs in the human foetoplacental unit.

Kaufman, David Gordon, Department of Pathology, Medical School, University of North Carolina, Chapel Hill, North Carolina. Expertise: Pathology, biochemistry. Born: May 28, 1943. Education: Reed College, BA 1966, Washington University, MD 1968, PhD (experimental patholgy) 1973. Professional experience: Intern pathologist, Barnes Hospital, Washington University, 1968–1969, resident, 1969–1970; research associate, carcinogenesis, National Cancer Institute, 1970–1973, research scientist, 1973–1975; associate professor, 1975–1980; professor, University of North Carolina, 1980-present. Concurrent positions: member, Pathology B Study Section, NIH 1977–1979, Chemical Pathology Study Section, 1970-present; member, Prototype Explicit and Pesticides Committee, National Academy of Science, 1978–1980; Research Career Development Award, National Cancer Institute, 1978. Societies: American Association for Cancer Research; American Association of Pathologists; American Society of Cellular Biologists; American College of Toxicologists; New York Academy of Science. Research Chemical carcinogenesis; eukaryotic DNA replication and repair; cell biology of respiratory tract and female genital tract tissues.

Matsumura, Fumio, Professor, Pesticide Research Center, and Department of Entomology, and Coordinator of Laboratory of Pesticide Biotechnology, Michigan State University, East Lansing, Michigan. Expertise: Zoology. Born: February 3, 1934. Educational background: University of Tokyo, BS 1957; University of Alberta, Edmonton, Alberta, Canada, MS 1959; University of Western Ontario, London, Ontario, Canada, PhD (zoology) 1961. Professional experience: Postdoctoral research fellow, University of Western Ontario, London, Ontario, Canada, 1961–1962; visiting researcher, Laboratory of Insecticide Research, Department of Agriculture, Netherlands, 1962–1963; postdoctoral research specialist, Cornell University, Ithaca, New York, 1963–1964; assistant professor, associate professor and professor, University of Wisconsin, 1964–1977; professor and director, Pesticide Research Center, Michigan State University, East Lansing, Michigan, 1977–1987; professor, Pesticide Research Center and Department of Entomology, and coordinator of Laboratory of Pesticide Biotechnology Assessment, 1986-present. Societies: Entomological Society of America, Society of Toxicology, Society of Environmental Toxicology and Chemistry, American Chemical Society, Agrichemicals Division, Society of Pesticide Science. Research: Toxicology of insecticides; biodegradation of pesticides.

Mitton, Jeffrey B., Department of Environmental Population, and Organismal, and Organismal Biology, University of Colorado, Boulder, Colorado. Expertise: Population genetics. Born: March 16, 1947. Education: University of Connecticut, BS 1969; State University New York, Stony Brook, PhD 1973. Professional experience: NIH fellow, genetics, University of California, Davis, 1973–1974; assistant professor, biology, Department of Environmental Population and Organismic Biology, University of Colorado, Boulder, 1974, research associate insect behavior genetics, 1975-present. Societies: Genetics Society of America; Society for Study Evaluation, AAAS; Sigma X; Society Systemic Biology. Research: Processes of natural selection resulting in population structuring and geopraphic variation of gene frequencies, protein polymorphisms; multi-locus systems, human evolution.

Prestwich, Glenn Downes, Department of Chemistry, State University of New York at Stony Brook, Stony Brook, New York. Expertise: Organic chemistry, entomology. Born: November 29, 1948. Education: California Institute of Technology, BS 1970; Stanford University, PhD (chemistry) 1974. Professional experience: Research scientist, International Center for Insect Physiology and Ecology, Kenya, 1974–1975. NIH fellow, Cornell University, 1976–1977; assistant professor 1977–1982, associate professor, chemistry, State University New York, Stony Brook, 1982-present. Concurrent positions: Alfred P. Sloan research fellow, 1981–1983; Camille and Henry Dreyfus teacher scholar grant, 1981-present. Societies: American Chemical Society, AAAS, American Entomology Society; International Union Study Social Insects. Research: Termite chemical defense, specifically evolution, natural products and chemosystematics, termite lipid metabolism; chemical ecology; organic synthesis; insect juvenile hormone and steroid metabolism; new termiticides; synthetic organic and natural products chemistry; pheromone biochemistry.

Saylor, Gary S., Department of Microbiology, University of Tennessee, Knoxville, Tennessee. Expertise: Biochemisty, microbiology. Born: August 26, 1949. Education: North Dakota State University, BS 1971; University of Idaho, PhD (microbiology) 1974. Professional experience: Research technican, department of chemistry, North Dakota State University, 1970; research associate, North Dakota Water Resources Committee, Fargo, North Dakota, 1971; graduate teaching assistant, Department of Bacteriology and Biochemistry, University of Idaho, 1971–1973; postdoctoral research fellow, department of microbiology, University of Maryland, 1974–1975; assistant professor, Department of Microbiology and Graduate Program in Ecology, Environmental Toxicology Program, University of Tennessee, 1976–1980; associate professor, Department of Microbiology and Graduate Program in Ecology, Environmental Toxicology Program, University of Tennessee, 1980-present. Societies: American Society of Microbiology; American Association for the Advancement of Science; American Chemical Society; Society for Environmental Toxicology and Chemistry. Research: Biodegradation, plasmid evolution, and the ecological and toxicological impacts of environmental contaminants upon the structure and function of microbial communities.

Spacie, Anne, Department of Forestry and Natural Resources, Purdue University, West Lafayette, Indiana. Expertise: Limnology, Population Biology. Born: August 19, 1945. Education: Mt. Holyoke College, BA 1967; University of California, San Diego, MS 1969, Purdue University, PHD (Limnology) 1975. Professional experience: Researcher, aquatic biolgy, Union Carbine Corporation, 1969–1973; assistant professor, Liminology, Purdue University, 1975–present. Societies: American Fisheries Society; American Society Limnology and Oceanography; AAAS. Rsearch: Accumulation and toxicity of synthetic organic compounds in fish and other acquatic organism:

effects of stream modifications on water quality and the distribution of fishes.

Wang, Ching Chung, Department of Pharmaceutical Chemistry, School of Pharmacy, University of California, San Francisco, San Farancisco, California. Expertise: biochemistry, parasitology. Born: February 10, 1936. Education: National Taiwan University, BS 1958; University of California, Berkeley, PhD (biochemistry) 1966. Professional experience: Fellow, biochemistry, College of Physicians and Surgeons, Columbia University, 1966–1967; research associate, Princeton University, 1967–1969; senior research biochemist, Merck Institute Theraputic Research, 1969–1972, research fellow, 1972–1975, senior research fellow, 1975–1978, senior investigator, 1978–1981; professor of chemistry and pharmaceutical chemistry, department of pharmaceutical chemistry, School of Pharmacology, University of California, San Franciscco, 1981-present. Awards: Burrough Wellcome Molecular Prasitol Award, 1983. Societies: American Society of Biological Chemists. Research: Biochemistry and development of protozoan parasites; invertebrate neurobiology; antiparasitic chemotherapy.

Wilkinson, Christopher F., Director, Institute for Comparative and Environmental Toxicology, Cornell University, Ithaca, New York. Expertise: Entomology. Born: February 9, 1938. Educational background: University of Reading, BS 1961; University of California, Riverside, PhD (entomology) 1965. Professional experience: United Kingdom Civil Service Commission, senior resident fellow, insecticide chemistry, Pest Infestation Lab., Agricultural Research Council, England, 1965–1966; from assistant professor to associate professor, 1966–1978; professor of insect toxicology, Cornell University, 1979–present. Societies: Society of Toxicologists; Entomological Society of America; Chemical Society; British Biochemistry Society. Research: structure-activity relationships and mode of action of synergists; biochemistry; comparatiave biochemistry of microsomal drug metobolism.

Dated: May 11, 1987.

John A. Moore,

Assistant Administrator for Pesticides, and Toxic Substances.

[FR Doc. 87–11475 filed 5–19–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket 86–285; MM Docket 86–286]

Low Power Television and Television Translator Filing Window From June 22 Through July 2, 1987.

Released: May 18, 1987.

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of Filing Window.

SUMMARY: This action gives notice of an application filing window for the tendering of applications for new construction permits and for major changes in existing facilities for low power television and television translator stations. The notice sets forth filing procedures including when and where to file and the applicable application form to be used, and information concerning application filing fees. This item is related to Commission actions in Gen. Docket 86–285, 2 FCC Rcd 947 (1987), and MM Docket 86–286 (1987).

EFFECTIVE DATE: June 22, 1987 through July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau, (202) 632–3894.

SUPPLEMENTARY INFORMATION:

Commencing on June 22, 1987, and continuing to and including July 2, 1987, the Commission will permit the filing of applications for new construction permits and for major changes in existing facilities for low power television and television translator stations at the below specified locations only. Applications filed before June 22nd will not be accepted.

No more than five (5) applications for new low power television or television translator stations may be tendered for filing by any applicant, or by any individual or entity having an interest of one percent (1%) or greater in any applicant(s) filing in the June 22nd—July 2nd, 1987 window. This restriction does not apply to major change applications.

All applications must be "complete and sufficient" when tendered for filing, in accordance with § 73.3564 of the Commission's rules. As noted below, a fee of $375.00 must accompany each application. Further, applicants filing during this window period *MUST* use the May 1987 edition of FCC Form 346. See 52 FR 15764 (April 30, 1987). All applications filed on obsolete editions will be returned as defective and unacceptable for filing. FCC Form 346 can be obtained from the FCC's Operations Support Division, Services and Supply Branch, Room B–10, 1919 M Street, NW., Washington, DC 20554, telephone number (202) 632–7272.

To accommodate the cash management procedures established by the Deficit Reduction Act of 1984, the Commission will utilize in this window application filing process the facilities of a Treasury Department lockbox bank. Window application filings can be made, either by mail or by person, at the following locations *ONLY*:

If mailed—Federal Communications Commission, Low Power Television Window Filing, P.O. Box 371995M, Pittsburgh, PA 15250–7995.

If hand-delivered—Federal Communications Commission, Low Power Television Window Filing, Foster Plaza Building #4, 501 Holiday (Inn) Drive, Pittsburgh, PA 15220.

Hand-carried or couriered applications can be delivered daily at the above location during normal business hours (8:30 a.m. to 5:00 p.m.). Detailed instructions to get to this location are included in this Public Notice as Attachment I. Submissions tendered after close of business (5:00 p.m.) on Thursday, July 2, 1987, will not be accepted. Mailed applications must be actually received no later than July 2nd. Window application filings WILL NOT be accepted at the offices of the Federal Communications Commission in Washington, DC.

An original and two copies of the application and all required exhibits must be filed. To facilitate the initial processing of these applications, all applicants are requested to enclose in a single envelope the original and duplicate copies of the application, with each duplicate copy clearly denoted as such by the applicant. Where more than one new station or major change application is being filed, separate envelopes enclosing the individual application (*i.e.*, an original and two copies) can be mailed in a single package. Receipts or "return copy" applications cannot be furnished by the lockbox bank facility for mailed window application filings. However, for hand-carried or couriered applications delivered to the Foster Plaza Building #4 location, bank personnel, if requested in person, will date stamp as received a proffered copy of the application and return it to the requestor.

Generally, applicants seeking to construct a new low power television or television translator station or to make a major change in the facilities of an existing low power television or television translator station are required

to pay a filing fee. A separate fee payment of $375.00, attached to each original application, must be submitted for each new station or major change application filed during this window; a single fee payment for multiple applications will *not* be accepted. Payment of the required fee can be made by check, bank draft or money order payable to the Federal Communications Commission.

Applications submitted with insufficient payments or without any payments will be dismissed and returned, along with the insufficient payment, to the applicant without processing. See § 1.1107 of the Commission's rules. Following the fee review process, applications that are found to be patently defective, not "complete and sufficient," filed on an obsolete edition of FCC Form 346, or received by mail prior to the opening or after the closing of the filing window will be rejected and returned to the applicant. A refund of the application filing fee will *not* be made in these instances. See §§ 1.1106 and 1.1111 of the Commission's rules.

Governmental entities are exempt from the $375.00 filing fee. As defined by § 1.1112(f) of the Commission's rules, governmental entities include "any possession, state, city, county, town, village, municipal corporation or similar political organization or subpart thereof controlled by publicly elected and/or duly appointed public officials exercising sovereign direction and control over their respective communities or programs." Also exempted from this fee are noncommercial educational FM and full service television broadcast station licensees seeking to make major changes in the facilities of their existing low power television or television translator stations or to construct new low power television or television translator stations, provided those stations operate or will be operated on a noncommercial educational basis. Exempt applicants MUST file a certification with their applications, briefly describing the nature of their claimed exemption. To aid the fee review process, such certifications should be clearly identified, preferably in a transmittal letter or on the first page of the application. See § 1.1112 of the Commission's rules.

For further information concerning the filing window, contact Keith A. Larson or Molly Fitzgerald, Low Power Television Branch, Mass Media Bureau at telephone number (202) 632-3894.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Directions to Federal Communications Commission, Low Power Television Window Filing Location, June 22, 1987–July 2, 1987

The courier delivery (over the counter) service for the Federal Communications Commission's Low Power Television Window Filing will be available from 8:30 a.m. to 5:00 p.m., Monday, June 22nd, through Thursday, July 2nd, 1987, at the following address:

Federal Communications Commission, Low Power Television Window Filing, Foster Plaza Building #4, 501 Holiday (Inn) Drive, Pittsburgh, PA 15220.

From the Greater Pittsburgh International Airport:

- Proceed east on the Parkway (Interstate 376)
- Take the "*Route 121—Green Tree/Mt. Lebanon*" exit, *Exit 4*
- Stay in the *left lane* of the exit ramp and turn *left*, at the traffic light, onto *Greentree Road*
- At the following traffic light, turn *left* onto *Mansfield Road* (Follow the signs for Holiday (Inn) Drive.)
- Proceed down the hill and continue straight through the next intersection (traffic light)
- Continue down the hill to the next traffic light (This will be the Holiday (Inn) Drive intersection.)
- Turn *right* onto *Holiday (Inn) Drive* and proceed up the hill (A Holiday Inn will be on the left.)
- Enter the *fifth (5th) drive* on the right for the *Foster Plaza Building #4* (D–B sign is on its roof.) There will be a Mellon Bank 24 Hour Banking Machine sign at the drive entrance. Parking lots surround the building.
- Enter the front of the building and follow the signs to the designated area

From downtown Pittsburgh:

- Proceed west on the Parkway (Interstate 376) through the Fort Pitt Tunnels
- Take the "*Green Tree/Crafton*" exit, *Exit 4*
- Stay in the *left lane* of the exit ramp (overhead signs marked "Crafton")
- At the stop sign at the end of the ramp, turn *left* onto *Mansfield Road*
- Proceed down the hill and continue straight through the next intersection (traffic light)
- Continue down the hill to the next light (This will be the Holiday (Inn) Drive intersection.)
- Turn *right* onto *Holiday (Inn) Drive* and proceed up the hill (A Holiday Inn will be on the left.)
- Enter the *fifth (5th) drive* on the right for the *Foster Plaza Building #4* (D–B sign is on its roof.) There will be a Mellon Bank 24 Hour Banking Machine sign at the drive entrance. Parking lots surround the building.
- Enter the front of the building and follow the signs to the designated area.

[FR Doc. 87-11516 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Broadcast West Associates et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. Broadcast West Associates; Central Valley, CA.	BPH-850711ME	87-123
B. Richard P. Bott II; Central Valley, CA.	BPH-850711MG	
C. Mount Shasta Broadcasting Company, A Limited Partnership; Central Valley, CA.	BPH-850711MH	
D. Jeffrey Broadcasting Corporation; Central Valley, CA.	BPH-850712MI	
E. Lola Jean Broadcasting, A California Limited Parthership; Central Valley, CA.	BPH-850712MJ	
F. Happy Valley Telephone Company; Central Valley, CA.	BPH-850712MM	
G. Axell Broadcasting; Central Valley, CA.	BPH-850712MN	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Financial Qualifications, E
2. Air Hazard, F, G
3. Environmental Impact, C, D
4. Comparative, All
5. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M

Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–11507 Filed 5–19–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Cablevision of Crisfield et al.

The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. Benchmark Cable Fund Limited Partnership, d/b/a Cablevision of Crisfield, Crisfield, MD.	BPH–851231ZZ	87–137
B. Leigh Sandoz Leverner, Crisfield, MD.	BPH–860123 MX	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A,B
3. Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass media Bureau.

[FR Doc. 87–11506 Filed 5–19–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Empire State Broadcasting Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant and city state	File No.	MM Docket No.
A. Empire State Broadcasting Corporation; Buffalo, NY.	BR–840210WQ	87–110
B. Bursam Communications Corporation; Mineola, NY.	BP–840430AC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding hearings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to the particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. 307(b), All applicants
3. Contingent Comparative, All applicants
4. Ultimate, All Applicants

3. If there is any non-standarized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

To Determine Whether Applicant A (Empire State Broadcasting) is entitled to a renewal expectancy

[FR Doc. 87–11508 Filed 5–19–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Susan H. Kincannon et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Susan H. Kincannon; Appomattox, VA.	BPH–850709MN	87–138
B. Lovie McAuslan; Appomattox, VA.	BPH–850709ML	.....
C. Appomattox Radio Partners, Inc.; Appomattox, VA.	BPH–850711PQ	.....
D. William Stephen Gotchey; Appomattox, VA.	BPH–850712E3	.....
E. Elaine C. Eicher; Appomattox, VA.	BPH–850712ZH	.....
F. Home Town Broadcasting, Inc.; Appomattox, VA.	BPH–850712ZI	.....
G. Maranatha Broadcasting Co., Inc.; Appomattox, VA.	BPH–8507120ZJ	.....
H. J. Scott Broadcasting; Appomattox, VA.	BPH–850712ZK	.....
I. James A. Pounds; Appomattox, VA.	BPH–85071202	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, E
2. Comparative, A11
3. Ultimate, A11

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800.)

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–11509 Filed 5–19–87; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing; Northern Arizona Radio Ltd, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Northern Arizona Radio Limited Partnership, Pinetop, AZ.	BPH-850712X4	87-139
B. New Life Christian Services Association, Pinetop, AZ.	BPH-850712X6	
C. Philip D. Vanderhoof, Pinetop, AZ.	BPH-850712ZT	
D. Barbara J. Marovich, Pinetop-Lakeside, AZ.	BPH-850712ZU	
E. D&M Communications, Inc., Pinetop, AZ.	BPH-850712ZW	
F. Patricia Ann Sauro, Pinetop, AZ.	BPH-850712ZX	
G. Pinetop Partners, Inc., Pinetop, AZ.	BPH-850712ZY (Dismissed).	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Main Studio, A
2. Site Availability, E
3. Air Hazard, C, F
4. Environmental, ALL
5. Comparative, ALL
6. Ultimate, ALL

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to the Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-11510 Filed 5-19-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OBM for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3601, et. seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Room 12211, Washington, DC. 20573, telephone number (202) 523-5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs. Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the Federal Register in which this notice appears.

Summary of Item Submitted for OMB Review, 46 CFR Parts 516, 559, and 572

FMC requests clearance of a final rule amendment to add a new section 7 to 46 CFR Part 559 (for marine terminal agreements). The rule exempts marine terminal agreements from section 15, Shipping Act, 1916, approval requiremens provided they are filed with the Commission with an original and 15 copies, along with a letter of transmittal which includes information specified therein.

The informational filing requirement and subsequent Federal Register publication by the Commission will provide interested parties with information necessary for filing 1916 Act protests or complaints with the Commission.

Potential respondent universe is marine terminal operators and common carriers entering into agreements with them. The Commission estimates a respondent universe of 11 with total estimated annual manhour burden of 220. Total estimated cost to the Federal Government is approximately $1,150; total estiamted cost to respondents is approximately $5500.

Joseph C. Polking

Secretary.

[FR Doc. 87-11484 Filed 5-19-87; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW, Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-011099.

Title: Marine Terminal Operator Advisory Commission Study Agreement.

Parties:

Shippers Stevedoring Co.
Clark Maryland Terminals, Inc.
Long Beach Container Terminal, Inc.
Palmetto Shipping & Stevedoring Co., Inc.
Ceres Terminals, Inc.
Southeast Stevedoring Corp.
Stevedoring Services of America
Lavino Shipping Co.
Transocean Terminal Operators
Young & Co.
Maher Terminals, Inc.
Global Terminal & Container Service, Inc.
International Terminal Operating Co., Inc.
Metropolitan Stevedore, Co.
International Transportation Services, Inc.
New Haven Terminal, Inc.
Copper/T. Smith Corp.
Maersk Container Service Co.
Southeast Atlantic Cargo Operators, Inc.
Universal Maritime Service Corp.
Bernard S. Costello, Inc.
Ryan-Walsh Stevedoring Co.
John J. Orr & Son, Inc.
Marine Terminals Corp.
Detroit Marine Terminals, Inc.

Synopsis: The proposed agreement would permit parties to discuss matters addressed by section 18 of the Shipping Act of 1984 and to submit data, information and industry positions and concerns about the Act to the Federal Maritime Commission. The agreement allows any other privately owned marine terminal to become a party to the agreement. The parties have requested shortened review.

Agreement No.: 224-011100.

Title: Port Everglades Terminal Agreement.

Parties: Port Everglades Authority and South Atlantic Cargo Shipping N.V.

Synopsis: The proposed agreement would provide for preferential berthing rights and volume and incentive discount rates for the use of Port Everglade's facilities.

Agreement No.: 224-011101.

Title: Port of Long Beach Stevedor and Terminal Agreement.

Parties: Container Stevedoring Co., Inc. (Stevedoring Co.) Senator Linie.

Synopsis: The proposed agreement permits Stevedoring Co. to provide or arrange to have provided to Senator Linie terminal services as specified in this Agreement and Appendices. As consideration, Senator Linie agrees to compensate Stevedoring Co. in accordance with the provisions of the rate schedule(s) set forth in Appendix I of this agreement. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: May 15, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-11440 Filed 5-19-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the President's Advisory Committee on Mediation and Conciliation will be held on Tuesday, June 9, 1987 from 9:00 a.m. to 5:00 p.m., Wednesday, June 10, 1987 from 9:00 a.m. to 5:00 p.m. and Thursday, June 11, 1987 from 9:00 a.m. to 5:00 p.m., at the Hyatt Regency Hotel, Skyway Meeting Room #268, 151 East Wacker Drive, Chicago, Illinois 60601.

The purpose of the meeting is to obtain the views of representatives of labor and management, and other qualified individuals, with regard to labor-management goals and objectives expected to be achieved within a period of five years. A hearing procedure will be followed in which the views of witnesses will be transcribed for the record.

The meeting will be open to the public. Interested persons may file written statements with the Committee, and subject to reasonable Committee procedures may also make oral statements on matters germane to subjects under consideration at the meeting.

Further information regarding this meeting may be obtained from Mr. Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, or call (202) 653-5290.

Dated: May 14, 1987.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 87-11473 Filed 5-19-87; 8:45 am]

BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Lizton Financial Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to change *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lizton Financial Corporation,* Lizton, Indiana; to engage de novo through its subsidiary, Schorling & Associates, Inc., Lizton, Indiana, in data processing services and management consulting advice pursuant to §§ 225.25(b)(7) and (b)(11) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Valley Capital Corporation,* Las Vegas, Nevada; to engage *de novo* through its subsidary, Valley Electronic Services, Inc., Las Vegas, Nevada, in data processing and transmission services and the issuance of retail money orders and similar consumer-type payment instruments pursuant to §§ 225.25(b)(7) and (b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-11445 Filed 5-19-87; 8:45 am]

BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc., et al.; Formation of; Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 11, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire 100 percent of the voting shares of Spring Grove National Bank, Spring Grove, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *D.S.B. Bankshares, Inc.*, Randolph, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Dairymans State Bank, Randolph, Wisconsin.

2. *Firstbank Corp.*, Alma, Michigan; to acquire 100 percent of the voting shares of Comerica Bank—Central, Shepher, Michigan, and Comerica Bank—West Branch, N.A., West Branch, Michigan.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota, 55480:

1. *Fillmore County Bancshares, Inc.*, Canton, Minnesota; to become a bank holding company by acquiring 97.4 percent of the voting shares of Canton State Bank, Canton, Minnesota.

Board of Governors of the Federal Reserve System, May 14, 1987.

James McAfee,

Associate Secretary of the Board

[FR Doc. 87–11446 Filed 5–19–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F–0150]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol as a stabilizer for olefin polymers and ethylene-vinyl acetate copolymers complying with 21 CFR 177.1520 and 21 CFR 177.1350, respectively.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(B)(5))), notice is given that a petition (FAP 7B3991) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-piperidineethanol as a stabilizer for olefin polymers and ethylene-vinyl acetate copolymers complying with 21 CFR 177.1520 and 21 CFR 177.1350, respectively.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 11, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–11452 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Technical Electronic Product Radiation Safety Standards Committee

Date, time, and place. June 22, 10 a.m. and June 23, 8: 30 a.m., Rm. 416–418, Twinbrook Bldg., 12720 Twinbrook Parkway, Rockville, MD.

Type of meeting and contact person. Open public hearing, June 22, 10 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 5 p.m.; open committee discussion, June 23, 8:30 to 12 m.; Arlene R. Underdonk, Center for Devices and Radiological Health (HFZ–83), Food and Drug Administration, 12720 Twinbrook Parkway, Rockville, MD 20857, 301–443–3426.

General function of the committee. The committee provides advice and consultation to the Commissioner of Food and Drugs on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products, and may recommend electronic product radiation safety standards to the Commissioner for his consideration.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 12, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss draft amendments to the performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30, 1020.31, and 1020.32) and receive an update on the progress of other retrospective reviews of performance standards.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guidelines (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives

of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's pubic administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the opem portion of the meeting will be available from the Freedom of Information Office (HFW–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (FHA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: May 14, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–11453 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Atlanta District Office, chaired by John H. Turner, District Director. The topics to be discussed are health messages on food labels and cholesterol labeling.

DATE: Tuesday, May 26, 1987, 11 a.m. to 1 p.m.

ADDRESS: South Fulton Government Annex, 5600 Stonewall Tell Rd., Atlanta, GA 30329.

FOR FURTHER INFORMATION CONTACT: Carolyn Hommel, Consumer Affairs Officer, Food and Drug Administration, 60 8th St. NE., Atlanta, GA 30309, 404–347–7355.

Atlanta District Office, chaired by John H. Turner, District Director. The topics to be discussed are health messages on food labels and cholesterol labeling.

DATE: Wednesday, May 27, 1987, 11 a.m. to 1 p.m.

ADDRESS: North Fulton Government Annex, 7741 Roswell Rd. NE., Atlanta, GA 30338.

FOR FURTHER INFORMATION CONTACT: Carolyn Hommel, Consumer Affairs Officer, Food and Drug Administration, 60 8th St. NE., Atlanta, GA 30309. 404–347–7355.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 14, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–11454 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, June 3, 1987 from 1:30 p.m. to 5:00 p.m., Thursday, June 4, 1987 from 9:00 a.m. to 5:00 p.m. and Friday, June 5, 1987 from 9:00 a.m. to 1:00 p.m. in Room 703A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The Committee will receive reports from each of its Subcommittees and may address new business as appropriate.

Further information regarding this meeting of the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: May 7, 1987.

Robert A. Israel,

Deputy Director, National Center for Health Statistics.

[FR Doc. 87–11483 Filed 5–19–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–050–07–4351–12]

Availability of Draft Management Plan Amendment, Shasta River Salmon Spawning Area of Critical Environmental Concern (ACEC); and Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft plan amendment and environmental assessment.

DATE: Comments will be accepted until July 20, 1987.

SUMMARY: The intent of this amendment is to establish a portion of the Shasta River as an area of critical environmental concern (ACEC) for the protection of Chinook salmon, which spawn in this area. Management as an ACEC would require a Plan of Operations for gold dredging with dredges larger than three inches and a 50 foot "no disturbance" buffer strip above and below each weir constructed in the river to hold spawning gravel. Comments should be sent to: Robert J. Bainbridge, Redding Resource Area Manager, Bureau of Land Management, Redding Area Office, 355 Hemsted Drive, Redding, CA 96002, 916–246–5325.

Dated: May 7, 1987.

Robert J. Bainbridge,

Area Manager, Redding Resource Area.

[FR Doc. 87-11457 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-40-M

[NM-930-07-4220-10; NM NM-35829]

New Mexico; Withdrawal of Lands Under Section 2 of the Military Lands Withdrawal Act of 1986, McGregor Range

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Pub. L. 99-606 (H.R. 1790) dated November 6, 1986, the lands, described in paragraph 2 of this Notice, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral leasing laws and the geothermal leasing laws, subject to prior existing rights, and are reserved for training, weapons testing, and other defense related purposes by the Secretary of the Army, for the McGregor Range.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM, New Mexico State Office, 505-988-6589.

New Mexico Principal Meridian

T. 26 S., R. 6 E.,
- Sec. 1, N½SE¼ lying south and east of the Southern Pacific Railway right-of-way;
- Sec. 25, S½N½, and E½SE¼;
- Sec. 26, S½NE¼, and S½SE¼;
- Sec. 35, N½NE¼;
- Sec. 36, lots 5, 6, 7, 8, and N½N½.

T. 24 S., R. 7 E.,
- Secs. 1, 12, 13, 14, and 23, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 24, and 25;
- Secs. 26, 27, and 34, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 35, and 36.

T. 25 S., R. 7 E.,
- Secs. 1, and 2;
- Sec. 3, E½ and that part of the W½ lying east of the Southern Pacific Railway right-of-way;
- Secs. 4, and 9, those parts lying east of the Southern Pacific right-of-way;
- Secs. 10 to 14, inclusive;
- Sec. 16, that part lying east and south of the Southern Pacific Railway right-of-way;
- Sec. 20, NE¼NE¼;
- Sec. 21, NW¼NW¼;
- Sec. 23;
- Sec. 24, N½, SW¼, E½SE¼, and SW¼SE¼;
- Secs. 25 to 27, inclusive;
- Sec. 28, S½S½;
- Sec. 30, that part lying east of the Southern Pacific Railway right-of-way;
- Sec. 31, lots 5, 6, and 7;
- Sec. 32, lots 1, 2, 3, 4, N½, and N½S½;
- Sec. 34, lots 1, 2, NE¼, and N½SE¼;
- Sec. 35, lots 1, 2, 3, 4, N½, and N½S½;
- Sec. 36, lots 1, 2, 3, 4, N½, and N½S½.

T. 26 S., R. 7 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 3, lots 1, 2, S½NE¼, and SE¼;
- Sec. 6, lots 3, 6, and SE¼NW¼;
- Sec. 10;
- Sec. 11, E½, and NW¼;
- Secs. 12, and 13;
- Sec. 14, E½, and SW¼;
- Sec. 15, NE¼, N½NW¼, SE¼NW¼, and SW¼SW¼;
- Secs. 16, and 17;
- Sec. 18, lots 3, 4, E½, and E½SE¼;
- Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 23 to 28, inclusive;
- Sec. 29, N½;
- Sec. 30, lots 1, 2, NE½, and E½NW¼;
- Sec. 31, lots 2, 3, 4, and 5;
- Sec. 32, lots 1, 2, 3, 4, and N½N½;
- Sec. 33, lots 1, 2, 3, 4, and N½N½;
- Sec. 34, lots 1, 2, 3, 4, and N½N½;
- Sec. 35, lots 1, 2, 3, 4, and N½N½;
- Sec. 36, lots 1, 2, 3, 4, and N½N½;

T. 22 S., R. 8 E.,
- Secs. 13, 23, and 24, those parts lying east of the Southern Pacific Railway right-of-way;
- Sec. 25, lots 1 to 16, inclusive;
- Sec. 26, lots 1, 2, 6, and that part of S½ lying east of the Southern Pacific Railway right-of-way;
- Secs. 34, and 35, those parts lying east of the Southern Pacific Railway right-of-way;
- Sec. 36.

T. 23 S., R. 8 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Secs. 3, 9, and 10, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 11 to 15, inclusive;
- Secs. 16, 20, and 21, those parts lying east and south of the Southern Pacific Railway right-of-way;
- Secs. 22 to 28, inclusive;
- Secs. 29, 31, and 32, those parts lying east and south of the Southern Pacific Railway right-of-way;
- Secs. 33 to 36, inclusive.

T. 24 S., R. 8 E.,
- Sec. 1, lots 1, 2, 3, 4, SE¼NE¼, S½NW¼, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
- Secs. 6, and 7, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 8 to 14, inclusive;
- Sec. 15, N½, N½S½, SE¼SW¼, and S½SE¼;
- Secs. 16, and 17;
- Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 20 to 29, inclusive;
- Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 32 to 36, inclusive.

T. 25 S., R. 8 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 4, lots 2, 2, 3, 4, S½N½, and S½;
- Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
- Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 8 to 17, inclusive;
- Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 20 to 29, inclusive;
- Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 32 to 36, inclusive.

T. 26 S., R. 8 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
- Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 8 to 17, inclusive;
- Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
- Secs. 20 to 26, inclusive;
- Sec. 27, E½, E½W½, W½NW¼, and NW¼SW¼;
- Sec. 28, N½N½, NE¼SW¼, and NW¼SE¼;
- Sec. 29, N½, N½S½, S½SW¼, and SW¼SE¼;
- Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
- Sec. 31, lots 1 to 5, inclusive, N½NE¼, and NE¼NW¼;
- Sec. 33, lot 4, and NW¼NW¼;
- Sec. 34, N½NE¼, and NE¼NW¼;
- Sec. 35, lots 1, 2, 3, 4, and N½N½;
- Sec. 36, lots 1, 2, 3, 4, and N½N½.

T. 19 S., R. 9 E.,
- Sec. 2, lots 1 to 12, inclusive, and S½;
- Secs. 3, and 10, all those parts lying east of the Southern Pacific Railway right-of-way;
- Sec. 11, W½;
- Sec. 12, E½;
- Secs. 13, and 14;
- Secs. 15, and 22, all those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 23 to 26, inclusive;
- Secs. 27, and 34, all those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 35, and 36.

T. 20 S., R. 9 E.,
- Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
- Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
- Secs. 3, and 10, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 11 to 14, inclusive;
- Secs. 15, and 21, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 22 to 27, inclusive;
- Secs. 28, and 33, those parts lying east of the Southern Pacific Railway right-of-way;
- Secs. 34 to 36, inclusive.

T. 21 S., R. 9 E.,
- Sec. 1, lots 1 to 12, inclusive, and S½;
- Sec. 2, lots 1 to 8, inclusive, 10, 11, 12, and S½;
- Sec. 3, lots 1 to 12, inclusive, and S½;
- Secs. 4, and 9, those parts lying east of the Southern Pacific Railway right-of-way;

Secs. 10 to 15, inclusive;
Sec. 16, E½;
Sec. 21, that part lying east of the Southern Pacific Railway right-of-way;
Secs. 22 to 25, inclusive;
Sec. 26, NE¼, W½, N½SE¼, and SE¼SE¼;
Sec. 27;
Secs. 28, 32, and 33, those parts lying east of the Southern Pacific Railway right-of-way;
Sec. 34, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½, and N½S½.

T. 22 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Secs. 5, 7, and 8, those parts lying east of the Southern Pacific Railway right-of-way;
Secs. 9 to 14, inclusive;
Sec. 15, E½, E½NW¼, NW¼NW¼, and SW¼;
Secs. 16, and 17;
Sec. 18, that part lying east of the Southern Pacific Railway right-of-way;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20, and 21;
Sec. 22, E½;
Secs. 23 to 26, inclusive;
Sec. 27, E½;
Secs. 28, and 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, and 33;
Sec. 34, E½;
Secs. 35, and 36.

T. 23 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, S½NE¼, and SE¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 8;
Sec. 9, W½NE¼, and W½;
Sec. 10, E½, NW¼NW¼, SE¼NW¼, and SW¼;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½
Secs. 20 to 22 inclusive;
Sec. 23, N½, SW¼, E½SE¼, and SW¼SE¼;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32 to 36, inclusive.

T. 24 S., R. 9 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 11, inclusive;
Sec. 12, E½, E½W½, W½NW¼, and NW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½ and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32 to 36, inclusive.

T. 25 S., R. 9 E.
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 10, inclusive;
Sec. 11, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 12, SW¼SW¼;
Secs. 13 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 26, inclusive;
Sec. 27, W½NE¼, SE¼NE¼, W½, and SE¼;
Secs. 28, and 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32 to 36, inclusive.

T. 26 S., R. 9 E.,
Sec. 1, NE¼, W½, and W½SE¼;
Secs. 2 to 4, inclusive;
Sec. 5, E½;
Sec. 6, lots 1, 2, 3, 4, and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 16, inclusive;
Sec. 17, N½, and SW¼;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 20, W½;
Sec. 21, E½, and SW¼;
Secs. 22, and 23;
Sec. 24, N½, N½S½, SE¼SW¼, and S½SE¼;
Secs. 25 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1 to 5, inclusive, N½NE¼, and NE¼NE¼;
Sec. 32, lots 1, 2, 3, 4, and N½N½;
Sec. 33, lots 1, 2, 3, 4, and N½N½;
Sec. 34, lots 1, 2, 3, 4, and N½N½;
Sec. 35, lots 1, 2, 3, 4, and N½N½;
Sec. 36, lots 1, 2, 3, 4, and N½N½.

T. 19 S., R. 10 E.,
Sec. 7, W½, and S½SE¼;
Sec. 8, SW¼SW¼;
Sec. 9, SW¼;
Sec. 10, E½;
Sec. 11;
Sec. 12, W½ (unsurveyed);
Sec. 13, lots 1, 2, 3, 4, and W½;
Sec. 14, NE¼, and S½;
Secs. 15, and 16;
Sec. 17, W½W½;
Secs. 18 to 22, inclusive;
Sec. 23, E½, and SW¼;
Sec. 24, lots 1, 2, 3, 4, and W½;
Sec. 25, lots 1, 2, 3, 4, and W½;
Secs. 26 to 34, inclusive;
Sec. 36, lots 1, 2, 3, 4, and W½;

T. 20 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 6, inclusive, S½NE¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, and E½;
Secs. 8, and 9;
Secs. 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, and E½;
Sec. 19, lots 1, 2, 3, 4, and E½;
Secs. 22 to 27, inclusive;
Sec. 30, lots 1, 2, 3, 4, and E½;
Secs. 32 to 36, inclusive.

T. 21 S., R. 10 E.,
Sec. 1, lots 1 to 12, inclusive, and S½;
Sec. 2, lots 1 to 12, inclusive, and S½;
Sec. 3, lots 1 to 12, inclusive, and S½;
Sec. 4, lots 1 to 12, inclusive, and S½;
Sec. 5, lots 1 to 12, inclusive, and S½;
Sec. 6, lots 1 to 21, inclusive, and SE¼;
Sec. 7, lots 1 to 12, inclusive, and E½;
Secs. 8 to 14, inclusive;
Sec. 15, SE¼;
Secs. 16, and 17;
Sec. 18, lots 1 to 12, inclusive, and E½;
Sec. 19, lots 1 to 12, inclusive, and E½;
Secs. 20 to 22, inclusive;
Sec. 23, N½, SW¼, and N½SE¼;
Secs. 24, and 25;
Sec. 26, W½NE¼, W½, and SE¼;
Secs. 27 to 29, inclusive;
Sec. 30, lots 1 to 12, inclusive, and E½;
Sec. 31, lots 1 to 14, inclusive, and NE¼, and N½SE¼;
Sec. 32, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 33, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 34, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 35, lots 1, 2, 3, 4, N½, and N½S½;
Sec. 36, lots 1, 2, 3, 4, N½, and N½S½.

T. 22 S., R. 10 E.,
Sec. 1, lots 5 to 12, inclusive, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 5 to 12, inclusive, and S½;
Sec. 4, lots 1 to 12, inclusive, and S½N½;
Sec. 5, lots 1, 2, 3, 4, and S½N½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 8;
Sec. 9, lots 1 to 16, inclusive;
Secs. 10 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 5 to 12, inclusive, NE¼, and E½NW¼;
Sec. 20, lots 1 to 15, inclusive;
Sec. 21, lots 1 to 8, inclusive, and E½;
Secs. 22 to 29, inclusive;
Sec. 30, lots 5 to 20, inclusive;
Sec. 31, lots 5 to 20, inclusive;
Secs. 32 to 36, inclusive.

T. 23 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, N½NE¼, SW¼NE¼, E½W½, and SE¼;
Sec. 20, N½NE¼, SW¼NE¼, W½, and SE¼;
Secs. 21 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, and 33;

Sec. 34, E½, E½W½, NW¼NW¼, and W½SW¼;
Secs. 35, and 36.
T. 24 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 5 to 20, inclusive;
Sec. 4, lots 5 to 20, inclusive;
Sec. 5, lots 3 to 8, inclusive, S½NW¼, and S½;
Sec. 6, lots 1, 2, 8 to 15, inclusive, S½NE¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8, and 9;
Sec. 10, E½, N½NW¼, and SW¼;
Sec. 11, lots 1 to 16, inclusive;
Sec. 12, lots 1, 2, 3, 4, E½, and NW¼;
Sec. 13, lots 1 to 16, inclusive;
Secs. 14 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 23, inclusive;
Sec. 24, lots 1 to 16, inclusive;
Sec. 25, lots 1 to 16, inclusive;
Secs. 26 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 32, E½, W½NW¼, SE¼NW¼, and SW¼;
Secs. 33 to 36, inclusive.
T. 25 S., R. 10 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 8, SW¼;
Sec. 9, S½;
Sec. 10, S½S½;
Sec. 11, N½;
Secs. 12, and 13;
Sec. 14, E½SW¼, NW¼SW¼, and SE¼;
Secs. 15, 16, and 17;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20, 21, and 22;
Sec. 23, E½E½, NW¼NE¼, and W½SE¼;
Sec. 24, N½, and SW¼;
Sec. 26, E½, and S½SW¼;
Secs. 27, 28, and 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, and 33;
Sec. 35.
T. 26 S., R. 10 E.,
Secs. 2, to 5, inclusive;
Sec. 6, lots 1, 2, E½, and E½W½;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8, and 9;
Sec. 10, NW¼;
Sec. 16, N½, and SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½, and SW¼;
Sec. 30, lot 1, NE¼, and NE¼NW¼;
Sec. 32, lots 3, 4, and N½NW¼.
T. 20 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4 lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20, and 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, to 36, inclusive.
T. 21 S., R. 11 E.,
Sec. 1, lots 1 to 12, inclusive, and S½;
Sec. 2, lots 1 to 12, inclusive, and S½;
Sec. 3, lots 1 to 12, inclusive, and S½;
Sec. 6, lots 1 to 14, inclusive, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 20;
Secs. 25 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½S½;
Sec. 32, lots 1, 2, 3, 4, E½, and E½S½;
Sec. 33, lots 1, 2, 3, 4, E½, and E½S½;
Sec. 34, lots 1, 2, 3, 4, NW¼NE¼, N½NW¼, S½N½, and N½S½;
Sec. 35, lots 1, 2, 3, 4, E½, and N½S½;
Sec. 36, lots 1, 2, 3, 4, E½, and N½S½;
T. 22 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8, to 12, inclusive;
Secs. 15, 16, and 17;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32 to 36, inclusive.
T. 23 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32 to 36, inclusive.
T. 24 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 8 to 23, inclusive;
Sec. 7, lots 5 to 20, inclusive;
Sec. 8, lots 1 to 16, inclusive;
Secs. 9, 10, and 11;
Sec. 12, NW¼;
Sec. 14, NW¼;
Secs. 15, 16, and 17;
Sec. 18, lots 5 to 20, inclusive;
Sec. 19, lots 5 to 20, inclusive;
Sec. 20, lots 1 to 8, inclusive, and W½;
Sec. 21, lots 1 to 16, inclusive;
Sec. 22, lots 3, 4, 5, 6, 11, 12, 13, and 14;
Sec. 28, N½, and SW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 32.
T. 25 S., R. 11 E.,
Sec. 5, lots 3, 4, S½NW¼, and SW¼;
Sec. 6, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 7, N½, and SW¼;
Sec. 18, NW¼.
T. 20 S., R. 12 E.,
Sec. 2, lots S½;
Sec. 3, lots 1, 2, 3, 4, and S½N½;
Sec. 5, lots 1, 2, and S½NE¼;
Sec. 7, NW¼NW¼;
Sec. 8, NW¼;
Sec. 9, SE¼NE¼;
Sec. 10, N½SW¼, and SE¼SE¼;
Sec. 11, E½NW¼, and NE¼SW¼
Sec. 15, E½NE¼, and SE¼SE¼;
Sec. 16;
Sec. 22, W½SW¼;
Sec. 24, lot 3, and NW¼SE¼;
Sec. 26, SE¼NE¼, S½NW¼, N½SW¼, and NW¼SE¼;
Sec. 27, SW¼NE¼, S½NW¼, and N½S½;
Sec. 28, NW¼NE¼, N½NW¼, S½N½, and N½S½;
Secs. 30, and 32;
Sec. 36, lots 1, 2, 3, 4, W½E½, and W½.
T. 21 S., R. 12 E.,
Sec. 1, lots 1 to 12, inclusive, and S½;
Sec. 2, lots 1 to 12, inclusive, and S½;
Sec. 3, lots 1, 2, 3, and 4;
Sec. 4, lots 1 to 6, inclusive, 11, 12, and SW¼;
Sec. 5, lots 1 to 12, inclusive, and S½;
Sec. 6, lots 1 to 11, inclusive, and SE¼;
Sec. 7, lots 1, 2, 3, 4, and E½;
Secs. 8, 11 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, and E½;
Sec. 19, lots 1, 2, 3, 4, and E½;
Secs. 20, and 21;
Sec. 22, N½;
Secs. 23 to 27, inclusive;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, and E½;
Sec. 31, lots 1, 2, 3, 4, and E½;
Secs. 32, 34, 35, and 36.
T. 22 S., R. 12 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 6, inclusive, S½NE¼, and SE¼;
Secs. 8 to 12, inclusive;
Secs. 14 to 17, inclusive;
Sec. 18, E½;
Sec. 19, lots 1, 2, 3, 4, and E½;
Secs. 20, 21, and 22;
Secs. 24 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, and E½;
Sec. 31, lots 1, 2, 3, 4, and E½;
Secs. 32 to 36, inclusive.
T. 23 S., R. 12 E.,

Secs. 1 to 5, inclusive;
Sec. 6, lots 1, 2, 3, 4, and E½;
Sec. 7, lots 1, 2, 3, 4, and E½;
Secs. 8 to 12, inclusive;
Sec. 14, N½;
Sec. 15, N½, N½S½, and S½SW¼;
Sec. 17;
Sec. 18, lots 1, 2, 3, 4, and E½;
Sec. 19, lots 1, 2, 3, 4, and E½;
Secs. 20, and 21;
Sec. 22, W½NE¼, SE¼NE¼, and W½;
Sec. 28, NW¼;
Sec. 29;
Sec. 30, lots 1, 2, 3, 4, and E½;
Sec. 31, lots, 1 to 6, inclusive, NE¼, and NE¼SE¼;
Sec. 32, NW¼.
T. 24 S., R. 12 E.,
Sec. 6, lots 10, 11, 12, and 13.
T. 20 S., R. 13 E.,
Sec. 7, lots 3, and 4;
Sec. 16, S½;
Sec. 17, S½;
Sec. 18, lots 1, 2, 3, 4, E½SW¼, and SE¼;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 21, NE¼;
Sec. 22, E½, NW¼, and E½SW¼;
Sec. 25, E½NW¼, and SW¼;
Sec. 26, SW¼NW¼, and E½SE¼;
Secs. 27, and 28;
Sec. 29, S½;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, 33, and 34;
Sec. 35, SE¼NW¼, W½W½, and NE¼SW¼;
Sec. 36.
T. 21 S., R. 13 E.,
Sec. 1, lots 8, 9, 10, 12, and S½;
Sec. 2, lots 1 to 12, inclusive, and S½;
Sec. 3, lots 1 to 12, inclusive, and S½;
Sec. 4, lots 1 to 12, inclusive, and S½;
Sec. 5, lots 1 to 12, inclusive, and S½;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 19, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 20 to 23, inclusive;
Sec. 24, N½, and SW¼;
Sec. 25, NW¼;
Secs. 26 to 29, inclusive;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Secs. 32, 33, and 34;
Sec. 35, N½, and SW¼.
T. 22 S., R. 13 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 4, lots 3, 4, S½NW¼, and S½;
Sec. 5, lots 1, 2, 3, 4, S½N½, and S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 9, E½, and SW¼;
Sec. 10, W½;
Sec. 16, NW¼, and N½SW¼;
Sec. 20;
Sec. 21, NW¼;
Sec. 29, N½, and SW¼;
Sec. 30, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 31, lots 1, 2, 3, 4, E½, and E½W½;
Sec. 32, NW¼.
T. 23 S., R. 13 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, and E½SW¼.
T. 21 S., R. 14 E.,
Sec. 5, lots 1, 2, 3, 8, and SW¼;
Sec. 6, lots 1 to 14, inclusive, E½SW¼, and SE¼;
Sec. 7, lots 1, 2, 3, 4, NE¼, and E½W½;
Sec. 18, lots 1, 2, and E½NW¼.

The lands described above aggregate approximately 608,384.87 acres, in Otero County.

The map and other appropriate information are available for public inspection in the following offices:

Director, Bureau of Land Management, Main Interior Bldg., 18th & C Streets, NW., Washington, DC 20240
State Director, Bureau of Land Management, New Mexico State Office, Joseph F. Montoya Bldg., South Federal Place, Santa Fe, NM 87501
Director, United States Fish and Wildlife Service, main Interior Bldg., 18th & C Streets, NW., Washington, DC 20240
Regional Director, United States Fish and Wildlife Service, 500 Gold Ave., SW., Room 3018, Albuquerque, NM 87102
Office of the Secretary of Defense, Pentagon Bldg., U.S. Route 95, Arlington, VA
Commander, U.S. Air Defense Center, Attention: Colonel Laspada, ATZC—Commanding Officer, Fort Bliss, TX 79916.

Dated: May 12, 1987.

Robert L. Schultz,

Acting State Director.

[FR Doc. 87-11551 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-FB-M

Fish And Wildlife Service

[DES 87-15]

Availability of Draft Environmental Impact Statement; Amended

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of a Draft Environmental Impact Statement (EIS) for the Proposed Comprehensive Conservation Plan (CCP), Wilderness Review, and Wild River Plan for the Yukon Delta National Wildlife Refuge, Alaska.

DATE: Comments will be accepted until July 22, 1987.

ADDRESS: Comments should be sent to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503-6199 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503-6199; telephone (907) 786-3399.

SUPPLEMENTARY INFORMATION: This notice amends a previous notice of availability (52 FR 12473, April 16, 1987).

The closing date for comments on the draft environmental impact statement has been changed from June 30, 1987, to July 22, 1987.

A limited number of individual copies of the draft CCP/EIS may be obtained by contacting Mr. Knauer.

Copies of the draft CCP/EIS are also available for review at the Office of the Regional Director, address as listed previously, as well as at the Office of the Yukon Delta National Wildlife Refuge, Bethel, Alaska 99559, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuges, U.S. Department of the Interior, 18th and C Streets NW., Washington, DC 20240;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NW. Multnomah Street, Suite 1692, Portland, OR 97232;
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue, SW., Albuquerque, NM 87103;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111;
U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Bldg., 75 Spring Street SW., Atlanta, GA 30303;
U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158; and
U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225.

Public meetings will be held in a number of the communities within or near the refuge during the Spring of 1987. Dates, times, and places for the village meetings will be advertised through various means, including the news media and communication with the village councils. A public hearing will be held in Anchorage, Alaska, at the Fairview Community Center, 1121 E. 10th Ave., on Thursday, May 28, 1987, beginning at 7:00 p.m.

Dated: May 13, 1987.

Bruce Blanchard,

Dirctor, Environmental Project Review.

[FR Doc. 87-11463 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Documents; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposed to conduct on

Leases OCS–G 5704 and 5705, Blocks 164 and 165, respectively, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on May 11, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday thrugh Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plan Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 12, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–11459 Filed 5–19–87; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Texaco U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Texaco U.S.A., Unit Operator of the South Marsh Island Block 73 Federal Unit Agreement No. 14–08–0001–20234, has submitted a DOCD describing the activities it proposes to conduct on the South Marsh Island Block 236 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa, Louisiana and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on May 6, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9: a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Towner; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Utilization Section; Unitization Unit; Telephone (504) 736–2641.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 12, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–11460 Filed 5–19–87; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Union Texas Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Union Texas Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6677, Block 237, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on May 8, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised §250.34 of Title 30 of the CFR.

Dated: May 12, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-11461 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-MR-M

National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Agenda for Plenary Meeting

AGENCY: Department of the Interior, Minerals Management Service, Pacific OCS Region.

ACTION: National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Notice and Agenda for Plenary Meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Pacific Regional Technical Working Group Committee of the National OCS Advisory Board is scheduled to meet June 18, 1987 from 8:00 a.m. to 4:00 p.m., in the Cabrillo Room of the Sheraton Santa Barbara, 1111 E. Cabrillo Blvd., Santa Barbara, California 93103.

The Agenda for the meeting covers the following topics:

—5-year OCS Oil & Gas Leasing Program
—Post Lease Projects Update—San Miguel
—Review of Pacific OCS Issues and Activities
—Projects Update: Strategic & International Minerals Program
—Review and Ranking Recommendation for FY 89 Pacific OCS Studies Plan

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Region, 1340 West Sixth Street, Room 275, Los Angeles, CA 90017

Office of the Offshore Advisory Board Support, Minerals Management Service, Department of the Interior, Washington, DC 20240.

Dated: May 11, 1987.

William E. Grant,

Director, Pacific OCS Region.

[FR Doc. 87-11458 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Subsistence Resource Commission Meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commission. The following agenda items will be discussed:

1. Call to order
2. Minutes of last meeting
3. Superintendent's report—implementation issues
4. Fish and Game regulations: The process for change and the NPS/ADF&G Memorandum of Understanding
5. Resident zone regulations
6. Identification of important subsistence use areas.
7. Preparation of draft subsistence hunting program recommendations
8. Subsistence research needs
9. Staff support
10. Correspondence.

DATE: The meeting will begin on June 8, 1987, at 9:00 a.m. and will conclude the afternoon of June 9, 1987.

ADDRESS: The meeting will be held in the Drift Inn Conference Room in Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: G. Ray Bane, Acting Superintendent, Northwest Alaska Areas, National Park Service, P.O. Box 1029, Kotzebue, Alaska 99752, Phone: (907) 442-3890.

SUPPLEMENTARY INFORMATION: The Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act Pub. L. 96-487.

Dated: May 12, 1987.

Richard J. Stenmark,

Acting Regional Director, Alaska Region.

[FR Doc. 87-11558 Filed 5-19-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Eighty Second Meeting of the Board for International Food and Agricultural Development (BIFAD) on June 2, 1987.

The purposes of the meeting is for the ad hoc committee on procurement procedure and the Research Committee to report to the Board and the Joint Committee on Agricultural Research and Development. The main item on the agenda will be an "open forum" for an exchange of views and concerns between the Board and representatives of Title XII institutions who will be meeting in Rhode Island at the same location.

The Meeting will be held at 1:15 P.M. and adjourn at 5:00 P.M. on June 2, 1987. The Meeting will be held at the Dutch Inn Motor Hotel in Galilee, Rhode Island. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Marshall D. Brown, Counselor to the Administrator, C/AID, Agency for International Development is designated as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Mr. Charles D. Ward, Deputy Executive Director BIFAD Staff, in care of the Agency for International Development, Washington, DC, 20523, or telephone him at (202) 647-8976.

Date: May 12, 1987.

Marshall D. Brown,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 87-11455 Filed 5-19-87; 8:45 am]

BILLING CODE 6116-01-M

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the nineteenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on June 2, 1987.

The purposes of the meeting are to review in collaboration with BIFAD, the issues relating to Title XII that need to be addressed, and to make plans for the follow-up actions to be taken. JCARD will meet jointly with BIFAD from 1:30-5:00, during which time the Board will hear a report from various committees and from invited members of the Title XII Community.

JCARD will hold this meeting at the Dutch Inn Motor Hotel in Galilee, Rhode Island. Any interested person may

attend, may file written statements with the Committee before or after the meetings, 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. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meetings. It is suggested that those desiring further information write to him in care of the Agency of the Agency for International Development, BIFAD/S, Washington, DC 20523 or telephone him at (202) 647–8532.

Dated: April 6, 1987.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 87–11456 Filed 5–19–87; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–253]

Certain Electrically Resistive Monocomponent Toner and "Black Powder" Preparations Therefor; Commission Decision Not To Review an Initial Determination Extending the Deadline for Completion of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) extending the deadline for completion of the investigation to the full 18 months allowed for "more complicated" investigations.

SUMMARY: The Commission has determined not to review an ID (Order No. 17) extending the deadline for completion of this investigation to the full 18 months permitted by statute for "more complicated" cases, i.e., to February 22, 1988.

FOR FURTHER INFORMATION CONTACT: Edwin J. Madaj, Jr., Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0148.

SUPPLEMENTARY INFORMATION: This investigation had previously been declared more complicated and the deadline for completion of the investigation had been extended by 3 months, to November 20, 1987. *See* 51 FR 46943 (December 29, 1986).

On April 9, 1987, the presiding administrative law judge (ALJ) granted an unopposed joint motion of Aunyx and the IA to declare the investigation "more complicated" and extend the deadline for completion of the investigation to the full 18 months permitted by statute. The basis for this motion was that the complexity of the issues, and the need for completion of discovery on these issues, required the extension of time.

The Commission has decided not to review the ID extending the deadline for completion of the investigation to February 22, 1988.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Part 210 of the Commission rules (19 CFR Part 210).

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

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: May 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–11540 Filed 5–19–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–257]

Certain Electronic Wall Stud Finders; Commission Decision Not To Review Initial Determination Terminating Investigation on the Basis of Issuance of Consent Orders

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation on the basis of issuance of consent orders.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) granting joint motions to terminate the above-captioned investigation on the basis of consent orders.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523–0421.

SUPPLEMENTARY INFORMATION: On August 26, 1986, Zircon International, Inc. (Zircon) filed a complaint with the Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1377). The complaint alleged that Philips Home Products, Inc. (Philips) and Meyer Electronics (Meyer) were violating section 337 by importing and selling in the United States certain electronic wall stud finders which infringe U.S. Letters Patent 4,099,118. By separate motions filed on March 25, 1987, Zircon, Meyer, and Philips jointly moved, along with the Commission investigative attorney, for termination of the investigation on the basis of consent orders. On April 7, 1987, the presiding administrative law judge issued an ID (Order No. 5) granting the motions and terminating the investigation. No petitions for review or comments from government agencies or the public were received concerning the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 and Commission rule § 210.53 (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–523–0002.

Issued: May 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–11538 Filed 5–19–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–377 (Preliminary)]

Internal Combustion Engine Fork-Lift Trucks From Japan

AGENCY: United States International Trade Commission.

ACTION: Change in the scope of the preliminary investigation No. 731–TA–377 (Preliminary).

SUMMARY: The Commission hereby gives notice of changes in the scope of its investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of internal

combustion engine fork-lift trucks, with lifting capacity of 2,000 to 15,000 pounds [1] provided for in item 692.40 of the Tariff Schedules of the United States, that are alleged to be sold in the United States as less than fair value.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–523–1793), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Background

The purpose of this change in the scope of the Commission's investigation is to conform the scope of this investigation with that initiated by the Department of Commerce on May 12, 1987.

Authority: This notice is published pursuant to § 207.12 of the Commission's rules of practice and procedure (19 CFR 207.12).

Issued: May 14, 1987.

By order of the Commision.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–11536 Filed 5–19–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–248]

Certain Plastic Fasteners and Processes for the Manufacture Thereof; Commission Determination Not To Review an Initial Determination Declaring the Investigation More Complicated and Extending the Deadline for Completion of the Investigation and for Filing of the Final ID

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of initial determination declaring the above-captioned investigation "more complicated" and extending the deadline for completion of the investigation and for filing of the final ID by one month.

SUMMARY: The Commission has determined not to reveiw the initial determination (ID)(Order No. 29) of the presiding administrative law judge (ALJ) declaring the investigation "more complicated" and extending the deadline for completion of the investigation and for filing of the final ID by one month. The new deadline for filing of the final ID is June 18, 1987. The new administrative deadline for completion of the investigation is September 18, 1987.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.59 of the Commission's Rules of Practice and Procedure (19 CFR 210.59).

The investigation is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation of sale of certain plastic fasteners. The proceedings were instituted on the basis of a complaint filed by Dennison Manufacturing Co. (Dennison) alleging infringement of certain patents owned by Dennison. Earlier, on November 25, 1986, the investigation was declared "more complicated" and the administrative deadline for completion of the investigation was extended from June 18, 1987 to August 18, 1987 and the deadline for filing of the final ID was set for May 18, 1987.

On April 23, 1987, the presiding ALJ determined that the time remaining to file the final ID In this investigation was insufficient and issued Order No. 29. This determination was based upon the ALJ's need for sick leave, complicated issues present in the case, and an unusually heavy work load during April and May.

The Commission has determined that the deadline for filing of the final ID and for completion of the investigation should be extended one month (to June 18, 1987, and September 18, 1987, respectively) for the reasons noted above.

Notice of this investigation was published in the **Federal Register** on June 18, 1986 (51 FR 22144).

All nonconfidential documents filed In connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–747–0002.

By order of the Commission.

Issued: May 13, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–11539 Filed 5–19–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–250]

Certain Ventilated Motorcycle Helmets; Commission Decision Not To Review Initial Determination Terminating Investigation as to two Respondents on the Basis of a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation as to two respondents on the basis of a settlement agreement; termination of investigation.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 36) granting a motion to terminate the above-captioned investigation as to respondents Shoei Kako Co., Ltd. and Shoei Safety Helmets Corporation (the Shoei respondents), on the basis of a settlement agreement. Termination of the shoei respondents terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

SUPPLEMENTARY INFORMATION: On May 28, 1986, Bell Helmets, Inc. (Bell), filed a complaint pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) with the Commission alleging unfair acts in the importation and sale of certain ventilated motorcycle helmets. The unfair acts alleged were infringement of Bell's U.S. Letters Patents 4,054,953 and 4,555,816.

On January 16, 1987, complainant Bell and the Shoei respondents jointly moved (Motion No. 250–24), pursuant to Commission rule § 210.51(b)(1), for termination of the investigation with

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[1] For purposes of this investigation, "internal combustion engine fork-lift trucks" include both assembled, not assembled, and less than complete, finished and not finished, operator-riding fork-lift trucks powered by gasoline, propane, or diesel fuel internal combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. "Less than complete" fork-lift trucks, are defined as imports which include a frame by itself or a frame assembled with one or more component parts. The Department of Commerce has stated that the frame by itself is the indentifying feature and principal component part of the product, and is solely dedicated for the manufacture of a complete internal combustion, industrial fork-lift truck.

respect to the Shoei respondents on the basis of a settlement agreement. On January 29, 1987, the presiding administrative law judge (ALJ) issued an ID granting the motion to terminate on the basis of the settlement agreement (Order No. 31).

On March 2, 1987, the Commission determined to review Order No. 31 and remand it to the ALJ with instructions that the settlement agreement should be amended to provide for a dispute settlement procedure that does not attempt to rely on the issuance of Commission advisory opinions. On March 20, 1987, complainant and the Shoei respondents jointly moved to amend their settlement agreement and to terminate the investigation. On April 7, 1987, the presiding ALJ issued an ID (Order No. 36) granting their motion. No petitions for review or comments from Government agencies or the public were filed.

While declining to review the ID herein, the Commission notes the following in passing. The Commission investigative attorney opposed the motion, asserting that amended paragraph 6 of the settlement agreement "incorrectly indicates that the Commission has continuing jurisdiction to enter and presumably enforce, an arbitration award." The Commission does not so construe the language in question. Since the Shoei respondents are the only remaining respondents, termination of the investigation as to them necessarily terminates the investigation (section 337 of the Tariff Act of 1930; Commission rule § 210.53 (19 CFR 210.53)), and the Commission's jurisdiction in this investigation is ended. By declining to review the ID herein, the Commission does not commit itself, in any future proceeding before the Commission, to accord a particular effect to those provisions of the settlement agreement which concern arbitration or to an award made pursuant to such provisions. *See Certain Fluidized Bed Combustion System*, Inv. No. 337–TA–213, USITC Pub. 1752 (1985).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: May 13, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–11537 Filed 5–19–87; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[No. MC–F–18265]

ConAgra, Inc.; Control Exemption; Monfort Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: ConAgra, Inc. (ConAgra), a noncarrier, seeks an exemption from the requirement of prior regulatory approval for its acquisition of stock control of motor carrier Monfort Transportation Company (MTC) (No. MC–144572).

DATE: Comments must be received by June 19, 1987.

ADDRESSES: Send comments (an original and 10 copies), referring to Docket No. MC–F–18265, to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) ConAgra's representative: Peter A. Green, Thompson, Hine and Flory, 1920 N Street, NW., Washington, DC 20036

(3) MTC's representative: John R. Wirth, Nelson & Harding, 717–17th Street, Suite 2600, Denver, CO 80202–3357.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: ConAgra seeks, under 49 U.S.C. 11343(e) and the Commission's regulations in Procedures—Handling Exemptions Filed by Motor Carriers, 367 I.C.C. 113 (1982), an exemption from the requirement of prior regulatory approval for its acquisition of stock control of MTC. ConAgra has filed a separate application seeking approval for the change in control of MTC's property broker authority under the same docket series.

Under the terms of the transaction, MTC's noncarrier parent, Monfort of Colorado, Inc. (Monfort), will become a first tier, noncarrier subsidiary of ConAgra. ConAgra presently controls the following carriers: ConAgra Transportation, Inc. (No. MC–150422 and No. W–1333); Lynn Transportation Company, Inc. (No. MC–133604); Balcom Chemicals, Inc. (No. MC–174324); Armour Food Express Company (Nos. MC–140364 and MC–152245); U.S. Tire, Inc. (No. MC–170511; and Yellowstone Valley Chemicals, Inc. (No. MC–185117). A petition for exemption of control by ConAgra of motor carrier Miller Bros. Co., Inc. (No. MC–117699), is currently pending in No. MC–F–18138.

Under 49 U.S.C. 11343(a)(5), the Commission's prior approval is required for the acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers. Here, ConAgra already controls several carriers. Therefore, its proposed acquisition of control of MTC is subject to the Commission's jurisdiction and can be carried out only under Commission regulation or an exemption from regulation.

MTC operates in intrastate commerce in Colorado and Nebraska. These intrastate operations are also subject to the instant exemption petition. *See* 49 U.S.C. 11341(a).

ConAgra argues that its acquisition of control of MTC will promote the national transportation policy by adding one additional carrier to the family of carriers it already controls pursuant to the Commission's prior approval or exemption. ConAgra asserts that its proposed acquisition of control of MTC is of limited scope, and will have no significant adverse effect on other carriers, employees or shippers. Finally, ConAgra states that the transaction will not threaten shippers with an abuse of market power because of the competitive structure of the motor carrier industry.

A copy of the petition may be obtained from ConAgra's representative, or it may be inspected at the Washington, DC offices of the Interstate Commerce Commission during normal business hours.

Decided: May 12, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Adre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87–11486 Filed 5–19–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30984]

The Shore Fast Line, Inc.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts The Shore Fast Line, Inc., from the requirements of 49 U.S.C. 11343 for the acquisition and operation of Consolidated Rail Corporation's Mary's Wye-Winslow

Secondary Track, a 0.3 mile section of line located in the Township of Winslow, Camden County, NJ, subject to employee protective conditions.

DATES: This exemption will be effective on June 19, 1987. Petitions to stay must be filed by June 1, 1987, and petitions for reconsideration must be filed by June 9, 1987.

ADDRESSES: Send petitions referring to Finance Docket No. 30984 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Erick M. Hocky, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106

FOR FURTHER INFORMATION:
Joseph 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).

Decided: May 13, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary

[FR Doc. 87–11467 Filed 5–19–87; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–32 (Sub-No. 37X)]

Boston and Maine Corporation—Exemption—Discontinuance of Service in Essex County, MA; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* for the purpose of discontinuing service on its South Middleton Branch between milepost 3.24 in Peabody and milepost 6.86 in Lynnfield, a distance of 3.62 miles, all within Essex County, Massachusetts.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State of local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on June 19, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by June 1, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 9, 1987 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Kristin Dorney, Boston and Maine Corporation, Iron Horse Park, No. Billerica, MA 01862.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 1, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–11488 Filed 5–19–87; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87–45)]

NASA Advisory Council, History Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee (HAC). DATE AND TIME: June 10, 1987, 9 a.m. to 3 p.m., and June 11, 1987, 9 a.m. to 5:30 p.m.

ADDRESS: NASA Headquarters, Federal Office Building No. 6, Room TBD, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code XH, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–8300).

SUPPLEMENTARY INFORMATION: The History Advisory Committee was established to provide advice and guidance to the NASA history program, which maintains a non-record historical reference file and publishes works in the history of aeronautics and space science technology. The Committee, chaired by Dr. Melvin Kranzberg, consists of 8 members. The meeting will be open to the public. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.
Agenda: June 10, 1987
9 a.m.—Introductory Remarks.
9:15 a.m.—History Program Review.
1 p.m.—History Program Review (cont'd).
2 p.m.—Planning; Future Projects.
3 p.m.—Adjourn.
June 11, 1987
9 a.m.—NASA Contract History Presentation: Apollo, Shuttle and Space Station Policy Decision (Seminar).
1 p.m.—NASA Contract History Presentation: Post-War Solar Science (Seminar).
3 p.m.—NASA Contract History Presentation: Aeronautical Research at Lewis Research Center (Seminar).
5:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

May 12, 1987.

[FR Doc. 87–11485 Filed 5–19–87; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Renewal of Source Material License No. STB–401; Docket 40–6563]

Columbium—Tantalum Division, Mallinckrodt, Inc., St. Louis, MO; Finding of No Significant Impact

The Nuclear Regulatory Commission (the Commission) is considering the renewal of Source Material License No. STB–401 for the continued operation of the Columbium-Tantalum Division of Mallinckrodt, Inc., of St. Louis, Missouri.

Environmental Assessment

Identification of the Proposed Action: The proposed action would allow Mallinckrodt to continue operation for another 5 years essentially as it has been operated for the past years. The Mallinckrodt facility prepares Tantalum and Columbium (Niobium) (Cb-Ta)

products for use in several segments of industry. The Tantalum and Columbium are recovered from ores by use of chemical operations. The ores contain unwanted quantities of natural uranium and thorium.

The need for the Proposed Action: The Mallinckrodt, Inc., Cb-Ta Plant is one of many extraction metallurgy facilities in the United States that provides valuable metal products for a broad range of industrial applications. Mallinckrodt supplies independent clients with Cb_2O_5 and K_2TaF_7 and denial of the license renewal would require those clients to find a new source for the products, thus transferring potential impacts elsewhere. This could impose an unnecessary economic impact on the applicant.

Environmental Impacts of the Proposed Action: The applicant was first licensed on August 31, 1964. This is the first NEPA review of the facility operations performed under NRC licensing responsibility for evaluation of environmental impacts including potential public exposure to radioactive material.

The staff concluded that the principal environmental impacts of current operation at the Cb-Ta Plant include the potential release of radioactive particles and radon from storage, handling, and processing the ores. The radiological impacts of the Mallinckrodt facility were assessed by calculating the maximum dose to the individual living at the nearest residence and to the local population living within a 16–km (10 mile) radius of the plant site. Air monitoring data was used to estimate the 50-year dose commitment to the maximally-exposed individual living at the nearest residence (250m NW of Building 238): the committed doses are: whole body - 0.84 mrem; bone - 8.2 mrem; and lung - 2.6 mrem. The dose are in compliance with the individual exposure limits established by the Clean Air Act. The collective whole-body dose to the population within a 16–km (10 mile) radius of the plant is 3.2 person-rem which is only about 0.0025 percent of the population dose of 1.3×10^5 person-rem resulting from the natural background radiation dose in the area. For nonradiological air effluents, the plant is not expected to add significantly to the concertrations of polluants in the atmosphere of the industrial St. Louis area where the plant is located. Liquid effluents are discharged to the St. Louis Metropolitan Sewer District and are considered insignificant. Therefore, the staff concludes that there will be no significant impacts associated with the proposed action.

Alternatives to the Proposed Action: One alternative would be to deny the renewal application. This would result in the facility shutting down. Although denial is an alternative available to the Commission, it would be considered only if significant issues of public health and safety could not be resolved to the satisfaction of regulatory authorities involved.

Agencies and Persons Consulted: In addition to reviewing the applicants request, the staff contacted the St. Louis Air Pollution Division and the St. Louis Metropolitan Sewer District.

Finding of No Significant Impact: The Commission has prepared an Environmental Assessment (NUREG–1239) related to the license renewal of Source Material License No. STB–401. On the basis of this assessment, the Commission has concluded that environmental impacts created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No significant Impact is appropriate.

The Environmental Assessment (NUREG–1239) for the proposed action, on which this Finding of No Significant Impact is based, relied on the following documents: (1) Environmental Information prepared by Mallinckrodt, Inc., Columbium - Tantalum Division, June 26, 1985, (2) Licensing Information, Mallinckrodt, Inc., Columbium - Tantalum Division, July 26, 1985, and (3) Responses to NRC site visit questions, Mallinckrodt, Inc., Columbium - Tantalum Division, May 28, 1986, and June 4, 1986.

The Environmental Assessment (NUREG–1239) and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the Environmental Assessment may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writting to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7982.

Dated at Silver Spring, Maryland, this 14th day of May 1987.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Fuel Cycle, Medical, Academic, and Commercial Use Safety.

[FR Doc. 87–11543 Filed 5–19–87; 8:45 am]

BILLING CODE 7590–01–M

Bi-Weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on May 6, 1987 (52 FR 16939) through May 8, 1987.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records,

Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 19, 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. Requests 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 aspect(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 fifteen (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 fifteen (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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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 (*Project Director*): 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 the 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 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 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50-348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: October 25, 1985, supplemented September 29, 1986.

Description of amendment request: The amendment would modify the Technical Specifications to change Figures 3.4-2 and 3.4-3 based on the results of analysis of Capsule "U" Reactor Vessel Material Radiation Surveillance Program in response to the Commission's letter dated May 2, 1985. Analysis results are detailed in WCAP-10934 provided to the Commission by licensee letter dated October 25, 1985.

By letter dated September 29, 1986, the licensee submitted a revision to WCAP-

10934 and Figures 3.4-2 and 3.4-3 as the result of NRC staff concerns expressed in our letter dated June 16, 1986. The revised Figures 3.4-2 and 3.4-3 are different from those previously noticed on December 4, 1985 (50 FR 49780). Therefore, we have determined that the changes to the heatup/cooldown curves require renoticing.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment could not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the October 25, 1985, letter, as well as the September 29, 1986, letter conclude that the revised heatup/ cooldown curves comply with Commission guidance of Regulatory Guide 1.99 Revision 2 and 10 CFR Part 50, Appendix G, and, therefore, do not involve a significant hazards consideration.

The staff has reviewed the licensee's analyses provided by letter dated October 25, 1985, as supplemented September 29, 1986, and conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make no significant hazards consideration determination.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Attorney for licensee: Ernest L. Blake, Jr., Esquire, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: November 17, 1986

Description of amendment request: The proposed amendment would revise the technical specifications to reflect the revised requirements of 10 CFR 50.72 and the new requirements of 10 CFR 50.73. The revised Section 50.72 modifies the immediate notification requirements for operating nuclear power reactors and the new Section 50.73 provides for a revised Licensee Event Report System.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). One of the examples (vii) of actions not likely to involve a significant hazards consideration relates to a change to make a license conform to changes in regulations, where the license change results in very minor changes to facility operations clearly in keeping with regulations. The proposed amendment is similar to the example in that the changes were requested by the NRC staff in Generic Letter 83-43 to assure compliance with the revised Section 50.72 and the new Section 50.73. In addition, the proposed amendment would only revise the reporting requirements in accordance with the regulations and would not change any current limitations related to the operation of the plant.

Therefore, since the application for amendment involves a proposed change that is similar to an example of actions that are considered not likely to involve significant hazards considerations, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: December 12, 1986

Description of amendment request: The proposed amendment would delete license condition 2.c.(3)(g) of Facility Operating License No. NPF-6 relating to CESEC code verification. CESEC is a simpilfied thermal-hydraulic transient computer program developed for analyzing transient and accident events. The license condition requires that the licensee shall complete tests to verify the use of the CESEC code during the initial startup and power ascension testing program and submit the results for Commission review and approval. By letters dated March 6, 1980, June 9, 1980, March 27, 1981 and December 27, 1983, the licensee submitted test results for Commisson review. By letter dated March 20, 1984, the NRC staff provided Commission approval and the associated safety evaluation stating that the licensee has fulfilled all of the requirements regarding the verification of the CESEC code. This change is one of several changes requested in the application. The remaining issues will be addressed in separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the proposed change follows:

(1) Consideration of Probability and Consequences of Accident: CESEC is a thermal-hydraulic transient computer program developed for analyzing transient and accident analyses. The NRC staff has reviewed and found the CESEC code acceptable for use in licensing applications for calculating FSAR Chapter 15 events for ANO-2. Accordingly the deletion of the license condition requiring the code verification would not affect previously analyzed events. The proposed change, therefore, would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Consideration of Possibility of a New or Different Kind of Accident: The proposed deletion of a license condition which has been fulfilled by the licensee would not involve any new safety information or affect any plant operating condition or parameter. Therefore, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Consideration of a Reduction in a Margin of Safety: The proposed change would not involve a change in safety limits, limiting conditions for operation, surveillance requirements, or the design bases for the plant equipment. Therefore, the proposed change involves no significant hazards considerations.

Based on the above considerations, the Commission proposes to determine

that the proposed change involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: December 12, 1986

Description of amendment request: The proposed amendment would revise the technical specifications to change the reporting requirements for primary coolant iodine spikes from a short-term report (Special Report) to an item to be included in the Annual Report in accordance with the staff's guidance provided in General Letter No. 85-19. The proposed amendment would also delete the requirement to shut down the reactor if coolant iodine activity limits are exceeded for 800 hours in a 12-month period in accordance with the staff's guidance provided in the generic letter. The requirement to shut down the reactor after primary coolant activity exceeds 1.0 microcurie per gram Dose Equivalent I-131 for greater than 48 hours and the requirement to shut down the reactor if primary coolant activity exceeds the allowable limit of Figure 3.4-1 would still be retained. The remaining issues in the amendment request will be addressed in separate notices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to a purely administrative change to technical specifications; for example, a change to achieve consistency throughout technical specifications, correction of an error, or a change in nomenclature. Another example (vii) of actions not likely to involve a significant hazards considerations relates to a change to make a license conform to changes in regulations, where the license change results in very minor changes to facility operations clearly in keeping with regulations.

The first change appears to be similar to example (i) in that it is purely administrative. In addition, it meets the staff's guidance provided in Generic Letter No. 85-19. The second change involving deletion of the 800-hour shutdown requirement was previously evaluated on a generic basis by the staff and the results were stated in Generic Letter No. 85-19. The staff determined that the 800-hour limit was no longer necessary because the improved quality of nuclear fuel coupled with existing reporting requirements should preclude licensees ever approaching the limit. Short term shutdown requirements for iodine coolant activity limits remain unaffected by the proposed specifications. The generic letter also incorporated the above change into the standard technical specifications. Therefore, this change appears to be similar to example (vii) in that the change would bring the technical specifications in conformance with the standard technical specifications.

Therefore, since the application for amendment involves proposed changes that are similar to examples of actions that are considered not likely to involve significant hazards considerations, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Carolina Power & Light Company, Dockets Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: March 27, 1987

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for Brunswick Steam Electric Plant, Units 1 and 2, to include operability requirements for the pressurized nitrogen system that has been installed as a backup to the plant instrument air system. The new operability requirements would be incorporated into TS Section 3.6.4.2, Suppression Pool-Reactor Building Vacuum Breakers.

By letter dated May 8, 1984, the NRC issued Generic Letter 84-09, "Recombiner Capability Requirements of 10 CFR 50.44 (c)(3)(ii)," to clarify the conditions that would preclude the need for a hydrogen recombiner capability at some reactor plants. Criteria were provided in the Generic Letter to ensure that the amount of oxygen that could be present in a Mark I boiling water reactor containment after a postulated accident would be limited to safe values. In response to Generic Letter 84-09, the licensee has proposed a modification to the Brunswick instrument air system that would isolate the air supply to pneumatic valves inside containment after a postulated loss-of-coolant accident (LOCA). The only pneumatic valves inside containment required to operate after a LOCA are the automatic depressurization system (ADS) valves. The ADS valves would be supplied by a backup pressurized nitrogen supply upon isolation of the instrument air system. In addition, the nitrogen backup system would also supply the operators for the suppression pool to reactor building vacuum breaker valves. The vacuum breakers are located in the reactor building and are required to have a safety-grade source of pneumatic pressure after a postulated accident. The switchover to the backup nitrogen supply occurs automatically on receipt of a reactor vessel low level 3 or high drywell pressure signal which would occur during a LOCA.

By letter dated October 30, 1986, the NRC issued a Safety Evaluation relating to the acceptability of the nitrogen backup system modifications to the instrument air system. The staff provided additional criteria to be applied to the nitrogen backup system to assure that only nitrogen would be introduced into the containment after a postulated LOCA. Two of the criteria that would have to be met to assure compliance with Generic Letter 84-09 involve the addition of TS to control the operability of the nitrogen backup system. That is, the licensee was requested to provide:

a. Testing and surveillance TS for the essential nitrogen backup system, and

b. TS for the essential nitrogen backup system that limit operation of the plant on loss of redundancy and loss of the system.

The licensee's application of March 27, 1987, responds to the NRC's request for nitrogen backup system TS. The licensee has proposed to add operability and surveillance TS for the nitrogen backup system in TS Section 3.6.4.2, Suppression Pool-Reactor Building Vacuum Breakers. This TS section was chosen as an appropriate administrative location for incorporating the requested additions to the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no

significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes reflect additional restrictions on plant operation. The changes will effectively assure operability of the essential nitrogen supply system in the event of a loss-of-coolant accident (LOCA), thereby reducing the potential for oxygen to enter the drywell should a postulated LOCA occur concurrent with a rupture of the instrument air line.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The surveillance requirements assure a post-accident supply of oxygen-free working fluid for the required pneumatically operated systems inside the primary containment.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The proposed revisions incorporate additional, more restrictive requirements to ensure that oxygen does not get into the containment due to a rupture of an instrument air line concurrent with a loss-of-coolant accident.

Based on the above reasoning, the licensee has determined that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff therefore proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: Thomas A Baxter, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of amendment request: August 21, 1986

Description of amendment request: This amendment request includes proposed Technical Specification changes to Section 6 (Administrative Controls) of the Dresden Units 2 and 3 Technical Specifications. These changes are a result of recent Commonwealth Edison Corporate and Station organizational changes. Additional changes include referencing 10 CFR 50.73 in the reporting requirements, and revising Section 6.1.G regarding the review and investigative function and revising the audit function to reflect organizational and responsibility changes and to allow delegation of these functions. Lastly, Special Report Table 6.6.1 has been revised to delete reporting requirements for Unit 1 as it is no longer in operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide to the Commission its analyses, using standards in 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

Commonwealth Edison has evaluated the proposed Technical Specification amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Dresden Station Units 2 and 3 in accordance with the proposed amendments will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated because:

the proposed changes involve administrative changes in the management organizational structural and do not affect any plant equipment or operational procedures which could impact the probability or consequences of an accident.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated for the same reason as 1) above. No new equipment or operating practices are being introduced.

(3) involve a significant reduction in the margin of safety since the amendment does not affect any operating practices or limits nor any equipment or system important to safety.

The staff has reviewed the licensee's no significant hazards consideration determination on the proposed changes to Section 6, Administrative Controls, and agrees with the licensee's analysis. In addition the Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (March 6, 1986 51 FR 7751). Examples of actions involving no significant hazards consideration include purely administrative changes or changes to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations (i.e., examples (i) and (vii)). The changes proposed in the application for amendment are encompassed by these examples in that the proposed changes reflect recent organization changes, deletion of references to Dresden Unit 1 and review of reportable events as defined by 10 CFR 50.73. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: April 8, 1987

Description of amendments request: These amendments would revise the specimen capsule withdrawal schedule to incorporate the removal of two additional specimen capsules at fluences in excess of those expected at End of Life. This is consistent with the requirements of 10 CFR Part 50, Appendix H.

Basis for proposed no significant hazards consideration determination: The Commission has provided

standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria:

Criterion 1

This change only affects the withdrawal schedule for the specimen capsules installed inside of Zion's reactor vessels. This schedule is not a factor in any of the previously analyzed accidents. Thus, the change does not alter the probability or consequences of any accident previously evaluated.

Criterion 2

As discussed above, this change only addresses the timing of capsule withdrawal. The withdrawal of specimen capsules was considered in Zion's design and has previously taken place on numerous occasions.

In addition, the withdrawal schedule has no effect on the performance of any of Zion's systems or structures. Based upon this lack of system interaction, the proposed change will not affect any of the pre-existing accident sequences contained in Zion's FSAR.

Thus, this change does not create the possibility for a new or different kind of accident.

Criterion 3

While Zion's margin of safety is insensitive to changes in capsule withdrawal schedules, this change will allow for a more meaningful reactor vessel surveillance program. Thus, the future properties of Zion's vessels can be more accurately predicted, providing a slight increase in the margin of safety.

Note that this change will bring Zion Station into compliance with the 1983 revision to 10 CFR 50, Appendix H. Thus, example vii is applicable in this situation. Example vii reads as follows:

(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: April 9, 1987

Description of amendments request: These amendments expand the containment isolation valve list, correct minor errors, and incorporate the guidance of NUREG-0452, Rev. 4, as follows:

Pages iii, viii, ix, x, xi: These pages update the Table of Contents and List of Tables.

Pages 199a, 199b: These pages update the existing guidance of the Zion Technical Specifications regarding containment isolation valves. The proposed guidance is consistent with that contained in the Standard Technical Specification NUREG-0454, Rev. 4.

Page 200: This page updates guidance regarding main steam isolation valves with guidance consistent with the Standard Technical Specifications as discussed above.

Page 201: This page capitalizes the defined term, containment integrity, as discussed in Section 1.0 of the Technical Specifications. In addition, this page deletes the guidance that was previously contained in Section 3.9.4.C. This section provided for the option of 3-loop operation following the failure of an MSIV. Section 2.C.4 of the Zion Composite License prohibits operation with less than 4 reactor coolant loops above P-7 (approximately 10 percent reactor power). Thus, the guidance previously contained in Section 3.9.4.C conflicted with this license requirement.

Page 202: This page is blank due to repagination.

Page 203: This page involves a correction of a minor error and incorporates a revised format.

Pages 205, 205a, 206, 207, 207a, 207b, 207c, 208: These pages contain revised and expanded lists of Zion Station's containment isolation valves. These tables are divided into Phase A, B, manually operated and "other" containment isolation valves.

Page 208: This table explicitly defines the main steam isolation valves and their bypasses.

Pages 209, 210, 211: These pages provide the revised bases for the proposed changes discussed above.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of a accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria:

Criterion 1

An amendment to the Zion Facility Operating License is proposed to update the listing of the containment isolation valves for Zion Station and to correct minor errors within Sections 3.9 and 4.9. This proposed change does not affect the operation of Zion Station's containment isolation systems. The expansion and updating of the containment isolation valve list for Zion Station will allow for better administrative control over this system.

The incorporation of the guidance contained in the Standard Technical Specification NUREG-0452, Rev. 4, provides needed clarification and guidance to Sections 3.9 and 4.9 of the Zion Technical Specifications. The formalization of the prescribed actions and allotted time periods constitute revised and clarified constraints on the operation of Zion Station.

Since the improvement in the Zion Technical Specifications described above has no effect on the physical operation of the containment isolation system, this proposed amendment has no effect on any accident that has been previously evaluated. In addition, this proposed change has no effect on any

other Zion system or structure. Therefore this proposed amendment does not involve a significant increase in the probability of or consequences of any accident previously evaluated.

Criterion 2

The clarification of the requirements of Sections 3.9 and 4.9, the incorporation of the guidance contained in NUREG-0452, Rev. 4, and the expansion of the containment isolation valve list has no effect on any of Zion's systems or structures. There will be no change in the normal operation of Zion's containment isolation systems. Thus, there can be no potential for any previously unanalyzed malfunction or component failure.

The containment isolation system is intended to contain any postulated release of radioactively from the reactor coolant system within the containment structure. Thus, the containment isolation systems performance is essential during any postulated accident sequence that may involve the release of radioactive material to the containment environs. The analyses for these accidents contained in Zion's FSAR have been reviewed. Based on the lack of system interaction discussed above, the proposed amendment of the Zion Technical Specifications will not affect any of these pre-existing accident sequences.

Thus this proposed amendment does not create the possibility of a new or different kind of accident from those previously evaluated.

Criterion 3

The incorporation of the guidance contained in NUREG-0452, Rev. 4, and the expansion of the containment isolation valve list will not affect the safety function of the containment isolation system. The containment isolation system will remain continuously available to perform the intended safety function.

Since the containment isolation system's ability to effectively contain any postulated release of radioactivity inside of the Zion containment structure will be unaltered by this proposed change, there will be no change in the margin of safety.

This proposed change involves the expansion of the containment isolation valve list, the expansion and clarification of the prescribed actions, the correction of minor errors, and the deletion of conflicting requirements. Thus, examples (i) and (ii) are applicable in this instance. Examples (i) and (ii) read as follows:

(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification: for example, a more stringent surveillance requirement.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: April 27, 1987 (VP-NO-87-0035)

Description of amendment request: The proposed amendment would revise the Fermi-2 Operating License No. NPF-43 Plant Technical Specification 3/4.6.1.7 to change the drywell average air temperature limit from 135°F to 145°F to ensure continuous plant operation during the summer months without the need to derate plant operations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the possibility or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that:

1. The proposed increase in the drywell average air temperature limit does not involve a physical modification to the plant or a change in operating practices. It does, however, involve a change in the limiting conditions for operation which has been evaluated for: (1) impact on equipment environmental qualification requirements; (2) drywell concrete (structural) design requirements; (3) piping and piping support design requirements; and (4) the balance of safety-related mechanical equipment in the drywell. A reanalysis of the design basis loss of coolant accident (LOCA) indicates that the dynamic loads and containment response during a LOCA are bounded by the accident analysis documented in the Final Safety Analysis Report, and that peak drywell and wetwell pressures and the drywell pressurization rate, due to the higher temperature limit, actually decrease. Although operation at the higher temperature limit of 145°F could potentially accelerate aging of certain system components such as seals, solenoid valves and pressure switches, which may require earlier replacement, these components are periodically monitored by the Environmental Qualification Preventive Maintenance Program to ensure that any accelerated aging of those components will be detected and not inhibit their intended safety functions. In view of these determinations, the proposed change would not involve a significant increase in the possibility or consequences of an accident previously evaluated.

2. The proposed change to increase the drywell average air temperature to 145°F does not create the possibility of a new or different kind of accident from any accident previously evaluated. The increase in drywell average air temperature has been analyzed to be within the bounds of the results established in the Final Safety Analysis Report for the design basis LOCA. Thus, the change would not impact plant performance and would not provide an opportunity for the plant to enter into a condition not previously evaluated.

3. The proposed change to increase the drywell average air temperature to 145°F does not involve a significant reduction in safety margin. Reanalysis of the design basis LOCA at the higher temperature indicates that there is no significant impact on the dynamic loads or the containment response during a LOCA. The design basis LOCA reanalysis also indicates that the peak drywell and wetwell pressures, and drywell pressurization rate, actually decrease with the proposed increase in

the drywell average air temperature, thus enhancing the safety margin.

The Commission agrees with the licensee's determination and proposes to determine that the change requested to Technical Specification 3/4.6.1.7, as described above, does not involve a significant hazards consideration.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., The Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Martin J. Virgilio, Acting.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: April 9, 1987

Description of amendment request: The proposed amendments would change the Technical Specifications (TSs) to reflect the third refueling of Unit 2 and its fourth fuel cycle. (The refueling for Unit 2 Cycle 4 would continue the transition to use of optimized fuel assemblies (OFAs) initiated during the first refueling and would replace an additional 64 standard fuel assemblies with OFAs; thus, 184 of the total 193 fuel assemblies in Cycle 4 would be OFAs.) The existing TS figures for axial flux difference limits as a function of rated thermal power would be relabeled such that the existing figure for Unit 1 only (Figure 3.2-1a) would apply to both Units 1 and 2, and the existing figure for Unit 2 only (Figure 3.2-1b) would be deleted. The TS Index would be updated consistent with these changes.

The proposed amendments would also increase the limit specified for heat flux hot channel factor (Fq) for both Unit 1 and Unit 2 from the present value of 2.26 to 2.32. This change would be reflected in each of several TSs presently specifying 2.26, including TSs 3.2.2, 4.2.2.2c, 4.2.2.2f, 4.2.2.3, 4.2.2.4c, 4.2.2.4f.2, and Bases 3/4.2.1. A corresponding change would be made to TS Figure 3.2-2 which shows normalized Fq as a function of core height (i.e., the revised normalized figure would be based upon a total Fq of 2.32 rather than 2.26.)

The title of TS 6.9.1.9, "Radial Peaking Factor Limit Report" would be changed to "Peaking Factor Limit Report." This change would also be reflected in the TS Index. The schedule in TS 6.9.1.9 for providing the peaking factor limit report to the NRC would be changed from 60 days before cycle initial criticality (or 60 days before W(Z) functions and the value for APL^{ND} would become effective) to 30 days after implementation. The change would also update the NRC addressee specified in TS 6.9.1.9 for receipt of the peaking factor limit report (i.e, the NRC's Core Performance Branch would be changed to the NRC Document Control Desk, with copies also specified to be provided to the Regional Administrator and the Resident Inspector) based upon changes in the Commissions regulations (51 FR 40303). TS 6.9.1.9 would also be supplemented to specify that the methodology used to generate the W(Z) functions for Relaxed Axial Offset Control (RAOC) and base load operation and the value for APL^{ND} shall be those previously reviewed and approved by the NRC (i.e., from WCAP-10216 "Relaxation of Constant Axial Offset Control-Fq Surveillance Technical Specifications"). If changes to these methods are deemed necessary, the revised TS 6.9.1.9 would specify that such changes are to be evaluated in accordance with 10 CFR 50.59 and submitted to the NRC for review and approval prior to their use if the change is determined to involve an unreviewed safety question or if such a change would require amendments of previously submitted documentation.

Basis for proposed no significant hazards consideration determination: On April 20, 1984, the Commission issued Amendment No. 32 to Facility Operating License NPF-9 to change the Technical Specifications to permit changes in operating limits related to the transition to the use of optimized fuel assemblies in McGuire Unit 1. A similar amendment for Unit 2 (Amendment 23) was issued March 22, 1985.

Accordingly, beginning with their first refuelings for Cycle 2, Unit 1 and Unit 2 operated with the first stage of a transition core consisting of approximately 1/3 Westinghouse 17x17 Optimized Fuel Assemblies (OFAs) and 2/3 Westinghouse 17x17 low-parasitic fuel assemblies (STDs). During Cycle 3, each unit contained about 2/3 OFAs and 1/3 STDs. Unit 1 is currently operating in Cycle 4 and Unit 2 will achieve Cycle 4 by its next refueling. In Cycle 4, 184 of the total 193 fuel assemblies are OFAs.

The major differences between STDs and OFAs are the use of Zircaloy grids for the OFAs versus Inconel grids for STDs and a reduction in fuel rod diameter. The OFA fuel has similar design features compared to the STD fuel, which has had substantial operating experience in a number of nuclear plants. Major advantages for utilizing the OFAs are: (1) Increased efficiency of the core by reducing the amount of parasitic material and (2) reduced fuel cycle costs due to an optimization of water to uranium ratio.

The proposed amendments would provide for plant operation consistent with the design and safety evaluation conclusions in the licensee's McGuire Unit 2 Cycle 4 Reload Safety Evaluation (RSE). The changes to the Technical Specifications would reflect adjustments in the limiting conditions and surveillance requirements for (1) axial flux difference and (2) heat flux hot channel factor, consistent with the parameters used in the RSE.

The Commission proposes to determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The McGuire Unit 2/Cycle 4 RSE accompanying the licensee's amendment request of April 9, 1987, describes all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload for the Unit 2 Cycle 4 design. The results of the analysis conclude that:

a. The Westinghouse OFA reload fuel assemblies for McGuire 1 and 2 are mechanically compatible with the STD design, control rods, and reactor internals interfaces. Both fuel assemblies satisfy the current design bases for the McGuire units.

b. Changes in the nuclear characteristics due to the transition from STD to OFA fuel will be within the range normally seen from cycle to cycle due to fuel management effects.

c. The reload OFAs are hydraulically compatible with the current STD design.

d. The accident analyses for the OFA transition core were shown to provide acceptable results by meeting the applicable criteria, such as, minimum DNBR, peak pressure, and peak clad temperature, as required. The previously reviewed and licensed safety limits are met.

e. Plant operating limitations given in the Technical Specifications will be satisfied with the proposed changes.

From these evaluations, it is concluded that the Unit 2 Cycle 4 design does not cause the previously acceptable safety limits to be exceeded.

The Commission has provided examples of amendments likely to

involve no significant hazards considerations (51 FR 7744). One example of this type is (vi), "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where results of the change are clearly within all acceptable criteria with respect to the system or component specified in the standard review plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method". Because the evaluations previously discussed show that all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload were reviewed for the Unit 2 Cycle 4 design and conclude that the reload design does not cause the previously acceptable safety limits to be exceeded, the above example can be applied to this situation. Accordingly, the Commission proposes to determine that these changes for the Unit 2 Cycle 4 reload, including the changes in axial flux difference, and heat flux hot channel factor, do not involve a significant hazards consideration.

By previous Amendments 32 (Unit 1)/13(Unit 2) and Amendments 42 (Unit 1)/23 (Unit 2), McGuire changed to a type of Fq function for which the title "Radial Peaking Factor Limit" was no longer appropriate. The previous amendments failed to correct the title of TS 6.9.1.9. The proposed amendment would correct the title by deleting "Radial". Also, during its licensing review of another nuclear plant (Vogtle Nuclear Station), the Commission determined that the safety of a plant would not be affected if the peaking factor limit report required by TS 6.9.1.9 were submitted 30 days after implementation rather than 60 days before criticality, provided the methodology used was previously reviewed and approved by the NRC and changes to this methodology are subject to the requirements of 10 CFR 50.59. The proposed change in the McGuire schedule would include these conditions in the revised TS 6.9.1.9.

Another example of actions not likely to involve a significant hazards consideration, example (i), relates to a purely administrative change to technical specifications to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The Commission proposes to find that the changes to the TS Index; the title and submittal schedule and NRC addressee in TS 6.9.1.9; and changes to Unit 1 specifications which do not change the content for Unit 1 but which eliminate the distinctions between units within the common document (as is the case for Figure 3.2-1) are administrative and involve no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC) Station, North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: B. J. Youngblood

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: April 10, 1987

Description of amendment request: The proposed amendments would revise the Station's common Technical Specifications (TSs) to revise TS 6.1.1.4 and allow the Superintendent of Operations to hold or have held either a senior reactor operator (SRO) license or SRO certification. The current TSs require that an SRO license is required to be held or have been held for this position. The licensee proposes to include the option of SRO certification.

Basis for proposed no significant hazards consideration determination: The proposed amendment revises the requirements for holding the Superintendent of Operations position at Oconee. The requirements are specified in Section 6.1.1.4 in the Administrative Controls/Organization Section. Presently the Superintendent of Operations must hold or have held an SRO license. This proposed amendment includes an option to the requirement so an SRO certification will also qualify a candidate for the Superintendent position.

To ensure the quality of operations through qualified management, the licensee has developed an SRO certification program to provide a course of study and experiences similar to that of an SRO during normal and abnormal conditions. The licensee SRO certification program was designed for non-licensed management personnel who are required to have an understanding of plant operations. The certification program training is equivalent to the SRO license training and is administered through completion of an NRC format audit exam which certifies technical competence of trainees. This audit exam consists of a written exam, simulator operation and plant walkthrough examination. Candidates for certification do not take the NRC license exam since their positions do not require actual operating of the plant.

The licensee states that the SRO certification program was based on ANSI 3.1 Standards, previous commitments and the NRC approved Cold License Certification program. The SRO license Preparatory Program is an INPO accredited program and is approved by the NRC. The licensee has defined this program and the SRO Certification Program in the Employee Training and Qualification Manual. The licensee determined that the SRO Certification Program meets or exceeds ANSI 3.1 Standards thus providing adequate technical knowledge to qualify management personnel to assume the responsibilities of the Superintendent of Operations.

The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. The details of position requirements are included in the Administrative Controls section of the TSs and have no impact on the probability or consequences of any accident analysis.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because the change offers an option to qualify for Superintendent of Operations.

The proposed amendment would not involve a significant reduction in a margin of safety. Inclusion of the SRO certification may prove to be an acceptable experience alternative and may not lower the quality standards that the licensee maintains in nuclear station personnel.

Therefore, the proposed action would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any

accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On this basis the Commission proposes to determine that the application involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: B. J. Youngblood

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: March 17, 1987

Description of amendment request: The licensee proposes to make administrative changes to the technical specifications to remove outdated material, make minor text changes, and correct typographical errors. The changes are grouped into five categories.

Category 1 changes deal with changing the units of reactivity. The licensee proposes changing "% delta k/k" to "pcm" wherever "% delta k/k" is used in the technical specifications. One "% delta k/k" equals 10^{+3} pcm.

Category 2 changes deal with removal of requirements that are currently outdated. These requirements were either effective for a period of time that is now past, or they have become redundant to requirements in another section of the technical specifications. The changes dealing with the former are: (1) modified incore detector system operability requirements which were temporarily in effect until October 1, 1981 (TS 3.3.3.2); (2) modified power operated relief valve block valve action statement which was temporarily in effect until October 1, 1981 (TS 3.4.12); and (3) Commission approval of offsite dose calculation manual (TS 6.14.1) and process control program (TS 6.13.1). The change dealing with the latter is removal of specific technical specifications dealing with secondary water chemistry, which were never fully defined (TS 3/4.1.6). The valid secondary water chemistry technical specifications are contained in the administrative controls part of the technical specifications (T.S. 6.8.4.C).

Category 3 changes represent typographical errors.

Category 4 changes correct the titles of the Company Nuclear Review Board (CNRB).

Category 5 changes ensure that the required 10 CFR Part 50 reports are sent to the Document Control Desk, Washington, DC 20555.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of standards for determining if a no significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards consideration (51 FR 7751). One of these examples, (i), is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed changes come under this example. Category 1 changes only the reactivity units; the correct reactivity will still be in effect as far as the technical specification is concerned. Category 2 changes requirements that are either outdated and no longer in effect or are more appropriately specified in another part of the technical specifications. Category 3 corrects typographical errors, an example of an administrative change given in 51 FR 7751. Category 4 provides the correct make-up of the CNRB with correct titles. Category 5 changes ensure that the required 10 CFR Part 50 reports are forwarded to the Document Control Desk in Washington, DC.

Based upon the above, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: April 1, 1987

Description of amendment request: The Unit No. 1 technical specifications currently contain tables which identify safety-related hydraulic snubbers and safety-related mechanical snubbers. The snubbers ensure that the structural integrity of the reactor coolant system and all other safety-related systems is maintained during and following a seismic event or other events initiating dynamic loads.

The Commission issued Generic Letter 84-13 entitled "Technical Specifications for Snubbers" on May 3, 1984. The Generic Letter stated that the staff reassessed the inclusion of snubber listings within the technical specifications and concluded that such listings are not necessary provided the snubber technical specification is modified to specify which snubbers are required to be operable. In response to the Generic Letter, the licensee proposed to: (1) delete Table 3.7-2a which identifies safety-related hydraulic snubbers and Table 3.7-2b which identifies safety-related mechanical snubbers; (2) modify the technical specification wording in various locations to state safety-related snubbers versus snubbers; (3) maintain the actual listings in a document; and (4) implement any changes in snubber quantities, types, or locations as a change to the facility as controlled under the Commission's regulation 10 CFR 50.59.

In addition to the above changes, the licensee also proposed to remove snubber-related requirements that are outdated. This consists of the first inservice visual inspection requirements which have already been fulfilled and the deletion of a footnote concerning the waiving of mechanical snubber functional test requirements until startup following the fifth refueling outage, which has already occurred.

Lastly, the licensee proposed to correct an error in a reference contained in the snubber service life monitoring specification (TS 4.7.10.f). The current reference is "Specification 6.10.2.m." The correct reference should be "Specification 6.10.2.l."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards considerations exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis:

> . . . the changes being proposed by FPL are administrative; they do not affect assumptions contained in plant safety

analyses, nor do they affect Technical Specifications that do preserve safety analysis assumptions. Safety related snubbers will continue to be controlled and surveilled according to Technical Specifications. Changes in snubber quantities, types, or locations would be a change to the facility and would be adequately controlled per the provisions of 10 CFR 50.59. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

In connection with the second standard, the licensee states that:

. . . the changes being proposed by FPL are administrative; they will not lead to physical modifications. These changes do not add to, or delete from, the total number of plant snubbers available to provide dynamic load support during and following a seismic event or other initiating dynamic loads. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

Regarding the third standard, the licensee states that:

. . . the changes being proposed by FPL are administative; they do not modify the safety margins defined in and maintained by the Technical Specifications. The NRC has concluded that snubber listings are not necessary provided the snubber Technical Specification specifies which snubbers are required to be OPERABLE. The snubber LCO has been clarified to show that all safety related snubbers must be OPERABLE. This change does not involve a significant reduction in a margin of safety since: 1) the LCO clearly specifies which snubbers are required to be OPERABLE, and 2) the snubber listing will be maintained via controlled documents.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, it appears that the proposed amendment does not involve an increase in the probability or consequences of events previously evaluated and that the proposed amendment will not create the possibility or a new or different kind of accident from any previously evaluated. Likewise, it does not appear that the margin of safety is reduced. The snubber listings will be moved to another document and controlled under 10 CFR 50.59. The proposed technical specifications make it clear that safety-related snubbers are enveloped. The removal of outdated requirements is administrative in nature, as well as the correction to a specification reference.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: March 31, 1987

Description of amendment request: The licensee proposes to make administrative changes to the technical specifications to remove outdated material, make minor text changes, and correct typographical errors. The changes are grouped into five categories.

Category 1 changes deal with changing the units of reactivity. The licensee proposes changing "% delta k/k" to "pcm" wherever "% delta k/k" is used in the technical specifications. One "% delta k/k" equals 10^{+3} pcm.

Category 2 changes deal with the removal of requirements that are currently outdated. These requirements were in effect for a period of time that is now past, and included such items required before initial criticality, prior to initial 5% power, and the like.

Category 3 changes represent typographical errors.

Category 4 changes will correct the titles of the Company Nuclear Review Board (CNRB).

Category 5 changes ensure that the required Part 50 reports are sent to the Document Control Desk, Washington, DC 20555.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of standards for determining if a no significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards consideration (51 FR 7751). One of these examples, (i), is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed changes come under this example. Category 1 changes the reactivity units; the correct reactivity will still be in effect as far as the technical specification is concerned. Category 2 changes requirements that are outdated and no longer in effect, but which have been met. Category 3 are typographical errors. Category 4 provides the correct titles of the CNRB. Category 5 changes ensures that the required Part 50 reports are forwarded to the Document Control Desk in Washington, DC.

Based upon the above, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: March 17, 1987 (TSCR 158)

Description of amendment request: The proposed amendment would revise Section 3.3, Reactor Coolant, of the Appendix A Technical Specifications (TS) regarding the requirements of Generic Letter 84-11. Specifically, the licensee is proposing to increase the current requirements in TS 3.3.D.1.c. The proposed amendment is to have the reactor coolant system leakage limited to a 2 gpm increase in unidentified leakage rate within *any 24 hour period* while operating at steady state power. The current TS requires this within any 4-hour period.

Basis for proposed no significant hazards consideration determination: In response to a staff request dated September 5, 1986, concerning Generic Letter 84-11, the licensee has proposed Technical Specification Change Request No. 158. The licensee's proposed change increases the requirements on reactor coolant unidentified leakage in the TS.

The licensee has evaluated its proposed change against the standards in 10 CFR 50.92. The results are as follows:

By a letter dated September 5, 1986, the NRC requested GPU Nuclear (GPUN) the licensee for the Oyster Creek Nuclear Generating Station (OCNGS) to justify its Technical Specification (TS) requirements (TS3.3D.1.c) for unidentifed leakage against the requirements of Generic Letter (GL) 84-11, attachment 1, item B. Briefly, OCNGS TS3.3D.1.c states that reactor coolant system leakage shall be limited to a 2 gpm increase in unidentified leakage rate within any *4-hour* period while operating at steady state power. GL 84-11 states that a maximum increase in unidentified leakage rate within any *24-hour* period while operating would be sufficiently restrictive to ensure timely investigation of potential through-wall cracks in austenitic stainless steel piping.

GPUN agrees that the OCNGS TS3.3D.1.c for the unidentified leakage is not as restrictive as the requirements of GL 84-11 and is proposing this amendment to revise the time interval from 4 hours to 24 hours.

Since this proposed amendment increases the time interval for the same flow rate (2 gpm), this change places a more restrictive requirement on the maximum allowable rate of increase for the unidentified reactor coolant system leakage.

This proposed change would increase the margin of safety through more restrictive limiting conditions of operation for the unidentified reactor coolant system leakage.

Likewise, the more restrictive limiting conditions of operation would provide for the timely detection of potential cracks, and would decrease the probability of a design basis loss-of-coolant accident.

Based upon the hereinbefore discussion, we [the licensee] have evaluated that this change request involves no significant hazards considerations. In summary, we have determined that the proposed amendment would not:

a. Involve a significant increase in the probability or consequences of an accident previously evaluated;

This proposed change would place a more restrictive limiting conditions of operation for the unidentified reactor coolant system leakage which provides for the timely detection of potential through-wall cracks in austenitic stainless steel piping. By this timely detection the probability of a design basis loss-of-coolant accident would not have any effect on the consequences of the design basis accidents previously evaluated.

b. Create the possibility of a new or different kind of accident from any accident previously evaluated;

This proposed change only places more restrictive limiting conditions of operation for the unidentified reactor coolant system leakage, so this proposed change does not create the possibility of a new or different kind of accident.

c. Involve a significant reduction in a margin of safety;

This proposed change would increase the margin of safety by the initiation of timely actions for the detection of potential through-wall cracks in austenitic stainless steel piping, and thereby reduces the probability of a design basis loss-of-coolant accident.

The staff has reviewed the licensee's no significant hazards consideration determination and agree with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: Ernest L. Blake, Jr.; Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of amendment request: March 30, 1987

Description of amendment request: The proposed amendment would increase the shutdown margin requirements shown in Technical Specification (TS) Figure 3.1-2 and change the title of Figure 3.1-2. The proposed title change would avoid confusion with TS Figure 3.1-1 and be consistent with TS 3.4.1.3.

Technical Specification 3.1.1.2 specifies the minimum shutdown requirement during operation in Modes 3, 4, and 5. Currently, TS Figure 3.1-2 shows the required shutdown margin for Mode 4 when no reactor coolant pumps (and at least one residual heat removal pump) are in operation and for Mode 5 at all times. Based upon its review of the Diablo Canyon natural circulation test results, the staff concluded that under low flow, natural circulation conditions, the water in the reactor vessel upper head could become stagnant and not actively mix with the remainder of the reactor coolant. Therefore, borated water in the upper head would not be able to contribute to the mitigation of a boron dilution event.

Because of the revised NRC staff position, Westinghouse reanalyzed the Vogtle boron dilution accident for Modes 4 and 5 with no reactor coolant pumps operating while not taking credit for the borated water contained in the reactor vessel upper head. This lower assumed water volume results in a reduction of the time available to the operator (a minimum of 15 minutes from the time of the high flux at shutdown alarm to the total loss of shutdown margin). Therefore, the reanalysis resulted in a slightly greater boron requirement which increases the time available to the operator so that the safety design bases continue to be met. The revised TS Figure 3.1-2 is consistent with the Westinghouse reanalysis of the boron dilution event in Modes 4 and 5 with no reactor coolant pumps in operation. Additionally, the title change removes the overlap regarding pump operation which currently exists between TS Tables 3.1-1 and 3.1-2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and has determined that should this request be implemented, it would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated. The only effect of the proposed change is to increase the required shutdown margin during low reactor coolant flow conditions in order to counterbalance the decrease in the assumed available mixing volume for mitigation of boron dilution events.

Also, the licensee's proposed changes would not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because no new or novel features would be added to plant design. Finally, the licensee's proposed changes would not (3) involve a significant reduction in a margin of safety because the increased boron requirement counterbalances the reduced available water volume so that the previous safety design bases continue to be met.

One of the Commission's examples in 51 FR 7744 of actions likely to involve no significant hazards considerations is (i), "a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to modify the title of TS Figure 3.1-2 represents a change that meets the guidance provided by this example because the change corrects an error in the title.

Accordingly, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 4th Street, Waynesboro, Georgia 30830

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043

NRC Project Director: B. J. Youngblood

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: September 15, 1986

Description of amendment request: The proposed license amendment would revise Duane Arnold Energy Center Technical Specification Sections 3.6.E and 4.6.E and the associated bases to reflect the latest General Electric guidance on jet pump operability and surveillance requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of each of the above criteria for the amendment request as follows:

In reviewing this proposed request for Technical Specification change we have concluded that this amendment:

(1) does not involve a significant increase in the probability or consequences of an accident previously evaluated. These changes are based upon GE's recommendations (SIL 0) and are derived from evaluation of actual in-plant data from facilities where failures of jet pump hold-down beams have occurred. The NRC has approved the same Technical Specification changes for facilities similar to the DAEC. The jet pump flow and WP signals are inherently noisy at low pump speed/core flow. This is because the natural circulation effects dominate the flow through the core. As the pump speed increases, the forced circulation overcomes the natural circulation and the process stabilizes, allowing more reliable readings of jet pump performance to be obtained. The present Technical Specifications require an immediate plant shutdown if the present surveillance requirements are not met, even at the low speeds where the readings are often anomalous. Since the actual beam failure mode is a slow, progressively degrading process which can be trended, the requirement to perform daily evaluations at low pump speeds (less than 60%) will ensure that true degradation is observed and will allow for anomalous data to be discounted without forcing an unnecessary plant shutdown, as with the present Techncial Specifications. Therefore, these changes to the Technical Specification requirements will have no impact on either the probability or consequences of a jet pump failure from those previously analyzed; they will improve our ability to detect true degradation in jet pump performance before hold-down beam failure actually occurs.

(2) does not create the possibility of a new or different kind of accident. These surveillances do not require any plant equipment to be manipulated, only that data be recorded from existing control room instrumentation; therefore, the possibility of an accident different from those previously analyzed is not created.

(3) does not involve a significant reduction in a margin of safety because the purpose for the present Technical Specification is the detection of a jet pump failure which could cause the plant to operate outside of its analyzed condition. These changes will improve our ability to detect true degradation in jet pump performance before such failures can occur. Therefore, the margin of safety is not reduced.

Based on an evaluation of the above licensee analysis, the Commission's staff has made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Martin J. Virgilio, Acting.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: March 13, 1985 as amplified January 15, 1986 and January 13, 1987.

Description of amendment request: The proposed Technical Specification (TS) change would bring Maine Yankee's TS into conformance with the requirements set forth in USNRC Generic Letter 83-37 pertaining to the Reactor Coolant System (RCS) Vent System. Generic Letter 83-37 requires at least one RCS vent path to be operable and closed at all times. For Maine Yankee, which uses a pressure operated relief valve (PORV) as a RCS vent, the block valve is not required to be closed if the PORV is operable.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazard exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis using the standards in 10 CFR 50.92 about the issue of no significant hazards consideration. The licensee has performed that analysis and we have performed an evaluation in accordance with 10 CFR 50.91(a)(i) to determine whether this proposed change involves a significant hazards consideration as defined by 10 CFR 50.92. A summary of our evaluation follows.

This proposed change does not increase the probability or consequence of a previously analyzed accident because the change simply requires four valves to be shut and to be operable with power removed from their actuators at or above Condition 4 (when the reactor is subcritical and its temperature is between 210°F and 500°F). Additionally, even if the valves were to be inadvertently opened at power and left that way despite alarms and other indications to the operator, the system was designed such that flow through the lines would be within the capacity of normal charging.

The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed accident because potential accidents were assessed by the Commission when considering the requirement for reactor coolant system vents.

The proposed change does not significantly decrease any margin of safety because an operable reactor coolant vent system makes possible better mitigation of postulated accidents in which non-condensible gases might accumulate in the pressurizer or in the reactor vessel.

Based on our evaluation, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: V. Nerses

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendments request: April 13, 1987.

Description of amendments request: The technical specifications have single limits for each of the nuclear hot channel factors designated as F_Q and $F_{delta\ H}$. Specifically, these hot channel factors currently must meet the following limits:

F_Q x 1.03 x 1.05 less than or equal to 2.30 x $K_{(Z)}$; and $F_{delta\ H}$ x 1.04 less than or equal to 1.60 x [1+0.3(1-P)] where $K_{(Z)}$ is the axial dependence function at Z core height locations and P is the fraction of radial power at which the core is operating.

The amendment request proposes a change allowing a variable function for both F_Q and $F_{delta\ H}$ with respect to each other. The proposed functions expressed as F_Q ($F_{delta\ H}$) and $F_{delta\ H}$ (F_Q) allow operational flexibility by taking advantage of the typical peaks and valleys of F_Q and $F_{delta\ H}$ throughout the fuel cycles. Therefore, the proposed change will allow the limits to be varied so that additional F_Q margin can be obtained by decreasing the $F_{delta\ H}$ limits or conversely, more $F_{delta\ H}$ margin can be obtained at the expense of the F_Q margin.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (51 FR 7751). One of the examples, (vi), of actions not likely to involve a significant hazards consideration involves a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The licensee has performed analyses that when applying the locus of points for the proposed hot channel factors (i.e., $F_Q/F_{delta\ H}$) in the transient analyses (i.e., small and large break LOCA's), the peak clad temperature of 2200°F is not exceeded and thus meets the criteria in the Standard Review Plan, Section 4.2. In this case, the consequences of a previously analyzed accident (i.e., LOCA) have resulted in a slight reduction in the safety margin in that the maximum peak clad temperature has increased from 2186° to 2197°F but is clearly below the maximum allowable temperature of 2200°F. The results of the transient analyses stemming from the proposed changes are clearly within the acceptance criteria and meet the requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K.

On this basis, the staff believes that the proposed change is enveloped by example (vi) and, therefore, the staff proposes to determine that it does not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N. Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 5, 1986

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES) Unit 1 and Unit 2 Technical Specifications to correct some errors, achieve consistency in the Technical Specifications, change nomenclature, and delete some dated requirements which have already been completed. Specifically, the Pennsylvania Power and Light Company (licensee) has proposed the following changes:

(1) for Unit No. 1, the licensee proposes to correct 17 errors, make 29 changes to achieve consistency in the Technical Specifications, make two changes to reflect a change in nomenclature, and to delete a dated requirement which has been completed; and

(2) for Unit No. 2, the licensee proposes to correct 12 errors, make 14 changes to achieve consistency throughout the Technical Specifications, delete five dated requirements which have already been completed, and make two changes updating the site drawings to show new construction.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the basis provided by the licensee, in its August 5, 1986 submittal, for a conclusion that the proposed request for change involves no significant hazards consideration. In addition the Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing examples (51 FR 7744) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to, "A purely administrative change to technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Because the above described changes proposed by the licensee are encompassed by the Commission's example (i), the staff proposes to determine that the requested action does not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: February 11, 1987

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES) Unit 1 and Unit 2 Technical Specifications (TSs) to change the action statement regarding automatic operating bypass of the reactor protection system (RPS) instrumentation and end-of-cycle recirculation pump trip (EOC-RPT) instrumentation on a turbine stop valve closure or turbine control valve fast closure signal from the condition of thermal power below 30%. Specifically, the Pennsylvania Power & Light Company (PP&L) proposes to change:

(a) Table 3.3.1-1 Action Statement No. 6 to clearly specify that the operators should reduce the power to below 30% of the rated power if RPS scram function bypass fails to lift when the rated thermal power is greater than 30%. The present action statement is unclear and could be interpreted to permit full power operation with RPS functions bypassed;

(b) Table 3.3.1-1 Note (j) to be consistent with the Action Statement No. 6 and to change the format of the note to emphasize that the real safety significance of the bypass is that it must

lift when required to allow the RPS to perform its intended function;

(c) Table 3.3.4.2-1 Note (b) to make EOC-RPT automatic bypass consistent with RPS trip function bypass, since both (RPS and EOC-RPT) bypasses are controlled by the same instrumentation, setpoints, and administrative controls; and

(d) Bases Section related to "Reactor Protection System Instrumentation Setpoints."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following basis for its conclusion that the proposed changes involve no significant hazards consideration:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because: (a) the proposed clarification of the Action Statement provides better assurance of the availability of the anticipatory trip function than available now; (b) revision to Table 3.3.1-1 Note (j) does not affect the design, operation, or administrative control of the RPS; (c) revision to Table 3.3.4.2-1 Note (b) does not affect the design, operation, or administrative controls of EOC-RPT; and (d) changes to the Bases do not affect the probability or consequences of any accidents.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because changes (a), (b), (c), and (d) do not affect the design or operation of the RPS and EOC-RPT operation or alter instrumentation calibration practices.

(3) The proposed changes do not involve a significant reduction in a margin of safety because: (a) revised Table 3.3.1-1 Action Statement No. 6 will increase assurance that the margin of safety provided by the RPS is maintained; (b) Table 3.3.1-1 Note (j) will not change operation or setpoints for the RPS; (c) Table 3.3.4.2-1 Note (b) will not change operation or setpoints for EOC-RPT, and (d) changes to the Bases section do not affect any margins of safety.

The staff concurs with the above licensee's findings. The proposed changes, therefore, meet the Commission's standards for a determination that the changes involve no significant hazards consideration.

Based on the above considerations, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 8, 1987.

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES) Unit 1 and Unit 2 Technical Specifications with regard to the Sodium Pentaborate concentration in the Standby Liquid Control (SLC) system. The proposed change would permit an increase in the maximum allowable concentration of Sodium Pentaborate in the SLC system from the present value of 13.8% to proposed the value of 15.8%. The minimum boron concentration of 660 ppm, which assures adequate shutdown margin, will remain unchanged. Increasing the maximum Sodium Pentaborate concentration from 13.8% to 15.8% would increase the saturation temperature from 59°F to 70°F. Since the liquid temperature must be maintained above the saturation temperature to prevent precipitation (crystallization) of Sodium Pentaborate, the licensee proposes to maintain the liquid at 90°F (10°F above the present 80°F) to maintain the margin above the saturation temperature, and will provide an alarm in the main control room to warn the operators if the liquid temperature drops below 90°F.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and made the following determination.

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the accident evaluation is based on the minimum SLC system boron concentration which is unchanged.

(2) The proposed change does not create a possibility of a new or different kind of accident because increasing the maximum Sodium Pentaborate concentration in the SLC system does not affect the safety function of the system.

(3) The proposed change does not involve a significant reduction in the margin of safety because an increase in the boron solution saturation temperature will be offset by increasing the minimum liquid temperature from 80°F to 90°F and providing an alarm to warn the operators in the main control room if the temperature drops below 90°F.

Based on the above considerations, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 16, 1987.

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station (SSES) Unit 1 and 2 Technical Specifications to change the requirement

that the scram discharge volume (SDV) vent and drain valves be demonstrated operable during control rod scram test with control rod density less than or equal to 50%. The proposed change would delete the requirement that the control rod density be less than or equal to 50%. The revision is being proposed with the purpose of allowing the licensee to do the surveillance test typically during a refueling outage which coincides with the 18 month SDV vent and drain valve surveillance frequency specified in the Technical Specifications. The licensee states that the present 18 month vent and drain valve operability requirement has caused a plant scram to be taken specifically for the purpose of testing. Since testing in the shutdown mode can provide the necessary operability check, the present requirement is imposing unnecessary scrams on the plant.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and made the following determination.

(1) The proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated, because the SDV vent and drain valve operability will continue to be demonstrated at the current testing frequency.

(2) The proposed change would not create the possibility of a new or different kind of accident because there would be no change in the plant operation; and the reliability of the SDV vent and drain valve will not change.

(3) The proposed change does not involve a significant reduction in a margin of safety because the proposed surveillance of the SDV vent and drain valve will most likely reduce unnecessary reactor scrams without changing the confidence in the valve operability demonstration.

Based on the above considerations, the Commission proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 12, 1987.

Description of amendment request: The proposed amendments revise the Peach Bottom Atomic Power Station, Units 2 and 3, Technical Specifications (TS) relating to (I) reactor core thermal hydraulic stability and (II) operation with jet pump flow indication failures and jet pump operability surveillance requirements. An operating restriction concerning a limiting Safety System Setting on Unit 2 is also proposed to be removed since it is no longer necessary.

On January 23, 1986, NRC issued generic letter 86-02, "Technical Resolution of Generic Issue B-19-Thermal Hydraulic Stability", to licensees of operating BWRs. The generic letter concluded that there was potential uncertainty in the approved methods for calculation of core stability decay ratio in predicting the onset of limit cycle oscillations. The generic letter stated that "licensees should examine each core reload to assure it is typical of previously evaluated cores which have acceptable stability margin. For cores which do not meet the analytical criteria, we have concluded that operating limitations which provide for the detection and suppression of flux oscillations in operating regions of potential instability consistent with the recommendations of General Electric SIL-380 are acceptable." The generic letter further stated that: "all BWR owners should review the need for technical specifications (which enforce GE SIL-380 recommendations for operation of their plants) in light of the approved stability criteria and the status of core stability design calculations for specific plants. Licensees are advised that the approved stability criteria are applicable to all operating reactors, and should be included in future safety evaluations in support of 10 CFR 50.59 determinations for all core reloads and design or operating modifications which relate to core thermal-hydraulic stability."

Philadelphia Electric Company (PECo) submitted a reload amendment for Peach Bottom Unit 2 by letter dated January 9, 1987. The subject application for amendments is in response to generic letter 86-02. The proposed revisions to the Technical Specifications would add monitoring and operability requirements to the Unit 2 Technical Specifications to avoid the possibility for thermal hydraulic instability. The new, additional requirements would:

(1) Add a Limiting Condition for Operation (LCO) to establish thermal power and core flow operating limits to avoid thermal hydraulic instability.

(2) Add a LCO to prohibit continued single recirculation loop operation below 39% of rated core flow and power above the 80% rod line.

(3) Add a LCO to require APRM and LPRM noise level monitoring when operating in the regions of potential instability (low flow/high power).

(4) Revise an existing LCO to reduce the time limit for having the requirements applicable to single loop operation in effect from 24 hours to 6 hours.

(5) Remove a specification which prohibits operation in the natural circulation mode and replace it with an action to-be-taken requirement: namely, an immediate reduction of thermal power followed by a reactor shutdown within 6 hours if the mode switch is in Startup or Run with no recirculation loops in operation.

(6) Remove a restriction on operation at a maximum of 50% thermal power in the single loop mode since stability is assured by other restrictions.

On December 3, 1984, the Commission issued Amendment 107 for Peach Bottom Unit 3 permitting increased core flow. Although generic letter 86-02 had not been developed at the time, the staff was developing some proposed Technical Specification provisions to preclude possible thermal-hydraulic instability. At the NRC staff's request, the licensee incorporated the provisions (which reflected the staff's position at the time) into the increased core flow application which was approved by Amendment 107 issued December 3, 1984 and into the Peach Bottom Unit 2 Cycle 7 reload application which was approved by Amendment 108 issued March 19, 1985. Now that the NRC requirements on thermalhydraulic stability have been established (generic letter 86-02) some of the staff's previously proposed restrictions are no

longer needed or applicable. Accordingly, the proposed amendments would revise the Unit 3 Technical Specifications to (1) remove APRM and LPRM noise level monitoring requirements in operating regions 2, 3 and 4; (2) decrease the allowable time for taking appropriate action when entering single loop operation from 24 to 6 hours; (3) increase the frequency for monitoring APRM and LPRM noise levels at low flows from 24 hours to once every 8 hours; (4) reduce the upper core flow limit for Region I from 45% to 39% of rated flow and (5) decrease the cut-off criterion from neutron flux noise levels from 5% to 4%. There would also be some rewording and reformatting of the Technical Specification requirements on recirculation pump operation to make the thermal-hydraulic stability requirements easier to understand.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of each of the above criteria for the amendment request as follows:

I. Thermal Hydraulic Stability

It has been determined,..., that operation of Peach Bottom Atomic Power Station Units 2 and 3, in accordance with these proposed revisions to the Technical Specifications, does not involve a significant hazards consideration for the following reasons:

(i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because the revisions are consistent with the NRC-approved stability criteria and the monitoring requirements are sufficient to prevent thermal hydraulic instability. Stability monitoring provisions decrease the probability of fuel damage by avoiding limit cycle neutron flux oscillations. The more restrictive action statements decrease the possibility for instability.

(ii) The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the monitoring requirements and revised action statements do not change reactor operating procedures or characteristics. They merely serve to prevent operation in regions of potential instability.

(iii) The proposed revisions do not involve a significant reduction in a margin of safety because these monitoring requirements will ensure that limit cycle neutron flux oscillations are avoided, thereby reducing the potential for a reactor power transient.

II. Jet Pump Flow Indication Failures and Jet Pump Operability

It has been determined,..., that operation of Peach Bottom Atomic Power Station Units 2 and 3, in accordance with these proposed revisions to the Technical Specifications does not involve a significant hazards consideration for the following reasons:

(i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated. The change to LCO [Limiting Condition for Operation] 3.6.E.3 does not change the intent of the Specification; it simply makes it more understandable, which increases the probability of conformance to the LCO. The revisions to the surveillance requirements merely provide clarification by addressing single loop operation and two-loop operation specifically. The addition of LCO 3.6.E.4 prevents continued operation of the reactor in an unanalyzed condition, thereby decreasing the probability of an accident, without affecting the consequences of an accident. These changes are, therefore, conservative.

(ii) The provisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the revisions do not adversely change allowable reactor operations. In effect, the revisions of LCO 3.6.E.3 and revisions to the surveillance requirements do not change reactor operation. The addition of LCO 3.6.E.4 does not create any new mode of operation; rather, it prohibits an unanalyzed operation which the Technical Specifications previously did not address.

(iii) The proposed revisions do not involve a significant reduction in a margin of safety because the revisions clarify the specifications and reduce the possibility of reactor operation in an unanalyzed condition which clearly increases the margin of safety.

The Plant Operating Review Committee and the Nuclear Review Board have reviewed these proposed changes to the Technical Specifications and have concluded that they do not involve an unreviewed safety question or a significant hazards consideration and will not endanger the health and safety of the public.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff has made a proposed determination that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: February 10, 1987.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3/4.4.2, Reactor Coolant System Safety Valves-Shutdown, TS Section 3/4.4.3, Reactor Coolant System Safety and Relief Valves-Operating, and TS Section 3/4.7.1, Turbine Cycle Safety Valves, to reflect a change in the pressurizer and main steam safety valves setpoint tolerance from plus or minus 1 percent to plus or minus 2 percent.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve a significant reduction in a margin of safety. The Commission has also provided guidance concerning the application of these standards by providing certain examples (March 6, 1986, 51 FR 7751). An example of an amendment that is considered not likely to involve a significant hazards consideration is Example (vi) a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan.

The licensee has analyzed the effects of the proposed changes with respect to the overpressurization accident analyses relating to the Reactor Coolant System (RCS) and the main steam system.

The pressurizer and main steam safety valves are designed to mitigate transients by preventing overpressurization of the RCS and main steam system, respectively. The proposed change does not alter this design basis. The increase in setpoint tolerance does increase the range of pressures at which the safety valves may lift and subsequently close. This can result in greater system pressures prior to valve lifting and increased blowdown prior to valve seating. This

does alter the consequences of an accident from the standpoint that the safety valves may respond differently as far as when the valves open and close.

The licensee has performed an analysis to determine system effects utilizing assumed setpoint tolerances of plus 4 percent and minus 3 percent for both the pressurizer and main steam safety valves. Since neither the design nor the operation of the plant was modified, results of the analysis indicated that any pressurizer safety valve lifting at the extremes of the proposed tolerance will not result in a low lift setpoint that is less than the pressurizer high-pressure reactor trip, nor a high lift setpoint that allows RCS overpressurization, and that any main steam safety valve lifting at the extremes of the proposed tolerance will not result in a low lift setpoint that is less than the normal no-load system pressure, nor a high lift setpoint that allows main steam system overpressurization.

The pressurizer safety valves are designed to prevent RCS pressure from exceeding 110 percent of design pressure in accordance with the ASME Code. The RCS design pressure is 2500 psia, which corresponds to a Code and TS safety limit of 2750 psia. The analysis indicates that, for a plus 4 percent tolerance and 3 percent accumulation, the peak RCS pressure is 2699 psia, which is within the Code limit of 2750 psia.

The main steam safety valves are designed to prevent the main steam system pressure from exceeding 110 percent of design pressure in accordance with the ASME Code. The main steam system design pressure is 1200 psia, which corresponds to a Code limit of 1320 psia. The analysis indicates that the peak main steam system pressure with a plus 4 percent tolerance on the main steam safety valves with 3 percent accumulation is 1283 psia, which is within the ASME Code limit of 1320 psia.

While the revised safety analysis demonstrated the acceptability of a lift tolerance of plus 4 percent, and minus 3 percent, the TS are being revised to increase the tolerance only to plus or minus 2 percent. Section XI of the ASME Code allows a tolerance of only plus or minus 2 percent, which includes an allowance for setpoint drift. Since the pressurizer and main steam safety valves are Code valves which are tested to meet ASME Section XI per TS 4.0.5, the more restrictive Code requirements govern.

Thus, the results of analyses utilizing the proposed setpoint tolerances are encompassed by those of the revised analysis. As such, the proposed change may result in some increase to the probability or consequences of a previously analyzed accident, or may reduce in some way a safety margin, but the results are clearly within the acceptance criteria regarding overpressure protection, as specified in Standard Review Plan Sections 5.22 and 10.3.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. We also conclude that the proposed change is within the scope of the Commission's cited example. Thus, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S. W. 10th Avenue, Portland, Oregon 97205

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Power Authority of The State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: March 16, 1987.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) to include revised limits that restrict operating pressures and temperatures to assure that brittle fracture of the reactor vessel cannot occur and that vessel integrity is maintained. These revised limits were developed for three reactor conditions: hydrostatic pressure testing, non-nuclear heatup and cooldown, and core critical operation. The new limits are valid up to 16 effective full power years and are based on evaluation of a surveillance specimen removed from the FitzPatrick reactor vessel, in accordance with the requirements of 10 CFR Part 50, Appendix H. The proposed amendment also revises the withdrawal schedule for remaining surveillance specimens and, in addition, includes several editorial changes.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility or a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

Transient and accident analyses are based on the assumption that reactor vessel integrity is maintained. When these analyses were originally performed, operating limits were established to ensure that temperature and pressure were kept within a safe range such that reactor vessel integrity would be maintained. The proposed changes establish new, more conservative limits based on new calculations and on the results of evaluation of surveillance specimens. These limits were established according to the methods described in Regulatory Guide 1.99 and 10 CFR Part 50 Appendix G, and incorporate the safety margins included in Appendix G. Previous accident analyses are unaffected. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. Similarly, because the proposed amendment would only establish new operating pressure-temperature limits that would prevent operation in the brittle fracture range, the possibility of a new type of accident would not be created.

Because the proposed changes establish more conservative limits on operating pressure and temperature, and incorporate safety margins as described in 10 CFR Part 50 Appendix G, the effect of these changes will be an overall improvement in plant safety. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Owsego, New York.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019

NRC Project Director: Robert A. Capra, Acting Director

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: February 9, 1987 (TS 226)

Description of amendment requests: The proposed amendments would change the technical specifications (TS) of Browns Ferry Nuclear Plant (BFN) Units 1, 2 and 3 by making one substantive and two administrative changes to TS table 3.1.A.

The substantive change to Table 3.1.A deletes alternative action 1.B when the average power range monitor (APRM) High Flux or Inoperative trip function minimum number of operable instrument channels per trip system is not satisfied.

The administrative changes involve changes in wording to improve the clarity and consistency of table 3.1.A. requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide the Commission its analysis, using standards in 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 50.92, the licensee has performed the following analysis of these standards as they related to the proposed change to table 3.1.A. to delete action 1.B for inoperability of APRM High Flux and Inoperative trip function instrumentation channels.

1. This change removes an alternative action which is not appropriate for the APRM High Flux and Inoperative trip functions. These two trip functions are required to be operable in both the Run and Startup/Hot Standby Modes or reactor operation. However, the mode to which action 1.B directs the plant to be taken when either of these two trip functions is inoperable is the Startup/Hot Standby Mode. While deletion of this alternative action 1.B would have no effect on the probability of a previously evaluated accident, this change would result in a decrease in the consequences of an accident since it will further restrict operational conditions allowed with these trip functions inoperable.

2. This change removes an alternative action which is not appropriate for the operator to take when the APRM High Flux and Inoperative trip functions are inoperable. The primary action and alternate action 1.A remain available to the operator when these specified APRM trip function channels are inoperable. Therefore, no new accident possibilities are created.

3. The margin of safety will be increased because an inappropriate alternative action will be deleted and only the correct actions will be specified.

A discussion of the above standards as they relate to the proposed administrative changes follows:

1. These administrative changes provide additional consistency and clarification of table 3.1.A requirements and notes without altering the intent of the requirements or information provided. Therefore, no accident probabilities or consequences are affected.

2. The possibility of a new kind of accident is not created since these administrative changes will not eliminate or modify any protective function nor permit any new operational conditions.

3. These administrative changes will not result in any change to the requirements of intent of table 3.1.A and, therefore, will not result in any reduction of the margin of safety.

Since the application for amendment involves propose changes that are encompassed by the criteria for which no significant hazards consideration exists, TVA has made a proposed determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application: February 18, 1987

Description of proposed amendment: This amendment would add a new section to the Technical Specifications, and would impose new Limiting Conditions for Operation (LCO) and Surveillance Requirements (SR) for the Motor-Driven Feedpump System. The proposed TSs are similar to the existing Auxiliary Feedwater TSs and are a requirement imposed by the Commission in its evaluation of the restart of the Davis-Besse facility following the June 9, 1985 loss of feedwater event.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration is involved by providing certain examples, 51 FR 7750. One of the examples (ii) of an action which does not involve a significant hazards consideration relates to amendments which impose additional limitations, restrictions, or controls not presently included in the TSs. The Commission has already approved the operation of the motor-driven feedwater system (cf. NUREG-1177) and has made the addition to the license of LCO and SR a requirement. The proposed amendment matches the Commission's example, and on this basis, a proposed determination of no significant hazards consideration is made.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Martin J. Virgilio, Acting

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: March 17, 1987

Description of amendment request: This amendment would substitute the reporting requirements for occurrences of Iodine-131 dose equivalent specific activity in the reactor coolant greater than 1 microcurie per gram (but still within the maximum allowable) with the requirement to report similar data on an annual basis in the Annual Operating Report. Additionally, the requirement to shut down the reactor in the event the cumulative operating time above 1 microcurie per gram exceeds 10% of the operating time would be deleted by this amendment. The amendment would revise Technical Specification (TS) Sections 3/4.4.8 and 6.9.1.5, and Basis Section 3/4.4.8. The licensee has proposed these changes to the TSs in response to the Commission's Generic Letter 85-19 which provided guidance on TS revisions necessary as a result of the

revisions to 10 CFR 50.72 and implementation of 10 CFR 50.73.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has evaluated the proposed changes to the TSs with respect to the three criteria above as follows:

1. No accident conditions or assumptions are affected by the changes to the reporting requirements and the deletion of the shutdown requirement; therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)).

2. No equipment, system, or test is modified by the changes; therefore, the changes do not create the possibility of a new or different kind of accident (10 CFR 50.92(c)(2)).

3. The reduction in the frequency of reporting does not involve a significant reduction in a margin of safety since the licensee is still required to collect and analyze data on a timely basis. The deletion of the shutdown requirement does not significantly reduce the margin for safety since shut down will still be required if the level is exceeded for more than 48 hours in one continuous time interval (10 CFR 50.92(c)(3)).

Based on the above, the Commission proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Martin J. Virgilio, Acting

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: March 30, 1987.

Description of amendment request: The proposed amendment would revise the requirements for reporting iodine spiking from a short-term report to an item which is to be included in the Annual Report, and eliminate the requirement to shut down the plant after 800 hours of operation with a dose equivalent I-131 value of 1 microcurie/gm or greater.

Basis for proposed no significant hazards consideration determination: On September 27, 1985, the NRC issued Generic Letter (GL) 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes." The purpose of GL 85-19 was to propose that licensees be relieved of certain unnecessary requirements associated with primary system activity, as follows:

> As part of our continuing program to delete unnecessary reporting requirements, we have reviewed the reporting requirements related to primary coolant specific activity levels, specifically primary coolant iodine spikes. We have determined that the reporting requirements for iodine spiking can be reduced from a short-term report (Special Report or Licensee Event Report) to an item which is to be included in the Annual Report. The information to be included in the Annual Report is similar to that previously required in the Licensee Event Report but has been changed to more clearly designate the results to be included from the specific activity analysis and to delete the information regarding fuel burnup by core region.
>
> In our effort to eliminate unnecessary Technical Specification requirements, we have also determined that the existing requirements to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12-month period can be eliminated. The quality of nuclear fuel has been greatly improved over the past decade with the result that normal coolant iodine activity (i.e., in the absence of iodine spiking) is well below the limit. Appropriate actions would be initiated long before accumulating 800 hours above the iodine activity limit. In addition, 10 CFR 50.72(b)(1)(iii) requires the NRC to be immediately notified of fuel cladding failures that exceed expected values or that are caused by unexpected factors. Therefore, this Technical Specification limit is no longer considered necessary on the basis that proper fuel management by licensees and existing reporting requirements should preclude ever approaching the limit.
>
> Licensees are expected to continue to monitor iodine activity in the primary coolant and take responsible actions to maintain it at a reasonably low level (i.e., accumulated time with high iodine activity should not approach 800 hours).

The licensee's application dated March 30, 1987 was submitted in response to GL 85-19.

The proposed changes to the TS do not involve a significant increase in the probability or consequences of an accident previously evaluated. As indicated in GL 85-19, the improved quality of fuel and the existence of adequate reporting requirements precludes the operation of the facility with primary system activity that is excessive. Excessive primary system activity would be of concern in the event of an accident involving release of reactor coolant. Finally, the proposed changes to the TS do not involve the creation of a new or different type of accident or a significant reduction in a safety margin since no changes in plant equipment, operating modes or safety analyses are involved.

Based upon the above, the staff proposes to determine that the proposed changes to the TS do not involve significant hazards considerations.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: David L. Wigginton, Acting

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: January 30, 1987, as supplemented April 6, 1987.

Description of amendment request: The purpose of the proposed amendments is to revise the North Anna Power Station, Units No. 1 and 2 (NA-1&2) Reactor Trip System (RTS) Instrumentation Technical Specifications based on the NRC staff's previous review and approval of Westinghouse topical report WCAP-10271 and its Supplement 1. The proposed revisions are summarized as follows:

1. Increase the surveillance interval for RTS analog channel operational tests from once per month to once per quarter,

2. Increase the time during which an inoperable RTS analog channel may be maintained in an untripped condition from one hour to six hours, and

3. Increase the time an inoperable RTS analog channel may be bypassed to allow testing of another channel in the same function from two hours to four hours.

These changes are three of the four changes proposed by WCAP-10271 and Supplement 1 and approved as part of the NRC's Safety Evaluation Report dated February 21, 1985. A fourth

change discussed in WCAP-10271 and the February 21, 1985, NRC SER would allow testing of RTS analog channels in a bypassed condition instead of a tripped condition. The NA-1&2 design does not currently include the capability for bypass testing. Therefore, the portion of WCAP-10271 and its Supplement 1 which concerns bypass testing is not applicable to this amendment request.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The bases for these criteria follows:

Criterion 1

Operation of NA-1&2 in accordance with the proposed license amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes affect the Reactor Trip System (RTS), the system which monitors reactor system conditions and scrams the reactor when those conditions reach or are outside a predetermined allowable envelope. Scramming the reactor stops the fission process by rapidly inserting control rods. Failure of the RTS system can lead to a transient or accident without a scram. While such events are not a design basis accident, the probability and consequences of such a situation have been analyzed. The accident sequences which describe such situations are referred to as Anticipated Transients Without Scram (ATWS).

For design basis accidents, the RTS will successfully scram the reactor because the system meets the single failure criteria. The proposed changes do not affect the way in which the system meets the single failure criteria.

The proposed changes would not change the analyzed consequences of an ATWS since the consequences are based on an assumed failure of the RTS to stop the fission process. The proposed changes would not change this assumed failure.

The proposed changes do not significantly increase the probability of a RTS failure. WCAP-10271 and Supplement 1 evaluated the increases in ATWS probability for the four changes proposed by WCAP-10271 on a generic basis. Sensitivity analyses were used to examine the effects of each of the four changes. WCAP-10271 concluded that the changes in probability were very small. For NA-1&2, only three of the four changes addressed in WCAP-10271 are being requested-those related to surveillance interval, maintenance time, and test time. The change related to testing in bypass is not being proposed for NA-1&2.

In the February 21, 1985, Safety Evaluation Report addressing WCAP-10271, the NRC concluded that the increase in probability of RTS failure due to the four proposed changes was very small and not significant.

The sensitivity analyses demonstrate that some increased probability is associated with each of the changes. However, the overall probability for all four of the changes proposed by WCAP-10271 was judged by the NRC to not be significant. The proposed NA-1&2 subset of only three of those changes would result in an even smaller increased probability than all four of the NRC approved WCAP-10271 changes. Therefore, the increased probability associated with the three changes proposed for NA-1&2 would also not be significant.

Criterion 2

The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The four changes proposed in WCAP-10271 affect only the amount of time during which individual RTS channels may be unavailable and the frequency of testing of the RTS channels. The Technical Specifications presently allow the unavailability of individual channels for short periods of time. Changes in the allowed unavailability times and test intervals do not create a new failure mechanism; they only affect the probability of that failure as discussed under Criterion 1 above. As explained under Criterion 1, failures of the RTS have been analyzed.

Since none of the changes proposed by WCAP-10271 create new failure mechanisms, the changes proposed for NA-1&2 (which are a subset of the WCAP-10271 changes) would also not create new failure mechanisms.

Criterion 3

The proposed license amendment does not involve a significant reduction in a margin of safety.

The proposed changes do not alter any safety limits or limiting safety system settings, nor do the changes reduce the requirements for the number of operable RTS channels.

As explained above under Criteria 1 and 2 above, the changes proposed by WCAP-10271 only affect the test intervals and allowed unavailable times for the RTS channels, and the increase in the probability of RTS failure due to the proposed changes is not significant. In the February 21, 1985, SER the NRC concluded that the resultant increase in the overall plant risk to core damage was not significant.

Since the changes proposed for NA-1&2 are a subset of the WCAP-10271 proposal, the resultant increase in overall plant core damage risk would be even smaller than the increase for the four NRC approved WCAP-10271 changes. Therefore, the overall reduction in the plant margin of safety is not significant for the three changes proposed for NA-1&2.

Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment requests: January 13, 1987 (revising in its entirety the submittal of April 18, 1986, as modified June 24, 1986).

Description of amendment request: This application revised in its entirety the application dated April 18, 1986 which was noticed in the **Federal Register** on May 21, 1986 (51 FR 18699).

The NRC Generic Letter 85-09 dated May 23, 1985, requested licensees to submit Technical Specifications (TS) to explicitly require independent testing of the reactor trip breaker undervoltage and shut trip attachments during power operation and independent testing of the control room manual reactor trip switch contacts during each refueling outage.

Basis for proposed no significant hazards consideration determination: The proposed changes to the Technical Specifications (TS) were submitted by the licensee in response to Generic

Letter (GL) 85-09. In GL 85-09, the Commission notes its conclusion that:

Technical Specification changes should be proposed by licensees to explicitly require independent testing of the undervoltage and shunt trip attachments during power operation and independent testing of the control room manual switch contacts during each refueling outage. The Commission also concluded that these tests are necessary to ensure reliable reactor trip breaker operation.

The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples, (ii), of an amendment likely to involve no significant hazards consideration relates to "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." The proposed amendment to the TS matches the example because it would impose additional limitations for operation and additional surveillance requirements for the reactor trip break undervoltage and shunt trip attachments not presently included in the TS. Therefore, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: David L. Wigginton, Acting

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 7, 1987.

Description of amendment request: The proposed amendment request revises Wolf Creek Generating Station (WCGS) Technical Specification Table 3.3-5, Engineered Safety Features (ESF) Response Times for items 2.a. (Containment Pressure-High-1, Safety Injection), 3.a. (Pressurizer Pressure-Low, Safety Injection), and 4.a. (Steam Line Pressure-Low, Safety Injection). These changes are being made to more accurately reflect the time required to change charging pump suction from the Volume Control Tank (VCT) to the Refueling Water Storage Tank (RWST).

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

This license amendment request proposes revising Technical Specification Table 3.3-5 and its associated Bases to change the Engineered Safety Features (ESF) response times for items 2.a. (Containment Pressure-High-1, Safety Injection), 3.a. (Pressurizer Pressure-Low, Safety Injection), and 4.a. (Steam Line Pressure-Low, Safety Injection).

These changes are being made to more accurately reflect the time required to change charging pump suction from the Volume Control Tank to the Refueling Water Storage Tank.

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Increasing the acceptance criterion for the ESF response times is acceptable since evaluation of the impact of the increased response times on the steam line break event demonstrated that the Departure from Nucleate Boiling design basis is still met. The conclusions in the Updated Safety Analysis Report (USAR) remain valid. These changes do not involve a change in the operational limits or physical design of the involved systems.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. There are no new failure modes associated with the proposed change, as no design changes have been made. These changes do not involve a change in the operational limits or physical design of the involved systems. Existing plant equipment will be utilized as before the proposed change. Therefore, an increase in the ESF response times for Containment Pressure-High-1, Pressurizer Pressure-Low, and Steam Line Pressure-Low does not create the possiblity of an accident or malfunction of a different type than any evaluated previously in the safety analysis report.

3. The proposed changes do not involve a significant reduction in a margin of safety. The proposed changes are intended to bring the technical specification surveillance requirements into agreement with the Bases for the technical specification. Since there is no impact on the conclusions presented in the USAR all existing safety limits are still valid.

Based on the above discussions it has been determined that the requested Technical Specification revisions do not involve a significant increase in the probability of consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a signficant hazards consideration.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 7, 1987.

Description of amendment request: The proposed amendment request revises Wolf Creek Generating Station (WCGS) Technical Specification 3/4.1.3, Movable Control Assemblies, and its associated Bases to allow continued operation for 72 hours for diagnosis and repair, with one or more control rod assemblies inoperable due to a rod control urgent failure alarm or other electrical problem in the rod control system provided all affected control rods remain trippable.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

This amendment request revised Wolf Creek Generating Station (WCGS) Technical Specification 3/4.1.3, Movable Control Assemblies, and its associated Bases to allow continued operation for 72 hours for diagnosis and repair, with one or more control rod assemblies inoperable due to a rod control urgent failure alarm or other electrical problem in the rod control system provided all affected control rods remain trippable.

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Increasing the allowed outage time associated with electronic/electrical malfunctions of the Control Rod Drive System (CRDS) is acceptable, since the safety function of the CRDS (reactor trip) remains unaffected. The conclusions in the Updated

Safety Analysis Report (USAR) remain valid. The proposed change does not affect the ability of the CRDS to perform its intended safety function, reactor trip, by putting the reactor in a subcritical condition when a safety system setting is approached. The design of the CRDS assures isolation of essential elements of the CRDS (those required to insure reactor trip) from nonessential portions of the CRDS.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. There are no new failure modes or mechanisms associated with the proposed change. This change does not involve any modification in the operational limits or physical design of the involved systems. The change merely allows an extended time period for the diagnosis and repair of portions of the CRDS, thus reducing the probability of a plant transient because of insufficient time for proper corrective action or a hurried diagnosis.

3. The proposed changes do not involve a significant reduction in a margin of safety. This change does not affect any Technical Specification margin of safety. This change allows appropriate ACTIONS commensurate with the significance of the CRDS malfunction, while not requiring plant transients in response to malfunctions that do not affect the capability of th CRDS to perform its safety function.

Based on the above discussions it has been determined that the requested Technical Specification revisions do not involve a significant increase in the probability or consequences of an accident or other adverse condition over previous evaluations; or create the possiblity of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore, the requested license amendment does not involve a significant hazards consideration.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: March 24, 1987

Description of amendments request: The amendments would revise the provisions of the Technical Specifications to allow plant operation with the essential service water pump discharge temperature greater than 80°F, but less than 98°F, with no cooling tower fans running. Operation in this condition would be allowed during Ultimate Heat Sink cooling tower performance testing.

Date of publication of individual notice in **Federal Register:** April 9, 1987 (52 FR 11575)

Expiration date of individual notice: May 11, 1987

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plants, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendments requests: March 12 and April 10, 1987

Description of amendments requests: The amendments would modify Technical Specification 15.5.3 to remove certain limitations on the repair of leaking fuel rods so long as the repairs proposed during a given outage can be justified by a cycle-specific reload analysis.

Date of publication of individual notice in **Federal Register:** April 27, 1987 (52 FR 13886).

Expiration date of individual notice: May 27, 1987.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Baltimore Gas & Electric Company, Docket No. 50-318 Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: July 31, 1986 response, as supplemented January 21, 1987.

Brief description of amendment: The amendment changed the full closure time for main steam isolation valve (MSIV) operability to "less than 5.2 seconds" as an integral part of MSIV modifications at Calvert Cliffs.

Date of issuance: April 29, 1987

Effective date: April 29, 1987

Amendment No.: 107

Facility Operating License No. DPR-69: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 17, 1986 (51 FR 45191 at 45193)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas & Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: February 6, 1987, as supplemented March 17, March 25, March 27, April 7, and April 17, 1987.

Brief description of amendment: The amendment changes the Unit 2 Technical Specifications (TS) to reflect analyses performed in support of Unit 2 Cycle 8 operation by providing more restrictive limits for the Acceptable Operation Region of peripheral axial shape index versus rated thermal power and for shutdown margin while also raising the moderator temperature coefficient limit for operation above 70% power.

The supplements to the February 6, 1987 submittal did not affect the proposed TS changes noticed in the **Federal Register** on March 25, 1987 and did not affect the staff's proposed no significant hazards determination.

Date of issuance: May 4, 1987

Effective date: May 4, 1987

Amendment No.: 108

Facility Operating License No. DPR-48: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9560)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: October 2, 1986

Brief description of amendment: The amendment revises the Technical Specifications by adding Figure 3.11-7 to provide the maximum average planar linear heat generation rate (MAPLHGR) versus planar average exposure curves for fuel type BP8DRB300. This will allow the licensee to use fuel type BP8DRB300 in addition to the fuel types currently reflected in curves in Figure 3.11-6 through 3.11-6.

Date of issuance: April 9, 1987

Effective date: 30 days after the date of issuance.

Amendment No.: 100

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41846)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Units No. 1 and 2, Ogle County, Illinois

Date of application for amendment: January 6, 1987, supplemented March 4, 1987 and March 23, 1987.

Brief description of amendment: These amendments revise Design Features Section 5.3.1 on page 5-4 to allow for the reconstitution of fuel assemblies by insertion of filler rods fabricated from Zircaloy-4 or stainless steel or by leaving vacancies.

The licensee's submittals dated March 4 and March 23, 1987 were made as a result of NRC staff request to clarify the language of the original submittal and do not contain substantive changes.

Date of issuance: May 1, 1987

Effective date: May 1, 1987

Amendment No.: 7

Facility Operating License Nos. NPF-37 and NPF-66: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 11, 1987 (52 FR 4404)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Dates of amendment requests: October 23, 1986, as supplemented by letters dated November 5, 1986, and March 6, 1987

Brief description of amendments: The amendments to Operating License No. NPF-11 and Operating License No. NPF-18 revise the La Salle Units 1 and 2 Technical Specifications to change the Group I Main Steam Isolation Valves' closure signal from Reactor Pressure Vessel Level 2 to Level 1. Changes to related systems are also effected.

Date of issuance: May 6, 1987

Effective date: May 6, 1987

Amendment Nos.: 50 and 33

Facility Operating License Nos. NPF-11 and NPF-18: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41847)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 6, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: July 10, 1985, as revised April 15, 1986 and supplemented October 30, and November 21, 1986

Brief description of amendments: The amendments change Technical Specifications regarding emergency diesel generator testing and surveillance.

Date of issuance: May 6, 1987

Effective date: May 6, 1987

Amendment Nos.: 71 and 52

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30567)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 5, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: August 15, 1984, as revised on July 3, 1985

Brief description of amendments: The amendments revise TS 3.6-3 to reflect a new Limiting Condition for Operation (LCO) on the reactor building (RB) purge system. The RB purge system is required to be isolated whenever the reactor coolant system temperature is above 250°F and the pressure is above 350 psig. The LCO allows one isolation valve to open on each penetration at or below hot shutdown for testing or maintenance. TS 4.4.4 is added to reflect the RB purge system surveillance requirements and the purge valve seal inspection.

Date of Issuance: April 30, 1987

Effective date: April 30, 1987

Amendment Nos.: 157, 157, and 154

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 20, 1985 (50 FR 47860)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: February 12, 1986, as revised on October 10 and supplemented on October 20, 1986

Brief description of amendments: These amendments revise the Station's common Technical Specifications to describe the operation and maintenance of the containment hydrogen recombiner system which will serve as the primary method for maintaining hydrogen concentration in the post-accident atmosphere below the deflagration limit. The Hydrogen Purge System which presently contributes to hydrogen control will be available as a backup system, if needed.

Date of Issuance: April 30, 1987

Effective date: April 30, 1987

Amendment Nos.: 158, 158, and 155

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5853)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: October 31, 1986, as clarified March 20, 1987

Brief description of amendment: The amendment revised the Technical Specifications to support the reload and restart for Cycle 9 operation. The Technical Specification changes updated the fuel thermal limits, revised the Limiting Conditions for Operation and Surveillance Requirements for the Rod Sequence Control System and Rod Worth Minimizer, and modified the description of the control blades.

Date of issuance: May 7, 1987

Effective date: May 7, 1987

Amendment No.: 142

Facility Operating License No. DPR-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9572)

The March 20, 1987, submittal provided clarifying information and did not change the finding of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Northeast Nuclear Energy Company, Docket No. 50-423, Millstone Nuclear Power Station Unit No. 3, New London County, Connecticut

Date of application for amendment: September 5, 1986

Brief description of amendment: The amendment revises the Technical Specification Sections 4.6.6.1, 4.7.7, and 4.7.9 and 4.9.12 by replacing the 31 day requirement to verify the fan curves based on observed flow rates and pressure drops.

Date of issuance: April 7, 1987

Effective date: April 7, 1987

Amendment No.: 2

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36100).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 17, 1986

Description of amendment request: The amendment incorporates revised Limiting Conditions for Operation and Surveillance requirements for the steam generator isolation signal.

Date of issuance: April 28, 1987

Effective date: 30 days from the date of issuance

Amendment No.: 108

Facility Operating License No. DPR-40: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 29007)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1987.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: January 22, 1987, as supplemented February 13 and 24, 1987

Brief description of amendment: The amendment modifies the Technical Specifications to reflect changes which are necessary to support Cycle 11 operation.

Date of issuance: May 4, 1987

Efffective date: May 4, 1987

Amendment No.: 109

Facility Operating License No. DPR-40: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1987 (52 FR 7675 at 7689).

The licensee's February 24, 1987 submittal provided clarifying information regarding the analysis of Exxon fuel and a commitment to provide a report on Batches K and L fuel prior to reaching a peak assembly burnup of 43,000 MWD/MTU. This submittal did not alter the NRC staff's conclusion regarding a no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: December 19, 1986

Brief description of amendment: The amendment changed Technical Specification Section 4.10.7, Table 4.10-7 to properly reflect the actual location of Fire Hose Station No. TH12-G4 as elevation 4904.

Date of issuance: May 5, 1987

Effective date: May 5, 1987

Amendment No.: 53

Facility Operating License No. DPR-34: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9581)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: February 6, 1986

Brief description of amendments: The amendments modify the Technical Specifications to derate the capacities of the manipulator crane and the fuel handling area crane.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment Nos.: 77 and 51

Facility Operating License Nos. DPR-70 and 75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 31, 1986 (51 FR 29013)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 25, 1985 and supplemented by letter dated July 31, 1986, and October 24, 1986.

Brief description of amendments: The amendments delete the Technical Specifications relating to the high boron concentration in the boron injection tank and the associated heat tracing required to maintain the high boron concentration solution.

The licensee's supplementary submittals of July 31, and October 24, 1986, were made as a result of an NRC staff request to clarify the language of the original submittal, dated October 25, 1985, and do not contain substantive changes.

Date of issuance: April 7, 1987

Effective date: April 7, 1987

Amendment Nos.: 78 and 52

Facility Operating License Nos. DPR-70 and 75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8601)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Public Service Electric and Gas Company, Docket No. 50-272 and 50-311, Salem Nuclear Generating Station Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendment: September 21, 1984 and supplemented August 8, 1986.

Brief description of amendment: The amendments revise the technical specifications, Appendix A, sections regarding Accident Monitoring Instrumentation and Radiation Monitoring Instrumentation.

The licensee's submittal of August 8, 1986, was made as a result of NRC staff request to clarify the language of the original submittal dated September 21, 1984, and does not contain substantive changes.

Date of issuance: April 10, 1987

Effective date: April 10, 1987

Amendment Nos.: 79 & 53

Facility Operating License Nos. DPR-70 and 75: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 8002)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: December 10, 1986, as supplemented March 17 and April 3, 1987

Brief description of amendment: Decreases the maximum allowable Heat Flux Hot Channel Factor in support of increased steam generator tube plugging.

Date of issuance: April 28, 1987

Effective date: April 28, 1987

Amendment No. 66

Facility Operating License No. NPF-12: Amendment revised the Technical Specifications

Date of initial notice in **Federal Register:** March 12, 1987 (52 FR 7696)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 29, 1986, as supplemented February 18, 1987.

Brief description of amendment: The amendment changes the Technical Specifications to increase overall emergency diesel generator reliability and to prevent undue stress and wear on the diesel generator engines.

Date of issuance: May 1, 1987

Effective date: May 1, 1987

Amendment No.: 21

Facility Operating License No. NPF-30: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 3, 1986 (51 FR 43685)

The February 18, 1987 submittal contained only minor changes to, and clarification of, the original application. It was consistent with the staff's original findings. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: October 23, 1985 and as amended January 30, 1987.

Brief description of amendment: This amendment allows steam generator tube repairs as well as plugging in order to isolate unacceptable tube degradation.

Date of issuance: April 1, 1987

Effective date: April 1, 1987

Amendment No.: 73

Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1985 (50 FR 53236)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 19, 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. Requests 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 aspect(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 fifteen (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 fifteen (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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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 (*Project Director*): 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 the 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 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).

Northeast Nuclear Energy Company, Docket No. 50-423 Millstone Nuclear Power Station Unit 3, New London County, Connecticut

Date of application for amendment: April 6, 1987

Brief description of amendment: The amendment would increase the engineered safety features (ESF) response time for Low Steamline Pressure in Technical Specification Table 3.3-5, Item 4.a by 15 seconds to 27 seconds with offsite power and 37 seconds without offsite power.

Date of issuance: April 9, 1987

Effective date: April 9, 1987

Amendment No.: 3

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment and final no significant hazards considerations determination are contained in a Safety Evaluation dated April 9, 1987. Mr. K. McCarthy of the State of Connecticut was consulted concerning the proposed emergency technical specification change on April 7, 1987. After discussion of the proposed change, Mr. McCarthy indicated that all his comments have been resolved.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut.

NRC Project Director: Victor Nerses, Acting Director

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: April 16, 1987

Brief description of amendment: The amendment revises Table 3.3-5 of the Technical Specifications to increase the Engineered Safety Features (ESF) response times by fifteen seconds for Items: 2.a. (Containment Pressure-High-1, Safety Injection); 3.a. (Pressurizer Pressure-Low, Safety Injection); and 4.a. (Steam Line Pressure-Low, Safety Injection).

Date of issuance: May 4, 1987

Effective date: May 4, 1987

Amendment No.: 22

Facility Operating License No. NPF-30: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. 52 FR 13367, April 22, 1987.

Comments received: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1987.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

NRC Project Director: David L. Wigginton, Acting

Dated at Bethesda, Maryland this 14th day of May, 1987.

For the Nuclear Regulatory Commission

Bruce A. Boger, Acting Director

Division of Reactor Projects, I/II

[FR Doc. 87-11405 Filed 5-19-87; 8:45 am]

BILLING CODE 7590-01-D

Draft NUREG-1230; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment Draft NUREG-1230, "Compendium of ECCS Research for Realistic LOCA Analysis." Draft NUREG-1230 is being developed

to describe the research supporting the proposed amendments to 10 CFR Part 50 (52 FR 6334). It also supplements the draft regulatory guide, "Best Estimate Calculations of Emergency Core Cooling System Performance," (52 FR 11385). Draft NUREG–1230: (1) summarizes the understanding of loss-of-coolant-accident (LOCA) phenomena in 1974; (2) reviews the experimental and analytical programs developed in the past twelve years to address LOCA phenomena; (3) describes the current understanding of LOCA phenomena; (4) describes the best-estimate computer codes developed by the NRC for LOCA analyses; (5) discusses methods for evaluating computer code uncertainty for LOCA analyses; (6) discusses probabilistic risk assessment results and perspectives, and (7) evaluates the impact of research results on the ECCS regulations.

Public comments are being solicited on draft NUREG–1230. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Comments will be most helpful if received by July 1, 1987.

Draft NUREG–1230 is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Single copies of draft NUREG–1230 can be obtained, free of charge, by writing to the Director, Division of Information Support Services, Distribution Section, Room P–130A, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone requests cannot be accommodated.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 23rd day of April 1987.

For the Nuclear Regulatory Commission.

Brian Sheron,

Director, Division of Reactor and Plant Systems, Office of Nuclear Regulatory Research.

[FR Doc. 87–11544 Filed 5–19–87; 8:45 am]

BILLING CODE 7590–01–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Subcommittee Hearing

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public hearing.

SUMMARY: A subcommittee of the Commission will hold a public haring on potential changes in Medicare physician payment policy to meet congressional budget targets for Fiscal year 1988. The hearing will begin at 8:30 a.m. on Wednesday, May 27, 1987 in the Congressional Room of the Quality Inn-Capitol Hill, 415 New Jersey Avenue, NW. Those wishing to testify should notify the Commission staff by Friday, May 22. All oral statements should be brief summaries of written statements forwarded to the Commission by Tuesday, May 26 at the latest. The Commission was established by Section 9305 of Pub. L. 99–272.

ADDRESS: The Commission recently moved to Suite 510, 2120 L Street NW., Washington, DC 20037. The telephone number is 202/653–7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653–7220.

SUPPLEMENTARY INFORMATION: The Commission has been asked to provide advice on what policy changes related to physician payment would be most appropriate to meet Congressional budget targets for Fiscal Year 1988. The Commission is giving consideration to the following options: (1) A reduction in the amount by which prevailing charges are updated by the Medicare Economic Index; (2) an "inherent reasonableness" option that would reduce prevailing charges for a list of procedures regarded as outliers; and, (3) the "new physician" option proposed in the President's Budget. The Commission would like to hear the views of interested groups on these and other alternatives to meet budget targets.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 87–11557 Filed 5–19–87; 8:45 am]

BILLING CODE 6820–SE–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24452; File No. SR–Amex–87–7]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On February 13, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder, [2] a proposed rule change to expand, to the February and March cycles, the stock options pilot program which provides for four expiration months—including two near-term months. In addition, the Amex proposes to extend this pilot program for an additional year.

The proposed rule change was noticed in Securities Exchange Act Release No. 24288 (April 1, 1987), 52 FR 11577 (April 9, 1987). No comments were received on the proposed rule change.

In June 1985, in conjunction with the other options exchanges, the Amex implemented a one-year stock option pilot program (*See* SR–AMEX–85–16) for certain January cycle stock options. Under the terms of the pilot, the traditional January trading cycle was altered to ensure that (i) one-month and two-month options were made available for trading at all times and (ii) four expiration months were outstanding at all times.

In July 1986, the Exchange received approval to expand the pilot to all Amex-traded January cycle stock options and to extend the pilot to January 1987 (See SR–AMEX–86–21). The pilot was later extended for an additional four months (See SR–Amex–87–3).

The purpose of the pilot program is to determine whether a near-term expiration cycle, featuring four expiration months, will improve investors' interest in such stock options. After monitoring the trading of the January cycle options and receiving highly favorable comments from both on-floor and off-floor market participants, the Exchange has found the pilot has improved investors' interest in trading such options.

Accordingly, the Amex has determined to continue the pilot and to expand it to stock options trading on February and March cycles. The Exchange believes it is necessary to extend for an additional year the entire pilot program in order to have sufficient time to phase-in and assess the trading of the February and March cycle options.

Therefore, the Exchange proposes to extend the pilot program an additional one year beyond the current four month extension and expand the pilot program to include options traded on the February and March cycles. The implementation of the February and March cycles on the pilot program will follow the January cycle paradigm. For

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b–4 (1985).

March cycle options, the Exchange proposes that it may phase in such options at the March expiration by adding the two near term months (April and May). Similarly, the February cycle options will be phased in at the May expiration by adding June and July expirations.

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange by continuing and expanding a pilot program tailored to meet investors' preferences for stock options with near-term expiration cycles. In addition, the Commission has not received any negative comments on the pilot's operation, which the Amex has found its members favor the pilot. Therefore, the Commission believes the proposed rule change is consistent with section 6(b)(5) of the Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, [3] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 14, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11521 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24453; File No. SR-CBOE-87-14]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc.; Transaction Fees in Certain Index Option Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 7, 1987, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organziation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[3] 15 U.S.C. 78 s(b)(2) (1982).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

From Monday, April 20, 1987, through Friday, April 24, 1987, the Exchange will not charge transaction fees in its Standard and Poor's 500 Stock Index Option contracts (SPX and NSX). NSX is the Exchange's newly created Standard and Poors 500 Index Option that will settle based on opening prices at expiration. SPX is the Exchange's original Standard Poors 500 Index Option and will continue to settle based on closing prices at expiration.

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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change, is to facilitate the moving of positions from SPX to NSX. The statutory basis for this proposed rule change is section 6(b)(5) of the Act, in that it is designed to facilitate transactions in SPX and NSX.

(B) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change will not impose a burden 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 Act and subparagraph (e) of 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 Act.

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-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 10, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

May 14, 1987.

[FR Doc. 87-11522 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

May 14, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Alexanders Inc.
Common Stock, $1.00 Par Value [File No. 7-9946]

American Barrick Resources Corp.
Common Stock, No Par Value [File No. 7-9947]

Angelica Corp.
Common Stock, $1.00 Par Value [File No. 7-9948]

Chock Full O' Nuts
Common Stock, $.25 Par Value (File No. 7-9949)
Colonial Municipal Income Trust
Common Stock, No Par Value (File No. 7-9950)
Consolidated Rail Corp.
Common Stock, $1.00 Par Value (File No. 7-9951)
Cooper Tire & Rubber Co.
Common Stock, $1.00 Par Value (File No. 7-9952)
Elcor Corp.
Common Stock, $1.00 Par Value (File No. 7-9953)
Empire District Electric Co.
Common Stock, $1.00 Par Value (File No. 7-9954)
Esselite Business Systems Inc.
Common Stock, $1.00 Par Value (File No. 7-9955)
Foodmaker Inc.
Common Stock, $1.00 Par Value (File No. 7-9956)
Health and Rehabilitation Properties Trust
Shares of Beneficial Interest (File No. 7-9957)
Himont Inc.
Common Stock, $1.00 Par Value (File No. 7-9958)
Hi-Shear Industries Inc.
Common Stock, $.10 Par Value (File No. 7-9959)
Kansas City Southern Industries Inc.
Common Stock, No Par Value (File No. 7-9960)
Kleinwort Benson Australian Income Fund
Common Stock, $.001 Par Value (File No. 7-9961)
Maritrans Partners, L.P.
Depository Units (File No. 7-9962)
MFS Multimarket Income Trust
Shares of Beneficial Interest (File No. 7-9963)
Musicland Corp. (The)
Common Stock, $.10 Par Value (File No. 7-9964)
Nacco Corp.
Class "A" Common Stock, $1.00 Par Value (File No. 7-9965)
National Standard Co.
Common Stock, $1.00 Par Value (File No. 7-9966)
Norstar Bancorp Inc.
Common Stock, $5.00 Par Value (File No. 7-9967)
Pay'N Pak Stores Inc.
Common Stock, $.10 Par Value (File No. 7-9968)
Petrolane Partners, L.P.
Common Stock, No Par Value (File No. 7-9969)
Phillips Van Husen Corp.
Common Stock, $1.00 Par Value (File No. 7-9970)
QMS Inc.
Common Stock, $.01 Par Value (File No. 7-9971)
Savannah Electric Power Co.
Common Stock, $5.00 Par Value (File No. 7-9972)
Southland Corp.
$4.00 Cumulative Convertible Exchangeable A Preferred (File No. 7-9973)
Stride Rite Corp.
Common Stock, $1.00 Par Value (File No. 7-9974)
Sun Electric Corp.
Common Stock, $1.00 Par Value (File No. 7-9975)
TCW Convertible Securities Fund
Common Stock, $.01 Par Value (File No. 7-9976)
Thompson Industries Inc.
Common Stock, $1.00 Par Value (File No. 7-9977)
Timplex Inc.
Common Stock, $.01 Par Value (File No. 7-9978)
Transcapital Financial Corp.
Common Stock, $1.00 Par Value (File No. 7-9979)
Trinity Industries Inc.
Common Stock, $1.00 Par Value (File No. 7-9980)
United States Tobacco Co.
Common Stock, $.50 Par Value (File No. 7-9981)
Van Dorn Co.
Common Stock, No Par Value (File No. 7-9982)
Vulcan Materials Co.
Common Stock, $1.00 Par Value (File No. 7-9983)
Wyle Laboratories
Common Stock, No Par Value (File No. 7-9984)
Del Laboratories Inc.
Common Stock, $1.00 Par Value (File No. 7-9985)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 5, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11526 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34- 24451; File No. SR-DTC-87-7]

Self-Regulatory Organizations; Proposed Rule Change By The Depository Trust Co.; Fees for ancillary DTC services

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1984, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 13, 1987, The Depository 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

The Depository Trust Company ("DTC") is filing herewith the following changes in the fee schedule for ancillary DTC services.

Service	Present fee	Proposed fee
Inter-Depository Interface Fees to Participants:		
Third-party delivery	$.70 surcharge for each item delivered, received or reclaimed on the regular DO fee.	$.46 surcharge for each delivered, received or reclaimed on the regular DO fee.
Fourth-party delivery	None	$.15 surcharge to the delivering and receiving despository and the regular DO fee.
Self-delivery	Regular DO fee	$.30 surcharge for each item delivered, received or reclaimed on the regular DO fee.

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 and discussed any comments it received on 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

Depository Trust maintains interfaces with three other registered securities depositories for the benefit of a number of participants in each depository. These agencies are the Midwest Securities Trust Company ("MSTC"), the Pacific Securities Depository Trust Company ("PSDTC") and Philadelphia Depository Trust Company ("Philadep").

Interface service cost to DTC is incurred in processing book-entry delivery activity between depositories and processing the consequences of those deliveries, such as redirecting dividend and interest payments. DTC processes four types of inter-depository book-entry deliveries: RIO (Regional Interface Operations) deliveries[1], third-party deliveries, fourth-party deliveries and self-deliveries. For 1987, average daily delivery volume is estimated as follows: RIO 5,400; third-party 7,000; fourth-party 400; and self-deliveries 3,300.

DTC's long-standing policy on charges for inter-depository interfaces was last set forth in a May 27, 1986 memorandum entitled "Securities Depository Interface Fees" distributed to Participants and submitted to the Commission as a comment letter in response to Commission Exchange Act Release No. 23083. The fees proposed below are based on that policy, which is that interface costs should be recovered from fees charged to those who actually use the interfaces, according to their use.

Third-Party Deliveries

A third-party delivery occurs when a DTC Participant delivers to or receives a delivery from a participant in another depository. This type of interface delivery permits Participants to eliminate in-house costs of issuing two sets of settlement instructions, one to each depository, or to deliver to a participant of a depository of which it is not a member. The present fee for this service, established in 1976 and unchanged since that time, is a surcharge of $.70 to the delivering or receiving Participant on DTC's regular Deliver Order fee. DTC proposes to reduce this surcharge to $.46 to recover the currently estimated cost of transmitting this delivery record from its system to the other depository or receiving such a record, and for settlement.

Fourth-Party Deliveries

A fourth-party delivery reflects share movements from another depository's account at DTC to the DTC account of a third depository based on activity initiated by participants in those depositories. These movements generally occur between Philadep and MSTC and Philadep and PSDTC; it has been more convenient for them to effect their interface through DTC than to establish direct interfaces. None of the other depositories now pay any DTC fees for processing these fourth-party deliveries or any other DTC book-entry delivery fees. For fourth-party deliveries, DTC proposes to charge its regular Deliver Order fee ($.50 to the deliverer and $.35 to the receiver) and a $.15 surcharge to the delivering and receiving depository for transmitting the record of this movement. This is the only fee to other depositories included in this set of proposed interface fees.

Self-Deliveries

A self-delivery occurs when a DTC Participant moves a securities position to or from its DTC account from or to another depository. The Participant now pays DTC only the normal Deliver Order fee but the cost of transmitting the record from DTC's system to the other depository is not recovered. DTC proposes a $.30 surcharge to Participants on its Deliver Order fee for each item it moves to or from its DTC account from or to another depository.

DTC has adopted the proposed rule change pursuant to section 17A(b)(3)(D) of the Exchange Act which authorizes DTC to adopt reasonable fees for the services which it provides to Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will more equitably allocate fees among DTC's Participants.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

By a memorandum to Participants and other users dated February 6, 1987 entitled "Various Ancillary Service Fees" DTC solicited comments on the proposed rule change and other fee changes. No comments were received about the proposed rule change in response to this notice. DTC also invited comments on the fourth-party delivery fee from the other three registered securities depositories, two of which responded by requesting that implementation of the fee be postponed pending a study of the feasibility of direct links between the other depositories.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes shoudl be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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-

[1] A RIO delivery occurs when inter-regional clearing corporation deliveries related to Continuous Net Settlement ("CNS") are made into or out of National Securities Clearing Corporation's ("NSCC") account at DTC from or to another depository's account at DTC.

Last year the Commisson approved a DTC proposal pending since 1977 to charge NSCC $.40 for a RIO delivery. *See* Securities Exchange Act Release No. 23082 (March 31, 1986). DTC did not make that fee effective, however, pending an updated cost study of this and related DTC services. The study indicated that the fee in 1987 should be $.30 and a fee at that reduced level has been adopted effective for services provided after March 31, 1987 *See* SR-DTC-87-6.

mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 10, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 14, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11523 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24444; File No. SR-MSE-87-1]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Midwest Stock Exchange, Inc. ("MSE" or "Exchange") submitted on February 5, 1987, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder to suspend application of Article XXX, Rule 1.01(I)(6)(c) (Mandatory Posting Rule) [1] for the six month periods ending June 30, 1986 and December 30, 1986.

Under the proposal, the MSE would not post for applications any securities in which the registered co-specialist performed unsatisfactorily for the six month periods ending June 30, 1986 and December 31, 1986.

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 24181, March 5, 1987) and by publication in the **Federal Register** (52 FR 7727, March 12, 1987). No comments were received regarding the proposal.

Currently, the Exchange's Committee on Specialist Assignment and Evaluation is attempting to formulate revised specialist performance evaluation criteria. In its filing, the Exchange has indicated that it intends to draft and submit to the Commisson for approval revised performance evaluation criteria used for posting securities under the Rule. The Exchange has also indicated that if it submits revised evaluation criteria to the Commission by June 30, 1987, it will continue to suspend application of the Rule for the six month period ending June 30, 1987.[2] If, however, revised evaluation criteria have not been submitted and approved by the Commission by that date, the Exchange intends to resume posting securities for applications under the Rule for the six month period ending June 30, 1987.

The Commission believes that it is important for the Exchange to monitor the performance of MSE specialists and co-specialists to ensure that they provide the best possible markets for the securities they trade. In this regard, the Commission believes the Exchange's plans to revise its mandatory posting evaluation criteria is part of a continuing effort to develop comprehensive, balanced, and fair specialist performance standards. Based on the above, we have concluded that it is appropriate to allow the MSE to suspend application of the Rule for the past two posting periods while the MSE is evaluating the adequacy of the current criteria to determine whether revisions are necessary. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirement of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and is, hereby approved.

For the Commisison, by the Division of Market Regulation, pursuant to delegated authority.[3]

Dated: May 12, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11471 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24446; File No. SR-Phlx-87-4]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Establishment of Standards for the Operation of a System of Alternate Specialists

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 March 2, 1987, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act") proposes to adopt rules to establish formal standards for the operation of a system of alternate specialists. The proposed rules provide set procedures for the appointment, assignment and termination of alternate specialists. The rules ensure, among other things, that applicants meet the same financial adequacy standards as those required for equity and options specialists and registered option traders. Further, the rules provide that no member appointed as an alternate specialist will be assigned in an equity issue in which the alternate specialist or any person associated with the alternate specialist, or the member organization with which the alternate specialist is affiliated, is either a specialist in the options overlying that equity issue, or a Registered Options Trader with an assignment in the overlying options. The proposed rules also outline the responsibilities of alternate specialists. Generally, an alternate specialist is required only to effect transactions on the Exchange in his assigned securities that constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. Such dealings include the requirement that fifty percent of an alternate specialist's quarterly share volume be in issues to which he is assigned, and a requirement that alternate specialists must accept and guarantee all 100 share agency orders that are not accepted by the specialist. These negative and affirmative obligations are imposed to enable the alternate specialist to qualify as a market maker, as envisioned under the Act, in their assigned stocks.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

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[1] The Mandatory Posting Rule ("Rule") requires the MSE to semiannually calculate its market share for the previous six month period (that is, a percentage of the number of trades reported to the consolidated tape) in each security for which there is a registered specialist and compare that market share with the market shares of other exchanges that trade that security. If during the preceding six months, the Exchange's market share in the security is less than the third largest exchange and also less than the Exchange's average market share for all securities with registered specialists, the security is immediately posted for applications for reallocation.

[2] We note that, to date, the MSE has not submitted revised specialist evaluation criteria to the Commission for approval.

[3] 17 CFR 200-30-3.

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on 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

(a) Purpose

The purpose of the proposed rule change is to establish formal standards for the operation of a system of alternate specialists on the Exchange. The alternate specialist system is intended to add depth and liquidity to markets on the Exchange. The proposed rule imposes both "affirmative" and "negative" obligations on alternate specialists, thus enabling members who register as such to qualify for market-maker status as contemplated by the Act and the rules thereunder. At the same time, these obligations are aimed at protecting the public interest and strengthening the Exchange's ability to maintain fair, orderly and competitive markets on the floor.

(b) Statutory Basis for Proposed Rule Change

Implementation of the proposed rule change will be consistent with those provisions of the Act by facilitating transactions in securities and, in general, to protect investors and the public interest. *See* section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will: (A) By order approve such proposed rule change, or, (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 10, 1987. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 12, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11472 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24447; File No. SR-NASD-87-19]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc.; Processing Membership Applications of Government Securities Brokers and Dealers; Forms and Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 9, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change sets forth the intention of the NASD to utilize Form BD, Form U-4 and the existing NASD membership application procedures of Part I of Schedule C to the NASD By-Laws in processing applications for membership by government securities brokers and dealers that are required to become members of a self-regulatory organization under the provisions of Pub. L. 99-521, the Government Securities Act of 1986 ("GSA").

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 NASD 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 NASD 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 GSA provides that, effective July 25, 1987, it shall be unlawful for any government securities broker or dealer required to register with the Commission under the GSA to engage in a government securities business unless such government securities broker or dealer is a member of a national securities exchange or a registered securities association. The NASD, as the only registered association, anticipates that a substantial number of heretofore unregistered government securities brokers and dealers will seek to become NASD members in order to comply with the provisions of the GSA. The NASD has represented to the Commission that it will endeavor to process the applications of firms filed with the NASD prior to April 15, 1987 before the effective date of the GSA. In order to facilitate such expeditious processing of new member firm applications, the NASD has determined that it is imperative for it to utilize, to the degree consistent with the provisions of the GSA, those forms and procedures currently in use for processing of membership applications of brokers and

dealers that register with the Commission under section 15(b) of the Act.

The Resolution of the Board of Governors that is the subject of this filing authorizes the NASD to utilize existing Forms BD and U–4 and the application procedures contained in Part I of Schedule C to the NASD By-Laws to the degree that such procedures are not inconsistent with the provisions of the GSA. The NASD believes that utilization of both Forms U–4 and BD is consistent with the purposes of the GSA. In this regard, it should be noted that the Commission has approved revisions to Form BD for use by government securities brokers and dealers in registering with the Commission as required by the GSA.[1] Similarly, it is contemplated that the North American Securities Administrators Association will be considering amendments to Form U–4 that will facilitate its use by persons associated with government securities brokers and dealers. Pending formal revision of these forms, the NASD contemplates utilization of existing versions of Forms U–4 and BD with appropriate annotation, either on the form itself or in a letter format, to indicate that the applicant for membership engages in a government securities business or, in the case of the U–4, that the person is associated with a government securities broker and dealer.

In a similar manner, the NASD believes that the provisions of Part I of Schedule C to the By-Laws dealing with applications for membership are generally equally applicable to firms seeking membership pursuant to registration under section 15C of the Act. In the case of government securities brokers and dealers with an ongoing business, the pre-membership interview procedure of Part I of Schedule C will generally take the form of an on-site pre-membership examination rather than the interview normally conducted in the NASD district office. The elements of such review will be those set forth in Schedule C. The scope of the pre-membership review process will be limited to ensuring compliance with the provisions of the GSA and the financial responsibility, record keeping and reporting requirements adopted by the Department of the Treasury pursuant to the GSA. Because of the statutory limitation on NASD authority over government securities brokers and dealers, those references in section 1(c) of Part I of Schedule C calling for qualification of associated persons and any other provisions not relating to the purposes of the GSA will not be applied to government securities applicants.

The NASD believes that the utilization of these forms and procedures in processing membership applications is consistent with section 15A(f) and section 15A(g) of the Act as amended by the GSA. Section 15A(g)(4)(A) provides that a registered securities association may deny or condition membership of a government securities broker or dealer if the firm does not meet standards of financial responsibility under the rules adopted pursuant to the GAS, or is subject to a statutory disqualification under section 15C(c) of the Act. The Act provides that a registered securities association may establish procedures including examination procedures to verify compliance with these provisions. The NASD believes that the filing of Form BD and the application of the NASD pre-membership procedures to government securities applicants will provide the NASD with the information required to carry out these obligations. Section 15A(g)(4)(B) of the Act further provides that a registered securities association may bar or condition the association of a person with a member based upon the existence of a statutory disqualification as defined pursuant to section 15C(c), or if such person does not agree to supply the association with information with respect to its relationship and dealings with the member as may be specified in the rules of the Association. The NASD believes that the utilization of Form U–4 by persons seeking to become associated with government securities brokers and dealers is consistent with these provisions in that the information elicited by Form U–4 is designed to provide the NASD with information as to the possible existence of a statutory disqualification and also enables the NASD to access disciplinary and other records that are necessary to verify the existence of a statutory disqualification and to enable the NASD to make the determination required by section 15A(g)(4)(B).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as amended by the GSA.

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 Proposed Rule Change and Timing for Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after its publication in the **Federal Register**. The NASD believes that the short time frames contained in the GAS for registration and membership in a registered securities association, as well as the fact that the NASD seeks only to require the filing of forms that have long been utilized in conjunction with the registration of broker/dealers and persons associated with those broker/dealers and to adopt existing NASD procedures for the processing of membership applications, make such acceleration necessary and appropriate in carrying out the NASD's obligations under the GSA. Accordingly, the NASD believes that good cause exists, to accelerate the effectiveness of the rule change to facilitiate the processing of membership applications.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, sections 15A(f) and 15A(g) as amended by the GAS.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that accelerated approval will allow the NASD to process membership applications of goverment securities brokers and dealers by utilizing existing forms and procedures in order to meet the short time frames set by the GSA, which requires that all government securities brokers and dealers be registered with the Commission and be members of a self-regulatory organization by July 25, 1987, or cease doing business until they comply with section 15C(e)(1).

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 submissions, all subsequent

[1] *See* Securities Exchange Act Release No. 34–24372, April 21, 1987; 52 FR 16833 (May 6, 1987).

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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-87-19 and should be submitted by June 10, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: May 13, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11524 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24450/File No. SR-PSE-87-11]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc.; Creation of a Permanent Program for the Use of Market Index Option Escrow Receipts

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 April 22, 1987, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") 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 comiments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE, pursuant to Rule 19(b)(4) of the Securities Exchange Act of 1934 (the "Act"), is submitting this rule filing for the purpose of creating a permanent program out of the existing index option escrow receipt pilot program, set forth in PSE Rule XXI, section 16.

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 Items 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

On August 19, 1985, the Commission, in Securities Exchange Act Release No. 34-22323, approved a one-year pilot program of the market index option escrow receipt ("MIOER"). The purpose of the proposed rule change was to provide a valuable mechanism through which index call option contracts could be written in a cash account. As such, the MIOER will be able to be collateralized by cash, cash equivalents, one or more marginable equity securities, or any combination thereof, provided the customer maintains a diversified securities portfolio. The pilot was subsequently extended through February 20, 1987, in order to provide sufficient time for a review to be made of data compiled during the pilot program. The Chicago Board Options Exchange ("CBOE") was designated the exchange to study the pilot and to report on the findings, and submitted its report to the Commission on February 6, 1987.

The CBOE report determined that the MIOER is a successful and worthwhile concept and has asked the Commission to approve its use on a permanent basis. In that regard, and to maintain the uniformity of all participating Self-Regulatory Organizations, the Exchange is also requesting the same permanent approval. Pending consideration by the Commission, the PSE has also filed an additional extension of the pilot program to June 30, 1987. See SR-PSE-87-10.

The statutory basis for this filing is section 6(b)(5) of the Securities Exchange Act of 1934, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission 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-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 10, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 14, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11525 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 1070]

Intention to Cancel the Registration of John Adams Trust Corporation

May 14, 1986.

Notice is hereby given that the Securities and Exchange Commission intends to issue an order pursuant to section 203(h) of the Investment Advisers Act of 1940 cancelling the registration of John Adams Trust Corporation.

Section 203(h) provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is no longer in existence or is not engaged in business as an investment adviser, the Commission shall by order cancel the registration of such person.

On August 22, 1986, the United States District Court for the District of Massachusetts, pursuant to a complaint filed by the Commission, appointed a receiver to take possession and control of the funds, assets, and other property of John Adams Trust Corporation and to render an accounting.[1] The receiver reported to the court that the registrant is insolvent, is without assets, employees, or offices, and had ceased operations as of September 1986. By order of the court, all of the registrant's client accounts were transferred to another investment adviser for temporary servicing until the clients could make permanent arrangements.

In view of these circumstances, the Commission believes that reasonable grounds exist to support a finding that the registrant is no longer in existence or is not engaged in business as an investment adviser.

Notice is further given that any interested person may, not later than thirty days after the date of this publication, submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reasons for such request, and the request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549.

[1] *SEC v. John Adams Trust Corporation and Milton Adams Corey*, USDC DMA, Civil Action No. 86-2423-WD.

At any time after said date, the Commission may issue an order cancelling the registration of John Adams Trust Corporation upon the basis of the information stated herein, unless an order for hearing on said cancellation shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11527 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15739; 812-6652]

Merrill Lynch, Pierce, Fenner & Smith Inc., et al; Application

May 14, 1987.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Merrill Lynch, Pierce, Fenner & Smith Incorporated, Shearson Lehman Brothers Inc., Prudential-Bache Securities Inc., Dean Witter Reynolds Inc., Paine Webber Incorporated ("Sponsors"); and all presently outstanding, or subsequently issued, series ("Series") of The Corporate Income Fund, The Equity Income Fund, The Fund of Stripped U.S. Treasury Securities, The Government Securities Income Fund, The International Bond Fund, Liberty Street Trust, The Merrill Lynch Fund of Stripped U.S. Treasury Securities, The Mortgage Backed Income Fund, The Municipal Income Fund, Municipal Investment Trust Fund and The Tax Exempt Mortage Fund (the "Funds"), on behalf of themselves and any other broker-dealer which in the future acts as a sponsor, any series of future unit investment trust sponsored by a Sponsor, and any bank or custodian which meets the specifications of section 26(a)(1) of the Act which acts as a trustee of any present or future series of unit investment trusts for which one or more of the Sponsors acts as sponsor ("Trustee").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 26(a)(2)(D) of the 1940 Act.

Summary of Application: Applicants seek an order under section 6(c) of the Act to permit the Trustee to deposit, or to cause or permit the deposit of, securities and other assets of any Series with the Euro-Clear System ("Euro-clear") or Central de Livraison Valeurs Mobilieres, S.A. ("CEDEL", collectively with Euro-clear, the "Transnational Agencies").

Filing Date: The application was filed on March 18 and amended on April 27, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, an order disposing of the application will be issued. 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 no later than 5:30 p.m., on June 8, 1987. Requests must be in writing, setting forth the nature of your interest, the reasons for the request, and the issues contested. Applicants should be served with a copy of the request, either personally or by mail, and the request should also be sent to the Secretary of the SEC, along with proof of service (by affidavit or, in the case of an attorney-at-law, by certificate). Notification of the date of a hearing should be requested by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicants, c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Liberty Plaza, New York, New York 10080.

FOR FURTHER INFORMATION CONTACT: Special Counsel Curtis R. Hilliard (202) 272-3026 or Special Counsel Karen Skidmore (202) 272-3023 (Office of Investment Company Regulation).

Supplementary Information

The following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each of the Funds is sponsored by one or more of the Sponsors and is made up of one or more Series of separate unit investment trusts registered or to be registered under the Securities Act of 1933. Each Series is created by a Trust Indenture (the "Indenture") among the Sponsors and a Trustee. The current Trustees for the Funds are Bank of New England, N.A., Bank of New York, Bankers Trust Company, The Chase Manhattan Bank, N.A. and U.S. Trust Company.

2. Euro-clear and CEDEL are two of the largest clearance and custody systems of internationally traded securities. They were organized principally to provide a simple, economic and automated means of settling secondary market transactions in internationally traded securities regardless of the geographical location of the parties to the transaction. The branch of Morgan Guaranty in Brussels, Belgium operates Euro-clear, and is subject to regulation by the New York and federal banking authorities and the Belgian Banking Commission. Belgian law also governs Morgan Guaranty's liability as custodian and operator of Euro-clear under the Terms and Conditions Governing the Euro-clear System, which constitutes the contract between Euro-clear and each participating entity that has an account with Morgan Guaranty Brussels. CEDEL was founded as a limited company under the laws of the Grand Duchy of Luxembourg. CEDEL is headquartered in Luxembourg and has representative offices in London and New York. CEDEL operates under the supervision of the Institute Monetaire Luxembourgeois, the Luxembourg Monetary Authority, which is also the banking control authority.

3. Pursuant to the proposed custody arrangements described in the Application, permission is sought to use the Transnational Agencies to hold certain non-United States securities of current Series or of Series of future unit investment trusts sponsored by one or more of the Sponsors.

4. Under the proposed arrangements, each Trustee would provide to a Fund custody services which would permit the foreign securities of the Fund to be held abroad in the custody of a Transnational Agency. Such services would be offered by each Trustee pursuant to arrangements which would be the same as with those applicable to registered management investment companies as contemplated by Rule 17f-5 under the 1940 Act, except: (i) Certain duties and responsibilities of the boards of directors of such companies would, in the case of the Funds, be performed by the particular Trustee; (ii) the Trustee would provide indemnification as summarized below; and, (iii) pending further action by the Securities and Exchange Commission, only the Transnational Agencies would qualify as eligible foreign custodians for the Funds.

5. Each Trustee will undertake itself, with respect to foreign custody services offered to the Funds, to fulfill substantially all of the supervisory and monitoring roles currently assigned by Rule 17f-5 to the board of directors of a management investment company. In particular, prior to the holding of foreign securities of any Fund in a Transnational Agency, the Trustees for such Fund will be required to:

(i) Make a determination that maintaining the Fund's assets in the particular country or countries is consistent with the best interests of the Fund and its unitholders;

(ii) Make a determination that maintaining the Fund's assets with the particular Transnational Agency is consistent with the best interests of the Fund and its unitholders;

(iii) Enter into a written contract which is consistent with the best interests of the Fund and its unitholders and which will govern the manner in which such Transnational Agency will maintain the Fund's assets and which provides that:

(A) The Fund will be adequately indemnified and its assets adequately insured in the event of loss (without regard to the indemnity provided by the Trustee under its Trust Agreement);

(B) The Fund's assets will not be subject to any right, charge, security interest, lien or claim of any kind in favor of the Transnational Agency or its creditors except a claim of payment for their safe custody or administration;

(C) Beneficial ownership for the Fund's assets will be freely transferable without the payment of money or value other than for the safe custody or administration;

(D) Adequate records will be maintained identifying the assets as belonging to the Fund;

(E) The Fund's independent public accountants will be given access to records identifying assets of the Fund or confirmation of the content of those records; and

(F) The Trustee will receive periodic reports with respect to safekeeping of the Fund's assets, including, but not necessarily limited to, notification of any transfer to or from the Trustee's account;

(iv) Establish a system to monitor the foreign custody arrangements in order to ensure compliance with the proposed trust provisions and the representations and conditions of this application;

(v) Review and approve, at least annually, the continuing maintenance of Fund assets in a particular country or countries with a particular Transnational Agency as being consistent with the best interests of the Fund and the unitholders.

Each Trustee, in making such determinations, will consider various factors, such as the comparative operational efficiencies of custody, clearance and settlement and the costs thereof and the political and other risks, attendant to the holding of foreign securities in the particular Transnational Agency, all as more specifically set forth in the Application. Each Trustee shall consider the extent of the Fund's exposure to loss because of the use of a particular Transnational Agency. The potential effect of such exposure upon unitholders shall be disclosed, if material, by the Sponsors in the prospectus relating to the Fund. In addition, before entering into any custodial contract with a Transnational Agency, the Trustee shall specifically consider whether, under the terms of the contract and without regard to the indemnity provided by the Trustee, the Fund will be adequately indemnified and its assets adequately insured in the event of loss. Each Trustee shall select with the exercise of reasonable care the particular Transnational Agency which may have custody of the foreign securities.

6. Each Trustee shall maintain, and keep current, written records regarding the basis for the choice or continued use of a particular Transnational Agency, and such records shall be available for inspection by unitholders and the Securities and Exchange Commission at the Trustee's offices at all reasonable times during its usual business hours. In addition, where the Trustee has determined that a Transnational Agency may no longer be considered eligible under the terms of the Trust Agreement or that continuance of the arrangement would not be consistent with the best interests of the Fund and the unitholders, the Fund must withdraw its assets from the care of such Transnational Agency as soon as reasonably practicable, and in any event within 180 days of the date when the Trustee made the determination.

7. Apart from the written contract governing the manner in which the Transnational Agencies will maintain Fund Assets, under the proposed trust provisions each Trustee will indemnify and hold the Fund whose foreign securities are held harmless from and against any loss which shall occur as the result of the failure of the Transnational Agency holding such foreign securities to exercise reasonable care with respect to the safekeeping of such foreign securities to the same extent that the Trustee would be required to indemnify and hold the Fund harmless if the Trustee itself were holding such foreign securities in the United States' jurisdiction whose laws govern the Indenture. Such provisions would provide, however, that the Trustee will not have liability for loss except by reason of the gross negligence, bad faith or willful

misconduct of the Trustee or the Transnational Agency.

8. Applicants believe that securities deposited in Euro-cler or CEDEL are at least as effectively protected as the same securities would be if directly deposited with a foreign branch of a U.S. bank, or shipped to the U.S. for custody, for several reasons, including:

(i) The insurance coverage for Euro-clear and CEDEL depositaries and their outstanding loss record;

(ii) The expertise and experience of the banks holding securities for Euro-clear or CEDEL;

(iii) The efficiencies resulting from handling large quantities of the same issue;

(iv) The excellent track records of Euro-clear and CEDEL;

(v) The close scrutiny of Euro-clear and CEDEL services resulting from the market's dependence upon (and hence concern for) these services and the oversight of the depositaries; and

(vi) The depositary agreements pursuant to which securities are held by Euro-clear and CEDEL depositaries, which impose high standards of care on the depositaries.

9. Applicants further believe that the exposure to certain custodial risks is reduced when securities are held through Euro-clear or CEDEL rather than directly by a U.S. bank branch since securities held in Euro-clear or CEDEL do not have to be transported for deposit outside these systems or to effect sale. Furthermore, holding foreign securities outside of Euro-clear and CEDEL would give rise to substantially higher costs for holding and transferring securities and for settling transactions.

Applicants' Conditions

Applicants have agreed, and will file an amendment to the Application stating that compliance with Representations 5, 6, and 7 above may be made a condition to any order granting the requested exemption.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11528 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15734; File No. 812-6695]

Hartford Life Insurance Co., et al.; Application

May 12, 1987.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Hartford Life Insurance Company ("Hartford"), Hartford Life Insurance Company-Advest Variable Annuity Separate Account ("Account"), and Hartford Equity Sales Company, Inc. ("Equity Sales").

Relevant 1940 Act Sections: Exemption requested *under* section 6(c) *from* sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants request exemption to offer certain individual and group flexible premium tax deferred variable annuity contracts ("contracts") subject to a daily asset charge for mortality and expense guarantees at the annual rate of 1.25%, estimated at .90% and .35%, respectively.

Filing Date: The application was filed on April 28, 1987.

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 June 8, 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. Applicants, Hartford Plaza, Hartford, Connecticut 06115.

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 is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. Hartford is a stock life insurance company organized under the laws of the state of Connecticut. The Account is registered under the 1940 Act as unit investment trust. Equity Sales, a registered broker-dealer, is the principal underwriter for the contracts.

2. The contractowner has the right to allocate purchase payments to any one or more of four portfolios ("Funds") of Advest Advantage Investment Trust. A sales charge is not deducted at the time of purchase. Each premium payment, net of any applicable premium tax, is credited to the contract. A contingent deferred sales charge may be assessed against contract values upon surrender. The time from receipt of a premium payment to the time of surrender determines the contingent deferred sales charge; and the charge equals 5% of the amount withdrawn for the first and second year, 4% for the third year, 3% for the fourth year, 2% for the fifth year, and 0% for the sixth year. A single partial surrender may be made each year after the first full contract year of up to 10% of the aggregate premium payments without the application of the contingent deffered sales charge.

3. An annual maintenance fee of $25 is deducted from contract values. A daily charge of .175% per annum is made against contract values for administration. The contracts issued with respect to the Account will provide for a 1.25% annual asset charge paid to the Hartford on a daily basis for providing mortality and expense guarantees.

4. The mortality undertaking provided by Hartford under the contracts, assuming the selection of one of the forms of life annuities, is to make monthly annuity payments (determined in accordance with the 1983(a) Individual Annuity Table with ages set back one year and other provisions in the contract) regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live. Hartford also assumes the liability for payment of a minimum death benefit. The expense undertaking is the risk assumed that the contingent deferred sales charges, the annual maintenance fee, and the asset-based administration charge, may be insufficient to cover the actual costs.

5. Exemption from the provisions of sections 26(a)(2)(C) and 27(c)(2) is requested in order that the contracts may be subject to the mortality and expense risk charge. Hartford and the Account represent that:

(a) The mortality and expense risk charge is within the range of industry practice for comparable annuity contracts as detemined by a survey of comparable contracts annuity contracts as determined by a survey of comparable contracts issued by a large number of other insurance companies. These contracts are similar in that current charge levels are approximately the same; all provide minimum death benefit guarantees the same as or lower

than the Applicants' contract; all have guaranteed annuity purchase rates; and all have the same special accounting system for separate account unit value administration; and all are offered in the same market. Hartford will undertake to maintain and make available to the Commission upon request a memorandum underlying this representation;

(b) There is the likelihood that the periods from explicit sales loads will be insufficient to cover the expected costs of distributing the contracts. Harford has concluded that there is a reasonable likelihood that the Account's distribution financing arrangement will benefit the Account and countractowners, and that it will maintain and made available to the Commission upon request a memorandum setting forth the basis for this representation; and

(c) The Account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

6. The exemption requsted to permit the deduction for mortality and expenses guarantees is 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–11468 Filed 5–19–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15738; 812–6707]

New England Mutual Life Insurance Co. et al.; Application

May 14, 1987.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: New England Mutual Life Insurance Company ("The New England"); New England Life Variable Annuity Fund I ("VA I"); and New England Life Variable Annuity Fund II ("VA II") (each referred to individually as a "Fund" and collectively as "the Funds").

Relevant 1940 Act Sections: Exemption requested under section 17(b) from section 17(a).

Summary of Application: Applicants seek and order of exemption to the extent necessary to permit them to combine VA I and VA II of The New England.

Filing Date: The application was filed on May 1 and amended on May 11, 1987.

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 June 4, 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 sent 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 hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 501 Boylston Street, Boston, Massachusetts 02117.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Jeffrey M. Ulness (202) 272–3027 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 is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 in Maryland (301) 258–4300).

Applicants' Representations

1. The New England is a Massachusetts mutual life insurance company. Each of the Funds is registered under the Act as an open-end management investment company. Each of VA I and VA II is a separate account of The New England and serves as the investment vehicle for certain variable annuity contracts issued by The New England.

2. The New England directly or indirectly owns (1) stock possessing 80% of the outstanding voting power of Loomis, Sayles & Company, Incorporated, ("Loomis Sayles") and (2) all of the outstanding capital stock of New England Securities Corporation ("Securities"). Loomis Sayles acts as investment adviser for VA I and VA II. Securities Acts as principal underwriter for each Fund. In addition, The New England, may be deemed the beneficial owner of the portfolio assets of each of VA I and VA II. Because of the foregoing affiliations, each Applicant may be deemed to be an "affiliated person," within the meaning of section 2(a)(3) of the 1940 Act, or an affiliated person of an affiliated person, of one or more of The New England, Loomis Sayles, Securities, and their respective subsidiaries and affiliates.

3. VA I was organized as the investment vehicle for individual variable annuity contracts for use with certain tax-qualified retirement plans, annuity purchase plans, individual retirement annuities and government plans. VA II was organized as the investment vehicle for variable annuity contracts for individual use and for use with plans and trusts not qualifying for tax-benefited treatment. Before annuity payments begin, the value of a contract supported by a Fund is measured by an accounting device known as accumulation unit.

4. Prior to 1984, federal tax law required that, because the contracts for which VA II serves as the investment vehicle were not for use with tax-qualified plans, capital gains of VA II be treated differently from capital gains of VA I. In 1984, however, federal tax law was amended to eliminate this difference in treatment retroactive to January 1, 1984. Because of this change in federal tax, the principal reason for the separate existence and operation of the Funds no longer applies.

5. Applicants have received approval from VA II's contractholders to transfer all the assets and liabilities of VA II into VA I (the "Surviving Fund") in exchange for a number of accumulation units of the Surviving Fund having an aggregate value immediately prior to the effective time of the combination equal to the net asset value of VA II immediately prior to the effective time. Applicants state the exchange is consistent with section 22(c) and Rule 22c–1 thereunder. The consummation of the combination is contingent upon receipt by the Board of Managers of both VA II and of the Surviving Fund of an opinion of counsel that the Surviving Fund should qualify as a "segregated asset account" and the variable annuity contracts should continue to qualify as "variable contracts" and that the combination should be a tax free event. The New England will assume all costs incurred in effecting the combination.

6. The Board of Managers of each of the Surviving Fund and VA II have each unanimously approved the combination of the Funds. The assets of the Surviving Fund are registered with the Commission under the Securities Act of 1933 on Form N–14.

7. The Surviving Fund and VA II have identical investment objectives, pricing,

distribution and purchase procedures and redemption features. The New England deducts the same advisory fees and mortality and expense risk charges from the assets of each Fund and the same persons constitute the Board of Managers of each Fund, the rules and regulations of each Fund are identical. The combination will not affect any rights to annuity payments, the annuity options that are offered, the death benefit or the federal income tax treatment of either Fund. There are no material differences between the voting or other rights of contractholders of VA II and the rights they will have as contractholders of the Surviving Fund.

8. The Applicants seek an exemption from the provisions of section 17(a) pursuant to section 17(b) of the 1940 Act to permit the combination of the Funds (the "Combination").

9. The interests of the annuity contractholders of each of the Funds will not be adversely affected by the Combination. The Combination will not result in the dilution of the interests of existing contractholders of either Fund. The Combination may result in reduced operating costs and enhanced flexibility of asset management and opportunity for portfolio diversification.

10. The Combination as described above is reasonable and fair, does not involve overreaching on the part of any person concerned, is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act, and is consistent with the provisions, policies and purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11469 Filed 5-19-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24392]

Filings Under the Public Utility Holding Company; Application

May 14, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amemdment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 8, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Power Company (70-7208)

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01582, a wholly owned electric utility subsidiary of New England Electric System, a registered holding company, has filed a post-effective amendment to its declaration pursuant to section 6(a) and 7, 9(a), 10 and 12(c) of the Act, and Rule 42 thereunder.

By order dated May 29, 1986 (HCAR No. 24115) NEP was authorized, among other things, to issue and sell up to $550 million of general and refunding mortgage bonds ("G&R Bonds") for refinancing purposes. NEP now proposes that it be authorized to issue and sell up to $35 million of the $550 million of G&R Bonds to finance its $35 million share of the construction of pollution control and solid waste disposal facilities for the Seabrook, New Hampshire nuclear project. The G&R Bonds would have a variable interest rate not in excess of 14% and would be issued simultaneously with, and on the same terms as, pollution revenue control bonds to be issued by the Industrial Development Authority of the State of New Hampshire.

Ohio Power Company, et al. (70-7387)

Ohio Power Company, ("Ohio Power"), a wholly owned electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, and Ohio Power's subsidiaries, Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company, and Windsor Power House Coal Company (collectively, "the coal mining subsidiaries") all of 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration pursuant to sections 9(a), 10 and 12(b) of the Act and Rule 45 thereunder.

The coal mining subsidiaries propose to enter into a renewable master leasing agreement with a nonaffiliate, the Connecticut Bank and Trust Company ("Connecticut"), whereby Connecticut will lease to the coal mining subsidiaries, between July 1, 1987 and June 30, 1988, mining equipment with a total aggregate acquisition cost not exceeding $22,000,000. All costs of operation, maintenance, taxes, insurance and other costs are to be borne by the lessees.

Ohio Power will execute a guaranty agreement to unconditionally and irrevocably guarantee COCCo's payment obligations in connection with the lease in light of COCCo's partial assignment to nonaffiliates of revenues received under its coal supply agreement with Ohio Power.

Clearfield Ohio Holding, Inc. (70-7390)

Clearfield Ohio Holdings, Inc. (the "Applicant"), Radnor Corporate Center 5, Suite 400, 100 Matsonford Road, Radnor, Pennsylvania 19087, has filed an application pursuant to sections 9(a)(2) and 10 of the Act.

Applicant is an Ohio corporation, organized in 1985, and a holding company claiming an exemption pursuant to section 3(a)(1) of the Act and Rule 2 thereunder from all the provisions of the Act, except section 9(a)(2). Applicant owns all of the outstanding common stock of two gas distribution companies, Southeastern Natural Gas Company ("Southeastern") and Eastern Natural Gas Company ("Eastern"), both of which are Ohio corporations and provide natural gas distribution services exclusively within the state of Ohio. Applicant has no other subsidiaries and is not a public-utility company itself.

Applicant proposes to acquire all of the outstanding shares of common stock, par value $3.00 per share, (the "Pike Shares"), of Pike Natural Gas Company ("Pike"), an Ohio corporation and a public-utility company within the meaning of the Act. The Acquisition is to be effected pursuant to a cash tender offer. The tender offer is not conditioned upon the receipt of tenders for a minimum number of shares.

Southeastern provides natural gas services to other utilities, to industrial customers for their own use, and to residential customers. It presently has approximately 50 customers. All gas is transmitted over leased lines in Washington, Athens, Morgan, Perry, Hocking, and Fairfield Counties, all in

Ohio. At the present time, Southeastern owns no producing fields, gas manufacturing plants, or gas distribution facilities, other than certain service lines to residential customers. Eastern provides natural gas services through its own lines to approximately 5,700 residential, commercial, industrial, and public-utility customers, in Trumbull and Ashtabula Counties, Ohio. As the present time, Eastern owns no producing fields or gas manufacturing plants.

Pike, an Ohio corporation, provides natural gas services exclusively within the State of Ohio to approximately 5,300 residential, commercial, industrial, and public-authority customers in Clinton, Highland, Pike, Jackson, and Ross Counties. At the present time, Pike owns no producing fields; it owns two small propane peak shaving facilities. Pike's system is divided into two physically separate operations of approximately equal size. The Hillsboro Division, serving Highland and Clinton Counties, is supplied by Columbia Gas Transmission Corporation; the Waverly Division, serving Ross, Pike, and Jackson Counties, is supplied by Tennessee Gas Pipeline Company. Pike employs some 20 persons in the two divisions.

Applicant asserts that the acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public-utility system. It is stated that the economies resulting from the combination of the three companies as part of an integrated system will benefit investors and consumers. Applicant believes that its greater size and extensive contacts with Ohio producers may enable it to obtain gas supplies at a more favorable price than Eastern and Pike alone would be able to. Applicant expects to achieve significant operating economies in these operations by eliminating duplicated overhead activities and reducing Pike's operating work force. Applicant also expects that lower gas costs to customers will result.

The authorized capital stock of Pike consists of 450,000 shares of common stock, of which 84,711 shares were issued and outstanding on December 31, 1986. The Pike Shares were formerly registered with the Commission pursuant to the Securities Exchange Act of 1934 but were deregistered in 1984 when the number of shareholders was reduced to fewer than 300 as a result of a reverse stocksplit.

Applicant has entered into agreements with the three principal shareholders of Pike, The Ohio Company, Alice H. Reilly, and St. Clair Oil Company, who in the aggregate own 53,701 Pike Shares, or approximately 63% of the outstanding shares, pursuant to which such shareholders have agreed to tender their shares in response to the tender offer (the "Shareholder Agreements"). In addition, the board of directors of Pike has considered the terms of the proposed tender offer and has recommended that the other shareholders tender their Pike Shares in response to it. The Shareholder Agreements are the result of arms'-length negotiations. The terms of the tender offer were negotiated with the officers and directors of Pike and its investment banker. The price agreed upon was 125% of Pike's bool value as at December 31, 1986, plus 125% of the increase in net book value through March 31, 1987, with a cap of $42 per share. The cap was reached, and the price of $42 per share being offered to the shareholders represents approximately 124% of Pike's book value as at March 31, 1987. Applicant states that the consideration, including all fees, commissions, and other remuneration paid in connection with the proposed acquisition, is reasonable and bears a fair relation to the earning capacity of the utility assets of Pike.

Applicant anticipates acquiring all of the Pike Shares pursuant to the Tender Offer but requests that the authorization extend to any subsequent acquisition by Applicant of Pike Shares in the event that not all Pike shareholders tender their shares pursuant to the tender offer. Applicant expects to acquire such Pike Shares in private transactions or as a result of the merger or other combination of Pike with Applicant or a subsidiary of Applicant.

Cal Gas Corporation (70-7391)

Cal Gas Corporation ("Cal Gas"), P.O. Box 28397, 8401 Gerber Road, Sacramento, California 95828, has filed an application pursuant to section 2(a)(4) of the Act for an order declaring it not to be a gas utility company.

Section 2(a)(4) defines a gas utility company as "any company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers . . .) of natural or manufactured gas for heat, light, or power." That section also provides that the Commission may declare a company not to be a gas utility company if it "finds that (A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility company for the purposes of [the Act]. . . ."

Cal Gas is a national marketer of liquefied petroleum gas ("LPG") to residential, commercial, industrial, and agricultural users throughout the United States. It distributes the LPG in enclosed portable containers. Cal Gas states that an insignificant portion of its sales involves the use of pipes or pipelines owned by the company which run from storage tanks on or near the customer's premises to the customer's home or business. The company purchases LPG from a variety of suppliers from around the country and moves the product through a nationwide distribution system that employs proprietary rail car and truck fleets as well as common carrier haulers. In addition, the company is involved in other activities related to the sale of LPG, such as equipment and appliance sales and commodities trading.

Cal Gas' revenues from operations other than retail fuel sales were $325,380,000 in 1986, comprising 62.29 percent of the company's revenues. These revenues were derived principally from Cal Gas' trading activities in the commodities markets. Other revenues stemmed from the company's gas processing, transportation, wholesale fuel, and equipment sales and leasing operations. The balance of Cal Gas' 1986 revenues, $196,942,000 or 37.71 percent, were from retail LPG sales. LPG is delivered in large tank trucks or smaller "bobtail" trucks to or near the customer's premises where the LPG is pumped into storage tanks. Sales also occur in small canisters or cylinders at retail station outlets. Customers whose storage tanks are not metered are billed on each delivery for the quantity of LPG delivered into the storage tank. Nometered sales, which were $185,874,158 in 1986, or 35.59 percent of total company sales, do not involve company pipes or pipelines.

Customers whose tanks are metered are billed for the LPG consumed according to meter readings. Metered sales were $11,068,093 in 1986 or 2.12 percent of total Cal Gas sales. These metered sales may involve the use of company-owned pipes or pipelines in the following ways.

First, pipes are used in metered sales to single family residences or single businesses. Under this method of delivery, LPG is delivered to a tank on the customer's premises and passes through a short pipe to a meter at the customer's residence or business. The customer is billed for the amount of gas passing through the meter. Traditionally,

the company owns the tank, the pipe leading to the residence, and the metering equipment.

Second, pipelines are used in sales to small residential subdivisions, mobile home parks, and industrial/commercial complexes. In each case, Cal Gas supplies LPG to a central tank, from which it flows through underground pipelines to individual customers where LPG usage is metered. Customarily, Cal Gas owns the central tank and the metering equipment and may own the pipelines leading to the customers' premises.

Third, Cal Gas pipes are sometimes used in sales to residents in apartment buildings. LPG is delivered to a central tank for the apartment building which, for safety reasons, is typically located a short distance from the building. The LPG then flows to the building through a main pipe and then to individual apartments through branch pipes. Customarily, the company owns the central tank, the metering equipment, and, in some cases, the pipe leading to the apartment building, but it does not, in any case, own the pipes contained within the apartment building.

It is stated that although Cal Gas does not maintain separate data for sales involving distribution through company pipes or pipelines, such sales constitute only a portion of metered sales and that, in any event, total metered sales constitute only $11.068 million or 2.12 percent of the company's 1986 revenues. It is further stated, moreover, that 1986 revenues from metered sales include approximatley $7.6 million in metered sales to nonresidential users of which many are industrial users. Finally, Cal Gas believes that metered sales to single family homes and to apartment buildings fall within the enclosed portable container exception in section 2(a)(4) and has included them only because of the difficulty in separating them from other metered sales.

Consolidated Natural Gas Company, et al. (70–7393)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries, Consolidated Natural Gas Service Company, Inc., CNG Coal Company, CNG Energy Company, CNG Research Company, Four Gateway Center, Pittsburgh, Pennsylvania 15222, The Peoples Natural Gas Company, Two Gateway Center, Pittsburgh, Pennsylvania 15222, Consolidated Gas Transmission Corporation, Consolidated System LNG Company, 445 West Main Street, Clarksburg, West Virginia, 26301, CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130, West Ohio Gas Company, 504 Colonial Building, Lima, Ohio 45802, CNG Development Company, CNG Trading Company, One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244, The East Ohio Gas Company, The River Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44115, and Hope Gas, Inc., Union National Center West, Clarksburg, West Virginia 26301 (collectivley, "Subsidiary Companies"), have filed an application-declaration pursuant to sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

Consolidated proposes, for intra-system financings through June 15, 1988: (1) To issue and sell up to $300 million of commercial paper to Merrill Lynch Money Market, Inc. or, alternatively, (2) to issue and sell up to $175 million unsecured short-term notes to banks, and (3) to make up to $560,500,000 in open account advances to the Subsidiary Companies. It is also proposed (i) that the Subsidiary Companies issue and Consolidated acquire up to $122,500,000 in long-term non-negotiable notes; (ii) that CNG Energy Company issue and Consolidated acquire long-term, non-negotiable notes up to $1.5 million; (iii) that Consolidated make revolving credit advances not to exceed $250 million to the Subsidiary Companies; (iv) that Consolidated purchase from, and CNG Coal Company, CNG Development Company, CNG Producing Company CNG Research Company issue, respectively, an aggregate of $41,100,000 million in common stock at $100 par value; and (v) that Consolidated purchase from CNG Trading Company up to 500 shares of common stock, $1.00 par, at $10,000 per share.

Sierra Pacific Resources (70–7408)

Sierra Pacific Resources ("Resources"), P.O. Box 30150, Reno, Nevada 89520, an exempt holding company, has filed an application pursuant to sections 9(a)(2) and 10 of the Act.

Resources proposes to acquire a 14.5% stock interest in a new company ("Enterprise") which is to be organized under the laws of the State of Nevada. Enterprise will construct and operate a 250 MW, coal-fired generating unit ("First Unit") to be located at the Thousand Springs Project ("Project") in Elko County in northeastern Nevada. Construction of the First Unit is scheduled to commence in 1989, with commercial operation expected to be in 1994. The Project may ultimately consist of the First Unit and seven other generating units, each of 250 MW.

In addition to Resources, there are ten other participants ("Non-Utility Participants") in the Project that will acquire the remaining ownership interests. No one of the Non-Utility Participants will acquire more than a 9.5% interest in Enterprise. None of them will be a holding company as defined in section 2(a)(7)(A) of the Act. These Non-Utility Participants and Resources will advance funds on a pro rata basis in accordance with their respective percentage ownership interests for preliminary activities (the total cost of which is expected to be approximately $15,000,000) to be conducted prior to commencement of construction of the First Unit.

Construction of the First Unit will be financed on a project finance basis. It is presently anticipated that the construction of the First Unit will be financed on an interim basis through a construction loan from banks or other financial institutions in the approximate amount of $600,000,000, the estimated construction cost. It is anticipated that the construction loan will be refinanced on or about the commencement of commercial operation on a permanent basis through the commitments of all of the eleven participants, made at the commencement of construction, to contribute an aggregate of 25% of the costs as equity, with the balance of the required financing achieved through the issuance of debt of Enterprise, secured by a first lien on the First Unit.

Sierra Pacific Power Company ("Power Company"), presently Resources' only public-utility subsidiary company, is expected to purchase at wholesale 20% of the electric energy generated by the First Unit. Power Company is engaged in the generation, purchase, transmission, sale, and distribution of electric energy in the western, central, and northeastern parts of Nevada (including the City of Reno) and in the eastern part of California (in the Lake Tahoe area). Power Company also provides retail gas service in the cities of Reno and Sparks, Nevada, and environs. Generation above the 20% will be sold by Enterprise at wholesale to privately owned and publicly owned electric utilities for sale at retail to consumers in the Western states. Enterprise's rates and charges for the wholesale sales of electric energy to Power Company and the other utilities, as well as the wheeling rates charged by others, will be subject to regulation by the Federal Energy Regulatory Commission under the Federal Power Act. The sales at retail by the purchasers of the energy will be

regulated by the appropriate state regulatory authority.

Concurrently with this application, a "no action" letter has been submitted separately to the staff of the Commission's Division of Investment Management regarding the status of each of the Non-Utility Participants as a holding company under section 2(a)(7)(B) of the Act. Further, Resources has filed an amendment to its exemption statement pursuant to Rule 2 under the Act to maintain its exemption as a holding company with Enterprise included.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-11466 Filed 5-19-87; 8:45am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0175]

United Venture Capital, Inc.; Revocation of License

Notice is hereby given that the license to operate a small business investment company under the Small Business Investment Act of 1958, and amended (the Act), issued to United Venture Capital, Inc., 17117 West Nine Mile Road, Southfield, Michigan 48075 has been revoked. United Venture Capital Inc., was licensed by the Small Business Administration on April 2, 1984.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the revocation was effective on March 9, 1987, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 12, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-11532 Filed 5-19-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0342]

Milk Street Partners, Inc.; Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, *et seq.*) has been filed by Milk Street Partners, Inc., 45 Milk Street, Boston, Massachusetts 02109 (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1987).

The officers, directors and shareholders of the Applicant are as follows:

Name	Title	Percent of ownership
Richard A. Churchill, Jr., 14 Wheeler Road, Lincoln, MA 01773	President, Director	32
Stephen F. Gormley, 23 Woodman Road, Chestnut Hill, MA 02167	Vice President, Director	24
William P. Collatas, 25 Fountain Street, Newton, MA 02165	Vice President, Director	24
James F. Wade, 8 Belle Isle Way, Andoves, MA 01801	Clerk, Director	15
Christopher S. Gaffney, 61 Prince Street, Unit 4A, Boston, MA 02113	Assistant Clerk, Director	5r
Marie T. Dixon, 9 Grace Road, Medford, MA 02155	Treasurer	

The Applicant, a Massachusetts Corporation, will begin operations with $1,000,000 paid in capital and paid in surplus. The Applicant will conduct its activities primarily in the New England area but will consider investments in business in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" St., NW., Washington, DC. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 12, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-11535 Filed 5-19-87; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Alabama Regional Advisory Council

The U.S. Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama, will hold a public meeting 9:30 a.m.-1:00 p.m., on Wednesday, May 20, 1987, in the Board Room of the Montgomery Area Chamber of Commerce, 41 Commerce Street, Montgomery, Alabama 36104, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, above address, (205) 731-1341.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 12, 1987.

[FR Doc. 87-11533 Filed 5-19-87; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council will hold a public meeting at 9:00 a.m. on Thursday, May 21, 1987, at the Cedar Rapids District Office, 373 Collins Road NE., Cedar Rapids, Iowa 52402-3118, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Ralph W. Potter, District Director, United States Samll Business Administration, 373 Collins Road NE.,

Cedar Rapids, Iowa 52402–3118, telephone number (319) 399–2571.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 12, 1987.

[FR Doc. 87–11534 Filed 5–19–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/1079]

Chairman's Ad Hoc Group Communications Development of the National Committee of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Chairman's Ad Hoc Group on International Communications Development of the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet June 9, 1987 at 10:30 a.m. in Room 1406, Department of State, 2201 C Street, NW. Washington, DC.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities. The Ad Hoc Group on International Communications Development reviews issues pertaining to the improvement and/or expansion of the communications infrastructure in developing countries.

The purpose of the meeting on June 9 will be to review the results of the April 9–10 meeting of the Advisory Board of the Center for Telecommunications Development in Geneva. This meeting will also provide participants with an opportunity to learn about new USG initiatives in promoting communications development.

Members of the general public, specifically representatives of the telecommunications industry and those who are concerned with telecommunications development issues in developing countries, are invited to attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. All attendees must use the C Street entrance to the building. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. All persons wishing to attend should call (202) 647–1007.

Request for further information should be directed to Mr. D. Clark Norton, State Department, Washington, DC, telephone (202) 647–1007.

Dated: May 11, 1987.

Earl S. Barbely,

Office of Technical Standards and Development.

[FR Doc. 87–11462 Filed 5–19–87; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 25.783–1, Fuselage Doors, Hatches, an Exits

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.783–1, Fuselage Doors, Hatches, and Exists. The AC sets forth acceptable means of compliance with the provisions of Part 25 of the Federal Aviation Regulations (FAR) dealing with the certification requirements for fuselage doors. Guidance information is provided for showing compliance with structure and functional safety standards for doors and their operating systems. The intent of the requirements and some acceptable means of compliance are discussed.

DATE: Advisory Circular 25.783–1 was issued by the Transport Airplane Certification Directorate in Seattle, Washington, on December 10, 1986.

How to Obtain Copies: A copy of AC 25.783–1 may be obtained by writing to the U.S. Department of Transportation, M–494.3, Subsequent Distribution Unit, Washington, DC 20590.

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

Leroy A. Keith,

Manager, Aircraft Certification Division Northwest Mountain Region.

[FR Doc. 87–11436 filed 5–19–87; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Lahaina District, HI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the Lahaina District, Island of Maui, State of Hawaii.

FOR FURTHER INFORMATION CONTACT: Mr. William R. Lake, Division Administrator, Federal Highway Administration, 300 Ala Moana Boulevard, Box 50206, Honolulu, Hawaii 96850. Telephone (808) 541–2700.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the State of Hawaii, Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve about 8 miles of Honoapiilani Highway, FAP Route 30 from the Puamana Beach Park to the vicinity of Honokowai, in the Lahaina District, Island of Maui, State of Hawaii. The proposed improvements are considered necessary to reduce congestion, increase the highway corridor capacity, and to improve operational safety to meet current and future traffic demands.

Alternatives for this project include: (1) Do nothing; (2) widening Honoapiilani Highway; (3) adding a new alignment easterly of a portion of the existing route; and (4) a combination of widening and a new alignment. The build alternatives include improvement or replacement of the existing bridges and construction of new bridge structures as required at Kauaula, Kahoma and Honokowai Streams. A Notice of Intent was previously issued covering the section of this project from Puamana to the Kaanapali Parkway.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Also, a public hearing will be held. A public notice will be published in the local newspaper indicating the time and place for the hearing. In addition, the draft EIS will be available for public and agency review and comments. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program)

Issued on: May 12, 1987.

William R. Lake,

Division Administrator, Honolulu Hawaii.

[FR Doc. 87-11555 Filed 5-19-87; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Advisory Board for Radio Broadcasting to Cuba; meeting

The Advisory Board for Radio Broadcasting to Cuba will conduct a meeting on May 27, 1987, in Room 3557, 400 Sixth Street, SW., Washington, DC. Below is the intended agenda.

Wednesday, May 27, 1987

PART ONE—Closed to the Public

10:00 a.m. 1. Report by the Director of Radio Marti

11:00 a.m 2. Discussion of Radio Marti internal personnel rules and practices

PART TWO—Open to the Public

2:00 p.m. 3. Overview of Radio Marti Budget

3:00 p.m. 4. Status of Audience Research

4:00 p.m. 5. Public Testimony Period

Items 1 and 2, which will be discussed from 10:00 a.m. to 12:00 noon, will be closed to the public. Item 1 involves discussion of classified information. Closing such deliberations to the public is justified under 5 U.S.C. 552b (c)(1). Item 2 relates solely to internal personnel rules and practices. Authority for closing such deliverations is provided by 5 U.S.C. 552b (c)(2).

Members of the public interested in attending the meeting should contact Peggy Chu (202) 485-7011 to make prior arrangements, as access to the building is controlled.

Dated: May 18, 1987.

Charles Z. Wick,

Director.

[FR Doc. 87-11707 Filed 5-19-87; 11:00 am]

BILLING CODES 8230-01-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act), notice is hereby given that the Annual Report of the Veterans Administration Wage Committee for Fiscal Year 1986 has been issued.

The report summarizes activities of the Committee on matters related to wage surveys and pay schedules for Federal prevailing rate employees. it is available for public inspection at two locations:

Federal Advisory Committee Desk, Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540.

Veterans Administration, Office of the Committee Secretary, VA Wage Committee, Room 1108, 810 Vermont Avenue, NW., Washington, DC 20420

Dated: May 6, 1987.

By Direction of the Administrator.

Roba Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-11480 Filed 5-19-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 97
Wednesday, May 20, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, May 12, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in the Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Matters relating to the possible failure of certain insured banks: Names and locations of banks authorized to be exempt from disclosure pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshile Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 13, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-11556 Filed 5-15-87; 5:08 p.m.]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 14, 1987.

TIME AND DATE: 10:00 a.m., Thursday, May 21, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *UMWA v. Ranger Fuel Corporation*, Docket No. WEVA 86-439-C. (Issues include Consideration of a petition of the United Mine Workers of America for interlocutory review).

2. *Dillard Smith v. Reco, Inc.*, Docket No. VA 86-9-D. (Issues include whether the judge erred in dismissing the discrimination complaint of Dillard Smith).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-11549 Filed 5-15-87; 4:47pm]

BILLING CODE 6735-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 15, 1987.

TIME AND DATE: 10:00 a.m., Thursday, May 21, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

3. *Alvin Ritchie v. Kodak Mining Co.*, Docket No. KENT 86-138-D. (Issues included consideration of a petition for discretionary review).

4. *Texasgulf, Inc.*, Docket Nos. WEST 85-148-M, WEST 86-83-M. (Issues include consideration of a petition for discretionary review).

It was determined by a unanimous vote of Commissioners that these items be included in this meeting and no earlier announcement of the additions was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-11590 Filed 5-18-87; 10:42 am]

BILLING CODE 6735-01-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, May 22, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. TA-406-11 (Ammonium paratungstate and tungstic acid from the People's Republic of China)—briefing and vote on injury.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

May 11, 1987.

[FR Doc. 87-11541 Filed 5-15-87; 4:28 p.m.]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, May 27, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. TA-406-11 (Ammonium paratungstate and tungstic acid from the People's Republic of China—briefing and vote on remedy (if necessary).
6. Invs. 731-TA-341, 344, and 345 (Tapered roller bearings and parts thereof from Hungary, the People's Republic of China, and Romania)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0160.

Kenneth R. Mason,

Secretary.

May 13, 1987.

[FR Doc. 87-11542 Filed 5-15-87; 4:28 pm]

BILLING CODE 7020-02-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, June 3, 1987.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of May, 1987.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523–5920.

DATES OF NOTICE: May 15, 1987.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 87–11583 Filed 5–18–87; 10:41 am]

BILLING CODE 7550–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, May 27, 1987.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first four items will be open to the public the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Charter Bus/Tractor-Semitrailer Rearend Collision Near Carney's Point, New Jersey, on September 29, 1986

2. *Marine Accident Report:* Explosion Aboard the U.S. Tank Barge TTT 103, Pascagoula, Mississippi, July 31, 1986.

3. Safety Study Proposal on Airline Pilot Selection and Initial Training Procedures.

4. Withdrawal of Recommendation to Piper Aircraft Corporation re Incorporation of Rubber Fuel Liner on Piper Pawnee Model PA–25–150 and PA–25–235 Airplanes with Fiberglass Fuel Tanks.

5. *Opinion and Order:* Administrator v. Ramsay, Docket SE–7318; disposition of respondent's appeal.

FOR MORE INFORMATION, CONTACT: H. Ray Smith, (202) 382–6525.

H. Ray Smith,

Executive Secretariat.

May 13, 1987.

[FR Doc. 87–11607 Filed 5–18–87; 10:51 am]

BILLING CODE 7533–01–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 18645 May 8, 1987]

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, May 13, 1987.

CHANGE IN THE MEETING: Rescheduling.

A open meeting scheduled for Thursday, May 21, 1987, at 10:00 a.m. has been rescheduled for Thursday, May 21 1987, at 1:00 p.m.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272–3085.

Jonathan G. Katz,

Secretary.

May 13, 1987.

[FR Doc. 87–11675 Filed 5–18–87; 3:39 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1386]

TIME AND DATE: 3 p.m. (e.d.t.), Friday, May 22, 1987.

PLACE: Chattanooga Office Complex Auditorium, Missionary Ridge Building, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on May 6, 1986.

Action Items

D—Personnel Items

1. Personal Services Contracts for Engineering Services at Browns Ferry Nuclear Plant, Requested by Office of Nuclear Power.

2. Employee Loan Agreement with G. L. Rogers Company, Inc., Bethesda, Maryland, for Services of G. L. Rogers.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, 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: May 15, 1987.

John W. Thompson,

Manager of Corporate Services.

[FR Doc. 87–11562 Filed 5–18–87; 9:03 am]

BILLING CODE 8120–01–M

Corrections

Federal Register
Vol. 52, No. 97
Wednesday, May 20, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Marketing Services; Regulatory Review

Correction

In proposed rule document 87-10113 beginning on page 16394, in the issue of Tuesday, May 5, 1987, make the following corrections:

1. On page 16394, in the second column, in the fifth line, "classification" should read "clarification".

§ 28.66 [Corrected]

2. On page 16398, in § 28.66, in the first column, in the 12th line, "F" should read "Form C".

3. On the same page, in the second column, in amendatory instruction 35, in the second line, "test" should read "text".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; University of Nebraska et al.

Correction

In notice document 87-11059 beginning on page 18262 in the issue of Thursday, May 14, 1987, make the following correction:

On page 18263, in the first column, in the second complete paragraph, in the fourth line, "400EX" should read "4000EX".

BILLING CODE 1505-01-D

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton Textile Products From the Socialist Republic of Romania Effective on January 1, 1987

Correction

In notice document 86-29209 beginning on page 47050 in the issue of Tuesday, December 30, 1986, make the following corrections:

On page 47050, in the third column, in the table, the last two entries in the right column should read "483,871 numbers" and "652,174 pounds" respectively.

BILLING CODE 1505-01-D

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Error Correction Regulations

Correction

In rule document 87-11020 beginning on page 17919 in the issue of Wednesday, May 13, 1987, make the following correction:

§ 1605.3 [Corrected]

In § 1605.3(b)(5), on page 17921, in the first column, in the first line, insert "basic" after "percent".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 87-67]

Recordation of Trade Name; Snyder Laboratories, Inc.

Correction

In notice document 87-10963 beginning on page 18039 in the issue of Wednesday, May 13, 1987, make the following correction:

On page 18040, in the first column, the **DATE** paragraph should read "May 13, 1987".

BILLING CODE 1505-01-D

federal register

Wednesday
May 20, 1987

Part II

Environmental Protection Agency

Interagency Testing Committee; Receipt of Report and Request for Comments Regarding Priority List of Chemicals; Notice

40 CFR Parts 712 and 716

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

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-41027; FRL, 3203-9]

Twentieth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Twentieth Report to the Administrator of EPA on May 1, 1987. This report, which revises and updates the Committee's priority list of chemicals, adds four chemicals to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act. The new chemicals are ethylbenzene; acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[2-bromo-4, 6-dinitro-phenyl)azo]-4-methoxy phenyl]-; acetamide, N-[5-[2-(acetyl-oxy ethyl]amino-2-[(2-chloro-4, 6-dinitrophenyl)azo]-4-methoxy phenyl]-; acetamide, N-[5-bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4, 6-dinitrophenyl)azo]-4-ethoxy phenyl]-. These chemicals are not designated for response within 12 months.

Two substances previously recommended with intent to designate, isopropanol and methyl *tert* butyl ether (51 FR 41417), are now designated for response within 12 months. The Twentieth Report is included in this notice. The Agency invites interested persons to submit written comments on the Report, and to attend a Focus Meeting to help narrow and focus the issues raised by the ITC's recommendations. Members of the public are also invited to inform EPA if they wish to be notified of subsequent public meetings on these chemicals. Additionally, EPA is soliciting interest in public participation in the consent agreement process for ethylbenzene.

DATES: Written comments should be submitted by June 19, 1987.

A Focus Meeting on ethylbenzene will be held on June 25, 1987. Submit written notice of interest in being designated an "interested party" in triplicate by June 19, 1987.

ADDRESSES: Send written submissions to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room NE G-004, 401 M Street, SW., Washington, DC 20460.

Submissions should bear the document control number (OPTS-41027).

The public record supporting this action, including comments, is available for public inspection in Rm. G-004 at the address noted above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays. The Focus Meeting will be held at EPA Headquarters, Rm. 103 NE Mall, 401 M St., SW., Washington, DC. Persons planning to attend the Focus Meeting and/or seeking to be informed of subsequent public meetings on these chemicals, should notify the TSCA Assistance Office at the address listed below. To ensure seating accommodations at the Focus Meeting, persons interested in attending are asked to notify EPA at least one week ahead of the scheduled date.

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

SUPPLEMENTARY INFORMATION: EPA has received the report of the TSCA Interagency Testing Committee to the Administrator.

I. Background

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq*; 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemical substances and mixtures may present to health and the environment.

Section 49(e) of TSCA established an Interagency Testing Committee to make recommendations to the Administrator of EPA on chemical substances and mixtures to be given priority consideration in proposing test rules under section 4(a). Section 4(e) directs the Committee to revise its list of recommendations at least every 6 months as necessary. The ITC may "designate" up to 50 substances and mixtures at any one time for priority consideration by the Agency. For such designations, the Agency must within 12 months either initiate rulemaking or issue in the **Federal Register** its reasons for not doing so. The ITC's Twentieth Report was received by the Administrator on May 1, 1987, and follows this Notice. The Report adds four substances to the TSCA section 4(e) priority list.

II. Written and Oral Comments and Public Meetings

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals. A notice is published elsewhere in today's **Federal Register** adding the substances recommended in the ITC's Twentieth Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) rule requires the reporting of unpublished health and safety studies on the listed chemicals. These chemicals will also be added to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712) published elsewhere in this issue. The section 8(a) rule requires the reporting of production volume, use, exposure, and release information on the listed chemicals.

A Focus Meeting will be held to discuss relevant issues pertaining to ethylbenzene and to narrow the range of issues/effects which will be the focus of the Agency's subsequent activities in responding to the ITC recommendations. The Focus Meeting will be held on June 25, 1987 at 1 p.m. at EPA Headquarters, Rm. 103 NE Mall, 401 M St., SW., Washington, DC. This meeting is intended to supplement and expand upon written comments submitted in response to this notice. This notice serves to invite persons interested in participating in or monitoring negotiations for the development of a consent agreement to notify EPA at the address no later than June 19, 1987. The procedures for these negotiations are described in 40 CFR 790.22.

Persons wishing to attend this meeting or subsequent meetings on these chemicals should call the TSCA Assistance Office at the toll free number listed above at least one week in advance.

All written submissions should bear the identifying docket number (OPTS-41027).

III. Status of List

In addition to adding the four recommendations to the priority list, the ITC's Twentieth Report notes that isopropanol and methyl *tert* butyl ether, which were originally recommended with intent to designate (51 FR 41417, November 14, 1986), have now been designated for response within 12 months by the ITC.

The current list contains five designated substances, one chemical recommended with intent-to-designate, and seven recommended substances.

Authority: 15 U.S.C. 2603.

Dated: May 12, 1987.

Frank D. Kover,

Acting Director, Existing Chemical Assessment Division.

Twentieth Report of the TSCA Interagency Testing Committee to the Administrators, Environmental Protection Agency

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce that may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee (ITC), composed of representatives from eight designated Federal agencies, to recommended chemical substances and mixtures (chemicals) to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules.

Section 4(e)(1)(A) of TSCA directs the Committee to recommend to the EPA Administrator chemicals to which the Administrator should give priority consideration for the promulgation of testing rules pursuant to section 4(a). The Committee is required to designate those chemicals, from among its recommendations, to which the Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a proceeding. At least every 6 months, the Committee makes those revisions in the TSCA section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

As a result of its deliberations, the Committee is revising the TSCA section 4(e) Priority List by the addition of four chemicals. The Committee also is designating two chemicals that had been recommended with intent-to-designate in the nineteenth report.

The Priority List is divided into three parts: Part A contains those recommended chemicals and groups designated for priority consideration and response by the EPA Administrator within 12 months. Part B contains chemicals and groups of chemicals recommended with intent-to-designate. This category was established by the Committee in its seventeenth report (50 FR 47603; November 19, 1985) to take advantage of rules promulgating automatic reporting requirements for non-designated ITC recommendations under the section 8(a) Preliminary Assessment rule and the TSCA section 8(d) Health and Safety Data Reporting rule. Information received following recommendation with intent-to-designate may influence the Committee to either designate or not designate the chemicals or groups of chemicals in a subsequent report to the Administrator. Part C contains chemicals and groups of chemicals that have been recommended for priority consideration by EPA without being designated for response within 12 months. The changes to the Proirity List are presented, together with the types of testing recommended, in the following Table 1:

TABLE 1.—ADDITIONS TO THE SECTION 4(E) PRIORITY LIST, MAY 1987

Chemical/Group	Recommended studies
A. Designated for response within 12 months:	
Isopropanol [1] (CAS No. 67-63-0)	Health Effects: Genotoxicity, including tests for mutagenicity in mammalian systems and clastogenicity; chronic toxicity including oncogenicity.
Methyl *tert*-butyl ether [2] (CAS No. 1634-04-4)	Health Effects: Chronic inhalation toxicity including neurotoxic, hematologic and oncogenic effects. Chemical Fate: Monitoring at representative gasoline terminals and service stations.
NOTE.—Isopropanol and methyl *tert*-butyl ether were recommended with intent-to-designate by the Committee in the nineteenth report (51 FR 41417; Nov. 14, 1986).	
B. Recommended with Intent-to-designate:	
Ethylbenzene [3] (CAS No. 100-41-4)	Ecological Effects: Acute toxicity to freshwater algae and aquatic invertebrates. Acute toxicity to saltwater algae, aquatic invertebrates and fish.
C. Recommended Without Being Designated for Response Within 12 Months:	
Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-(9Cl) (CAS No. 3618-72-2); Acetamide, N-[15-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]- (9Cl) (CAS No. 3618-73-3); and Acetamide, N-[5-[bis[2-(acetyloxyethyl)]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]- (9Cl) (CAS No. 21429-43-6).	Health Effects: Subchronic toxicity; absorption and chemical disposition. Chemical Fate: Solubility in water; biodegradation under aerobic and anaerobic conditions and the identification of any relatively persistent biodegradation intermediates. Ecological Effects: Acute toxicity to fish, aquatic invertebrates, algae and benthic organisms (including filter feeders); bioconcentration in fish; chronic effects on aquatic and benthic biota, if the acute studies show toxicity at low mg/L concentration or if the dye does bioconcentrate.

CA Index Names (9CI)

1. 2-Propanol.
2. Propane, 2-methoxy-2-methyl-.
3. Benzene, ethyl.

TSCA Interagency Testing Committee

Statutory Member Agencies and Their Representatives

Council on Environmental Quality
Carroll Curtis, Member [1]
Department of Commerce
Patrick D. Cosslett, Member
Raimundo Prat, Alternate [2]
Environmental Protection Agency
John D. Walker, Member and Vice Chairperson
Laurence S. Rosenstein, Alternate
National Cancer Institute
Richard Adamson, Member
Elizabeth K. Weisburger, Alternate
National Institute of Environmental Health Sciences
James K. Selkirk, Member and Chairperson
National Institute for Occupational Safety and Health
Bryan D. Hardin, Member [3]
Rodger L. Tatken, Alternate [4]
National Science Foundation
Rodger W. Baier, Member
Jarvis L. Moyers, Alternate
Occupational Safety and Health Administration
Joseph Jarvis, Member
Stephen Mallinger, Alternate

Liaison Agencies and Their Representatives

Consumer Product Safety Commission
Lakshmi C. Mishra
Department of Agriculture
Richard M. Parry, Jr.
Elise A. B. Brown
Department of Defense
Edmund Cummings
Department of the Interior
Ronald Eisler
Food and Drug Administration
Arnold Borsetti
National Library of Medicine
Vera Hudson
National Toxicology Program
Dorothy Canter

Committee Staff

Robert H. Brink, Executive Secretary
Norma Williams, ITC Coordinator

Support Staff

Alan Carpien—Office of the General Counsel, EPA

Notes

(1) Appointed on October 6, 1986.
(2) Appointed on April 8, 1987.
(3) Appointed on March 10, 1987.
(4) Appointed on March 10, 1987.

The Committee acknowledges and is grateful for the assistance and support given the ITC by the staff of Dynamac Corporation (technical support contractor) and personnel of the EPA Office of Toxic Substances.

Chapter 1—Introduction

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94–469). The specific mandate of the Committee is to recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances and mixtures in commerce that should be given priority consideration for the promulgation of testing rules to determine their potential hazard to human health and/or the environment. TSCA specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register.** The Committee is directed by section 4(e)(1)(A) of TSCA to designate those chemicals on the Priority List to which the EPA Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a proceeding. There is no statutory time limit for EPA response regarding chemicals that ITC has recommended but not designated for response within 12 months.

At least every 6 months, the Committee makes those revisions in the section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

The Committee is composed of representatives from eight statutory member agencies and seven liaison agencies. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and priority recommendations are described in previous reports (Refs. 1 through 4).

1.2 *Committee's previous reports.* Nineteen previous reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register** (Refs. 1 through 4). Ninety-four entries (chemicals and groups of chemicals) were recommended for priority consideration by the EPA Administrator and designated for response within 12 months. In addition, six chemicals and one group of chemicals were recommended without being so designated.

1.3 *Committee's activities during this reporting period.* Between October 1, 1986 and April 17, 1987, the Committee continued to review chemicals from its fourth and fifth scoring exercises, and from nominations by Member Agencies, Liaison Agencies and State Agencies.

The Committee contacted chemical manufacturers and trade associations to request information that would be of value in its deliberations. Most of those contacted provided unpublished information on current production, exposure, uses, and effects of chemicals under study by the Committee.

During this reporting period, the Committee reviewed available information on 23 chemicals and 5 classes of chemicals. Four were selected for addition to the section 4(e) Priority List, and five were deferred indefinitely. The remaining chemicals are still under study.

In January 1987, the Committee completed its sixth scoring exercise and selected 42 chemicals for detailed reviews. A list of the selected chemicals and a request for information was published in a **Federal Register** notice on April 1, 1987 (52 FR 10409). The Committee will hold a public meeting to describe the chemical scoring and selection process and to receive comments and information on the chemicals selected for review on June 18, 1987, in Washington, DC. Details on the meeting time and location are provided in the **Federal Register** notice cited above.

1.4 *The TSCA section 4(e) Priority List.* Section 4(e)(1)(B) of TSCA directs the Committee to: ". . . make such revisions in the [priority] list as it determines to be necessary and . . . transmit them to the Administrator together with the Committee's reasons for the revisions." Under this authority, the Committee is revising the Priority List by adding four chemicals: Ethylbenzene; *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-acetamide; *N*-[5-[bis[2-(acetyloxy) ethyl]amino]-2-[2-chloro-4,6-dinitrophenyl)azo]-4-methoxyphenyl]-acetamide; and *N*-[5-bis[2-(acetyloxy) ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-acetamide. None of these chemicals is designated for response within 12 months but the Committee intends to designate ethylbenzene unless information received following recommendation influences the Committee to withhold designation. In addition, the Committee is designating for response within 12 months two chemicals that were recommended with intent-to-designate in the nineteenth report. The designated chemicals are isopropanol and methyl *tert*-butyl ether. The testing recommended for these chemicals and the rationales for the recommendations are presented in Chapter 2 of this report.

No chemcials are being removed from the Priority List at this time. Removal of

92 entries was noted in previous reports (Refs. 1 through 4).

Within the four recommendations noted in this report, thirteen entries now appear on the section 4(e) Priority List. The Priority List is divided in the following Table 2 into three parts; namely, A. Chemicals and Groups of Chemicals Designated for Response Within 12 Months, B. Chemicals and Groups of Chemicals Recommended with Intent-to-Designate, and C. Chemicals and Groups of Chemicals Recommended Without Being Designated for Response Within 12 Months. Table 2 follows:

TABLE 2.—THE TSCA SECTION 4(e) PRIORITY LIST, MAY 1987

A. Chemicals and Groups of Chemicals Recommended and Designated for Response Within 12 Months

Entry	Date of designation
1. Cyclohexane	May 1986.
2. 2,6-Di-*tert*-butylphenol	May 1986.
3. Tributyl phosphate	Nov. 1986.
4. Isopropanol	May 1987.
5. Methyl *tert*-butyl ether	May 1987.

B. Chemicals and Groups of Chemicals Recommended with Intent-to-Designate

Entry	Date of recommendation
1. Ethylbenzene	May 1987.

C. Chemicals and Groups of Chemicals Recommended Without Being Designated for Response Within 12 Months

Entry	Date of recommendation
1. 3,4-Dichlorobenzotrifluoride	May 1984.
2. Diisodecyl phenyl phosphite	Nov. 1985.
3. C.I. Disperse Blue 79	Nov. 1986.
4. Methyl ethyl ketoxime	Do.
5. *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-acetamide.	May 1987.
6. *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-acetamide.	May 1987.

C. Chemicals and Groups of Chemicals Recommended Without Being Designated for Response Within 12 Months—Continued

Entry	Date of recommendation
7. *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-acetamide.	May 1987.

References

(1) Sixteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, May 21, 1985, 50 FR 20930–20939. Includes references to Reports 1 through 15 and an annotative list of removals.

(2) Seventeenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 19, 1985, 50 FR 47603–47612.

(3) Eighteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, May 19, 1986, 51 FR 18368–18375.

(4) Nineteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 14, 1986, 51 FR 41417–41432.

Chapter 2—Recommendations of the Committee

2.1 *Chemicals recommended for priority consideration by the EPA Administrator.* As provided by section 4(e)(1)(B) of TSCA, the Committee is adding the following chemical substances to the section 4(e) Priority List: Ethylbenzene; *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[2-bromo-4,6-dinitrophenyl]azo]-4-methoxy phenyl]-acetamide; *N*-[5-bis[2-(acetyloxy)ethyl]amino]-2-[2-chloro-4,6-dinitrophenyl)-azo]-4-methoxy phenyl]-acetamide; and *N*-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-acetamide. The recommendation of these chemicals is being made after considering the factors identified in section 4(e)(1)(A) and other relevant information, as well as the professional judgment of Committee members. In addition, the Committee is designating for response within 12 months two chemical substances that were recommended with intent-to-designate in the nineteenth report. The designated chemicals are isopropanol and methyl *tert*-butyl ether.

2.2 *Chemicals designated for response within 12 months*—2.2.a *Isopropanol.* In the nineteenth report to the Administrator of EPA (51 FR 41417), isopropanol was recommended with intent-to-designate. The rationale for that recommendation appears in the nineteenth report. Information reviewed by the Committee in response to the nineteenth report includes any public comments on the Committee's recommendations; production volume, use, exposure and release information reported by manufacturers of isopropanol under the TSCA section 8(a) Preliminary Assessment rule; health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Report rule; and any unpublished and published data available to the Committee.

After reviewing the information, the Committee concluded that data are still lacking on genotoxicity and chronic toxicity. For these reasons and for the reasons previously presented (51 FR 41417) the Committee is now designating isopropanol for response within 12 months and recommending that it be tested for the following:

1. *Health effects.* Genotoxicity, including tests for mutagenicity in mammalian systems and clastogenicity; chronic toxicity including oncogenicity.

2. *Ecological effects.* None.

3. *Chemical fate.* None.

2.2.b *Methyl tert-butyl ether.* In the nineteenth report to the Administrator of EPA (51 FR 41417), methyl *tert*-butyl ether was recommended with intent-to-designate. The rationale for that recommendation appears in the nineteenth report. Information reviewed by the Committee in response to the nineteenth report includes any public comments on the Committee's recommendations; production volume, use, exposure and release information reported by manufacturers of methyl *tert*-butyl ether under the TSCA section 8(a) Preliminary Assessment rule; health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Report rule; and any unpublished and published data available to the Committee.

After reviewing the information, the Committee concluded that data are still lacking on chronic toxicity and chemical fate. For these reasons and for the reasons previously presented (51 FR

41417) the Committee is now designating methyl *tert*-butyl ether for response within 12 months and recommending that it be tested for the following:

1. *Health effects.* Chronic inhalation toxicity including neurotoxic, hematologic and oncogenic effects.

2. *Ecological effects.* None.

3. *Chemical fate.* Monitoring at representative gasoline terminals and service stations.

2.3 *Chemicals recommended with intent-to-designate—*

2.3.a *Ethylbenzene—Summary of recommended studies.* It is recommended that ethylbenzene be tested for the following:

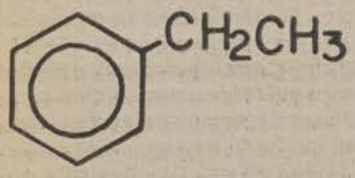
1. *Chemical fate:* None.

2. *Health effects:* None.

3. *Ecological effects:* Acute toxicity to freshwater algae and aquatic invertebrates. Acute toxicity to saltwater algae, aquatic invertebrates, and fish.

Physical and Chemical Information

CAS Number: 100–41–4
Synonyms: Phenylethane; ethylbenzol; benzene ethyl (9CI)
Structural Formula:



Empirical Formula: $CH_3CH_2C_6H_5$
Molecular Weight: 106.16
Melting Point: −95°C (Ref. 28, NRC, 1981)
Boiling Point: 136°C (Ref. 28, NRC, 1981)
Vapor Pressure: 9.57 mmHg at 25°C (Ref. 28, NRC, 1981)
Solubility in Water: 161 mg/L at 25°C (distilled water) (Ref. 28, NRC, 1981); 111 mg/L at 25°C (seawater) (Ref. 28, NRC, 1981)
Solubility in Organic Solvents: Miscible with common solvents (Ref. 26, Merck, 1983); soluble in alcohol, benzene, ether, and carbon tetrachloride (Ref. 16, Hawley, 1981)
Specific Gravity: 0.867 at 20/4°C (Ref. 37, Verschueren, 1983)
Log Octanol/Water Partition Coefficient (log P): 3.15 (Ref. 23, Leo et al., 1971)
Henry's Law Constant: 8.43×10^{-3} atm m^3/mol at 25°C (experimental) (Ref. 24, Mackay et al., 1979)
Description of Chemical: Colorless liquid (Ref. 28, NRC, 1981)

Rationale for Recommendations

I. *Exposure information*—A. *Production/use.* An estimated 7.6 billion pounds (3.4 billion kg) of ethylbenzene were produced domestically in 1986 (Ref. 25, Mannsville, 1987). Domestic production capacity in 1986 was estimated to be 9.2 to 9.7 billion pounds (4.2 to 4.4 billion kg) (Ref. 33, SRI International, 1986; Ref. 25, Mannsville, 1987). Exports of the compound in 1986 were estimated to total 75 million pounds (Ref. 25, Mannsville, 1987). Ethylbenzene is produced commercially mainly by the catalytic alkylation of benzene with ethylene (Ref. 14, CEH, 1985). Ethylbenzene is also present at a 17–20 percent concentration in the C_8 aromatic catalytic reformate ("mixed xylene") stream produced by petroleum-reforming processes, and in pyrolysis gasoline produced as a byproduct of alkene production (Ref. 28, NRC, 1981).

Almost all of the domestic production of ethylbenzene is consumed captively, by the manufacturers of ethylbenzene, in the production of styrene (Ref. 14, CEH, 1985). In 1986, consumption of ethylbenzene in the production of styrene monomer was estimated to account for 99 percent of the 7.5 billion pound (3.4 billion kg) demand for the compound. The remaining 1 percent was consumed in solvent and miscellaneous chemical intermediate applications (Ref. 25, Mannsville, 1987). The mixed xylene and pyroloysis gasoline streams containing ethylbenzene are used as blending stocks for gasoline. Mixed xylenes are also used as solvents for paints and adhesives, and as diluents for pesticide sprays (Ref. 28, NRC, 1981).

B. *Environmental release.* Ethylbenzene has been detected in ambient air, surface waters, ground water, drinking water, rain and human milk (Ref. 28, NRC, 1981). The U.S. Environmental Protection Agency issued a Water Quality Advisory on ethylbenzene in September 1986 (Ref. 36, USEPA, 1986).

Alkylbenzenes are released mainly to the atmosphere from a number of point and nonpoint sources, including petrochemical manufacturing and processing operations, solvent uses, and fuel evaporation. Evaporation from fuel and solvent uses is probably the major source of alkylbenzenes in ambient air (Ref. 28, NRC, 1981). Smaller amounts of alkylbenzenes also may be released to water and land in oil spills, solvent discharges, landfill leachates, runoff from agricultural and urban areas, and pesticide applications (Ref. 28, NRC, 1981).

II. *Chemical fate information.* Although large amounts of ethylbenzene are released to the environment, the chemical fate processes are well studied and ethylbenzene will not persist in the environment. The principal concern is for ecological effects at locations where ethylbenzene is released to the environment, where ethylbenzene may occur at significant steady-state concentrations. Therefore, chemical fate testing is not being recommended at this time.

III. *Biological effects of concern to human health.* The Committee reviewed the available information on the health effects of ethylbenzene. Planned and ongoing health effects testing by the NTP includes chemical disposition studies, subchronic and chronic oncogenicity studies and reproductive and developmental effects studies (contingent on the 90-day subchronic studies). Therefore, additional health effects testing is not being recommended at this time.

IV. *Ecological effects of concern*—A. *Acute and subchronic (short-term) effects.* Ethylbenzene is acutely toxic to freshwater organisms at concentrations of 2.1 to 210 mg/L (Ref. 2, Bobra et al., 1983; Ref. 3, Bringmann, 1973; Ref. 4, Bringmann and Kuhn, 1977a; Ref. 5, Bringmann and Kuhn, 1977b; Ref. 6, Bringmann and Kuhn, 1978a; Ref. 7, Bringmann and Kuhn, 1978b; Ref. 8, Bringmann and Kuhn, 1980a; Ref. 9, Bringmann and Kuhn, 1980b; Ref. 10, Bringmann and Kuhn, 1981; Ref. 11, Bringmann et al., 1980; Ref. 12, Buccafusco et al., 1981; Ref. 15, Geiger et al., 1986; Ref. 18, Hutchinson et al., 1979; Ref. 19, Hutchinson et al., 1980; Ref. 20, Johnson and Finley, 1980; Ref. 21, LeBlanc, 1980; Ref. 30, Pickering and Henderson, 1966).

Ethylbenzene also is acutely toxic to saltwater organisms, at concentrations of 0.42 to 323 mg/L Ref. 1, Benville and Korn, 1977; Ref. 13, Caldwell et al., 1977; Ref. 17, Heitmuller et al., 1981; Ref. 22, Legore, 1974; Ref. 27, Morrow et al., 1975; Ref. 31, Potera, 1975; Ref. 34, USEPA, 1978).

B. *Chronic (long-term) effects.* Embryo-larval forms of the fathead minnow (*Pimephales promelas)* were not adversely affected by test concentrations of 0.44 mg/L ethylbenzene (the highest concentration tested) (Ref. 35, USEPA, 1980). No other information was found regarding the chronic toxicity of ethylbenzene to aquatic organisms.

C. *Other ecological effects (biological, behavioral, or ecosystem processes).* No information was found.

D. *Bioconcentration and food-chain transport.* The bioconcentration factor for ethylbenzene is estimated to be 95, based on a log P value of 3.15.

Nunes and Benville (Ref. 29, 1979) exposed the Manila clam (*Tapes semidecussata*) to the water-soluble

fraction of Cook Inlet crude oil containing a mean concentration of 0.08 ppm ethylbenzene for 8 days in a continuous-flow bioassay. Ethylbenzene accumulated in clam tissues to a maximum concentration of 0.50 ppm. After 7 days depuration in clean water, the compound was no longer detected in the tissues (detection limit 0.13 ppm). Coho salmon (*Oncorhynchus kisutch*) and starry flounder (*Platichthys stellatus*) were exposed to the water-soluble fraction of Prudhoe Bay crude oil in flowing seawater for 6 and 2 weeks, respectively. The water-soluble fraction contained mean concentrations of 0.9 ppm total hydrocarbons, 0.005 ppm ethylbenzene, 0.2 ppm *m*-xylene, and 0.07 ppm *o*- and *p*-xylene. The maximum bioconcentration factors of the C_2-substituted benzenes (in Prudhoe Bay crude oil) were 2.4 in salmon muscle and 20 in flounder muscle. Following a depuration period of 2 weeks in clean seawater, C_2-substituted benzenes were not detected in the muscle tissue of either test organism (Ref. 32, Roubal et al., 1978).

E. *Rationale for ecological effects recommendations.* Most of the acute aquatic toxicity data were generated using static systems and nominal concentrations of ethylbenzene. If ethylbenzene volatilizes rapidly and extensively from static systems, the nominal concentrations overestimate (probably by one or two orders of magnitude) the actual LC50 or EC50 values. For example, the 48-hour daphnid LC50 for ethylbenzene was 75 mg/L when a loosely covered test vessel was used, and 2.1 mg/L when a system was used that minimized evaporation.

For some highly volatile, hydrolyzable, or degradable materials it is appropriate to use only results of flow-through tests in which the concentrations of test material in the test solutions were measured often enough using acceptable analytical methods. To provide more accurate aquatic toxicity data for assessing the acute hazards of ethylbenzene, it is recommended that acute toxicity tests be conducted with freshwater algae and aquatic invertebrates and saltwater algae, fish, and aquatic invertebrates using flow-through or static-renewal systems and measured concentrations of ethylbenzene. Also, more accurate aquatic toxicity data for ethylbenzene will be useful for the development of a revised Water Quality Advisory by the EPA Office of Water.

References

(1) Benville, P. E., Jr. and Korn, S. "The acute toxicity of six monocyclic aromatic crude oil components to striped bass (*Morone saxatilis*) and bay shrimp (*Crago franciscorum*)." *California Fish and Game.* 63:204–209 (1977).

(2) Bobra, A. M., Shiu, W. Y., and Mackay, D. "A predictive correlation for the acute toxicity of hydrocarbons and chlorinated hydrocarbons to the water flea (*Daphnia magna*)." *Chemosphere.* 12:1121–1129 (1983).

(3) Bringmann, G. "Determination of the biological damage from water pollutants from the inhibition of glucose assimilation in the bacterium *Pseudomonas fluorescens.*" *Gesundheits-Ingenieur.* 94:366–369 (1973).

(4) Bringmann, G., and Kuhn, R. "Limiting values for the damaging action of water pollutants to bacteria (*Pseudomonas putida*) and green algae (*Scenedesmus quadricauda*) in the cell multiplication inhibition test," *Zeitschrift fuer Wasser und Abwasser Forschung.* 10:87–98 (1977a).

(5) Bringmann, G. and Kuhn, R. "The toxicity of waterborne contaminants towards *Daphnia magna*," *Zeitschrift fuer Wasser und Abwasser Forschung.* 10:161–166 (1977b).

(6) Bringmann, G. and Kuhn, R. "Limiting values for the noxious effects of water pollutant material to blue algae (*Microcystis aeruginosa*) and green algae (*Secenedesmus quadricauda*) in cell propagation inhibition tests," *Vom Wasser* 50:45–60 (1978a).

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2.4 *Chemicals and groups of chemicals recommended without being designated for response within 12 months—2.4.a N-[5-[bis[2-acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-acetamide; N-[5-[bis[2-(acetyloxy)ethyl]amino]—2-[(2-chloro-4,6,-dinitrophenyl)-azo-4-methoxy phenyl]-acetamide; and N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl) azo]4-ethoxy phenyl]-acetamide—Summary of recommended studies.* It is recommended that these chemicals be tested for the following:

1. *Chemical fate.* Solubility in water at 25°C. Biodegradation under aerobic and anaerobic conditions and the identification of any relatively persistent biodegradation intermediates.

2. *Health Effects.* Absorption and chemical disposition via oral route of administration. Subchronic toxicity (90-day study).

3. *Ecological Effects.* Acute toxicity to fish, aquatic invertebrates, algae, and benthic organisms, including filter feeders. Bioconcentration in fish. Chronic effects on aquatic and benthic biota if the acute studies show toxicity at low mg/L concentrations or if the chemical bioconcentrates.

Rationale for Recommendations

In the Nineteenth Report to the EPA Administrator (5) FR 41417, the Committee recommended testing of C. I. Disperse Blue 79 (CAS No. 3956–55–6). In that report it was noted that three closely related compounds, also used as dyes, raised similar concerns. However, those related compounds were not recommended in the nineteenth report because it appeared that none was being produced or imported in substantial quantities.

Subsequent to the Nineteenth Report, it was learned that one of the closely related compounds, the bromo, methoxy analog of Disperse Blue 79 (CAS No. 3618–72–2), is produced domestically with an annual production volume of nearly 2 million pounds (9×10^5 kg) (Ref. 1, ETAD, 1987).

This new information has influenced the Committee to add the bromo, methoxy analog to the TSCA Section 4(e) Priority List. The Committee also is adding the chloro, methoxy and chloro, ethoxy analogs to the Priority List because they may be produced in significant quantities if used as substitutes for the bromo analogs in the production of commercial dyes. The Committee recommends that the three analogs be tested for the same chemical fate, health effects and ecological effects factors recommended for Disperse Blue 79 and for the same reasons presented in the Nineteenth Report.

As noted in the Nineteenth Report, there is potential for Disperse Blue 79 to be cleaved to released 2-bromo-4,6-dinitroaniline, both in the environment and *in vivo* following ingestion. The three disperse Blue 79 analogs being recommended in this Twentieth Report to the EPA Administrator have the same potential to be cleaved, releasing either 2-bromo-4,6-dinitroaniline or 2-chloro-4,6-dinitroaniline. These anilines, as noted in the Nineteenth Report, are among several anilines recommended and designated by the ITC in its Fourth Report to the EPA Administrator (44 FR 31867). If azo reduction of these dyes to yield the 2-halo-4,6-dinitroanilines is found to be a probable pathway in the environment or *in vivo*, the Committee recommends testing of the sort described by the EPA in the Advance Notice of Proposed Rulemaking (ANPR) on January 3, 1984 (49 FR 108).

Reference

(1) ETAD. Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry. Letter from E. A. Clarke, Executive Secretary, ETAD, to R. H. Brink, Executive Secretary, TSCA Interagency Testing Committee (February 12, 1987).

[FR Doc. 87–11478 Filed 5–19–87; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPTS-84026; FRL-3203-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its Twentieth Report to EPA recommended that EPA give priority consideration to four chemical substances in proposing chemical test rules. To assist EPA in its determination of which, if any, tests are needed for these substances, EPA is adding the four substances to two model information-gathering rules: The Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information rule (PAIR), and the TSCA section 8(d) Health and Safety Data Reporting Rule. The substances being given priority consideration are: Ethylbenzene, CAS No. 100–41–4; Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-, CAS No. 3618–72–2; Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-, CAS No. 3618–73–3; Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo[-4-ethoxy phenyl]-, CAS No. 21429–43–6.

DATE: This rule shall become effective on June 19, 1987.

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

SUPPLEMENTARY INFORMATION: This rule adds four chemical substances to the PAIR and section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemicals will be required to report end use, exposure, volume, and unpublished health and safety data to the Agency.

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures to be given priority consideration in proposing chemical test rules. For some of these chemical substances the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the substance or publish in the **Federal Register** its reasons for not doing so. Elsewhere in today's issue of the **Federal Register**, EPA is announcing the receipt of the Twentieth Report of the ITC, which was transmitted to EPA on May 1, 1987. The Twentieth Report revises and updates the Committee's priority list of chemicals and adds four substances to the section 4(e) priority list. This rule adds these substances to the PAIR and section 8(d) Health and Safety Data Reporting Rule which will require manufacturers, importers, and processors to report volume, end use, exposure, and unpublished health and safety data to EPA. In addition, two chemical substances which had been recommended with intent-to-designate by the ITC in its Nineteenth Report, Isopropanol, CAS No. 67–63–0, and Methyl *tert*-butyl ether, CAS No. 1634–04–4, are now designated for response within 12 months. This revision does not trigger any new reporting requirements because following the recommendation with intent-to-designate, Isopropanol and Methyl *tert*-butyl ether, were added to the PAIR and the section 8(d) Health and Safety Data Reporting Rule, as published in the **Federal Register** of November 14, 1986 (51 FR 41328).

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

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

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR Part 716. EPA has recently revised the section 8(d) model rule on September 15, 1986 (51 FR 32720). The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemical substances and mixtures to submit to EPA copies and lists of unpublished health and safety studies on the listed substances that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

II. Chemicals To Be Added

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

CAS No.	Name
100–41–4	Ethylbenzene
3618–72–2	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-
3618–73–3	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-
21429–43–6	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemicals named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each chemical and submitted to the Agency no later than August 18, 1987. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA should read § 712.30(a)(3). This section allows these persons to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this submission accepted in lieu of a current data submission.

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

B. Health and Safety Data Reporting Rule

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. A copy of each health and safety study that was previously listed as ongoing or subequently initiated and is not complete—regardless of the completion date.

Detailed guidance for reporting unpublished health and safety data is provided in the section 8(d) Health and Safety Data Reporting Rule published in the **Federal Register** of September 15, 1986 (51 FR 32720). Also found there are the reporting exemptions.

C. Submission of PAIR Reports and 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemicals From the Rules

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

IV. Release of Aggregate Data

The Agency will follow procedures for the release of aggregate statistics as prescribed in a rule related notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemption from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than August 18, 1987.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $54,796. To calculate this figure EPA used the TSCA Inventory to generate a list of manufacturers and importers of these substances. Since one company qualifies as a small business as defined in 40 CFR 712.25(c), EPA expects 38 firms to report a total of 38 reports.

Reporting Cost (dollars)

(a) 38 reports expected at $786/report	$29,868
(b) 38 familiarization cases at $656/case	24,928
Total	54,796
Average cost per site	1,442
Average cost per firm	1,442

Reporting Burden (hours)

	Hours
(a) Familiarization: 18 hours per site X 38 sites	684
(b) Reporting: 16 hours per report X 38 reports	608
Total	1,292

EPA Cost

Processing Cost = 38 reports X $88/report = $3,344

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for these substances is $22,588. This cost estimate is relatively high, because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the data is not current. Therefore, EPA intends to overestimate rather than underestimate the reporting burden.

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

The estimated reporting costs are broken down as follows:

Initial corporate review	$11,934
Site identification	1,836
File searches at affected sites	3,564
Title listing	228
Photocopying	742
Managerial review	3,672
Ongoing reporting	612
Total	22,588

VI. Rulemaking Record

The following documents constitute the public record for this rule (docket control number OPTS–84026). All of these documents are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. NE-G004, 401 M St., SW., Washington, DC.

1. This final rule.

2. The economic analyses for this rule.

3. The Twentieth Report of the Interagency Testing Committee.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

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

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

B. Paperwork Reduction Act

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

List of Subjects in 40 CFR Parts 712 and 716

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

Dated: May 12, 1987.

Frank D. Kover,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In Part 712:

a. The authority citation for Part 712 continues to read as follows:

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

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

§ 712.30 Chemical lists and reporting periods.

* * * * *

(u) A Preliminary Assessment Information Manufacturer's Report must be submitted by August 18, 1987, for each substance listed below.

CAS No.	Substance
100–41–4	Ethylbenzene
3618–72–2	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-
3618–73–3	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-
21429–43–6	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-

PART 716—[AMENDED]

2. In Part 716:

a. The authority citation for Part 716 continues to read as follows:

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

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

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

(a) * * *

(1) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
100–4–14	Ethylbenzene		6/19/87	6/19/97
3618–72–2	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-		6/19/87	6/19/97
3618–73–3	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-		6/19/87	6/19/97
21429–43–6	Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-		6/19/87	6/19/97

(2) * * *

Substance	CAS No.	Special exemptions	Effective date	Sunset date
Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-	3618–72–2		6/19/87	6/19/97
Acetamide, N-[5-bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-ethoxy phenyl]-	21429–43–6		6/19/87	6/19/97
Acetamide, N-[5-[bis[2-(acetyloxy)ethyl]amino]-2-[(2-chloro-4,6-dinitrophenyl)azo]-4-methoxy phenyl]-	3618–73–3		6/19/87	6/19/97
Ethylbenzene	100–41–4		6/19/87	6/19/97

[Approved by the office of Management and Budget under control number 2070–0004)

[FR Doc. 87–11479 Filed 5–19–87; 8:45 am]

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federal register

Wednesday
May 20, 1987

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 4100

Grazing Administration; Exclusive of Alaska; Proposed Rulemaking

DEPARTMENT OF INTERIOR

Bureau of Land Management

43 CFR Part 4100

[AA-220-87-4322-02]

Grazing Administration; Exclusive of Alaska

AGENCY: Bureau of Land Managment, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the regulations governing the administration of livestock grazing on the public lands by the Secretary of the Interior, through the Bureau of Land Management, in 2 principal ways. First, it would clarify the rule of land use plans as they relate to the authorization and modification of grazing use of the public lands. Second, it would provide for managment of livestock grazing in cooperation with grazing permittees and lessees. It would also clarify the provisions of the regulations on unauthorized grazing, and establish the value of forage consumed by unauthorized livestock consistent with current law for determining the value of forage on public lands. The proposed rulemaking would establish penalties to deter unauthorized grazing use.

The proposed rulemaking would amend the existing regulations in 43 CFR Group 4100 by: adding provisions for cancellation, suspension, and modification of Cooperative Management Agreements and Allotment Management Plans; requiring allotment management plans to prescribe livestock grazing practices that meet multiple use objectives; clarifying the relationship between the land use planning process and the livestock grazing program to ensure that land use plan objectives are achieved; reaffirming the position of the Department of the Interior on enforcement of environmental protection and conservation laws; and adding provisions for authorizing supplemental feeding as a term or condition of a grazing permit or lease, in accordance with the decision of the United States District Court for the Eastern District of California in the case of *Natural Resource Defense Council, Inc. et al. v. Hodel, et al.* The proposed rulemaking also would amend the provisions on base property and transfer of grazing preference to add procedures required in the decisions of the Office of Hearings and Appeals in the cases of *George Fasselin v. Bureau of Land Management, et al.*, and *Marius Henry Mills v. Bureau of Land Management, et al.*

DATE: Comments should be submitted, by July 20, 1987. Comments postmarked or received after the above date may not be considered in the decisionmaking process for the development of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Wilton A. Peterson, (202) 653-9210.

SUPPLEMENTARY INFORMATION: The proposed rulemaking would make many important changes in how the Secretary of the Interior (Secretary) administers livestock grazing on the public lands through the Bureau of Land Management (BLW). Livestock are grazed on public land in accordance weith 3 statutes: The Taylor Grazing Act (TGA), the Federal Land Policy and Management Act (FLPMA), and the Public Rangelands Improvement Act (PRIA). The proposed rulemaking begins with a discussion of the context of the regulations.

Since the enactment of the TGA, Congress has increased the emphasis on other uses of the public rangelands besides grazing. The Bureau of Land Management has recognized this in its regulations, and has established a mechanism in its planning system to provide for multiple use and sustained yield of all the public land resources. Land use plans provide the opportunity for the BLM and the public to decide the proper mix between livestock grazing and other uses, and guide the management of the lands for present and future use.

Today, 5 policies guide the agency in managing livestock grazing on public rangelands.

The first is selective management, which concentrates available funding and personnel on areas where management action is most needed to improve resource conditions, to resolve serious resource-use conflicts, or to invest in range improvements yielding the greatest benefit. Selective management, as applied to livestock grazing, is essentially a land categorization process designed to help BLM personnel assign management priorities among allotments or groups of allotments in a planning area. To facilitate this approach, the BLM has developed 3 categories into which allotments are grouped according to their potential to respond to management. These categories are labeled "I" for "improve", which means that the allotments will be managed intensively for improvement, "M" for "maintain", which means that current management will be sufficient to maintain conditions that are satisfactory, and "C" for "custodial", which means that minimal management sufficient to protect existing resource values will be carried on. This potential to respond to management is determined by analyzing the allotment's range condition, resource potential, presence of resource-use conflicts or controversy, opportunity for positive economic return, the present management situation, and other criteria as appropriate. The 3 categories will encompass nearly all resource situations; however, special categories may be developed for allotments or areas requiring special attention. Proposed actions for managing allotments within each category are designed to meet the respective objectives. Generally, the categorization process takes place in land use planning. Categorization criteria are developed as a public process, involving consultation with those interested in the land use plan.

The second policy that guides agency action is management by objective. Simply stated, resource management objectives describe the condition or productivity of the resources that are needed to sustain the desired mix of uses. The BLM uses these objectives to develop appropriate management actions, such as the installation of rangeland improvements or the development of allotment management plans. The BLM also uses these objectives to determine what inventory and monitoring data are needed to determine whether progress toward their achievement is being made. Again, like selective management, the approach of management by objective is premised on land use plans.

Perhaps the most overriding policy guiding the BLM in managing livestock grazing is the reliance on inventories and monitoring. A range inventory is the process of gathering data needed to describe, characterize or quantify resources over the short term. The data produced from the inventories are the basis for land-use plans and for balancing public land resources and the demand for those resources through land-use planning. These data also identify the support needed management actions, establish a baseline for measuring changes in resource conditions, and establish a

common basis for comparison among various land types and ownerships.

The inventories include soil survey and ecological site data. They identify the land according to its potential natural community and those specific physical site characteristics that make each area different from others in its ability to produce vegetation and to respond to management. The inventories, then, produce a baseline of data. In contrast, rangeland monitoring is a process for periodically observing or collecting resource data over the long term, in order to determine the effects of management actions on the rangeland resources and provide quantifiable data needed to support management decisions when alternative management actions are needed.

The studies used to monitor livestock grazing and rangeland condition fall into 4 broad categories:

Actual use data are collected to provide information concerning the actual amount of grazing use that has occurred on an area of rangeland during a specific period of time. Data on wildlife, wild horse and wild burro use also are collected. These data are essential in determining the need for, or amount of, adjustments in grazing use or in revising existing management plans.

Utilization data provide information concerning the percentage of forage that has been consumed or destroyed on an area of rangeland during a specific period of time and the grazing patterns on the allotment. Utilization data are important in evaluating the effects of grazing use on specific areas of rangeland and identifying areas of concentrated use that may be dispersed by some form of range improvement.

Trend is the directional change in kind, proportion and/or amount of plant species over time. Trend data provide information needed over the long term to determine the effectiveness of on-the-ground management actions and to evaluate progress in meeting management objectives. Trend data are useful in indicating progress in meeting management objectives. Trend data are useful in indicating whether the rangeland is moving toward or away from its potential or specific management objectives.

Climatic information is the fourth category of monitored data. Although soil, topography, and animals influence the kinds and amounts of vegetation, climate is regarded as the most important influence. Aspects of climate that might be studied include precipitation (amount, time of occurrence, and distribution), soil and air temperature, wind, and evaportranspiration rate. These data are combined with actual use, utilization and trend information to evaluate the effects of management on vegetation.

The BLM's fourth and fifth policies are range improvement and cooperative management. Range improvements have been an important part of the BLM's range management program since passage of the TGA. The policy today is straightforward: to initiate cost-effective range improvements that will improve rangeland condition for a variety of uses, including livestock grazing. The BLM is increasing funding available for new improvements by assigning maintenance responsibilities for most structural improvements to the primary beneficiaries of the improvement. Thus, if an improvement primarily benefits grazing management, the livestock operator is responsible for its maintenance. In addition, private investment in range improvements constructed on public land is encouraged.

Cooperative management, working together with rangeland users, has been part of the range management philosophy since informal boards of stockmen helped to implement the Taylor Grazing Act. Moreover, legislation passed since the TGA continues to contain language supporting cooperative range management. Other efforts at cooperative management have shown its success. Academicians and professionals support a program for cooperatively managing livestock grazing.

The proposed rulemaking would implement these 5 policies to manage livestock grazing on public lands.

The proposed rulemaking would clarify the role of land use plans in livestock grazing management as well as the appropriate considerations for establishing and changing livestock use. It would state the 3 determinations to be included in a land use plan under section 202 of the Federal Land Policy and Management Act, as it relates to livestock grazing on the public rangelands. A land use plan must first identify the current level of livestock grazing on the public rangelands. Second, a land use plan must set forth the agency's overall objectives for managing livestock grazing. Finally, a land use plan must outline generally how the agency intends to accomplish its objectives for managing livestock grazing. Its determinations on livestock grazing must be stated in a way that guides agency actions in managing the activity. A land use plan does not cast future action in concrete; rather, it provides guidance.

The proposed rulemaking would provide for the agency to specify the number of livestock and their season(s) of use by relating actual livestock use to either or both the utilization of key plant species and the trend of the rangelands' condition. The evaluation is required to produce an active use level that enables full productive use of available forage by livestock consistent with principles of multiple use and sustained yield. And, once an initial active use is specified, the agency would be required periodically to review its actual effects through rangeland studies. In this regard, the proposed rulemaking would further authorize the agency to adjust the number of livestock and the period of use where monitoring shows the actual livestock use is interfering with accomplishing management objectives. This authority would be exercised only if the agency determines that physical improvements or changes in grazing practice are either unavailable or will be ineffective in remedying the undue and unnecessary degradation the livestock use is causing.

The proposed rulemaking would also remove all references in the existing regulations to the terms "grazing capacity" and "forage allocations." Instead, it would provide for the fair apportionment among livestock operators of forage determined after land use planning to be available for grazing. However, it would retain the inherent authority of the Secretary and BLM to take whatever actions are necessary to prevent undue and unnecessary degradation of the public rangelands.

The proposed rulemaking thus would commit the BLM to supporting stability in the western livestock industry so long as livestock grazing does not cause undue and unnecessary degradation. The proposed rulemaking is designed to recognize that better range condition can be achieved by physical improvements to and more careful management of the public lands supporting livestock grazing.

The proposed rulemaking would make plain that, in the context of livestock grazing, land use plans would identify the proper mix of uses and set objectives for each of them. Plans guide rather than make decisions. Plans are not intended to set in concrete the day-to-day decisions that govern a particular use. Questions like the number of livestock to graze for a specified period on a particular allotment of the public lands under an individual permit or lease are ordinarily best left to later stages of decisionmaking. The later decisions would then be guided by a

specific activity plan, such as AMP, and by monitoring.

The proposed rulemaking would establish a new program for cooperatively managing livestock grazing with persons who are subject to the regulations of the agency. The proposed rulemaking would authorize agency personnel to enter into cooperative management agreements with qualified permittees and lessees.

The proposed rulemaking would establish incentives and rewards for permittees and lessees who agree to help make physical improvements or otherwise to assist the agency in managing livestock grazing on the public rangelands. For example, if a permittee or lessee agrees to build physical improvements on the rangelands that increase available forage for all uses there, the cooperative agreement may offer as a reward increased livestock use. Alternatively, if livestock grazing is causing undue or unnecessary degradation in part of an allotment, a cooperative agreement may require, as an alternative to reduction in livestock, that the permittee or lessee undertake a grazing prescription that rests the affected area. The rewards and incentives that may be considered in aid of cooperative relations through the agreements are purposely not defined, in order to allow the authorized officer and participating permittees or lessees the opportunity to explore any approach that makes management more effective. A cooperative management agreement as described in this paragraph would be effective legally when incorporated into a permit or lease.

Although the proposed rulemaking would convey substantial authority to work cooperatively with permittees and lessees, the agency's discretion would not be limited. First, neither the conditions that an agreement may impose on a permittee or lessee, nor the incentives or rewards provided through the document, would abrogate the agency's duty to specify the number of livestock that may graze or the season(s) of use. This duty would remain with the BLM. BLM has the authority to revise or terminate the cooperative agreement(s), or to develop new ones from time to time. This authority would be exercised in consultation and coordination with the affected party.

Both the section 2 of the Taylor Grazing Act and section 307(b) of the Federal Land Policy and Management Act expressly authorize cooperative agreements (43 U.S.C. 315a and 1737(b)). In both instances, the statutory authority is without any express limitation. The device of cooperative management is also endorsed throughout the legislative history of the Public Rangelands Improvement Act, the most recent congressional pronouncement on administering livestock grazing on the public rangelands.

A final rulemaking was published in the **Federal Register** on February 21, 1984 (49 FR 6440) which streamlined grazing regulations in 43 CFR Group 4100—Grazing Administration—Exclusive of Alaska. The effective date of that final rulemaking was March 22, 1984. The regulation changes made by the final rulemaking were challenged in the United States District Court for the Eastern District of California in the case of *Natural Resources Defense Council, Inc. et. al. v. Hodel, et. al,* No. CIV. S–84–616 RAR (1985), on the basis that the final rulemaking did not comply with statutory provisions of the Taylor Grazing Act of 1934, as amened (43 U.S.C. 315 *et. seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et. seq.),* the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 *et. seq.*), and the National Environmental Policy Act (42 U.S.C. 4321 *et. seq.),* and did not adequately address public comments as required by the Administrative Procedure Act (5 U.S.C. 551, *et. seq.*) On August 30, 1985, the court enjoined the Secretary of the Interior and the Bureau of Land Management from implementing the following provisions which were included in the final rulemaking published in the **Federal Register** on February 21, 1984, and from deleting provisions which were not included in the final rulemaking. The sections covered by the court order are as follows:

1. Cooperative Management Agreement Program—§§ 4120.1 and 4170.1–4 (1984);

2. Dilution of Allotment Management Plans—§ 4120.2 (1984) and the deletion of § 4120.2–3(a) (1983);

3. Supplemental Feeding Amendments—§ 4140.1(a)(3) (1984) and the deletion of § 4140.1(a)(3) (1983);

4. Land Use Planning Amendment—§ 4130.6–3 (1984) and the deletion of §§ 4120.2–1(c) and 4130.2(d)(3) (1983); and

5. Operator Penalty Amendments—the deletion of § 4140.1(b) (7) and (8) (1983).

On December 18, 1985, the Bureau of Land Management published a Notice of Effect of Court Order in the **Federal Register** (50 FR 51522) with an effective date of December 20, 1985, to comply with the memorandum and order of the court. One of the purposes of this proposed rulemaking is to amend the sections identified by the court so that they comply with existing statutes and the provisions of the court order.

This rulemaking is also proposed in response to the decision of the Interior Board of Land Appeals in the cases of *George Fasselin* v. *Bureau of Land Management,* et. al, Utah 060–83–01 & 080–83–01 and *Marius Henry Mills* v. *Bureau of Land Management, et. al.* Utah 060–83–02 and 080–83–02. On September 11, 1985, the Office of Hearings and Appeals reversed a decision of Area Managers in the Moab and Vernal, Utah, BLM Districts dated April 6, 1983, that rejected transfer applications filed by Fasselin and Mills to transfer a grazing preference because the transferor did not own the base property at the time of application. The Administrative Law Judge ruled the Area Managers had relied on the Bureau Manual Handbook to conclude that the grazing preferences were automatically lost for failure to comply with Manual requirements. The Manual required that an application to transfer the grazing preferences from one base property to another must be filed prior to loss of the ownership or control of the original base property. The Administrative Law Judge found that this requirement has been deleted from the regulations in 1978 and that no specific regulatory provisions presently exist to support the decisions. Section 3 of the Taylor Grazing Act provides that preference shall be given to landowners or lessees engaged in the livestock business. Therefore, this proposed rulemaking also would amend §§ 4110.2–1 and 4110.2–3 on base property and transfer of grazing preference to clarify that the applicant transferring a grazing preference must own or control the base property at the time the application is filed.

The specific changes in the regulations are proposed as follows:

Definitions—Section 4100.0–5

The proposed rulemaking would add a definition for "active use", because the term is used in § 4110.3 and elsewhere as a baseline for making changes in grazing preferences, and because it is necessary to list the different types of grazing authorizations. Definitions of "monitoring," "rangeland studies," "actual use," "actual use report," "utilization," and "trend" would be added or amended. These terms are used in the portions of the proposed rulemaking dealing with changes in a grazing preference.

The proposed rulemaking would revise the definition of the term "range improvement" to conform with the definition in the Public Rangelands Improvement Act, and would amend the

definition of "cooperative management agreement" to include the continuing management role of the Bureau of Land Management, as well as the responsibilities of the grazier, as the subjects of these agreements. The proposed rulemaking also would include a technical amendment to make it clear that "land use plans" include only resource management plans or management framework plans, and would delete the definition of "livestock grazing capacity" because this term is not used in the proposal.

Land Use Plans—Section 4100.0–8

A new section would be added to make it clear that grazing is to be managed under the general guidance of land use plans prepared by BLM in accordance with the principles of multiple use and sustained yield.

Base Property, Transfer of Grazing Preference—Sections 4110.2–1 and 4110.2–3

Prior to July 5, 1978, the grazing regulations provided that "[i]f a licensee or permittee loses ownership or control of . . . [a]ll or part of his base property, the license or permit, to the extent it was based upon such lost property, shall terminate immediately without further notice . . . " (43 CFR 4115.2–1(e)(8) (1977)); and "[a] license or permittee may request a transfer of the recognized qualifications of base property then owned or controlled by . . . to property owned or controlled by another person" (43 CFR 4115.2–2(b) (1977)). Accordingly, the loss of ownership or control of base property automatically resulted in the loss of a grazing preference attached thereto unless an application was filed on time for transfer of the preference to other qualifying base property. An application for transfer of grazing preference from original base property to new base property could only be made while the original base property was within the ownership or control of the permittee or lessee.

On July 5, 1978, the grazing regulations were changed and the above two cited provisions were deleted to streamline the regulations. At the time of the issuance of the July 5, 1978 final rulemaking, it was the intent of the Bureau of Land Management to retain the same regulatory procedure as had existed prior to this date. This was carried out by making the long existing policy a part of the Bureau's Manual Handbook. The regulations in effect at the time of the decision only required the transferee to file with the authorized officer a properly completed transfer application in advance for approval. Only the Bureau Manual Handbook stated that an applicant must own or control the base property at the time the transfer application is filed with the authorized officer. In the cases of *George Fasselin* and *Marius Henry Mills* v. *Bureau of Land Management, et. al.*, the Interior Board of Land Appeals held that the Bureau Manual Handbook does not have the force and effect of law and is not binding on anyone other than Bureau personnel. Therefore, the Bureau's decision was reversed because there were no regulatory provisions to support it. In the light of this finding, this proposed rulemaking would amend § 4110.2–1 of the existing regulations by adding new paragraph (d) which would require the termination of grazing preference upon loss of ownership or control of base property, and would amend § 4110.2–3(c) of the existing regulations to specify that a lessee will not be allowed to transfer grazing preference without written consent of the owner and/or person or entity holding any encumbrance of the base property, unless the lessee established the preference by his/her livestock operations.

Specifying Grazing Preference—Section 4110.2–2

The proposed rulemaking would amend this section to make it clear that a grazing preference attaches to the base property, and require that a lease or permit specify the grazing preference pertinent to it.

Changes in grazing preference Section 4110.3

The proposed rulemaking would amend this section to require periodic review by BLM of the grazing preference specified in each permit or lease. It would further provide for changes in active use if the need is identified in an existing land use plan or circumstances disclosed by monitoring, or if necesary to prevent unnecessary or undue degradation. Active use that is reduced is to be held in suspension.

Once identified in the pertinent land use plan, livestock forage would be apportioned among those holding the relevant preferences. Other sections would be amended editorially to conform to this change.

Cooperative Management Agreements—Section 4120.1

In *Natural Resources Defense Council, Inc. et al.* v. *Hodel, et al.*, which enjoined the Bureau of Land Management from implementing the provisions of the Cooperative Management Agreement program, the court decided that the agreeements abdicated the Secretary of the Interior's authority to establish appropriate numbers of livestock and proper seasons of use, to cancel, suspend, or modify permits to enforce overgrazing prohibitions, and that the agreements effectively established a permanent system for continuing grazing permits. After considering the court's decision, the Department of the Interior determined that it was never intended that the Cooperative Management Agreement program would abdicate the Secretary's responsibility under existing statutes to manage livestock grazing on the public lands. Section 307(b) of the Federal Land Policy and Management Act and section 2 of the Taylor Grazing Act give the Secretary authority to enter into cooperative agreements involving the management, protection, and development of public lands. In accordance with section 307(b), the primary objective of the cooperative management agreement program is to provide various resource users with the opportunity to participate in land management efforts by involving them in actual on-the-ground management. The cooperative management agreement is a formal, written agreement between the Bureau of Land Management and a land user or user group for shared management of a resource. The agreement would be effective under the proposed rulemaking only when it has been incorporated in a permit of lease, and would be renewed concurrently with renewal of the permit or lease if evaluations and monitoring show that the terms and conditions of the agreement have been complied with. The objectives of the cooperative management agreement program with livestock operators are to recognize operators who have improved resource conditions within their allotments by conscientiously applying grazing management practices which also accommodate other uses, and to provide to those operators the opportunity to participate in selecting grazing management practices on their individual grazing areas. Eligibility for the program is based upon both the condition of the grazing allotment and the willingness of the livestock operator to cooperate. Allotment criteria are: (1) The allotment is in satisfactory condition with no serious conflicts among uses; (2) multiple-use and sustained yield objectives are being achieved through current Bureau of Land Management and operator management actions; and (3) the final grazing environmental impact statement for the area is completed and the associated land use plan approved. In approving an agreement, the Bureau

would retain its ultimate responsibility for the land through terms and conditions in each agreement, and periodic monitoring of resource conditions. A cooperative management agreement does not allow a cooperator to manage, limit, or exclude other uses of an area nor does it exempt the cooperator from complying with existing laws and regulations affecting public land use. The cooperative management agreement is another tool for the Bureau to involve both individual users and interest groups in a greater role in public land management. In response to the court's decision, the proposed rulemaking would include this interpretation of the cooperative management program.

Section 4120.2—Allotment Management Plans

The court ruled that changing the wording from "prescribe a system of grazing" to "describe livestock grazing practices" constituted a policy change which no longer permitted the Bureau of Land Management to provide specific conditions such as grazing systems, stocking rates, grazing season dates, etc.

The intent of the revisions made by the final rulemaking of March 22, 1984, was to provide for methods, in addition to rotation grazing systems, that may be used to achieve management objectives.

To make clear that the allotment management plan is intended to be the vehicle through which land use plan and management objectives are achieved, and that it is a document binding upon both the permittee and the agency, § 4120.2(a) of the final rulemaking of March 22, 1984, would be amended to change the word "describe" to "prescribe". However, the words "grazing management practices" would be retained. Each allotment may not need a specific pasture rotation system to achieve management objectives. In many cases, improved livestock distribution, reduced livestock numbers, or changes in grazing seasons will achieve the desired results.

The court also ruled that incorporating the provisions of § 4130.6 into the terms and conditions of an allotment management plan did not also incorporate the provisions of §§ 4130.6–1, 4130.6–2, and 4130.6–3, which provide for mandatory and other optional terms and conditions, and for their modification. Section 4120.2(a) would be amended to include these provisions.

Assignment of Range Improvements—Section 4120.3–5

The proposed rulemaking would amend this section to remove the term "fair market value" and the last sentence, which are unnecessary because the parties involved reach agreement on the value of the range improvements while contracting for the transfer of the grazing preference. Without such an agreement, there would not be a transfer or assignment application.

Terms and Conditions—Section 4130.6

In enjoining the Bureau of Land Management for deleting §§ 4120.2–1(c) and 4130.2(d)(3) of the grazing regulations as they existed prior to the effective date of the final rulemaking of March 22, 1984, which provided for the cancellation, suspension, or modification of permits or leases as required by land use plans, and enjoining the implementation of §§ 4130.6–3 as set fourth in the final rulemaking of March 22, 1984, the court found that the Bureau did not adequately explain or justify the purpose of the revision. The court held that the Bureau had not: (1) Responded to objections concerning elimination of authority to cancel or suspend permits when required by land use planning; (2) provided sufficient reasons for making consistency between land use plans and grazing permits discretionary rather than mandatory; and (3) explained the need for monitoring data before action can be taken to modify the permit or lease.

After reviewing the court's decision, the Department of Interior has decided to retain the wording in §§ 4130.6–3 of the final rulemaking of March 22, 1984, for the following reasons. The livestock grazing program must, as the court described, be conducted in a manner that will achieve land use plan objectives. Section 4120.2–1(c) of the regulations as they existed prior to the effective date of the final rulemaking of March 22, 1984, read as follows: "All permits and leases shall be made subject to cancellation, suspension, or modification as required by land use plans, and subject to applicable law." This language implies that when the terms and conditions of a permit or lease are not achieving the land use plan objectives, the permit or lease must be canceled, suspended, or modified. However, it is not always necessary to cancel, suspend, or modify a permit or lease to achieve land use plan objectives, because in actual practice, actions, such as land treatment, water development or fencing, will achieve land use plan objectives without requiring a change in the terms and conditions of the permit or lease. Where action, such as cancellation, suspension, or modification, is needed to achieve land use plan objectives, provisions exist in §§ 4130.6–1(b) of the existing regulations to make grazing management practices consistent with land use plan objectives. In addition, §§ 4130.6–3 of the final rulemaking of March 22, 1984, also contains authority to modify the terms and conditions of the permit or lease to achieve land use plan objectives. The word "may" rather than "shall" is used in that section to provide flexibility and consistent grazing management to achieve land use plan objectives. This flexibility is needed because there are instances where failure to achieve land use plan objectives may not be related to the terms and conditions of the permit or lease, but rather to lack of range improvements.

Monitoring data may indicate a need to modify the terms and conditions of a permit or lease if the data shows that grazing use is preventing the achievement of management objectives. There are 4 standard range studies that constitute monitoring: (1) Actual livestock numbers and grazing days of use; (2) climate; (3) the amount of forage utilized; and (4) trend. These studies are used individually or in combination to determine whether or not management objectives are being achieved.

Section 4130.2(d)(3) of the regulations as they existed prior to the effective date of the March 22, 1984, regulations reads: "Grazing permits or leases shall be modified, suspended, or cancelled as required by land use planning decisions." As pointed out earlier in this preamble, land use planning decisions do not always require modification, suspension, or cancellation of permits and leases. Modification, suspension, and cancellation are not the only means of achieving consistency with land use plan objectives. Adequate authority is provided in §§ 4130.6–1(b) and 4130.6–3 to ensure that land use plan objectives are achieved.

Section 4130.6–1 would also be amended to require that grazing permits or leases shall be subject to terms and conditions needed to prevent undue or unnecessary degradation of resource values.

Payment of Fees—Section 4130.7–1

This section would be amended to provide for a late fee assessment in cases where grazing bills are not paid on time.

Acts Prohibited on the Public Lands—Section 4140.1

The court enjoined the Bureau of Land Management from replacing § 4140.1(a)(3) of the regulations as it existed prior to the final rulemaking of

March 22, 1984, which prohibited placing supplemental feed on public lands "without authorization", with the language of § 4140.1(a)(3) of the final rulemaking of March 22, 1984, which prohibited placing supplemental feed on public lands "in violation of the terms and conditions of the lease or permit". The court found that the "final rulemaking enabled ranchers for the first time to use supplemental feeding techniques on their allotments without prior authorization", and the "modification represented a reversal of the Secretary's longstanding position on supplemental feeding on the public lands." Furthermore, the court held the reasoning and purpose for this change were not adequately explained in response to public comments. After reviewing the decision of the court, the Department of the Interior has decided to return to the wording of the regulations as it existed prior to March 22, 1984, which prohibits placing supplemental feed on public lands without authorization.

Supplemental feeding is needed only at a specific time of year and for a specific purpose. It is used when adequate native vegetation is available for roughage requirements of animals but lacking in protein or mineral content necessary for milk production or other animal needs. The authorized officer can make provisions in the terms and conditions of a grazing permit or lease or in an allotment management plan for proper kinds, seasons, and placement of supplements.

Supplemental feeding should not be confused with maintenance feeding. The latter would allow animals to remain on public land when native vegetation is no longer in adequate supply and is not authorized.

The court also enjoined the Bureau of Land Management from deleting provisions that penalized livestock operators who violate laws concerning the protection of wild horses and burros (§ 4140.1(b)(7)) and federal or state environmental laws relating to the conservation or protection of cultural resources, air and water quality, fish and wildlife, plants, and the use of chemical toxicants (§ 4140.1(b)(8)), under the title "Operator Penalties." The court also held that the Bureau ignored the requirements of the Administrative Procedure Act, by failing to respond to public comments or explain the basis and purpose of the policy reversal. However, the court did not question the authority of the Secretary of the Interior to delete the provisions.

After reviewing the court's decision, the Department of the Interior has determined that, unlike the Bald Eagle Protection Act (16 U.S.C. 688) and the Endangered Species Act (16 U.S.C. 1540), which are retained in the final regulations because Congress clearly intended that provisions of these Acts be enforced through penalties against Federal permittees and lessees if necessary, specific penalties for the violation of the Wild Horse and Burro Act and Federal and State environmental laws are provided for in the respective statutes and do not require penalties against permittees and lessees. Such provisions should, and can, be adequately enforced by various Federal and State agencies under specific regulations designed for the implementation of these laws. Based on this review, the Department has determined that it is unnecessary to include provisions for violations of these laws in § 4140.1.

Settlement—Section 4150.3

The proposed rulemaking would amend the provisions for settlement of unauthorized livestock grazing violations. First, the existing regulations address 4 types of violations: nonwillful, willful, repeated nonwillful, and repreated willful. The number of types of violations would be reduced to 3 by removing the repeated nonwillful category. A nonwillful violation, even though it is repeated, often is beyond the control of the livestock operator, and additional penalty would be inappropriate in most cases.

Second, the proposed rulemaking would change the method for determining the value of forage consumed by unauthorized livestock that would be assessed to the violator. The fee for authorized livestock grazing on public land is set annually by the Secretary. This is considered to be the value of forage on public land, and would be the base value used to determine the amount of money due the United States for forage consumed by unauthorized livestock. As a deterrent to unauthorized livestock grazing on the public land, the base value of the forage consumed by the unauthorized livestock would be multiplied by 5 when the violation is nonwillful. The basic penalty would then be doubled when the violation is willful, and tripled for each repeated willful violation. The result would be a penalty related to the value of the forage consumed, high enough to deter further violations, and consistent with most State and local practices.

In the case of a nonwillful violation, 5 times the base value of the forage consumed would be considered adequate to cover expenses incurred by the United States to resolve the case and to serve as an incentive for the violator to take corrective action to prevent furture violations. In the case of willful and repeated willful violations, the settlement would also include full value for resource and property damages caused, and all expenses incurred by the United States in detecting, investigating, and resolving the violations.

The principal author of this proposed rulemaking is Wilton A. Peterson, Division of Rangeland Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Based upon an environmental assessment and a finding of no significant impact, it is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and no Regulatory Impact Analysis is required. The Department of the Interior has further determined that this proposed rulemaking will not have a negative effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The provisions of this proposed rulemaking are applicable to anyone who possesses a grazing permit or lease on the public lands, without regard to the size of the operation.

The information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned the following appoval numbers: Grazing Application 1004–0005, Range Improvement Permit 1004–0019; Exchange-of-Use Agreement 1004–0020; Grazing Preference Statement 1004–0041; Grazing Application-Preference Summary and Transfer 1004–0047; Actual Grazing Use Record, 1004–0051; and Cooperative Agreement 1004–0068.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management.

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315 et seq.), the Federal Land Policy and Management Act of 1976, as

amended (43 U.S.C. 1701 et seq.), and the Public Rangeland Improvement Act of 1978 (43 U.S.C. 1901 et seq.), it is proposed to amend Part 4100, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 4100—[AMENDED]

1. The authority citation for Part 4100 is revised to read.

Authority: 43 U.S.C. 315, 315a–315r, 43 U.S.C. 1701 et seq., 43 U.S.C. 1181d, unless otherwise noted.

2. Section 4100.0–5, is amended by revising the definitions of "actual use", "cooperative management agreement", "land use plan", "monitoring", and "range improvement" to read

§ 4100.0–5 Definitions.

* * * * *

"Actual; use report" means a report of the actual livestock grazing use certified to be accurate by the permittee or lessee.

* * * * *

"Cooperative managment agreement" means a document expresssing a mutual understanding between a permittee or lessee and the authorized officer that identifies the responsiblities and performance standards of the parties to the agreement.

* * * * *

"Land use plan" means a resource management plan or management framework plan developed in accordance with the provisions of the Federal Land Policy and Management Act which establishes coordinated management direction for resource uses of public lands.

* * * * *

"Monitoring" means the periodic observation or collection of data to evaluate:

(1) Effects of management actions; and

(2) Effectiveness of actions in meeting management objectives.

"Range improvement" means an authorized activity or program on or relating to rangelands which is designated to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock, wild horses and burros, and other wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means to accomplish the desired results.

* * * * *

3. Section 4100.0–5 is further amended by removing the definition for "livestock grazing capacity," and adding, in alphabetical order, the following definitions:

"Active use" means the current authorized livestock grazing use.

"Actual use" means where, how many, how long, and what kind of livestock graze on an allotment.

"Rangeland studies" means any methods accepted by the authorized officer for collecting data on actual use, utilization, climatic conditions, other special events, and trend.

"Trend" means the direction of change in kind, proportion, or amount of plant species over time.

"Utilization" means the percentage and/or pattern of forage consumption or loss during a specified period on each allotment.

4. Section 4100.0–8 is added to read as follows:

§ 4100.0–8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, in accordance with applicable land use plans. (Land use plans set forth the overall objectives for managing livestock grazing. They also outline generally the means and methods for accomplishing the stated objectives in managing the activity. Land use plans, as they relate to the livestock grazing, are intended to guide the authorized officer. The regulations in Subpart 1600 of this title detail how land use plans are developed, maintained, and revised.)

5. Section 4110.2–1 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 4110.2–1 Base property.

* * * * *

(d) If a permittee or lessee loses ownership or control of all or part of his/her base property, the permit or lease and grazing preference, to the extent it was based upon such lost property, shall terminate immediately without further notice from the authorized officer. However, if, prior to losing ownership or control of the base property, the permittee or lessee requests, in writing, that the permit or lease be extended the end of the grazing season or grazing year, the termination date may be extended as determined by the authorized officer after consultation with the new owner.

(e) Applicants who own or control base property contiguous to or cornering upon public land outside a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall, for period of 90 days after the tract has been offered for lease, have a preference right to lease the whole tract.

6. Section 4110.2–2 is revised to read as follows:

§ 4110.2–2 Specifying grazing preference.

(a) Grazing preference shall be specified in all grazing permits or grazing leases. It shall include both active use and suspended use.

(b) The grazing preference specified shall attach to the base property supporting the grazing permit or grazing lease. The animal unit months of grazing preference are attached to:

(1) The acreage of land base property on a pro rata basis, or

(2) Water base property on the basis of livestock forage production within the service area of the water.

§ 4110.2–3 [Amended]

7. Section 4110.2–3 is amended by revising paragraph (c) to read:

* * * * *

(c) If a grazing preference is being transferred from one base property to another base property, the transferee shall file with the authorized officer a properly completed transfer application for approval. If the applicant leases the base property, no transfer will be allowed without the writtent consent of the owner(s), and any person or entity holding an encumbrance of the base property from which the transfer is to be made. Such consent will not be required where the applicant for such transfer is a lessee without whose livestock operations the grazing preference would not have been established.

* * * * *

8. Section 4110.2–3 is further amended in the first sentence of paragraph (e) by changing the word "deposition" to "disposition."

9. Section 4110.2–4 is added to read as follows:

§ 4110.2–4 Allotments.

After consultation, cooperation, and coordination with permittees or lessees, the authorized officer may designate and adjust allotment boundaries.

10. In § 4110.3 the section heading is revised and text is added to read as follows:

§ 4110.3 Changes in grazing preference.

The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease. Changes in active use shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either indicated in an applicable land use plan or necessary to prevent undue

or unnecessary degradation, as determined by the authorized officer.

11. Section 4110.3–1 is revised to read as follows:

§ 4110.3–1 Increasing active use.

Additional forage may be apportioned to qualified applicants for livestock grazing use consistent with multiple-use management objectives.

(a) Additional forage temporarily available for livestock grazing use, including forage which is temporarily available within an allotment because of a change in grazing use under § 4130.1–1, may be apportioned on a nonrenewable basis.

(b) Additional forage available on a sustained yield basis for livestock grazing use shall first be apportioned in satisfaction of grazing preferences to the permittee(s) of lessee(s) authorized to graze in the allotment in which the forage is available.

(c) After consultation, cooperation, and coordination, additional forage on a sustained yield basis available for livestock grazing use over and above the preference(s) of the permittee(s) or lessee(s) in an allotment may be apportioned in the following priority to:

(1) Permittee(s) or lessee(s) in proportion to the contribution or efforts which resulted in increased forage production;

(2) Permittee(s) or lessee(s) in proportion to the amount of their grazing preference; and/or

(3) Other qualified applicants under § 4130.1–2 of this title.

12. Section 4110.3–2 is revised to read as follows:

§ 4110.3–2 Modifying or suspending grazing preference.

(a) Active use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements.

(b) When monitoring shows actual use is causing an unacceptable level or pattern of utilization or a sustained downward trend, the authorized officer shall suspend the active use to the extent he or she deems necessary, unless implementation of rehabilitation, protection, range improvements and/or changes in grazing practices while the use continues is effective in remedying the undue or unnecessary degradation.

(c) Where active use is reduced it shall be held in suspension until the authorized officer determines that active use may resume.

13. Section 4110.3–3(a) is revised to read as follows:

§ 4110.3–3 Implementing changes in grazing preference.

(a) Changes in grazing preference in excess of 10 percent shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

* * * * *

14. Section 4110.4–1 is revised to read as follows:

§ 4110.4–1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the forage available for livestock may be made available to qualified applicants at the discretion of the authorized officer. Grazing use shall be apportioned under § 4130.1–2 of this title.

15. Section 4120.1 is revised to read as follows:

§ 4120.1 Cooperative management agreements.

(a) The authorized officer may enter into a cooperative agreement with any permittee or lessee having an "M" or "I" category allotment for which there is no AMP. (Allotments are categorized into 1 of 3 types, M, I, or C. The purpose is to establish management priorities for allotments. I, M, and C is the usual order of priority for management action. To qualify for management under the terms and conditions of a cooperative management agreement, the current management on M and I allotments must be meeting or moving toward meeting the allotment management objectives.)

(b) A cooperative management agreement shall include the mutual understanding of the authorized officer and the qualified permittee or lessee about the terms and conditions that will govern livestock grazing for the duration of the permit or lease.

(c) A cooperative management agreement is of no binding effects on either party unless and until the authorized officer incorporates its provisions, in whole or in part, into the applicable permit or lease.

(d) A cooperative management agreement shall be consistent with the land use plan.

(e) A cooperative management agreement shall not empower the permittee or lessee to exceed the level or season of livestock use as specified in the agreement.

(f) The authorized officer may cancel, suspend, or modify a cooperative management agreement, in whole or in part, after consultation with the cooperating party.

(g) A cooperative management agreement is not transferable.

§ 4120.2 [Amended]

16. Section 4120.2(a) is amended by removing from where it appears in the second sentence the number "§ 4130.6" and replacing it with the numbers "§§ 4130.6, 4130.6–1, 4130.6–2 and 4130.6–3", by removing from where it appears in the second sentence the word "described" and replacing it with the word "prescribe", and by removing from where it appears in the last sentence the pharse "the collection of data that shall be used" and replacing it with the word "monitoring."

17. Section 4120.3–5 is revised to read as follows:

§ 4120.3–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for his/her interest in the authorized improvements within the allotment as of the date of the transfer.

18. Section 4130.1–2 introducing text is amended by removing from where it appears in the first sentence the phrase "livestock forage" and replacing it with "forage for livestock", by removing from where it appears in the first sentence the word "allocate" and replacing it with "authorize," and by revising paragraph (a) to read as follows:

§ 4130.1–2 Conflicting applications.

* * * * *

(a) Historical use of the public lands (see § 4130–2(d));

* * * * *

§ 4130.6 [Amended]

19. Section 4130.6 is amended by removing from where it appears the phrase "control identified in land use plans" and replacing it with the word "administration."

§ 4130.6–1 [Amended]

20. Section 4130.6–1(a) is amended by removing from where it appears in the second sentence the phrase "not exceed the livestock grazing capacity and may" and replacing it with the words "be subject to terms and conditions necessary to prevent undue or unnecessary degradation of the public lands. Livestock grazing may . . . ."

21. In § 4130.7–1, paragraph (e) is added to read as follows:

§ 4130.7-1 Payment of fees.

* * * * *

(e) Failure to pay the grazing bill on or before the date specified in the bill will result in a late fee assessment of $25.00 or 10 percent of the grazing bill, whichever is greater. Thirty days from the grazing bill due date will be allowed to make payment of the grazing bill and late fee. Failure to make payment within this 30 days may result in action by the authorized officer under § 4160.1–2.

22. Section 4140.1 is amended by reviewing paragraph (a)(3) to read:

§ 4140.1 Acts prohibited on public lands.

(a) * * *

(3) Placing supplemental feed on these lands without authorization.

* * * * *

23. Section 4150.3 is amended by revising the introductory paragraph and paragraphs (a), (b), and (c) to read as follows:

§ 4150.3 Settlement.

The authorized officer shall determine whether the violation is nonwillful, willful, or repeated willful. Where violations are repeated willful, the authorized officer may take action under § 4170.1–1 (a) or (b) of this title. The amount due for all settlements shall include the value of forage consumed as determined by paragraphs (a), (b), or (c) of this section. Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States; and all reasonable expenses incurred by the United States in detecting, investigating, and resolving violations.

(a) For nonwillful violation: 5 times the public land grazing fee per AUM established annually by the Secretary of the Interior for each AUM consumed.

(b) For willful violations: 2 times the penalty per AUM established annually for a nonwillful violation for each AUM consumed.

(c) For repeated willful violations: 3 times the penalty per AUM established annually for a nonwillful violation for each AUM consumed.

* * * * *

24. A new § 41709.1–3 is revised to read as follows:

§ 4170.1-3 Bald Eagle Protection Act and Endangered Species Act.

Violation of the Bald Eagle Protection Act or the Endangered Species Act may result in penalty under § 4170.1–1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease;

(c) The permittee or lessee has been convicted or otherwise found to be in violation of the law or regulations by a court or by final determination of any agency charged with the administration of the law where no further appeals are outstanding.

J. Steven Griles,

Assistant Secretary of the Interior.

April 23, 1987.

[FR Doc. 87–11493 Filed 5–19–87; 8:45 am]

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federal register

Wednesday
May 20, 1987

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 1987.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of May 1, 1987, of 57 deferrals contained in the five special messages of FY 1987. These messages were transmitted to the Congress on September 26, and December 15, 1986, and January 5 and 28, and March 4, 1987.

Rescissions (Table A and Attachment A)

As of May 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of May 1, 1987, $6,660.8 million in 1987 budget authority was being deferred from obligation and $3.0 million in 1987 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1987.

Information From Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986
Vol. 51, FR p. 47356, Wednesday, December 31, 1986
Vol. 52, FR p. 964, Friday, January 9, 1987
Vol. 52, FR p. 3552, Wednesday, February 4, 1987
Vol. 52, FR p. 8046, Friday, March 13, 1987.

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1987 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$5,835.8
Accepted by the Congress	0
Rejected by the Congress	5,835.8
Pending before the Congress	0

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TABLE B

STATUS OF 1987 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	11,457.6
Routine Executive releases through May 1, 1987 (OMB/Agency releases of $4,765.9 million and cumulative adjustments of $0.7 million)	-4,765.2
Overturned by the Congress	-28.6
Currently before the Congress	6,663.8 a/

a/ This amount includes $3.0 million in outlays for a Department of the Treasury deferral (D87-21).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Buildings and facilities	R87-1 R87-1A	28,000		1-5-87 1-28-87		28,000	3-16-87	
Agricultural Stabilization and Conservation Service								
Rural clean water program	R87-2	6,000		1-5-87		6,000	3-16-87	
Agricultural conservation program	R87-3	164,356		1-5-87		164,356	3-16-87	
Water bank program	R87-4	8,166		1-5-87		8,166	3-16-87	
Emergency conservation program	R87-5	10,000		1-5-87		10,000	3-16-87	
Farmers Home Administration								
Rural water and waste disposal grants	R87-6	79,500		1-5-87		79,500	3-16-87	
Rural community fire protection grants	R87-7	2,300		1-5-87		2,300	3-16-87	
Rural housing for domestic farm labor	R87-8	7,400		1-5-87		7,400	3-16-87	
Mutual and self-help housing	R87-9	8,000		1-5-87		8,000	3-16-87	
Very low income housing repair grants	R87-10	9,400		1-5-87		9,400	3-16-87	
Compensation for construction defects	R87-11	500		1-5-87		500	3-16-87	
Rural housing preservation grants	R87-12	14,400		1-5-87		14,400	3-16-87	
Soil Conservation Service								
Watershed and flood prevention operations	R87-13	96,000		1-5-87		96,000	3-16-87	
Great Plains conservation program	R87-14	8,000		1-5-87		8,000	3-16-87	
Resource conservation and development	R87-15	5,000		1-5-87		5,000	3-16-87	
Forest Service								
Land acquisition	R87-16	49,030		1-5-87		49,030	3-16-87	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs	R87-17 R87-17A	169,718 -50		1-5-87 1-28-87		169,668	3-16-87	
International Trade Administration								
Operations and administration	R87-18	11,400		1-5-87		11,400	3-16-87	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities	R87-19	58,857		1-5-87		58,857	3-16-87	
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R87-20	19,300		1-5-87		19,300	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R87-21	15,000		1-5-87		15,000	3-16-87	
Other procurement, Navy	R87-22	116,000		1-5-87		116,000	3-16-87	
Military Construction								
Military construction, Air Force	R87-23	2,750		1-5-87		2,750	3-16-87	
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
Construction, general	R87-24	7,715		1-5-87		7,715	3-16-87	
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R87-25	7,500		1-5-87		7,500	3-16-87	
Impact aid	R87-26	17,500		1-5-87		17,500	3-16-87	
Special programs	R87-27	54,980		1-5-87		54,980	3-16-87	
Office of Bilingual Education and Minority Languages Affairs								
Bilingual education	R87-28	45,886		1-5-87		45,886	3-16-87	
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R87-29	288,659		1-5-87		288,659	3-16-87	
Rehabilitation services and handicapped research	R87-30	127,455		1-5-87		127,455	3-16-87	
Office of Vocational and Adult Education								
Vocational and adult education	R87-31	432,319		1-5-87		432,319	3-16-87	
Office of Postsecondary Education								
Student financial assistance	R87-32	1,269,000		1-5-87		1,269,000	3-16-87	
Higher education	R87-33	203,050		1-5-87		203,050	3-16-87	
	R87-33A			1-28-87				
Office of Educational Research and Improvement								
Libraries	R87-34	34,500		1-5-87		34,500	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R87-35	81,800		1-5-87		81,800	3-16-87	
Fossil energy research and development	R87-36	44,464		1-5-87		44,464	3-16-87	
Energy conservation	R87-37	87,433		1-5-87				
	R87-37A	-3500		1-28-87		83,933	3-16-87	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Buildings and facilities	R87-38	500		1-5-87		500	3-16-87	
Health Resources and Services Administration								
Health resources and services	R87-39	161,210		1-5-87		161,210	3-16-87	
	R87-39A			1-28-87				
Indian health facilities	R87-40	57,100		1-5-87		57,100	3-16-87	
	R87-40A			1-28-87				
National Institutes of Health								
National Library of Medicine	R87-41	5,405		1-5-87		5,405	3-16-87	
Office of the Assistant Secretary of Health								
Public health service management	R87-42	5,000		1-5-87		5,000	3-16-87	
Departmental Management								
Policy research	R87-43	2,200		1-5-87		2,200	3-16-87	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R87-44	473,313		1-5-87		473,313	3-16-87	
Housing counseling assistance	R87-45	3,500		1-5-87		3,500	3-16-87	
Community Planning and Development								
Community development grants	R87-46	375,200		1-5-87		375,200	3-16-87	
Urban development action grants	R87-47	237,500		1-5-87		237,500	3-16-87	
Management and Administration								
Salaries and expenses	R87-48	19,042		1-5-87		19,042	3-16-87	

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R87-49	6,500		1-5-87		6,500	3-16-87	
Construction and access	R87-50	1,600		1-5-87		1,600	3-16-87	
Land acquisition	R87-51	2,700		1-5-87		2,700	3-16-87	
Bureau of Mines								
Mines and minerals	R87-52	16,594		1-5-87		16,594	3-16-87	
United States Fish and Wildlife Service								
Resource management	R87-53	20,500		1-5-87		20,500	3-16-87	
	R87-53A			1-28-87				
Construction	R87-54	23,200		1-5-87		23,200	3-16-87	
Land acquisition	R87-55	26,762		1-5-87		26,762	3-16-87	
National Park Service								
Operation of the national park system	R87-56	7,950		1-5-87		7,950	3-16-87	
Construction	R87-57	58,981		1-5-87		58,981	3-16-87	
Land acquisition	R87-58	97,638		1-5-87		97,638	3-16-87	
Historic preservation fund	R87-59	15,000		1-5-87		15,000	3-16-87	
Bureau of Indian Affairs								
Construction	R87-60	22,811		1-5-87		22,811	3-16-87	
Territorial and International Affairs								
Administration of territories	R87-61	2,500		1-5-87		2,500	3-16-87	
DEPARTMENT OF JUSTICE								
Immigration and Naturalization Service								
Salaries and expenses	R87-62	24,598		1-5-87		24,598	3-16-87	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R87-63	332,000		1-5-87		332,000	3-16-87	

Attachment A - Status of Rescissions - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF THE TREASURY								
Federal Law Enforcement Training Center Salaries and expenses.....	R87-64	8,450		1-5-87		8,450	3-16-87	
Bureau of Alcohol, Tobacco, and Firearms Salaries and expenses.....	R87-65	15,000		1-5-87		15,000	3-16-87	
United States Customs Service Salaries and expenses.....	R87-66	38,945		1-5-87		38,945	3-16-87	
ENVIRONMENTAL PROTECTION AGENCY								
Abatement, control, and compliance.....	R87-67	47,500		1-5-87		47,500	3-16-87	
Buildings and facilities.....	R87-68	2,500		1-5-87		2,500	3-16-87	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development.....	R87-69	25,796		1-5-87		25,796	3-16-87	
VETERANS ADMINISTRATION								
Medical care.....	R87-70	75,000		1-5-87		(See Note Below)		
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission Appalachian regional development programs	R87-71	31,059		1-5-87		31,059	3-16-87	
National Endowment for the Humanities National capital arts and cultural affairs	R87-72	4,000		1-5-87		4,000	3-16-87	
Selective Service System Salaries and expenses.....	R87-73	409		1-5-87		409	3-17-87	
Total, rescissions.....		5,835,751	0			5,760,751		

NOTE. - The $75 million proposed for rescission in Rescission Proposal No. R87-70 was never withheld from obligation. Therefore, there was no need to release the funds on March 16.

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D87-22	4,040,441		12-15-86	1,855,000				2,185,441
Economic support fund	D87-1	95,000		9-26-86					
	D87-1A		2,351,470	12-15-86	1,413,633				1,032,837
Military assistance	D87-23	847,000		12-15-86	381,750				465,250
International military education and training	D87-24	2,000		12-15-86	2,000				0
Agency for International Development									
Functional development assistance	D87-32	2,278		1-28-87					2,278
International disaster assistance	D87-25	57,000		12-15-86	47,566				9,434
Special Assistance for Central America									
Assistance for the Nicaraguan Democratic Resistance	D87-26	60,000		12-15-86	60,000				0
Promotion of stability and security in Central America	D87-27	1,000		12-15-86					1,000
DEPARTMENT OF AGRICULTURE									
Commodity Credit Corporation									
Temporary emergency food assistance	D87-33	28,559		1-28-87		28,559	P.L. 100-6		0
Rural Electrification Administration									
Reimbursement to the Rural electrification and telephone and revolving fund for interest subsidies and losses	D87-34	20,000		1-28-87					20,000
Forest Service									
State and private forestry	D87-35	797		1-28-87					797
Land acquisition	D87-36	27,070		1-28-87					27,070
Expenses, brush disposal	D87-2	111,202		9-26-86					
	D87-2A		1,534	3-4-87					112,736
Timber roads, purchaser election	D87-37	11,900		1-28-87					11,900
Timber salvage sales	D87-3	29,731		9-26-86	6,113			3	23,621
Cooperative work	D87-4	526,938		9-26-86					
	D87-4A		8,336	3-4-87					535,275
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86	25				175

Attachment B - Status of Deferrals - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-87
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D87-6	2,350		9-26-86					
	D87-6A		1,316,152	12-15-86	779,649				538,853
Family Housing									
Family housing, Defense	D87-7	76,943		9-26-86					
	D87-7A		190,022	12-15-86	121,758				145,207
DEPARTMENT OF DEFENSE - CIVIL									
Soldiers' and Airmen's Home									
Capital outlays	D87-38	1,132		1-28-87					1,132
Wildlife Conservation, Military Reservations									
Wildlife conservation	D87-8	1,065		9-26-86					
	D87-8A		25	1-5-87					
	D87-8B		46	3-4-87	40				1,096
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D87-9	165		9-26-86					165
Southwestern Power Administration, Operation and maintenance	D87-10	7,554		9-26-86					
	D87-10A		6,106	1-5-87					13,660
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D87-29	4,485		1-5-87					4,485
Departmental Administration									
Departmental administration	D87-30	24,182		1-5-87					24,182

Attachment B - Status of Deferrals - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-87
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian catastrophic health emergency fund..	D87-28	10,000		12-15-86					10,000
Centers for Disease Control									
Disease control, research, and training....	D87-39	2,428		1-28-87					2,428
Alcohol, Drug Abuse, and Mental Health Administration									
Alcohol, drug abuse, and mental health...	D87-40	10,000		1-28-87					10,000
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D87-11	2,900		9-26-86					2,900
Social Security Administration									
Limitation on administrative expenses (construction).....	D87-12	7,073		9-26-86					
	D87-12A		89	1-28-87		12			7,151
Limitation on administrative expenses (information technology systems).....	D87-57	134,437		3-4-87					134,437
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d).....	D87-31	49		1-5-87					49
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF LABOR									
Employment Standards Administration									
Salaries and expenses.....	D87-41	9,659		1-28-87					9,659

Attachment B - Status of Deferrals - Fiscal Year 1987

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-87
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D87-14	6,100		9-26-86					
	D87-14A		14,000	1-5-87					20,100
Other									
Assistance for implementation of a Contadora agreement.....	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Rail service assistance.....	D87-42	462		1-28-87					462
Railroad safety.....	D87-43	1,101		1-28-87	1,101				0
Conrail labor protection.....	D87-44	646		1-28-87					646
Northeast corridor improvement program.....	D87-45	16,962		1-28-87					16,962
Conrail commuter transition assistance.....	D87-46	10,000		1-28-87					10,000
Urban Mass Transportation Administration									
Research, training and human resources.....	D87-47	4,336		1-28-87					4,336
Interstate transfer grants - transit.....	D87-48	51,800		1-28-87					51,800
Federal Aviation Administration									
Operation and maintenance, Metropolitan Washington Airports.....	D87-49	12,214		1-28-87					12,214
Facilities and equipment (Airport and airway trust fund).....	D87-16	803,877		9-26-86					
	D87-16A		295,611	12-15-86	19,996				1,079,492
Coast Guard									
Research, development, test, and evaluation.....	D87-50	5,000		1-28-87					5,000
Offshore oil pollution compensation fund...	D87-51	2,154		1-28-87					2,154
Deepwater port liability fund.....	D87-52	5,176		1-28-87					5,176
Office of the Secretary									
Payments to air carriers.....	D87-53	10,748		1-28-87					10,748

As of May 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 5-1-87
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D87-17	74,149		9-26-86	71,144				3,005
Local government fiscal assistance trust fund	D87-21	5,981		9-26-86	3,714			723	2,990
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	D87-54	11,000		1-28-87					11,000
Abatement, control, and compliance	D87-55	11,400		1-28-87					11,400
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine Salaries and expenses	D87-18	100		9-26-86					100
Office of the Federal Inspector for the Alaska Natural Gas Transportation System, Salaries and expenses	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation Land acquisition and development fund	D87-20	11,873		9-26-86					11,873
United States Railway Association Administrative expenses	D87-56	1,155		1-28-87					1,155
TOTAL, DEFERRALS		7,274,185	4,183,392		4,765,912	28,559		726	6,663,832

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

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Wednesday
May 20, 1987

Part V

Environmental Protection Agency

40 CFR Part 795 et al.

Toxic Substances; Testing Requirements; Final Rules and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 796, 797, and 798

[OPTS-42079A; FRL 3202-1]

Revision of TSCA Test Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends the Toxic Substances Control Act (TSCA) test guidelines to provide more explicit guidance on the necessary minimum elements for each study.

DATE: This rule shall become effective on June 19, 1987.

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

SUPPLEMENTARY INFORMATION: EPA is revising certain provisions in 40 CFR Parts 796, 797 and 798 of the TSCA test guidelines.

I. Background

Section 4(b)(1) of TSCA requires that test rules include standards for the development of test data. In the **Federal Register** of September 27, 1985 (50 FR 39252), EPA issued guidelines to be used in developing test standards in TSCA section 4 test rules. The TSCA guidelines, which are at Parts 796 (chemical fate), 797 (environmental effects), and 798 (health effects) of Part 40 of the Code of Federal Regulations (CFR), had been previously prepared for publication by EPA as OTS test guidelines or were published as Organization for Economic Cooperation and Development (OECD) Guidelines for the Testing of Chemicals. The TSCA guidelines were developed to serve as a consensus document, reflecting expert scientific opinion, subject to peer and public review. They present generally formulated procedures for laboratory testing of an effect or characteristic deemed important for the evaluation of health and environmental hazards of a chemical. It is the intent of the Agency that when these guidelines are promulgated as standards in chemical-specific test rules they will become mandatory and enforceable.

The Agency reviewed the TSCA test guidelines of September 27, 1985, and found that certain of the suggested or recommended elements of these guidelines were often made minimum requirements for individual test rules. As a result, EPA proposed in the **Federal Register** of January 14, 1986 (51 FR 1522), that these elements be incorporated into the guidelines on a generic basis. The Agency believed that these revised guidelines would provide more explicit guidance on the minimum requirements for each study and would avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules under TSCA.

Elements for which the Agency proposed revisions pertained to minimum requirements for test procedures, analytical measurements, test conditions, animal selection (number of species to be tested, age of animals, sex, number of animals per dose level), use of controls, number of dose levels, facilities (test apparatus, dilution water, test substance delivery system, test parameters), observation period, administration of the substance, observation of animals, clinical exams, gross necropsy, histopathology, and reporting of data.

II. Provisions of Final Rule

The codified portion of this rule indicates the specific sections and paragraphs where changes in the TSCA test guidelines in 40 CFR Parts 796, 797, and 798 are made. An annotated copy of the TSCA test guidelines marking these changes is in the docket for this rulemaking. The guidelines for which revisions are made in this document are the following:

§ 796.1550 Partition coefficient (n-octanol/water).
§ 796.1840 Water solubility.
§ 796.1860 Water solubility (generator column method).
§ 796.2750 Sediment and soil adsorption isotherm.
§ 796.3100 Aerobic aquatic biodegradation.
§ 796.3140 Anaerobic biodegradability of organic chemicals.
§ 797.1050 Algal acute toxicity test.
§ 797.1300 Daphnid acute toxicity test.
§ 797.1330 Daphnid chronic toxicity test.
§ 797.1400 Fish acute toxicity test.
§ 797.1520 Fish bioconcentration test.
§ 797.1600 Fish early life stage toxicity test.
§ 797.1800 Oyster acute toxicity test.
§ 797.1830 Oyster bioconcentration test.
§ 797.1930 Mysid shrimp acute toxicity test.
§ 797.1950 Mysid shrimp chronic toxicity test.
§ 797.2150 Mallard reproduction test.
§ 798.2250 Dermal toxicity.
§ 798.2450 Inhalation toxicity.
§ 798.2650 Oral toxicity.
§ 798.3300 Oncogenicity.
§ 798.4350 Inhalation developmental toxicity.
§ 798.4420 Preliminary developmental toxicity screen.
§ 798.4700 Reproduction and fertility effects.
§ 798.4900 Developmental toxicity study.
§ 798.5200 Mouse visible specific locus test.
§ 798.5265 *Salmonella typhimurium* reverse mutation assay.
§ 798.5275 Sex-linked recessive lethal test in *Drosophila melanogaster.*
§ 798.5300 Detection of gene mutations in somatic cells in culture.
§ 798.5375 *In vivo* mammalian cytogenetics.
§ 798.5385 *In vivo* mammalian bone marrow cytogenetics tests: Chromosomal analysis.
§ 798.5395 *In vivo* mammalian bone marrow cytogenetics test: Micronucleus assay.
§ 798.5450 Rodent dominant lethal assay.
§ 798.5460 Rodent heritable translocation assays.
§ 798.6050 Functional observational battery.
§ 798.6200 Motor activity.
§ 798.6400 Neuropathology.

To conserve publication costs, EPA is not including a detailed discussion of public comments on the proposal in this preamble. EPA considered the public comments made by the 17 commenters and modified the proposal when warranted. A summary of the comments with the EPA response to these comments is contained in a separate document, which has been placed in the public record and which may be inspected at EPA in Rm. NE-G004, 401 M St., SW., Washington, DC 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. Copies of the response to public comments may be obtained by writing the Freedom of Information Officer, U.S. Environmental Protection Agency, Mail Stop (A-101), 401 M St., SW., Washington, DC 20460.

Several comments addressed issues not raised in the January 14, 1986 proposal. These comments will be retained for consideration in the update of the guidelines.

Codification of these guidelines does not impose any regulatory obligation on any person who may be subject to a test rule under section 4 of TSCA. Specific guidelines will not become mandatory test standards until they are promulgated as such in individual section 4 rulemakings. When promulgated in such test rules, the relevent TSCA test guidelines will

become test standards for only that particular section 4 rule and will not serve as generic test standards. EPA may propose modifications to the various guidelines as they are utilized for chemical-specific test rules. In each chemical-specific rule, the proposed test standards and any modifications will be subject to public comment.

III. Rulemaking Record

EPA has established a record for this rulemaking [Docket number OPTS-42079], which is available for inspection in Rm. NE-G004 at 401 M St., SW., Washington, DC 20460 from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The record includes information EPA considered in developing this rule. The record includes:

1. **Federal Register** documents pertaining to this rule.
2. Public comments.
3. The document responding to public comments.

List of Subjects in 40 CFR Parts 796, 797, and 798

Chemicals, Chemical fate, Environmental effects, Environmental protection, Health effects, Testing.

Dated: May 4, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 796—[AMENDED]

I. In Part 796:

1. The authority citation for Part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

2. The section heading "796.3100 Anaerobic Aquatic Biodegradation" in the Part 796 table of contents is revised to read "796.3100 Aerobic aquatic biodegradation."

§ 796.1550 [Amended]

3. Section 796.1550 *Partition coefficient (n-octanol/water)* is amended in paragraph (b) as follows:

a. By removing the phrase "it is recommended that" or "it is extremely important that" or "it is important that" and changing the word "be" to "shall be" wherever they appear in paragraphs (b)(1) (ii), (iii) first sentence, (iv), (vi), (ix)(A) second sentence, and (xi), and (b)(2)(i)(A) except for the first and fourth sentences.

b. By changing the word "should" to "shall" wherever it appears in paragraph (b)(3)(vii) and by revising paragraph (b)(1)(vii), to read as follows:

(vii) *Chemical analysis of the octanol and water phases.* In determining the K_{ow} value for any given solute, both the octanol and water phases shall be analyzed unless analysis of the octanol phase indicates a $\log_{10} K_{ow} > 6$ for the chemical. An analytical method shall be selected that is most applicable to the analysis of the specific chemical. Chromatographic methods are preferable because of their compound specificity in analyzing the parent chemical without interference from impurities. Whenever practicable, the chosen analytical method shall have a precision with ± 5 percent.

c. By changing the word "can" to "shall" wherever it appears in paragraphs (b)(2)(i) (A) and (C) and by revising paragraph (b)(1)(viii) to read as follows:

(viii) *Emulsion and ultracentrifugation.* Gentle shaking shall be used to minimize the formation of emulsions. Ultracentrifugation is necessary to separate troublesome emulsions and to separate the octanol and water phases unless turbidometric measurements are used to demonstrate that the emulsion is broken. Ultracentrifugation shall be carried out at 25 °C for 20 minutes in a temperature-controlled ultracentrifuge. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases shall be determined by trial-and-error experimentation.

d. By changing the word "can" to "shall" in certain sentences in paragraph (b)(3)(iv), which is revised to read as follows:

(iv) Centrifuge the samples at 25 °C for 20 minutes to break any emulsion and to separate the octanol and water phases. Evidence for breaking the emulsion and separation of the water and octanol phases can be obtained using a turbidimeter. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases shall be determined by trial-and-error experimentation.

e. By revising paragraph (b)(3)(ix) to read as follows:

(ix) For materials that reversibly ionize or protonate, determine K_{ow} at pH 5.0, 7.0, and 9.0 as described in paragraph (b)(1)(x) of this section. Follow the steps in paragraph (b)(1) (i) through (vii) of this section using the buffered aqueous solutions described in paragraph (b)(2)(i)(B) of this section. Using the acid dissociation constant and the concentration of the chemical in the aqueous phase [C_{water}], the term [ALPHA] can be calculated. The concentration of undissociated chemical can be determined from [ALPHA] and C_{water}.

f. By removing the phrase "It is extremely important that" and "it is recommended that", and changing the word "be" to "shall be" and "can" to "shall" and changing the number "0.0" to "9.0", wherever they appear in paragraph (b)(1)(x)(D) which is revised to read as follows:

(D) If a molecule dissociates or associates in octanol and water, then equation 1 under paragraph (a)(2)(i) of this section shall be modified to take into account such speciation changes as ionization, aggregation, and hydration. For the special case where no association takes place in water, equation 3 under paragraph (a)(2)(ii) of this section shall be used. For chemicals that reversibly ionize or protonate (e.g., carboxylic acids, phenols, or anilines), use equation 3 under paragraph (a)(2)(ii) of this section with water buffered at pH 5.0, 7.0, 9.0. Buffers described in paragraph (b)(2)(i)(B) of this section shall be used.

§ 796.1840 [Amended]

4. Section 796.1840 *Water solubility* is amended as follows:

a. Paragraph (b) is amended as follows:

i. By removing the phrase "it is recommended that" or "it is important that" and changing the word "be" to "shall be" wherever they appear in paragraphs (b)(1) (iii), (v), (vi)(A) first and third sentences, and (vii) first sentence and (b)(2)(ii).

ii. By changing the word "should" to "shall" wherever it appears in paragraphs (b)(1)(ix) and (b)(3)(i)(B).

iii. By changing the word "will" to "shall" wherever it appears in paragraph (b)(3)(ii)(B).

iv. By removing the phrase "it is extremely important that" and adding the word "shall" in paragraph (b)(1)(vi)(B), which is revised to read as follows:

(B) Centrifugation shall be carried out at two or three different G values (minimum of 12,000 G) for at least 30 minutes at 25 °C until concentration changes are small. For hydrophobic compounds (solubility <10 ppm), the acceleration G values shall differ by 10,000 G and include a determination of 39,000 or higher.

v. By changing the word "should" to "shall" in certain sentences in paragraph (b)(3)(i)(A), which is revised to read as follows:

(A) Dissolve a sufficient amount of the solid compound in suitable volatile organic solvent and coat on the walls of

a vessel. Viscous liquids may be coated on vessels in a similar fashion: Nonviscous liquids do not require solvents. Remove the solvent under reduced pressure or with a pure nitrogen gas stream. When all the solvent is removed, add reagent-grade water or, for compounds which reversibly ionize or protonate, the appropriate buffer solution and slowly stir or agitate the mixture under temperature control. Mixing may be accomplished by use of a Teflon-coated stirring bar and shall be continued for a minimum of 24 hours before aliquots are withdrawn. Prior to taking aliquots, the mixture shall be left to stand at constant temperature for at least 1 hour to permit separation of any small particles. To determine the concentration of the compound in the aqueous phase, aliquots shall be centrifuged at two or three different G values (minimum of 12,000 G) for at least 30 minutes at 25 °C until concentration changes are small. The concentration value so obtained is plotted against the time of mixing. At a later time, aliquots are again taken and analyzed in the same fashion to produce another data point on a concentration versus time plot. When the concentration reaches a plateau, equilibrium is assumed. For hydrophobic compounds (solubility <10 ppm) it is extremely important that the acceleration (G) values differ by 10,000 G and include a determination at 39,000 G or higher.

§ 796.1860 [Amended]

5. Section 796.1860 *Water solubility (generator column method)* is amended as follows:

a. Paragraph (b) is amended as follows:

i. By changing the word "are" to "shall be" wherever it appears in paragraph (b)(1)(i)(A).

ii. By changing the words "is recommended" to "shall be used" wherever they appear in paragraph (b)(1)(ii).

iii. By revising paragraph (b)(1)(iii) to read as follows:

(iii) *Purity of solvents.* It is important that all solvents used in this method be reagent grade or better. Solvents shall contain no impurities which could interfere with the determination of the test compound.

iv. By changing the word "should" to "shall" wherever it appears in paragraph (b)(1)(iv) and by revising paragraph (b)(1)(v) to read as follows:

(v) *Effect of pH on solubility.* For chemicals that reversibly ionize or protonate with a pK_a or pK_b between 3 and 11, experiments shall be performed at pH 5.0, 7.0, and 9.0 using appropriate buffers.

v. By removing the phrase "It is important that" and by changing the words "be dissolved" to "shall be dissolved" wherever they appear in paragraph (b)(2)(ii).

§ 796.2750 [Amended]

6. Section 796.2750 *Sediment and soil adsorption isotherm* is amended in paragraph (b) as follows:

a. The proposed change to paragraph (b)(1)(i)(A) is not being made based on comments received.

b. By changing the words "that are" to "shall be" wherever they appear in paragraph (b)(1)(i)(B).

c. By removing the phrase "It is recommended that" and by changing the word "be" to "shall be" wherever they appear in paragraphs (b)(1) (ii), (iii), and (vii) and by revising paragraph (b)(1)(vi) to read as follows:

(vi) *Solid/solution ratio.* The solid/solution ratio shall be equal to or greater than 1/10. If possible, the ratios should be equal to or greater than 1/5. The sediment or soil dry weight after drying for a 24-hour minimum at 90 °C is recommended for use as the weight of the solid for ratio and data calculations. If an insufficient amount of chemical remains in the water phase for quantification, the solid/solution ratio should be adjusted so that measurable amounts of the test chemical remain in solution.

d. By changing the phrase "It is extremely important that these" to "The following" and by changing the word "be" to "shall be" wherever they appear in paragraphs (b)(1) (iv) and (v) introductory text.

e. By revising paragraph (b)(1)(x), to read as follows:

(x) *Solvents for extraction.* It is important that the solvent used to extract the chemical from the sediment or soil is reagent grade or better. Solvents shall contain no impurities which could interfere with the determination of the test compound.

§ 796.3100 [Amended]

7. Section 796.3100 *Aerobic aquatic biodegradation* is amended as follows:

a. By changing the word "should" to "shall" wherever it appears in paragraphs (a) (4) and (6), (b)(1)(iii) and (2)(ii), and (c)(1)(iv) and (2)(i).

b. By changing the word "should" to "shall" in certain sentences in paragraph (b)(2)(vi), which is revised to read as follows:

(vi) Flasks shall be incubated in the dark to minimize both photochemical reactions and algal growth. Appropriate sterile controls or controls containing a metabolic inhibitor, such as 50 mg/l $HgCl_2$, are needed to correct for interferences due to nonbiological degradation. With volatile organic materials, sparging with CO_2-free air is performed only once, just prior to addition of the test chemical. Analyses for CO_2 evolution and DOC removal are conducted within 2 to 3 hours of sampling to minimize interferences which may occur in storage. All glassware should be free of organic carbon contaminants.

c. By changing the words "in the range of 80 to 100 percent" to "of at least 60 percent" wherever they appear in paragraph (c)(1)(v).

§ 796.3140 [Amended]

8. Section 796.3140 *Anaerobic biodegradability of organic chemicals* is amended as follows:

a. Paragraph (a) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (a) (3) and (5).

b. Paragraph (b) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (b)(1)(iii)(C), (2)(iii)(B) and (G), and (3)(i).

c. Paragraph (c)(2) is amended by adding an introductory phrase, as follows:

(2) *Test report.* The following shall be reported:

PART 797—[AMENDED]

II. In Part 797:

1. The authority citation for Part 797 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 797.1050 [Amended]

2. Section 797.1050 *Algal acute toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4)(iii) and (v) and (6)(i)(A) and by revising paragraph (c)(4)(v)(B) introductory text to read as follows:

(B) In test concentrations where growth is maximally inhibited, algistatic effects may be differentiated from algicidal effects by the following two methods for *Skeletonema* and by the second method for *Selenastrum.*

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii), which is revised to read as follows:

(ii) Algae should be exposed to five or more concentrations of the test chemical in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, and 64 mg/l). Algae shall be placed in a

minimum of three replicate test containers for each concentration of test chemical and control. More than three replicates may be required to provide sufficient quantities of test solution for determination of test substance concentration at the end of the test. Each test chamber should contain equal volumes of test solution and approximately 1×10^4 *Selenastrum* cells/ml or 7.7×10^4 *Skeletonema* cells/ml of test solution. The chemical concentrations should result in greater than 90 percent of algal growth being inhibited or stimulated at the highest concentrations of test substance compared to controls.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(iv), which is revised to read as follows: .

(iv) The test begins when algae from 5- to 10-day-old stock cultures are placed in the test chambers containing test solutions having the appropriate concentrations of the test substance. Algal growth in controls should reach the logarithmic growth phase by 96 hours. If logarithmic growth cannot be demonstrated, the test shall be repeated. At the end of 24, 48, 72, and 96 hours the algal growth response (number or weight of algal cells/ml) in all test containers and controls shall be determined by an indirect (spectrophotometry, electronic cell counters, dry weight, etc.) or a direct (actual microscopic cell count) method. Indirect methods shall be calibrated by a direct microscopic count. The percentage inhibition or stimulation of growth for each concentration, EC_{10}, EC_{50}, EC_{90} and the concentration-response curves are determined from these counts.

iv. The proposed change to paragraph (c)(6)(ii) is not being made based on comments received.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1), (2) (iii) and (vi), and (3) (ii) and (v).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(v)(A), which is revised to read as follows:

(A) Formulation and sterilization of nutrient medium used for algal culture and preparation of test solutions should conform to those currently recommended by the U.S. EPA for freshwater and marine algal bioassays. No chelating agents are to be included in the nutrient medium used for test solution preparation. Nutrient medium should be freshly prepared for algal testing and may be dispensed in appropriate volumes in test containers and sterilized by autoclaving or filtration. The pH of the nutrient medium shall be 7.5 (±0.1) for *Selenastrum* and 8.1 (±0.1) for *Skeletonema* at the start of the test and may be adjusted prior to test chemical addition with 0.1N NaOH or HCl.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(i), which is revised to read as follows:

(i) The test temperature shall be 24 °C for *Selenastrum* and 20 °C for *Skeletonema*. Excursions from the test temperature shall be no greater than ±2 °C. Temperature should be recorded hourly during the test.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii), which is revised to read as follows:

(iii) Stock algal cultures should be shaken twice daily by hand. Test containers shall be placed on a rotary shaking apparatus and oscillated at approximately 100 cycles/minute for *Selenastrum* and at approximately 60 cycles/minute for *Skeletonema* during the test. The rate of oscillation should be determined at least once daily during testing.

v. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iv) which is revised to read as follows:

(iv) The pH of nutrient medium in which algae are subcultured shall be 7.5 (±0.1) for *Selenastrum* and 8.1 (±0.1) for *Skeletonema*, and is not adjusted after the addition of the algae. The pH of all test solutions shall be measured at the beginning and end of the test.

c. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in the introductory text of paragraph (e).

ii. By revising paragraph (e)(4), to read as follows:

(4) The number of algal cells per milliliter in each treatment and control and the method used to derive these values at the beginning, 24, 48, and 72 hours, and end of the test; the percentage of inhibition or stimulation of growth relative to controls; and other adverse effect in the control and in each treatment.

iii. By revising paragraph (e)(5), to read as follows:

(5) The 96-hour EC_{10}, EC_{50}, and EC_{90} values, and when sufficient data have been generated, the 24, 48, and 72 hour LC_{50}'s and 95 percent confidence limits, the methods used to derive these values, the data used to define the shape of the concentration-response curve and the goodness-of-fit determination.

§ 797.1300 [Amended]

3. Section 797.1300 *Daphnid acute toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4) (iii) and (vi).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(viii), which is revised to read as follows:

(viii) The concentration of the test chemical in the chambers should be measured as often as is feasible during the test. In the static test the concentration of test chemical shall be measured, at a minimum, at the beginning of the test and at the end of the test in each test chamber. In the flow-through test the concentration of test chemical shall be measured at a minimum:

(A) In each chamber at the beginning of the test and at 48 hours after the start of the test;

(B) In at least one appropriate chamber whenever a malfunction is detected in any part of the test substance delivery system.

Among replicate test chambers of a treatment concentration, the measured concentration of the test chemical shall not vary more than ±20 percent.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i), which is revised to read as follows:

(i) *Test chemical.* Deionized water should be used in making stock solutions of the test chemical. Standard analytical methods should be used whenever available in performing the analyses. The analytical method used to measure the amount of test chemical in a sample shall be validated before beginning the test by appropriate laboratory practices. Any analytical method is not acceptable if likely degradation products of the test chemical, such as hydrolysis and oxidation products, give positive or negative interferences which cannot be systematically identified and corrected mathematically.

iv. By changing the word "should" to "shall" wherever it appears in paragraph (c)(4)(iv) which is revised to read as follows:

(iv) The dissolved oxygen concentration, temperature and pH shall be measured at the beginning and end of the test in each chamber.

v. By changing the word "should" to "shall" wherever it appears in paragraph (c)(4)(v), which is revised to read as follows:

(v) The test duration is 48 hours. The test is unacceptable if more than 10 percent of the control organisms are immobilized during the 48-hour test period. Each test chamber shall be checked for immobilized daphnids at 24 and 48 hours after the beginning of the test. Concentration-response curves and 24-hour and 48-hour EC_{50} values for immobilization shall be determined along with their 95 percent confidence limits.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vii), which is revised to read as follows:

(vii) Test organisms shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions. In addition, test chambers within the testing area shall be positioned in a random manner or in a way in which appropriate statistical analyses can be used to determine the variation due to placement.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(ii), which is revised to read as follows:

(ii) *Numerical.* The number of immobilized daphnids shall be counted during each definitive test. Appropriate statistical analyses should provide a goodness-of-fit determination for the concentration-response curves. A 24- and 48-hour EC_{50} and corresponding 95 percent interval shall be calculated.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii), which is revised to read as follows:

(ii) A minimum of 20 daphnids per concentration shall be exposed to five or more concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, and 64 mg/l). An equal number of daphnids shall be placed in two or more replicates. If solvents, solubilizing agents or emulsifiers have to be used, they shall be commonly used carriers and shall not possess a synergistic or antagonistic effect on the toxicity of the test chemical. The concentration of solvent should not exceed 0.1 mg/l. The concentration ranges shall be selected to determine the concentration-response curves and EC_{50} values at 24 and 48 hours. Concentration of test chemical in test solutions should be analyzed prior to use.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(i)(C) and (iv), (d)(2)(i)(A) and (C), (iii) (B) and (C), and (d)(3).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(i)(B), which is revised to read as follows:

(B) Daphnids to be used in acute toxicity tests should be cultured at the test facility. Records should be kept regarding the source of the initial stock and culturing techniques. All organisms used for a particular test shall have originated from the same culture population.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A), which is revised to read as follows:

(A) Brood daphnids shall be maintained in 100-percent dilution water at the test temperature for at least 48 hours prior to the start of the test. This is easily accomplished by culturing them in the dilution water at the test temperature. During production of neonates, daphnids should not be fed.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(iii)(A), which is revised to read as follows:

(A) Daphnids should be cultured in dilution water under similar environmental conditions to those used in the test. Organisms should be handled as little as possible. When handling is necessary it should be done as gently, carefully, and quickly as possible. During culturing and acclimation, daphnids should be observed carefully for ephippia and other signs of stress, physical damage and mortality. Dead and abnormal individuals shall be discarded. Organisms that touch dry surfaces or are dropped or injured in handling shall be discarded.

v. The proposed change to paragraph (d)(2)(ii)(A) is not being made based on comments received.

vi. The proposed change to paragraph (d)(2)(iii)(A) is not being made based on comments received.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(v), which is revised to read as follows:

(v) *Test substance delivery system.* In flow-through tests, proportional diluters, metering pump systems, or other suitable devices should be used to deliver test chemical to the test chambers. The system shall be calibrated before each test. Calibration includes determining the flow rate through each chamber and the concentration of the test chemical in each chamber. The general operation of the test substance delivery system should be checked twice during a test. The 24-hour flow through a test chamber shall be equal to at least 5 times the volume of the test chamber. During a test, the flow rates should not vary more than 10 percent from any one test chamber to another.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii), which is revised to read as follows:

(iii) The number of daphnids placed in a test chamber shall not affect test results. Loading shall not exceed 40 daphnids per liter test solution in the static system. In the flow-through test, loading limits will vary depending on the flow rate of dilution water. Loading shall not cause the dissolved oxygen concentration to fall below the recommended levels.

ix. By changing the word "should" to "shall" wherever it appears in paragraph (d)(2)(iv), which is revised to read as follows:

(iv) *Cleaning.* All test equipment and test chambers shall be cleaned before each use using standard laboratory procedures.

x. By revising paragraph (d)(3)(i), to read as follows:

(i) The test temperature shall be 20 °C. Excursions from the test temperature shall be no greater than ±2 °C.

xi. By revising paragraph (d)(3)(iv), to read as follows:

(iv) Photoperiod of 16 hours light and 8 hours darkness.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears in the introductory text of paragraph (e) and by revising paragraph (e)(4) as follows:

(4) Detailed information about the daphnids used as brood stock, including the scientific name and method of verification, age, source, treatments, feeding history, acclimation procedures, and culture method. The age of the daphnids used in the test shall be reported.

§ 797.1330 [Amended]

4. Section 797.1330 *Daphnid chronic toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraph (c)(4) and by revising paragraph (c)(4)(vii) to read as follows:

(vii) Test organisms shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions. In addition, test chambers within the testing area shall be positioned in a random manner as in a way in which appropriate statistical analyses can be used to determine the variation due to placement.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6) (i) and (ii), which are revised to read as follows:

(i) *Test chemical.* Deionized water should be used in making stock solutions of the test substance. Standard analytical methods should be used whenever available in performing the analyses. The analytical method used to measure the amount of test substance in a sample shall be validated before beginning the test by appropriate laboratory practices. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interferences which cannot be systematically identified and corrected mathematically.

(ii) *Numerical.* The number of immobilized adults, total offspring per adult, and immobilized offspring per adult shall be counted during each test. Appropriate statistical analyses should provide a goodness-of-fit determination for the adult immobilization concentration-response curves calculated on day 21. A 21-day EC_{50} based on adult immobilization and corresponding 95 percent confidence intervals shall also be calculated. Appropriate statistical tests (e.g., analysis of variance, mean separation test) should be used to test for significant chemical effects on chronic test criteria (cumulative number of immobilized adults, cumulative number of offspring per adult and cumulative number of immobilized offspring per adult) on day 21. An MATC shall be calculated using these chronic test criteria.

iii. By revising paragraph (c)(4)(v), to read as follows:

(v) The number of immobilized daphnids in each chamber shall be recorded on day 21 of the test. After offspring are produced, they shall be counted and removed from the test chambers every 2 or 3 days. Concentration-response curves, EC_{50} values and associated 95 percent confidence limits for adult immobilization shall be determined for day 21. An MATC shall be determined for the most sensitive test criteria measured (number of adult animals immobilized, number of young per adult, and number of immobilized young per adult).

iv. By revising paragraph (c)(4)(ii), to read as follows:

(ii) A minimum of 20 daphnids per concentration shall be exposed to five or more concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, 64 mg/l). An equal number of daphnids shall be placed in two or more replicates. The concentration ranges shall be selected to determine the concentration-response curves, EC_{50} values and MATC. Solutions shall be analyzed for chemical concentration at designated times during the test.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(ii)(B), (iii)(A), (iv), and (vi)(A), (2)(i)(A), (ii) (C) and (D), (iv) (B) and (C), and (3)(i)(B) and by revising paragraph (d)(1)(vi)(A) to read as follows:

(A) Brood daphnids shall be maintained in 100 percent dilution water at the test temperature for at least 48 hours prior to the start of the test. This is easily accomplished by culturing them in dilution water at the test temperature. During acclimation, daphnids shall be fed the same food as will be used for the definitive test.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A), which is revised to read as follows:

(A) Daphnids to be used in chronic toxicity tests should be cultured at the test facility. Records should be kept regarding the source of the initial stock and culturing techniques. All organisms used for a particular test shall have originated from the same culture population.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(v)(B), which is revised to read as follows:

(B) Organisms should be handled as little as possible. When handling is necessary it should be done as gently, carefully, and quickly as possible. During culturing and acclimation, daphnids should be observed carefully for ephippia and other signs of stress, physical damage, and mortality. Dead and abnormal individuals shall be discarded. Organisms that touch dry surfaces or are dropped or injured during handling shall be discarded.

iv. The proposed change to paragraph (d)(2)(ii)(A) is not being made based on comments received.

v. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(iii)(B), which is revised to read as follows:

(B) The test substance delivery system shall be calibrated before each test. Calibration includes determining the flow rate through each chamber and the concentration of the test substance in each chamber. The general operation of the test substance delivery system should be checked twice daily during a test. The 24-hour flow rate through a test chamber shall be equal to at least five times the volume of the test chamber. During a test, the flow rates shall not vary more than 10 percent from any one test chamber to another. For the renewal test, test substance dilution water shall be completely replaced at least once every 3 days.

vi. The proposed change to paragraph (d)(2)(iv)(A) is not being made based on comments received.

vii. By changing the "should" to "shall" wherever it appears in paragraph (d)(2)(v), which is revised to read as follows:

(v) *Cleaning of test system.* All test equipment and test chambers shall be cleaned before each use following standard laboratory procedures. Cleaning of test chambers may be necessary during the testing period.

viii. By revising paragraph (d)(3)(i)(A) to read as follows:

(A) The test temperature shall be 20 °C. Excursions from the test temperature shall be no greater than ±2 °C.

ix. By revising paragraph (d)(3)(ii)(A), to read as follows:

(A) The concentration of the test substance in the chambers shall be measured during the test.

x. By revising paragraph (d)(3)(ii)(B)(*3*) to read as follows:

(*3*) In at least one appropriate chamber whenever a malfunction is detected in any part of the test substance delivery system. Equal aliquots of test solution may be removed from each replicate chamber and pooled for analysis. Among replicate test chambers of a treatment concentration, the measured concentration of the test substance should not vary more than 20 percent.

xi. By revising paragraph (d)(3)(ii)(C), to read as follows:

(C) The dissolved oxygen concentration, temperature and pH shall be measured at the beginning of the test and on days 7, 14, and 21 in at least two chambers of the high, middle, low, and control test concentrations.

xii. By revising paragraph (d)(2)(i)(A)(*4*), to read as follows:

(*4*) An apparatus for providing a 16-hour light and 8-hour dark photoperiod.

xiii. By revising (d)(3)(i)(C), to read as follows:

(C) Photoperiod of 16 hours light and 8 hours darkness.

c. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraph (e).

ii. By revising paragraph (e)(4), to read as follows:

(4) Detailed information about the daphnids used as brood stock, including the scientific name and method of verification, age, source, treatments, feeding history, acclimation procedures, and culture methods. The age of the daphnids used in the test shall be reported.

iii. By removing the phrase "7, 14 or" wherever it appears in paragraph (e)(12).

iv. By removing the phrase "7, 14 and" wherever it appears in paragraph (e)(13).

v. By amending the phrase "days 7, 14 and 21" to read "day 21" wherever it appears in paragraph (e)(14).

§ 797.1400 [Amended]

5. Section 797.1400 *Fish acute toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c) (4)(iii) and (5) and by revising paragraph (c)(6)(iii)(A) to read as follows:

(iii) *Measurement of test substance.* (A) For static tests, the concentration of the test substance shall be measured at a minimum in each test chamber at each test concentration at the beginning (0-hour, before fish are added) and at the end of the test. During flow-through tests, the concentration of test substance shall be measured as follows:

(*1*) In at least the chamber of each test concentration at 0-hour.

(*2*) In at least the chamber of each test concentration at 96-hours and every 4 days thereafter, as long as the test is continued.

(*3*) In at least one appropriate chamber whenever a malfunction is detected in any part of the test substance delivery system.

(*4*) Equal aliquots of test solution may be removed from each replicate chamber and pooled for analysis.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii), which is revised to read as follows:

(ii) For exposure to each concentration of a test substance, an equal number of test fish shall be placed in two or more replicate test chambers. Test fish shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(iv), which is revised to read as follows:

(iv) Mortality data collected during the test are used to calculate a 96-hour LC_{50}. The 24-, 48-, and 72-hour values should be calculated whenever there is sufficient mortality data to determine such values. If the 96-hour LC_{50} is less than 50 percent of the estimated 48-hour LC_{50} in a flow-through test, the test shall be continued until the mean increase in mortality at any test concentration does not exceed 10 percent over a 24-hour period or until 14 days.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(v), which is revised to read as follows:

(v) Test fish shall not be fed while they are being exposed to the test substance under static conditions or during the first 96 hours of flow-through testing. If the test continues past 96 hours, the fish should be fed a suitable food at a maintenance level every other day beginning on test day 5. Any excess food and the fecal material should be removed when observed.

v. The proposed change to paragraph (c)(6)(i)(A) is not being made based on comments received.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i)(B), which is revised to read as follows:

(B) During static tests, the dissolved oxygen concentration, temperature, and pH shall be measured in each test chamber at the beginning and end of the test. The test solution volume shall not be reduced by more than 10 percent as a result of these measurements.

vii. By changing the word "should" to "shall" wherever it appears in paragraph (c)(6)(i)(C), which is revised to read as follows:

(C) During flow-through tests, dissolved oxygen, temperature and pH measurements shall be made in each chamber at the beginning and end of the test.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(iii)(C), which is revised to read as follows:

(C) The analytical methods used to measure the amount of test substance in a sample shall be validated before beginning the test. The accuracy of a method should be verified by a method such as using known additions. This involves adding a known amount of the test substance to three water samples taken from a chamber containing dilution water and the same number and species of fish as are used in the test. The nominal concentration of the test substance in those samples should span the concentration range to be used in the test.

ix. By changing the word "should" to "shall" in certain sentences of paragraph (c)(6)(iii)(G), which is revised to read as follows:

(G) Among replicate test chambers, the measured concentrations shall not vary more than 20 percent. The measured concentration of the test substance in any chamber during the test should not vary more than 30 percent from the measured concentration at time 0.

x. By changing the word "should" to "shall" wherever it appears in paragraph (c)(6)(iii)(H), which is revised to read as follows:

(H) The mean measured concentration of test substance shall be used to calculate all LC_{50}'s and to plot all concentration-response curves.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d) (1)(ii) (A), (C), and (3)(ii).

ii. By revising paragraph (d)(2)(iii) to read as follows:

(iii) *Test substance delivery system.* In flow-through tests, diluters, metering pump systems, or other suitable devices should be used to deliver the test substance to the test chambers. The system used should be calibrated before each test. Calibration includes determining the flow rate through each chamber and the concentration of the test substance delivered to each chamber. The general operation of the test substance delivery system should be checked twice daily during a test. The 24-hour flow rate through a test chamber should be a minimum of 6 tank volumes. During a test, the flow rates should not vary more than 10 percent from one test chamber to another.

iii. The proposed change to paragraph (d)(2)(vi)(A) is not being made based on comments received.

iv. The proposed change to paragraph (d)(3)(i) is not being made based on comments received.

v. By revising paragraphs (d)(3) (iii) and (iv), to read as follows:

(iii) *Temperature.* The test temperature shall be 22 °C for rainbow trout. Excursions from the test temperature shall be no greater than ±2 °C. The temperature shall be measured at least hourly in one test chamber.

(iv) *Light.* A 16-hour light and 8-hour dark photoperiod should be maintained.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears and by revising paragraph (e)(7) to read as follows:

(7) The concentrations of the test substance at each test concentration just before the start of the test and at all subsequent sampling periods.

§ 797.1520 [Amended]

6. Section 797.1520 *Fish bioconcentration test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4) (i), (ii)(B), (iii)(C), (v)(B); (vi), (vii), and (viii)(C) and (5)(i) and (ii)(C).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii)(A), which is revised to read as follows:

(A) At least one concentration shall be tested to assess the propensity of the compound to bioconcentrate. The concentration selected should not stress or adversely affect the fish and should be less than one-tenth the 96-hour or incipient LC_{50} determined from a flow-through test with fathead minnows. The test concentration shall be less than the solubility limit of the compound in water. The test concentration should be close to the potential or expected environmental concentration. The limiting factor of how low one can test is based on the detection limit of the analytical methods. The concentration of the test material in the test solution should be at least 3 times greater than the detection limit in water.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(iii)(A), which is revised to read as follows:

(A) An estimate of the length of the uptake and depuration phases should be made prior to testing. This will allow the most effective sampling schedule to be determined. The uptake phase shall continue until steady-state has been reached, but need not be longer than 28 days. The test shall continue for at least 4 days.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(iv)(A), which is revised to read as follows:

(A) The test shall not be started until the test substance delivery system has been observed to be functioning properly for at least 48 hours. This time should be sufficient to allow the test substance concentration to become equilibrated with the test exposure system. Analyses of two sets of test solution samples taken prior to test initiation should document this equilibrium (i.e., the concentrations do not vary more than 20 percent from each other). At initiation (time 0), test solution samples shall be collected immediately prior to the addition of fish to the test chambers.

v. By changing the word "should" to "shall" in certain sentences in paragraph (c)(5)(ii)(A), which is revised to read as follows:

(A) All samples shall be analyzed using EPA methods and guidelines whenever feasible. The specific methodology used shall be validated before the test is initiated. The accuracy of the method should be measured by the method of known additions. This involves adding a known amount of the test substance to three water samples taken from an aquarium containing dilution water and a number of fish equal to that to be used in the test. The nominal concentration of these samples should be the same as the concentration to be used in the test. Samples taken on 2 separate days should be analyzed. The accuracy and precision of the analytical method should be checked using reference or split samples or suitable corroborative methods of analysis. The accuracy of standard solutions should be checked against other standard solutions whenever possible.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(v)(A), which is revised to read as follows:

(A) Fish shall be fed once a day throughout the uptake and depuration phases. Feeding shall be done just after sampling to minimize the effects of the test substance present in the gut when sampling. Fish should be fed the same food at a similar quantity as they received during holding and acclimation.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(5)(ii)(D), which is revised to read as follows:

(D) When radiolabelled test compounds are used, total radioactivity shall be measured in all samples. At the end of the uptake phase, water and tissue samples should be analyzed using appropriate methodology to identify and estimate the amount of any major (>10 percent of the parent compound) degradation products or metabolites that may be present.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(i) (A), (C), and (D), and (iv), and (d)(2)(i)(A) and (3)(i).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(i)(B), which is revised to read as follows:

(B) Immature fish should be used. They shall be young enough so as not to mature during the test. Fish used in the same test should be as similar in size as possible to reduce variability. The standard deviation of the weight should be less than 20 percent of the mean (N=30).

iii. By changing the word "should" to "shall" in certain sentences in paragraphs (d)(1)(ii) (B) and (C), which are revised to read as follows:

(B) During holding, the fish should not be crowded and the dissolved oxygen concentration shall be above 60 percent saturation. Holding tanks should be kept clean and free of debris. Fish should be fed at least once a day with a food which will support their survival and growth.

(C) Fish shall be handled as little as possible. When handling is necessary, it should be done as gently, carefully, and quickly as possible using dip nets made of small mesh nylon, silk, bolting cloth, plankton netting, or other similar knotless materials. Handling equipment should be sterilized between uses by autoclaving, treating with an iodophor or with 200 mg hypochlorite/liter.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(iii), which is revised to read as follows:

(iii) *Acclimation.* If the holding water is not from the same source as the test dilution water, acclimation to the dilution water should be done over a period of 2 or more days. The fish should then be held an additional 14 days in the dilution water prior to testing. Any changes in water temperature should not exceed 3 °C per day over 72 hours. Fish shall be held for at least 2 days at the test temperature prior to testing.

v. The proposed change to paragraph (d)(2)(i)(E), is not being made based on comments received.

vi. The proposed change to paragraph (d)(3)(v) is not being made based on comments received.

vii. By changing the word "should" to "shall" in certain sentences in paragraphs (d)(2)(i) (B) and (C), which are revised to read as follows:

(B) The total hardness, alkalinity, pH, specific conductance, temperature and dissolved oxygen concentration of the dilution water shall be determined weekly. The pH should not vary more than 0.4 unit and the other parameters more than 10 percent on a monthly basis.

(C) Reconstituted soft water, if used, should be prepared by adding 4.8 g $NaHCO_3$, 3.0 g $CaSO_4$ $2H_20$, 3.0 g $MgSO_4$ and 200 mg KCl to each 100 L of deionized or glass-distilled water, or to dechlorinated tap water with a total residual chlorine concentration less than 1 μg/l. In all cases the specific conductance at 25 °C of the water source shall be less than 1 micromho/cm.

viii. By revising paragraph (d)(3)(ii) to read as follows:

(ii) *Temperature.* The test temperature shall be 22 °C. Excursions from the test

temperature shall be no greater than ± 2 °C.

c. Paragraph (e) is amended by changing the word "should" to "shall" whenever it appears.

§ 797.1600 [Amended]

7. Section 797.1600 *Fish early life stage toxicitv test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(1)(iii) introductory text and (A); (4) (i)(A), (iii), (iv), (vii), (ix), and (x), (D), (E), and (G); (5) (i), (ii) introductory text, and (iii)(D); and (6)(iii).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(i)(D), which is revised to read as follows:

(D) When embryos are received from an outside culture source (i.e., rainbow and brook trout) at a temperature at variance with the recommended test temperature they shall be acclimated to the test temperature. When eggs are received, they should be immediately unpacked and the temperature of the surrounding water determined. Sudden temperature changes should be avoided. Acclimation to the appropriate test temperature should be accomplished within a period of 6 hours, and should incorporate the use of dilution water.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(i)(E) which is revised to read as follows:

(E) Embryos should be visually inspected prior to placement in the embryo cups or screen trays. All dead embryos shall be discarded. Dead embryos can be discerned by a change in coloration from that of living embryos (e.g., trout embryos turn white when dead). During visual inspection, empty shells, opaque embryos, and embryos with fungus or partial shells attached shall be removed and discarded. If less than 50 percent of the eggs to be used appear to be healthy, all embryos in such a lot shall be discarded.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii)(B), which is revised to read as follows:

(B) Each day until hatch the embryos are visually examined. Minnow embryos may be examined with the aid of a magnifying viewer. Trout embryos should not be touched. Trout embryos should be maintained in low intensity light or in darkness until 1-week post hatch, and are usually examined with the aid of a flashlight or under low intensity light. Dead embryos should be removed and discarded. Any embryos which are heavily infected with fungus shall be discarded and shall be subtracted from the initial number of embryos used as a basis for the calculations of percentage hatch.

v. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(v)(A), which is revised to read as follows:

(A) The fathead and sheepshead minnow fry shall be fed newly hatched brine shrimp nauplii for the duration of the test at approximately 4-hour intervals three times a day during the week and twice on the weekend after the first week. Trout fry shall be fed at similar intervals and may receive live brine shrimp nauplii in addition to the trout starter food after the first week. Between days 1 and 8 after first hatching, silverside fry are fed the rotifer, *Brachionus plicatilis,* three times daily at a concentration of 5,000 to 10,000 organisms per egg cup (based on 15 fish/cup). From days 9 to 11, the fry shall be fed approximately 2,500 newly hatched brine shrimp (*Artemia*) nauplii and 5,000 to 10,000 rotifers twice daily. For the remainder of the test, the fish will be fed brine shrimp exclusively. The number of organisms used should be gradually increased to approximately 5,000 nauplii by test day 28.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(viii), which is revised to read as follows:

(viii) *Randomization.* The location of all test chambers within the test system shall be randomized. A representative sample of the test embryos should be impartially distributed by adding to each cup or screen tray no more than 20 percent of the number of embryos to be placed in each cup or screen tray and repeating the process until each cup or screen tray contains the specified number of embryos. Alternatively, the embryos can be assigned by random assignment of a small group (e.g., 1 to 5) of embryos to each embryo cup or screen tray, followed by random assignment of a second group of equal number to each cup or tray, which is continued until the appropriate number of embryos are contained in each embryo cup or screen tray. The method of randomization used shall be reported.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(x)(F), which is revised to read as follows:

(F) At termination, all surviving fish shall be measured for growth. Standard length measurements should be made directly with a caliper, but may be measured photographically. Measurements shall be made to the nearest millimeter (0.1 mm is desirable). Weight measurements shall also be made for each fish alive at termination (wet, blotted dry, and to the nearest 0.01 g for the minnows and 0.1 g for the trout). If the fish exposed to the toxicant appear to be edematous compared to control fish, determination of dry, rather than wet, weight is recommended.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(iv)(A), which is revised to read as follows:

(A) Prior to the addition of the test substance to the dilution water, it is recommended that the test substance stock solution be analyzed to verify the concentration. After addition of the test substance, the concentration of test substance should be measured at the beginning of the test in each test concentration and control(s), and at least once a week thereafter. Equal aliquots of test solution may be removed from each replicate chamber and pooled for analysis. If a malfunction in the delivery system is discovered, water samples shall be taken from the affected test chambers immediately and analyzed.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(v)(B), which is revised to read as follows:

(B) For measurement of the test substance, water samples shall be taken midway between the top, bottom, and sides of the test chamber and should not include any surface scum or material stirred up from the bottom or sides. Samples of test solutions shall be handled and stored appropriately to minimize loss of test substance by microbial degradation, photodegradation, chemical reaction, volatilization, or sorption.

x. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(v)(C), which is revised to read as follows:

(C) Chemical and physical analyses shall be performed using standardized methods whenever possible. The analytical method used to measure the concentration of the test substance in the test solution shall be validated before the beginning of the test. At a minimum, a measure of the accuracy of the method should be obtained on each of two separate days by using the method of known additions, and using dilution water from a tank containing test organisms. Three samples should be analyzed at the next-to-lowest test substance concentration. It is also desirable to study the accuracy and precision of the analytical method for test guideline determination by use of

reference (split) samples, or interlaboratory studies, and by comparison with alternative, reference, or corroborative methods of analysis.

xi. By revising paragraph (c)(1)(iii)(B) to read as follows:

(B) At least 60 embryos divided equally in such a manner that test results show no significant bias from the distributions, between the embryo incubation trays or cups for each test concentration and control (i.e., 30 per embryo cup with 2 replicates);

xii. By changing the word "should" to "shall" in certain sentences of paragraphs (c)(4)(x) (A) and (B), which are revised to read as follows:

(A) Death of embryos shall be recorded daily.

(B) When hatching commences, daily records of the number of embryos remaining in each embryo cup are required. This information is necessary to quantify the hatching success. A record of all deformed larvae shall be kept throughout the entire post-hatch exposure. Time to swim-up shall be recorded for the trout. Upon transfer of fry from the embryo cups to the test chambers, daily counts of the number of live fish should be made. At a minimum, live fish shall be counted on days 4, 11, 18, 25 and (weekly thereafter for the trout species) finally on termination of the test.

xiii. By changing the word "should" to "shall" in certain sentences of paragraphs (c)(6) (i) and (ii), which are revised to read as follows:

(i) *Analysis of water quality.* Measurement of certain dilution water quality parameters shall be performed every 6 months, to determine the consistency of the dilution water quality. In addition, if data in 30-day increments are not available to show that freshwater dilution water is constant, measurements of hardness, alkalinity, pH, acidity, conductivity, TOC or COD and particulate matter should be conducted once a week in the highest test substance concentration. Measurement of calcium, magnesium, sodium, potassium, chloride, and sulfate is desirable.

(ii) *Dissolved oxygen measurement.* The dissolved oxygen concentration shall be measured in each test chamber at the beginning of the test and at least once weekly thereafter (as long as live organisms are present) in two replicates of the control and the high, medium, and low test substance concentrations.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(ii) introductory text and (ii)(B); (2)(ii)(C), (iii)(A), (iv)(C), (vii)(C)(*1*); and (3) (i) and (iv) (A), (B), and (C).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A), which is revised to read as follows:

(A) All embryos used in the test shall be from the same source. Embryos shall be obtained from a stock cultured in-house when possible, and maintained under the same parameters as specified for the test conditions. When it is necessary to obtain embryos from an external source, caution should be exercised to ensure embryo viability and to minimize the possibility of fungal growth. A description of the brood stock history or embryo source shall be made available to EPA upon request.

iii. The proposed change to paragraph (d)(1)(ii)(C) is not being made based on comments received.

iv. The proposed change to paragraph (d)(1)(ii)(E) is not being made based on comments received.

v. The proposed change to paragraph (d)(2)(i) is not being made based on comments received.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(iv)(A), which is revised to read as follows:

(A) The choice of a specific delivery system depends upon the specific properties and requirements of the test substance. The apparatus used should accurately and precisely deliver the appropriate amount of stock solution and dilution water to the test chambers. The system selected shall be calibrated before each test. Calibration includes determining the flow rate through each chamber, and the proportion of stock solution to dilution water delivered to each chamber. The general operation of the test substance delivery system shall be checked at least twice daily for normal operation throughout the test. A minimum of five test substance concentrations and one control shall be used for each test.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(vii)(A)(*1*), which is revised to read as follows:

(*1*) A constant supply of acceptable dilution water should be available for use throughout the test. Dilution water shall be of a minimum quality such that the test species selected will survive in it for the duration of testing without showing signs of stress (e.g., loss of pigmentation, disorientation, poor response to external stimuli, excessive mucous secretion, lethargy, lack of feeding, or other unusual behavior). A better criterion for an acceptable dilution water for tests on early life stages should be such that the species selected for testing will survive, grow, and reproduce satisfactorily in it.

viii. By changing the word "should" to "shall" in certain sentences in paragraphs (d)(2)(vii)(A) (*2*), and (*3*), which are revised to read as follows:

(*2*) The concentration of dissolved oxygen in the dilution water (fresh or salt) shall be between 90 percent and 100 percent saturation. When necessary, dilution water should be aerated by means of airstones, surface aerators, or screen tubes before the introduction of the test substance.

(*3*) Water that is contaminated with undesirable microoganisms (e.g., fish pathogens) shall not be used. If such contamination is suspected, the water should be passed through a properly maintained ultraviolet sterilizer equipped with an intensity meter before use. Efficacy of the sterilizer can be determined by using standard plate count methods.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii)(B), which is revised to read as follows:

(B) Excursions from the test temperature shall be no greater than ±2.0° C. It is recommended that the test system be equipped with an automatic alarm system to alert staff of instantaneous temperature changes in excess of 2 °C. If the water is heated (i.e., for minnow species), precautions should be taken to ensure that supersaturation of dissolved gases is avoided. Temperatures shall be recorded in all test chambers at the beginning of the test and weekly thereafter. The temperature shall be recorded at least hourly in one test chamber throughout the test.

x. Paragraph (d)(3)(iv)(E) is revised to read as follows:

(E) Light intensities ranging from 30 to 100 lumens at the water surface shall be provided; the intensity selected should be duplicated as closely as possible for all test chambers.

xi. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(ii)(B), which is revised to read as follows:

(B) A lower loading or higher flow rate or both shall be used if necessary to meet the following three criteria at all times during the test in each chamber containing live test organisms:

(1) The concentration of dissolved oxygen shall not fall below 75 percent saturation for the fathead and sheepshead minnows and 90 percent for the rainbow and brook trout;

(2) The concentration of un-ionized ammonia should not exceed 1 μg/1; and

(3) The concentration of toxicant should not be lowered (i.e., caused by uptake by the test organisms and/or materials on the sides and bottoms of the chambers) more than 20 percent of the mean measured concentration.

xii. Paragraph (e) introductory text is revised as follows:

(e) *Reporting.* A report of the results of an early life stage toxicity test shall include the following:

§ 797.1800 [Amended]

8. Section 797.1800 *Oyster acute toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4) (iv), (viii), and (ix) (A), (B).

ii. By changing the word "should" to "shall" or "are" in certain sentences in paragraph (c)(4)(i), which is revised to read as follows:

(i) Oysters which meet condition criteria (age, size, reproductive status, health) and which have been acclimated to test conditions should have approximately 3 to 5 mm of the shell periphery, at the rounded (ventral) end, ground away with a small electric disc grinder or other appropriate device, taking care to uniformly remove the shell rim to produce a smooth, rounded, blunt profile. The oyster's valves should be held together tightly during grinding to avoid vibrating the shell and injuring the adductor muscle. Oysters of which so much of the shell rim has been removed that an opening into the shell cavity is visible shall not be used.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vii), which is revised to read as follows:

(vii) Shell growth is the primary criterion used in this test guideline to evaluate the toxicity of the test chemical. Shell growth increments in all oysters shall be measured after 96 hours exposure. Record the length of the longest "finger" of new shell growth to the nearest 0.5 mm. Oysters should be handled very gently at this stage to prevent damage to the new shell growth.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (c)(5)(i), which is revised to read as follows:

(i) At the end of the test, appropriate statistical analysis should be conducted on the oyster shell deposition test data. The probit transformation should then be applied to the response variable and then regressed, using least squares regression, on dose or log-dose. An F Test for linearity should be conducted to determine whether the chosen regression technique adequately describes the experimental data.

v. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(v), which is revised to read as follows:

(v) Test oysters shall be impartially distubuted among test chambers in such a manner that test results show no significant bias from the distributions. The oysters should be spread out equidistantly from one another so that the entire test chamber is used. The oysters should also be placed with the left (cupped) valve down and the open, unhinged ends all oriented in the same direction facing the incoming flow of test solution.

vi. By changing the word "should" to "shall" in certain sentences in paragraphs (c)(4)(ix) (C), (D), and (E), which are revised to read as follows:

(C) If evidence of spawning is observed, the test shall be repeated.

(D) There shall be evidence that the concentration of the substance being tested has been satisfactorily maintained over the test period. The concentration of the test substance should be measured:

(*1*) In each chamber at 0-hour;

(*2*) In each chamber at 96-hours; and

(*3*) In at least one appropriate chamber whenever a malfunction is detected in any part of the test chemical delivery system.

(E) Dissolved oxygen, temperature, salinity, and pH measurements shall be made at the beginning and end of the test in each chamber.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(i) (A), (C), and (D) and (d)(3)(ii).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(iii)(A), which is revised to read as follows:

(A) Oysters should be attended to immediately upon arrival. Oyster shells should be brushed clean of fouling organisms and the transfer of the oysters to the holding water should be gradual to reduce stress caused by differences in water quality characteristics and temperature. Oysters shall be held for at least 12 to 15 days before testing. All oysters shall be maintained in dilution water at the test temperature for at least 2 days before they are used.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(iii)(B), which is revised to read as follows:

(B) During holding, the oysters should not be crowded, and the dissolved oxygen concentration shall be above 60-percent saturation. The temperature of the holding water shall be the same as that used for testing. Holding tanks should be kept clean and free of debris. Cultured algae may be added to dilution water sparingly, as necessary to support life and growth and such that test results are not affected as confirmed by previous testing.

iv. The proposed change to paragraph (d)(2)(i)(B) is not being made based on comments received.

v. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(ii), which is revised to read as follows:

(ii) *Dissolved oxygen.* The dissolved oxygen concentrations shall be at least 60 percent of the saturation value and should be recorded daily.

vi. By revising paragraph (d)(3)(iv) to read as follows:

(iv) *Temperature.* The test temperature shall be 20 °C. Temporary fluctuations (less than 8 hours) within ±5 °C are permissible. Temperature should be recorded continuously.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(i)(B), which is revised to read as follows:

(B) Oysters used in the same test shall be 30 to 50 mm in valve height and should be as similar in age and/or size as possible to reduce variability. The standard deviation of the valve height shouid be less than 20 percent of the mean.

viii. By revising paragraph (d)(1)(iii)(D) to read as follows:

(D) A batch of oysters is acceptable for testing if the percentage mortality over the 7-day period prior to testing is less than 5 percent. If the mortality is between 5 and 10 percent, acclimation should continue for 7 additional days. If the mortality is greater than 10 percent, the entire batch of oysters shall be rejected. Oysters which appear diseased or otherwise stressed or which have cracked, chipped, bored, or gaping shells shall not be used. Oysters infested with mudworms (*Poly dora sp.*) or boring sponges (*Cilona cellata*) should not be used.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(ii), which is revised to read as follows:

(ii) *Dilution water.* A constant supply of good quality unfiltered seawater should be available throughout the holding, acclimation and testing periods. Natural seawater is recommended, although artificial seawater with food added may be used. In either case, to ensure each oyster is provided equal

amounts of food, the water should come from a thoroughly mixed common source and shall be delivered at a flowrate of at least 1 and preferably 5 liters per hour per oyster. The flowrate should be ±10 percent of the nominal flow. A dilution water is acceptable if oysters will survive and grow normally for 14 days without exhibiting signs of stress; i.e., excessive mucus production (stringy material floating suspended from oysters), lack of feeding, shell gaping, poor shell closing in response to prodding, or excessive mortality. The dilution water shall have a salinity in excess of 12 parts per thousand, and should be similar to that in the environment from which the test oysters originated. A natural seawater should have a weekly range in salinity of less than 10 parts per thousand and a monthly range in pH of less than 0.8 unit. Artificial seawater salinity should not vary more than 2 parts per thousand nor more than 0.5 pH unit. Oysters shall be tested in dilution water from the same origin.

x. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(i), which is revised to read as follows:

(3) *Test parameters*—(i) *Carriers.* Stock solutions of substances of low aqueous solubility may be prepared by ultrasonic dispersion or, if necessary, by use of organic solvents, emulsifiers or dispersants of low toxicity to oysters. When such carriers are used the control oysters shall be exposed to the same concentration of the carrier as that used in the highest concentration of the test substance. The concentration of such carriers should not exceed 0.1 ml/l.

xi. By revising paragraph (d)(3)(v) to read as follows:

(v) *pH.* The pH shall be measured at the beginning and end of the test in each test chamber.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears.

§ 797.1830 [Amended]

9. Section 797.1830 *Oyster bioconcentration test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4)(i), (iv), (v) introductory text, (v)(B), and (C), (vi) introductory text, (vi)(C) and (F), and (vii)(A) and (B)(*1*) and (*3*); and (6)(iii) and (iv).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii), which is revised to read as follows:

(ii) At least one or more concentrations shall be tested to assess the propensity of the compound to bioconcentrate. The concentrations selected should not stress or adversely affect the oysters and should be less than one-tenth the EC_{50} determined in either the rangefinding or 96-hour definitive test under § 797.1800 of this chapter. The test concentration shall be less than the solubility limit of the test substance in water and should be close to the potential or expected environmental concentration. The limiting factor of how low one can test is based on the detection limits of the analytical methods. The concentration of the test material in the test solution should be at least 10 times greater than the detection limit in water.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(iii), which is revised to read as follows:

(iii) If it is desirable to document that the potential to bioconcentrate is independent of the test chemical concentration, at least two concentrations shall be tested which are at least a factor of 10 apart.

iv. By revising paragraph (c)(4)(v)(A), to read as follows:

(A) If it is observed that the stability or homogeneity of the test chemical cannot be maintained, then care should be taken in the interpretation of the results and a note shall be made that these results may not be reproducible.

v. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vi)(B), which is revised to read as follows:

(B) The appropriate number of oysters should be brushed clean and shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions. The oysters should be spread out equidistant from one another and placed with the left (cupped) valve down and the unhinged ends (opposite from umbo) all oriented in the same direction facing the incoming flow.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vi)(D), which is revised to read as follows:

(D) Oysters shall be observed (and data recorded) at least daily for feeding activity (deposition of feces) or any unusual conditions such as excessive mucus production (stringy material floating suspended from oysters), spawning, or appearance of shell (closure or gaping). If gaping is noted, the oyster(s) should be prodded. Oysters which fail to make any shell movements when prodded are to be considered dead, and shall be removed promptly with as little disturbance as possible to the test chamber(s) and remaining live oysters.

vii. The proposed change to paragraph (c)(4)(vii)(B)(*2*) is not being made based on comments received.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i), which is revised to read as follows:

(i) All samples should be analyzed using USEPA methods and guidelines whenever feasible. The specific methodology used shall be validated before the test is initiated. The accuracy of the method should be measured by the method of known additions. This involves adding a known amount of the test chemical to three water samples taken from an aquarium containing dilution water and a number of oysters equal to that to be used in the test. The nominal concentration of these samples shall be the same as the concentration to be used in the test. Samples taken on two separate days shall be analyzed. The accuracy and precision of the analytical method shall be checked using reference or split samples or suitable corroborative methods of analysis. The accuracy of standard solutions should be checked against other standard solutions whenever possible.

ix. By revising paragraph (c)(4)(v)(E) to read as follows:

(E) If evidence of spawning is observed, the test shall be repeated.

x. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vii)(C), which is revised to read as follows:

(C) If a radiolabeled test compound is used, a sufficient number of oysters shall also be sampled at termination to permit identification and quantitation of any major (greater than 10 percent of parent) metabolites present. It is crucial to determine how much of the activity present in the oyster is directly attributable to the parent compound, and to correct the bioconcentration factor appropriately.

xi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(5)(ii), which is revised to read as follows:

(ii) If 95 percent elimination has not been observed after 14 days depuration then a depuration rate constant shall also be calculated. This rate constant should be based on the elimination of the parent compound.

xii. By revising paragraph (c)(4)(v)(D), to read as follows:

(D) There shall be evidence that the concentration of the chemical being

tested has been satisfactorily maintained over the test period.

xiii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vi)(A), which is revised to read as follows:

(A) The test shall not be started until the test chemical delivery system has been observed to be functioning properly and the test chemical concentrations have equilibrated (i.e., the concentration does not vary more than 20 percent). Analyses of two sets of test solution samples taken prior to test initiation should document this equilibrium. At initiation (time 0), test solution samples shall be collected immediately prior to the addition of oysters to the test chambers.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(i), (iii), (iv), and (3)(i) and (iii).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii), which is revised to read as follows:

(ii) Oysters used in the same test should be 30 to 50 mm in valve height and should be as similar in age and/or size as possible to reduce variability. The standard deviation of the valve height shall be less than 20 percent of the mean.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(vi)(A), which is revised to read as follows:

(A) Oysters should be attended to immediately upon arrival. Oyster shells should be brushed clean of fouling organisms, and the transfer of the oysters to the holding water should be gradual to reduce stress caused by differences in water quality characteristics and temperature. Oysters shall be held for at least 12 to 15 days before testing. All oysters shall be maintained in dilution water at the test temperature for at least 2 days before they are used.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(vi)(B), which is revised to read as follows:

(B) During holding, the oysters should not be crowded, and the dissolved oxygen concentration shall be above 60-percent saturation. The temperature of the holding waters shall be the same as that used for testing. Holding tanks should be kept clean and free of debris. Cultured algae may be added to dilution water sparingly, as necessary to support life and growth, such that test results are not affected, as confirmed by previous testing. Oysters should be handled as little as possible. When handling is necessary, it should be done as gently, carefully, and quickly as possible.

v. The proposed change to paragraph (d)(2)(i)(B) is not being made based on comments received.

vi. The proposed change to paragraph (d)(2)(ii) is not being made based on comments received.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iv), which is revised to read as follows:

(iv) *Temperature.* The test temperature shall be 20 °C. Temporary excursions (less than 8 hours) within ± 5 °C are permissible. Temperature should be recorded continually.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(vi)(C), which is revised to read as follows:

(C) A batch of oysters is acceptable for testing if the percentage mortality over the 7-day period prior to testing is less than 5 percent. If the mortality is between 5 and 10 percent, acclimation shall continue for 7 additional days. If the mortality is greater than 10 percent, the entire batch of oysters shall be rejected. Oysters which appear diseased or otherwise stressed or which have cracked, chipped, bared, or gaping shells shall not be used. Oysters infested with mudworms (*Polydora sp.*) or boring sponges (*Cilona cellata*) should not be used.

ix. By changing the word "should" to "shall" wherever it appears in paragraph (d)(3)(ii), which is revised to read as follows:

(ii) *Dissolved oxygen.* This dissolved oxygen concentration shall be at least 60 percent of the air saturation value and should be measured weekly in each chamber.

x. By changing the word "should" to "shall" wherever it appears in paragraph (d)(3)(v), which is revised to read as follows:

(v) *pH.* The pH shall be measured weekly in each test chamber.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears.

§ 797.1930 [Amended]

10. Section 797.1930 *Mysid shrimp acute toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4)(ii), (iv), and (vii) and by revising paragraph (c)(4)(iii), to read as follows:

(iii) A minimum of 20 mysids per concentration shall be exposed to five or more concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, and 64 mg/l). An equal number of mysids shall be placed in two or more replicates. If solvents, solubilizing agents or emulsifiers have to be used, they shall be commonly used carriers and shall not possess a synergistic or antagonistic effect on the toxicity of the test substance. The concentration of solvent shall not exceed 0.1 ml/1. The concentration ranges shall be selected to determine the concentration-response curves and LC_{50} values at 48 and 96 hours.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(3)(iii), which is revised to read as follows:

(iii) This test should be conducted with both newly hatched juvenile (< 24 hours old) and young adult (5 to 6 days old) mysids. For each age class (juvenile or young adult), a minimum of 10 mysids should be exposed to each concentration of test substance for up to 96 hours. The exposure period may be shortened if data suitable for the purpose of the range-finding test can be obtained in less time. The age class which is most sensitive to the test substance in the range-finding test shall be utilized in the definitive test. When no apparent difference in sensitivity of the two life stages is found, juveniles shall be utilized in the definitive test. No replicates are required, and nominal concentrations of the chemical are acceptable.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ix), which is revised to read as follows:

(ix) The concentration of the test substance in the chambers should be measured as often as is feasible during the test. At a minimum, during static tests the concentration of test substance shall be measured at each concentration at the beginning and at the end of the test. During the flow-through test, the concentration of test substance should be measured at the beginning and end of the test and in at least one appropriate chamber whenever a malfunction is detected in any part of the test substance delivery system. Equal aliquots of test solution may be removed from each replicate chamber and pooled for analysis. Among replicate test chambers of a treatment concentration, the measured concentration of the test substance should not vary more than 20 percent.

iv. By changing the word "should" to "shall" in certain sentences in

paragraph (c)(6)(i), which is revised to read as follows:

(i) *Test chemical.* Deionized water should be used in making stock solutions of the test substance. Standard analytical methods should be used whenever available in performing the analyses. The analytical method used to measure the amount of test substance in a sample shall be validated before beginning the test by appropriate laboratory practices. Any analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interferences which cannot be systematically identified and corrected mathematically.

v. By revising paragraphs (c)(4) (v) and (vi), to read as follows:

(v) The dissolved oxygen concentration temperature, salinity, and pH shall be measured at the beginning and end of the test in each chamber.

(vi) The test duration is 96 hours. The test is unacceptable if more than 10 percent of the control organisms die or exhibit abnormal behavior during the 96 hour test period. Each test chamber should be checked for dead mysids at 24, 48, 72, and 96 hours after the beginning of the test. Concentration-response curves and 24-, 48-, 72- and 96-hour LC_{50} values should be determined along with their 95 percent confidence limits.

vi. By revising paragraph (c)(4)(viii), to read as follows:

(viii) Test organisms shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions. In addition, test chambers within the testing area shall be positioned in a random manner or in a way in which appropriated statistical analyses can be used to determine the variation due to placement.

vii. By revising paragraph (c)(6)(ii), to read as follows:

(ii) *Numerical.* The number of dead mysids shall be counted during each definitive test. Appropriated statistical analyses should provide a goodness-of-fit determination for the concentration-response curves. A 48- and 96-hour LC_{50} and corresponding 95 percent interval shall be calculated.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1) (i)(C) and (ii)(A); and (d)(2) (i)(B), (ii), and (iv) and (d)(3) introductory text and (ii).

ii. The proposed change to paragraph (d)(2)(iii)(A) is not being made based on comments received.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(v), which is revised to read as follows:

(v) *Test substance delivery system.* In flow-through tests, proportional diluters, metering pumps, or other suitable systems should be used to deliver test substance to the test chambers. The system used shall be calibrated before each test. Calibration includes determining the flow rate through each chamber and the concentration of the test substance in each chamber. The general operation of the test substance delivery system should be checked twice daily during a test. The 24-hour flow through a test chamber shall be equal to at least 5 times the volume of the test chamber. During a test, the flow rates should not vary more than 10 percent among test chambers or across time.

iv. By revising paragraph (d)(3)(iii), to read as follows:

(iii) The number of mysids placed in a test solution shall not be so great as to affect results of the test. Loading shall not exceed 30 mysids per liter for a static test. Loading requirements for the flow-through test will vary depending on the flow rate of dilution water. The loading shall not cause the dissolved oxygen concentration to fall below the recommended levels.

v. By revising paragraph (d)(1)(i)(B), to read as follows:

(B) Mysids to be used in chronic toxicity tests should originate from laboratory cultures in order to ensure the individuals are of similar age and experimental history. Mysids used for establishing laboratory cultures may be purchased commercially or collected from appropriate natural areas. Because of similarities with other mysids species, taxonomic verification should be obtained from the commercial supplier by experienced laboratory personnel or by an outside expert.

vi. By revising paragraph (d)(3)(i), to read as follows:

(i) The test temperature shall be 25°C. Excursions from the test temperature shall be not greater than ± 2°C.

c. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in the introductory text of paragraph (e) and in paragraph (e)(6).

ii. By revising paragraph (e)(7), to read as follows:

(7) The 96-hour LC_{50} and when sufficient data have been generated, the 24-, 48-, and 72-hour LC_{50}'s and the corresponding 95-percent confidence limits and the methods used to calculate the values. These calculations shall be made using the average measured concentration of the test substance.

§ 797.1950 [Amended]

11. Section 797.1950 *Mysid shrimp chronic toxicity test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4)(v), and (vi).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(viii), which is revised to read as follows:

(viii) The concentration of the test substance in the chambers should be measured as often as is feasible during the test. The concentration of test substance shall be measured:

(A) At each test concentration at the beginning of the test and on days 7, 14, 21, and 28; and

(B) In at least one appropriate chamber whenever a malfunction is detected in any part of the test substance delivery system.

Equal aliquots of test solutions may be removed from each test chamber and pooled for analysis. Among replicate test chambers of a treatment concentration, the measured concentration of the test substance should not vary more than 20 percent.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i), which is revised to read as follows:

(i) *Test chemical.* Deionized water should be used in making stock solutions of the test substance. Standard analytical methods should be employed whenever available in performing the analyses. The analytical method used to measure the amount of test substance in a sample shall be validated before beginning the test by appropriate laboratory practices. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interferences which cannot be systematically identified and corrected mathematically.

iv. By changing the word "should" to "shall" wherever it appears in paragraph (c)(4)(iv), which is revised to read as follows:

(iv) The dissolved oxygen concentration, temperature, salinity, and pH shall be measured weekly in each chamber.

v. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vii), which is revised to read as follows:

(vii) Test organisms shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions. In addition, test chambers within the testing area shall be positioned in a random manner or in a way in which appropriate statistical analyses can be used to determined the variation due to placement.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(ii), which is revised to read as follows:

(ii) *Numerical.* (A) The number of dead mysids, cumulative young per female, and body lengths of male and female mysids shall be recorded during each definitive test. Appropriate statistical analyses shall provide a goodness-of-fit determination for the day 7, 14, 21 and 28 adult (Gl) death concentration-response curves.

(B) A 7-, 14-, 21- and 28-day LC_{50}, based on adult (Gl) death, and corresponding 95 percent confidence intervals shall be calculated. Appropriate statistical tests (e.g., analysis of variance, mean separation test) should be used to test for significant chemical effects on chronic test criteria (cumulative mortality of adults, cumulative number of young per female and body lengths of adult male and females) on designated days. An MATC shall be calculated using these chronic tests criteria.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii), which is revised to read as follows:

(ii) A minimum of 40 mysids per concentration shall be exposed to four or more concentrations of the chemical chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32 and 64 mg/1). An equal number of mysids shall be placed in two or more replicates. If solvents, solubilizing agents or emulsifiers have to be used, they shall be commonly used carriers and shall not possess a synergistic or antagonistic effect on the toxicity of the test substance. The concentration of solvent should not exceed 0.1 ml/1. The concentration ranges should be selected to determine the concentration response curves, LC_{50} values and MATC. Concentration of test substance in test solutions should be analyzed prior to use.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1)(i)(C) and (D), (2)(i)(C) and (iv), and (3) introductory text, (ii) and (iii).

ii. By revising paragraph (d)(1)(i)(B) to read as follows:

(B) Mysids to be used in chronic toxicity tests should originate from laboratory cultures in order to ensure the individuals are of similar age and experimental history. Mysids used for establishing laboratory cultures may be purchased commercially or collected from appropriate natural areas. Because of similarities with other mysid species, taxonomic verification should be obtained from the commercial supplier, by experienced laboratory personnel, or by an outside expert.

iii. The proposed change to paragraph (d)(1)(ii)(A) is not being made based on comments received.

iv. The proposed change to paragraph (d)(2)(iii)(A) is not being made based on comments received.

v. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(v), which is revised to read as follows:

(v) *Test substance delivery system.* Proportional diluters, metering pumps, or other suitable systems should be used to deliver test substance to the test chambers. The system used shall be calibrated before each test. Calibration includes determining the flow rate and the concentration of the test substance in each chamber. The general operation of the test substance delivery system should be checked twice daily during a test. The 24-hour flow rate through a chamber shall be equal to at least 5 times the volume of the chamber. The flow rates should not vary more than 10 percent among chambers or across time.

vi. By changing the word "should" to "shall" wherever it appears in paragraph (d)(2)(ii), which is revised to read as follows:

(ii) *Cleaning.* Test substance delivery systems and test chambers shall be cleaned before each use following standard laboratory practices.

vii. By revising paragraph (d)(3)(i) to read as follows:

(i) The test temperature shall be 25°C. Excursions from the test temperature shall be no greater than ± 2°C.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears in the introductory text and in paragraphs (e)(9) and (10) and in (e)(8), which is revised to read as follows:

(8) The MATC is calculated as the geometric mean between the lowest measured test substance concentration that had a significant ($P<0.05$) effect and the highest measured test substance concentration that had no significant ($P<0.05$) effect in the chronic test. The most sensitive of the test criteria for adult (Gl) mysids (cumulative number of dead mysids, body lengths of males and females or the number of young per female) is used to calculate the MATC. The criterion selected for MATC computation is the one which exhibits an effect (a statistically significant difference between treatment and control groups; $P<0.05$) at the lowest test substance concentration for the shortest period of exposure. Appropriate statistical tests (analysis of variance, mean separation test) should be used to test for significant chemical effects. The statistical tests employed and the results of these tests shall be reported.

§ 797.2150 [Amended]

12. Section 797.2150 *Mallard reproduction test* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the words "should be" to "are" wherever they appear in paragraph (c)(1)(i), (ii), (iv), and (vi).

ii. By changing the words "should be" to "is" wherever they appear in paragraph (c)(1)(v) and (ix).

iii. By changing the word "should" to "shall" wherever it appears in paragraphs (c)(4) (i)(B), (ii), (iii)(A), (iv), (v)(A), (vi), (ix), and (x) and (6)(ii)(B).

iv. By changing the words "should be" to "is" or "are" in certain sentences in paragraph (c)(1)(iii), which is revised to read as follows:

(iii) The test substance is thoroughly and evenly mixed into the diet at concentrations specified in the test rule. All treatment levels are analyzed for test substance concentrations at the beginning and midway through the test.

v. By changing the words "should be" to "are" in certain sentences in paragraph (c)(1)(vii), which is revised to read as follows:

(vii) Eggs are removed daily and stored until there is a sufficient quantity for incubation. All eggs are candled for cracks, and cracked eggs are removed. Once every 2 weeks, all eggs produced that day are analyzed for eggshell thickness. Incubated eggs are candled on day 14 and day 21. Hatching should be completed by day 27.

vi. By changing the words "should be" to "is" or "are" in certain sentences in paragraph (c)(1)(viii), which is revised to read as follows:

(viii) Hatchlings are maintained in pens until they are 14 days old. Abnormal behavior or death is reported. Ducklings are weighed on day 14.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(1)(x), which is revised to read as follows:

(x) The report shall include all conditions, procedures, and results.

Data should be sufficiently detailed for an independent statistical analysis.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(i)(A), which is revised to read as follows:

(A) The concentrations of test substance in the diet will be specified in the test rule. At least three treatment groups and a control group shall be used. The higher two treatment levels shall be multiples (often 5x, 10x, or 20x) of the lowest treatment level. The highest treatment levels shall usually be below lethal levels, unless predicted exposure levels are high enough to approximate lethal levels.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(vii), which is revised to read as follows:

(vii) *Egg collection, storage, and incubation.* All eggs shall be collected daily, marked according to the date collected and the parental pen from which collected, and should be stored at 16°C and 55 to 80 percent relative humidity. Storage in plastic bags may improve uniformity of hatching. Stored eggs should be turned daily. At biweekly intervals, eggs shall be removed for storage and be candled to detect eggshell cracks. Except for eggs with cracked shells and those eggs removed for eggshell thickness measurements, all eggs should be set after candling for incubation in a commercial incubator. If incubators are not equipped to automatically turn eggs, they should be turned daily by hand. During the incubation period, eggs should be maintained at 37.5°C and approximately 70-percent relative humidity. Eggs shall be candled again on day 14 of incubation to determine fertility and early death of embryos. A final candling shall be done on day 21 to measure embryo survival. On day 23, eggs shall be removed to a separate incubator or hatcher. Hatching will normally be complete by the end of day 27.

x. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(viii), which is revised to read as follows:

(viii) *Duckling maintenance.* By day 27 of incubation, the hatched mallard ducklings should be removed from the hatcher or incubator. Ducklings shall be either housed according to the appropriate parental pen group or individually marked (such as by leg bands) as to parental group and housed together. Ducklings should be maintained in commercial brooder pens or pens of similar construction. Pens should be constructed of galvanized metal or stainless steel. Temperature in the pens should be controlled, preferably by a thermostatic control device. A temperature gradient in the pen from approximately 35°C to approximately 22°C will allow young birds to seek a proper temperature. Temperature requirements for young birds typically decline over this range from birth through the first several weeks of life. Ducklings shall be provided a standard commercial duck starter ration, or its nutritional equivalent. No test substance may be added to the diets of ducklings. Ducklings shall be maintained until they are 14 days old.

xi. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i)(A), which is revised to read as follows:

(A) Experimental groups should be individually compared to the control group by analysis of variance. Other accepted statistical methods may be used as long as they are documented and described. In particular, regression analysis is highly desirable if the data and number of dose levels allow the use of this technique. Sample units are the individual pens within each treatment level or control. Analysis shall include:

(*1*) Body weights of adults.

(*2*) Food consumption of adults.

(*3*) Percentage of hens laying eggs. This should always be determined when pens contain a single pair; if feasible, it should be determined when pens contain groups.

(*4*) Number of eggs laid per pen.

(*5*) Percentage of cracked eggs.

(*6*) Percent viable embryos of eggs set.

(*7*) Percent live 21-day embryos of viable embryos.

(*8*) Percent hatching of viable embryos.

(*9*) Percentage of hatchlings that are normal.

(*10*) Percent 14-day-old survivors of normal hatchlings.

(*11*) Number of 14-day-old survivors per hen.

(*12*) Body weights of 14-day-old survivors.

(*13*) Eggshell thickness.

xii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(ii)(A), which is revised to read as follows:

(A) Samples of treated diets shall be analyzed to confirm proper dietary concentrations of the test substance. If samples cannot be analyzed immediately, they should be stored appropriately (e.g., frozen at a temperature of −15°C or lower) until analysis can be performed. Analyses shall be conducted on all test substance concentrations at the beginning of the test period and again 10 to 12 weeks later. If not otherwise available, data shall be generated to indicate whether or not the test substance degrades or volatilizes. If the test substance is known or found to be volatile or labile to the extent that 25 percent or more loss occurs within 1 week, then test substance diets shall be prepared (freshly or from frozen concentrate) at a frequency that will prevent more than 25 percent loss of test substance.

xiii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(ii)(C), which is revised to read as follows:

(C) *Analysis of basal diet.* A nutrient analysis of the basal diet shall be included in the test report. For commercially prepared basal diets, the list of ingredients supplied by the manufacturer is normally sufficient, if it is detailed. The composition of any vitamin or other supplements should also be reported.

xiv. By changing the word "should" to "shall" wherever it appears in paragraph (c)(4)(iii)(B), which is revised to read as follows:

(B) Test birds shall be impartially distributed among test chambers in such a manner that test results show no significant bias from the distributions.

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraph (d)(1)(i) (C), (D), and (E) and (ii)(A)(*1*).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(i)(A), which is revised to read as follows:

(A) The mallard, *Anas platyrhynchos* L., is the test species. Test birds should be pen-reared. They may be reared in the laboratory or purchased from commercial breeders. Rearing stock and/or test birds shall be obtained only from sources that have met the requirements for "U.S. Pullorum-Typhoid Clean" classification under paragraph (f)(1) of this section. Birds shall be obtained only from sources whose colonies have known breeding histories. If possible, a history of rearing practices for test birds should be obtained and made available upon request. This history should include lighting practices during rearing, disease record, drug and any other medication administered, and exact age. Test birds shall be phenotypically indistinguishable (except for size) from wild stock. Conscientious breeders of such birds will periodically outbreed their flocks with genetically wild stock in order to maintain a genetic composition that approximates the

heterogeneity of naturally occurring birds.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(i)(B), which is revised to read as follows:

(B) All control and experimental birds used in a test shall be from the same source and strain. If shipped, all birds shall be examined following shipment for possible physical injury that may have occurred in transit. All birds should have a health observation period of at least 2 weeks prior to selection for treatment. Birds should be in apparent good health. Deformed, abnormal, sick, or injured birds shall not be used. A population of birds shall not be used if more than 3 percent of either sex die during the health observation period. Birds shall not have been selected in any way for resistance to toxic substances. Birds shall not have been used in a previous test, either in control or treatment group. Offspring of birds used in a treatment group in a previous test shall not be used, but offspring of birds used as controls in a previous test are acceptable.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A)(*2*), which is revised to read as follows:

(*2*) The test substance shall be mixed into the diet in a manner that will ensure even distribution of the test substance throughout the diet. If possible, the test substance should be added to the diet without the use of a carrier or diluent. If a diluent is needed, the preferred diluent is distilled water; but water shall not be used for test substances known to hydrolyze readily. When a test substance is not water soluble, it may be dissolved in a reagent-grade evaporative diluent (e.g., acetone, methylene chloride) and then mixed with the test diet. The solvent should be completely evaporated prior to feeding. Other acceptable diluents may be used, if necessary, and include table-grade corn oil, propylene glycol, and gum arabic (acacia). If a diluent is used, it shall constitute no more than 2 percent by weight of the treated diet, and an equivalent amount of diluent shall be added to control diets.

v. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A)(*3*), which is revised to read as follows:

(*3*) Diets may be mixed by commercial or mechanical food mixers. Other means are acceptable as long as they result in even distribution of the test substance throughout the diet. Screening of the basal diet before mixing is suggested to remove large particles. For many test substances, it is recommended that diets be mixed under a hood. Frequently, the test substance is added to an aliquot of the basal diet to form a premix concentrate. The premix concentrate should be stored so as to maintain the chemical concentration. For final preparation of test diets, the premix is mixed with additional basal diet to form the proper concentrations. The frequency with which final treated diets are prepared will depend upon the stability and other characteristics of the test substance. Unless otherwise specified in the test rule or determined by degradation or volatility studies, it is recommended that final diets be prepared weekly, either fresh or from a concentrate. For volatile or labile test substances, test diets shall be mixed frequently enough so that the concentrations are not reduced from initial concentrations by more than 25 percent. Analysis of diets for test substance concentrations is required as specified in paragraph (c)(6)(ii) of this section.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(A)(*4*), which is revised to read as follows:

(*4*) Clean water shall be available *ad libitum*. Water bottles or automatic watering devices are recommended. If water pans or bowls are used, water shall be changed daily or more often.

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(1)(ii)(B), which is revised to read as follows:

(B) *Young birds.* Young birds produced during the test should be fed a commercial duck starter ration, or its nutritional equivalent. No test substance shall be added to the diets of young birds. No antibiotics or medication shall be used in the diet.

viii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(iii), which is revised to read as follows:

(iii) Pens should be kept indoors in order to better control lighting, temperature, humidity, and other factors. Outdoor pens may be used only during the normal breeding season. The photoperiod should be carefully controlled, preferably by automatic timers. A 15 to 30 minute transition period is desirable. The photoperiod regime is described under paragraph (c)(4)(v) of this section. Lights shall emit a spectrum simulating that of daylight. The use of shorter wave-length "cool-white" fluorescent lights that do not emit the daylight spectrum should be avoided. Illumination intensity should be about 6 foot-candles at the level of the birds.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(iv), which is revised to read as follows:

(iv) Temperature and humidity should be controlled during the study. Recommended levels are 21°C and 55 percent relative humidity. Temperature for indoor tests shall be recorded at least weekly at the same time of day and shall be reported. For tests conducted without temperature control, temperature minimums and maximums should be recorded daily. Continuous temperature monitoring is desirable. Temperature recording shall be made at levels of 2.5 to 4 cm above the floor of the cage. Recording of approximate humidity levels is also desirable. Good ventilation should be maintained. Suggested ventilation rates are 4 changes per hour in winter and 15 changes per hour in the summer.

b. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears.

PART 798—[AMENDED]

III. In Part 798:

1. The authority citation for Part 798 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 798.2250 [Amended]

2. Section 798.2250 *Dermal toxicity* is amended as follows:

a. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1) (ii), (iii), and (iv), (2), (6)(i), (8), (9) (ii), (iii), (iv), (v), and (vi), (10)(i) introductory text, (10)(ii)(A), (11), and (12).

ii. By changing the word "recommended" to "required" wherever it appears in paragraph (e)(2).

iii. By revising paragraph (e)(1)(i), to read as follows:

(i) *Species and strain.* A mammalian species shall be used for testing. The rat, rabbit, or guinea pig may be used, although the albino rabbit is preferred. The albino rabbit is preferred because of its size, skin permeability, and extensive data base. Commonly used laboratory strains shall be employed. If another mammalian species is used, the tester shall provide justification/reasoning for its selection.

iv. By changing the word "should" to "shall" in certain sentences in paragraph (e)(4)(i), which is revised to read as follows:

(i) In subchronic toxicity tests, it is desirable to have a dose-response relationship as well as a no-observed-

toxic-effect level. Therefore, at least 3 dose levels with a control and, where appropriate, a vehicle control (corresponding to the concentration of vehicle at the highest exposure level) shall be used. Doses should be spaced appropriately to produce test groups with a range of toxic effects. The data shall be sufficient to produce a dose-response curve.

v. By revising paragraph (e)(6)(ii), to read as follows:

(ii) Animals in the satellite group scheduled for followup observations should be kept for at least 28 days further without treatment to detect recovery from, or persistence of, toxic effects.

vi. By changing the word "should" to "shall" in certain sentences in paragraph (e)(7)(i), which is revised to read as follows:

(i) Shortly before testing, fur shall be clipped from the dorsal area of the trunk of the test animals. Shaving may be employed, but it should be carried out approximately 24 hours before the test. Repeat clipping or shaving is usually needed at approximately weekly intervals. When clipping or shaving the fur, care should be taken to avoid abrading the skin, which could alter its permeability.

vii. By changing the words "at least five" to "all" wherever they appear in the introductory text of paragraph (e)(10)(i), and by changing the words "should be" to "shall be" or "are" in certain sentences in paragraph (e)(10)(i) (A) and (B), which are revised to read as follows:

(A) Certain hematology determinations shall be carried out at least two times during the test period: Just prior to initiation of dosing (baseline data), and just prior to terminal sacrifice at the end of the test period. Hematology determinations which are appropriate to all studies: Hematocrit, hemoglobin concentration, erythrocyte count, total and differential leukocyte count, and a measure of clotting potential such as clotting time, prothrombin time, thromboplastin time, or platelet count.

(B) Certain clinical biochemistry determinations on blood shall be carried out at least two times: Just prior to initiation of dosing (if adequate historical baseline data are not available), and just prior to terminal sacrifice at the end of the test period. Test areas which are considered appropriate to all studies: Electrolyte balance, carbohydrate metabolism, and liver and kidney function. The selection of specific tests will be influenced by observations on the mode of action of the substance. Suggested determinations: Calcium, phosphorus, chloride, sodium, potssium, fasting glucose (with the period of fasting appropriate to the species), serum glutamic-pyruvic transaminase (now known as serum alanine aminotransferase), serum glutamic oxaloacetic transaminase (now known as serum aspartate aminotransferase), ornithine decarboxylase, gamma glutamyl transpeptidase, urea nitrogen, albumen blood creatinine, total bilirubin and total serum protein measurements. Other determinations which may be necessary for an adequate toxicological evaluation include: Analyses of lipids hormones, acid/base balance, methemoglobin and cholinesterase activity. Additional clinical biochemistry may be employed, where necessary, to extend the investigation of observed effects.

viii. By changing the word "should" to "shall" in paragraph (e)(9)(i), which is revised to read as follows:

(i) Each animal shall be observed daily, and if necessary handled to appraise its physical condition.

ix. By revising the introductory text of paragraph (e)(10)(ii) to read as follows:

(ii) The following examinations shall be made on high dose and control groups. If changes in the eyes are detected all animals should be examined.

x. By revising paragraph (e)(11)(iii), to read as follows:

(iii) The following organs and tissues, or representative samples thereof, shall be preserved in a suitable medium for possible future histopathological examination: All gross lesions; lungs—which should be removed intact, weighed, and treated with a suitable fixative to ensure that lung structure is maintained (perfusion with the fixative is considered to be an effective procedure); nasopharyngeal tissues; brain—including sections of medulla/pons, cerebellar cortex, and cerebral cortex; pituitary; thyroid/parathyroid; thymus; trachea; heart; sternum with bone marrow; salivary glands; liver; spleen; kidneys; adrenals; pancreas; gonads; uterus; accessory genital organs (epididymis, prostate, and, if present, seminal vesicles); aorta; (skin); gall bladder (if present); esophagus; stomach; duodenum; jejunum; ileum; cecum; colon; rectum; urinary bladder; representative lymph node; (mammary gland); (thigh musculature); peripheral nerve; (eyes); (femur—including articular surface); (spinal cord at three levels—cervical, midthoracic, and lumbar); and (zymbal and exorbital lachrymal glands).

b. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (f)(1)(i) and (3) and by changing the word "time" to "date" wherever it appears in paragraph (f)(3)(ii) (A) and (B).

§ 798.2450 [Amended]

3. Section 798.2450 *Inhalation toxicity* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1) (ii), (iii), and (iv)(B), (2), (6)(i), (8) introductory text, and (iv), (10) (iii), (v), and (vi), (11)(i) introductory text, (11)(i)(B), (12) (i) and (ii), and (13).

ii. By revising paragraph (d)(1)(i), to read as follows:

(i) *Species and strain.* A mammalian species shall be used for testing. A variety of rodent species may be used, although the rat is the preferred species. Commonly used laboratory strains shall be employed. If another mammalian species is used, the tester shall provide justification/ reasoning for its selection.

iii. By changing the word "recommended" to "required" wherever it appears in paragraph (d)(2).

iv. By changing the word "should" to "shall" in certain sentences in paragraph (d)(4)(i), which is revised to read as follows:

(i) In subchronic toxicity tests, it is desirable to have a concentration-response relationship as well as a no-observed-toxic-effect level. Therefore, at least 3 concentration levels with a control and, where appropriate, a vehicle control (corresponding to the concentration of vehicle at the highest exposure level) shall be used. Concentrations should be spaced appropriately to produce test groups with a range of toxic effects. The data should be sufficient to produce a concentration-response curve.

v. By revising paragraph (d)(5), to read as follows:

(5) *Exposure conditions.* The animals should be exposed to the test substance, ideally for 6 hours per day on a 7-day per week basis, for a period of 90 days. However, based primarily on practical considerations, exposure on a 5-day-per-week basis for 6 hours per day is the minimum acceptable exposure period.

vi. By revising paragraph (d)(6)(ii), to read as follows:

(ii) Animals in a satellite group scheduled for followup observations should be kept for at least 28 days further without treatment to detect recovery from, or persistence of, toxic effects.

vii. By changing the word "should" to "shall" in certain sentences in

paragraphs (d)(7) (i) and (ii), which are revised to read as follows:

(i) The animals shall be tested in inhalation equipment designed to sustain a minimum dynamic air flow of 12 to 15 air changes per hour and ensure an adequate oxygen content of 19 percent and an evenly distributed exposure atmosphere. Where a chamber is used, its design should minimize crowding of the test animals and maximize their exposure to the test substance. This is best accomplished by individual caging. To ensure stability of a chamber atmosphere, the total "volume" of the test animals shall not exceed 5 percent of the volume of the test chamber. Oronasal or head-only exposure may be used if it is desirable to avoid concurrent exposure by the dermal or oral routes.

(ii) A dynamic inhalation system with a suitable flow control system shall be used. The rate of air flow shall be adjusted to ensure that conditions throughout the exposure chamber are essentially the same. Maintenance of slight negative pressure inside the chamber will prevent leakage of the test substance into surrounding areas.

viii. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(8) (i), (ii), and (iii), which are revised to read as follows:

(i) The rate of air flow shall be monitored continuously and recorded at least every 30 minutes.

(ii) The actual concentrations of the test substance shall be measured in the breathing zone. During the exposure period the actual concentrations of the test substance shall be held as constant as practicable, monitored continuously or intermittently depending on the method of analysis, and recorded at least at the beginning, at an intermediate time, and at the end of the exposure period.

(iii) During the development of the generating system, particle size analysis shall be performed to establish the stability of aerosol concentrations with respect to particle size. During exposure, analysis shall be conducted as often as necessary to determine the consistency of particle size distribution.

ix. By revising paragraphs (d)(9) and (10)(i) to read as follows:

(9) *Food and water during exposure period.* Food shall be withheld during exposure. Water may also be withheld during exposure.

(10) *Observation of animals.* (i) Each animal shall be observed daily and, if necessary, handled to appraise its physical condition.

x. By changing the words "should be" to "shall be" or "are" in certain sentences in paragraph (d)(11)(i)(A), which is revised to read as follows:

(A) Certain hematology determinations shall be carried out at least two times during the test period: just prior to initiation of dosing (if adequate historical baseline data are not available), and just prior to terminal sacrifice at the end of the test period. Hematology determinations which are appropriate to all studies: Hematocrit, hemoglobin concentration, erythrocyte count, total and differential leukocyte count, and a measure of clotting potential such as clotting time, prothrombin time, thromboplastin time, or platelet count.

xi. By changing the word "three" to "two" and deleting the phrase "after approximately 30 days on test" in the first sentence in paragraph (d)(11)(i)(B).

xii. By changing the word "should" to "shall" in certain sentences in the introductory text of paragraph (d)(11)(ii) and in (d)(11)(ii)(A), which are revised to read as follows:

(ii) The following examinations shall be made on high dose and control groups. If changes in the eyes are detected, all animals shall be examined:

(A) Ophthalmological examination, using an ophthalmoscope or equivalent suitable equipment, shall be made prior to exposure to the test substance and at the termination of the study.

xiii. By revising paragraph (d)(12)(iii), to read as follows:

(iii) The following organs and tissues, or representative samples thereof, shall be preserved in a suitable medium for possible future histopathological examination: All gross lesions; lungs—which should be removed intact, weighed, and treated with a suitable fixative to ensure that lung structure is maintained (perfusion with the fixative is considered to be an effective procedure); nasopharyngeal tissues; brain—including sections of medulla/pons cerebellar cortex and cerebral cortex; pituitary; thyroid/parathyroid; thymus; trachea; heart; sternum with bone marrow; salivary glands; liver; spleen; kidneys; adrenals; pancreas; gonads; uterus; accessory genital organs (epididymis, prostate, and, if present, seminal vesicles); aorta; (skin); gall bladder (if present); esophagus; stomach; duodenum; jejunum; ileum; cecum; colon; rectum; urinary bladder; representative lymph node; (mammary gland); (thigh musculature); peripheral nerve; (eyes); (femur—including articular surface); (spinal cord at three levels—cervical, midthoracic, and lumbar); and (zymbal and exorbital lachrymal glands).

xiv. By revising paragraph (d)(1)(iv)(A) to read as follows:

(iv) *Numbers.* (A) At least 20 rodents (10 females and 10 males) shall be used for each test group. If another mammalian species selected (e.g. dog, rabbit, or non-human primate), at least 8 animals (4 males and 4 females) shall be used.

xv. By revising paragraph (d)(4)(iv) to read as follows:

(iv) Ideally, the intermediate concentration level(s) should produce minimal observable toxic effects. If more than one intermediate concentration level is used, the concentrations should be spaced to produce a gradation of toxic effects.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1)(i) and (3).

ii. By changing the word "time" to "date" wherever it appears in paragraph (e)(3)(iv).

§ 798.2650 [Amended]

4. Section 798.2650 *Oral toxicity* is amended as follows:

a. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1) (ii), (iii) and (iv), (2), (6)(i), (7) (ii) and (iv), (8), (9)(i) introductory text and (ii), (10), and (11).

ii. By revising paragraph (e)(1)(i), to read as follows:

(i) *Species and strain.* A mammalian species shall be used for testing. A variety of rodent species may be used, although the rat is the preferred species. Commonly used laboratory strains shall be employed. The commonly used nonrodent species is the dog, preferably of a defined breed; the beagle is frequently used. If other mammalian species are used, the tester shall provide justification/reasoning for his or her selection.

iii. By changing the word "recommended" to "required" wherever it appears in paragraph (e)(2).

iv. By changing the word "should" to "shall" in certain sentences in paragraph (e)(4)(i), which is revised to read as follows:

(i) In subchronic toxicity tests, it is desirable to have a dose response relationship as well as a no-observed-toxic-effect level. Therefore, at least 3 dose levels with a control and, where appropriate, a vehicle control (corresponding to the concentration of vehicle at the highest exposure level) shall be used. Doses should be spaced appropriately to produce test groups with a range of toxic effects. The data

should be sufficient to produce a dose-response curve.

v. By revising paragraph (e)(6)(ii), to read as follows:

(ii) Animals in the satellite group scheduled for followup observations should be kept for at least 28 days further without treatment to detect recovery from, or persistence of, toxic effects.

vi. By changing the word "may" to "shall" wherever it appears in paragraph (e)(7)(iv) and by revising paragraph (e)(7)(v) to read as follows:

(v) For a substance administered by gavage or capsule, the dose shall be given at approximately the same time each day, and adjusted at intervals (weekly or bi-weekly) to maintain a constant dose level in terms of animal body weight.

vii. By changing the words "at least five" to "all" wherever they appear in the introductory text of paragraph (e)(9)(i), and by changing the words "should be" to "shall be" or "are" in certain sentences in paragraph (e)(9)(i) (A) and (B), which are revised to read as follows:

(A) Certain hematology determinations shall be carried out at least two times during the test period: Just prior to initiation of dosing (baseline data) and just prior to terminal sacrifice at the end of the test period. Hematology determinations which are appropriate to all studies: Hematocrit, hemoglobin concentration, erythrocyte count, total and differential leukocyte count, and a measure of clotting potential such as clotting time, prothrombin time, thromboplastin time, or platelet count.

(B) Certain clinical biochemistry determinations on blood shall be carried out at least two times: Just prior to initiation of dosing (if adequate historical baseline data are not available) and just prior to terminal sacrifice at the end of the test period. Test areas which are considered appropriate to all studies: Electrolyte balance, carbohydrate metabolism, and liver and kidney function. The selection of specific tests will be influenced by observations on the mode of action of the substance. Suggested determinations: Calcium, phosphorus, chloride, sodium, potassium, fasting glucose (with the period of fasting appropriate to the species), serum glutamic-pyruvic transaminase (now known as serum alanine aminotransferase), serum glutamic oxaloacetic transaminase (now known as serum aspartate aminotransferase), ornithine decarboxylase, gamma glutamyl transpeptidase, urea nitrogen, albumen blood creatinine, total bilirubin and total serum protein measurements. Other determinations which may be necessary for an adequate toxicological evaluation include: analyses of lipids, hormones, acid/base balance, methemoglobin, and cholinesterase activity. Additional clinical biochemistry may be employed, where necessary, to extend the investigation of observed effects.

viii. By revising paragraph (e)(8)(i) to read as follows:

(i) Each animal shall be observed daily and, if necessary, handled to appraise its physical condition.

ix. By revising the introductory text of paragraph (e)(9)(ii) to read as follows:

(ii) The following examinations shall be made on high dose and control groups. If changes in the eyes are detected, all animals should be examined.

x. By removing the sentence "If changes in the eyes are detected, all animals should be examined" in paragraph (e)(9)(ii)(A).

xi. By revising paragraph (e)(10)(iii), to read as follows:

(iii) The following organs and tissues, or representative samples thereof, shall be preserved in a suitable medium for possible future histopathological examination: All gross lesions; lungs—which should be removed intact, weighed, and treated with a suitable fixative to ensure that lung structure is maintained (perfusion with the fixative is considered to be an effective procedure); nasopharyngeal tissues; brain— including sections of medulla/pons, cerebellar cortex, and cerebral cortex; pituitary; thyroid/parathyroid; thymus; trachea; heart; sternum with bone marrow; salivary glands; liver; spleen; kidneys; adrenals; pancreas; gonads; uterus; accessory genital organs (epididymis, prostate, and, if present, seminal vesicles); aorta; (skin); gall bladder (if present); esophagus; stomach; duodenum; jejunum; ileum; cecum; colon; rectum; urinary bladder; representative lymph node; (mammary gland); (thigh musculature); peripheral nerve; (eyes); (femur—including articular surface); (spinal cord at three levels—cervical, midthoracic, and lumbar); and (zymbal and exorbital lachrymal glands).

b. Paragraphs (f)(1)(i) and (3) are amended by changing the word "should" to "shall" wherever it appears and changing the word "time" to "date" wherever it appears in paragraph (f)(3)(ii).

§ 798.3300 [Amended]

5. Section 798.3300 *Oncogenicity* is amended as follows:

a. Paragraph (b) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (b)(1) (i), (ii), (iii) and (iv) (A) and (B), (2), (5), (6)(i)(B), (ii)(C), (iii)(C), (7)(ii), (iv), (v), and (vi), (8) (ii) and (iv), (9), (10), and (11).

ii. By removing the phrase "It is recommended that" in the first sentence of paragraph (b)(1)(i) and by removing the phrase "Equal numbers of" in the first sentence of paragraph (b)(1)(iii)(A).

iii. By changing the word "recommended" to "required" wherever it appears in paragraph (b)(2)(i).

iv. By removing the word "only" in the fourth sentence of paragraph (b)(9).

v. By changing the phrase "female mammary gland" to "mammary gland" and by removing the phrase "special studies such as" in paragraph (b)(10)(ii).

vi. By changing the phrase "a necessary requirement" to "required" in paragraph (b)(10)(iii).

vii. By changing the word "should" to "shall" in certain sentences in paragraph (b)(3)(i), which is revised to read as follows:

(i) For risk assessment purposes, at least 3 dose levels shall be used, in addition to the concurrent control group. Dose levels should be spaced to produce a gradation of chronic effects.

viii. The proposed change to paragraph (b)(6)(ii)(B) is not being made based on comments received.

ix. By changing the word "should" to "shall" in certain sentences in paragraph (b)(6)(iii)(A), which is revised to read as follows:

(A) The animals shall be tested with inhalation equipment designed to sustain a minimum dynamic air flow of 12 to 15 air changes per hour, ensure an adequate oxygen content of 19 percent and an evenly distributed exposure atmosphere. Where a chamber is used, its design should minimize crowding of the test animals and maximize their exposure to the test substance. This is best accomplished by individual caging. To ensure stability of a chamber atmosphere, the total "volume" of the test animals shall not exceed 5 percent of the volume of the test chamber. Alternatively, oro-nasal, head-only, or whole-body individual chamber exposure may be used.

x. The proposed change to paragraph (b)(6)(iii)(B) is not being made based on comments received.

xi. By changing the word "should" to "shall" in certain sentences in paragraph (b)(7)(iii), which is revised to read as follows:

(iii) Clinical signs and mortality shall be recorded for all animals. Special

attention should be paid to tumor development. The day of onset, location, dimensions, appearance and progression of each grossly visible or palpable tumor shall be recorded.

xii. By revising paragraph (b)(8)(i), to read as follows:

(i) The rate of air flow shall be monitored continuously and recorded at intervals of at least once every 30 minutes.

xiii. By changing the word "should" to "shall" in certain sentences in paragraph (b)(6)(i)(A), which is revised to read as follows:

(A) The animals shall receive the test substance in their diet, dissolved in drinking water at levels that do not exceed the maximum solubility of the test chemical under testing condition.

xiv. By changing the word "should" to "shall" wherever it appears in paragraph (b)(6)(iii)(D), which is revised to read as follows:

(D) A dynamic inhalation system with a suitable flow control system shall be used. The rate of air flow shall be adjusted to ensure that conditions throughout the equipment are essentially the same. Maintenance of slight negative pressure inside the chamber will prevent leakage of the test substance into the surrounding areas.

xv. By changing the word "should" to "shall" wherever it appears in paragraph (b)(7)(i), which is revised to read as follows:

(7) *Observations of animals.* (i) Each animal shall be observed daily and if necessary should be handled to appraise its physical condition.

xvi. By changing the word "should" to "shall" wherever it appears in paragraph (b)(8)(iii), which is revised to read as follows:

(iii) During the development of the generating system, particle size analysis shall be performed to establish the stability of aerosol concentrations with respect to particle size. During exposure, analyses shall be conducted as often as necessary to determine the consistency of particle size, distribution, and homogeneity of the exposure stream.

b. Paragraph (c) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (c)(1), (2) (i) and (iii), and (3) and by changing the words "is no less than" to "should be no less than" wherever they appear in paragraph (c)(2)(iii).

§ 798.4350 [Amended]

6. Section 798.4350 *Inhalation developmental toxicity study* is amended as follows:

a. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e) (1), (2), (3) (i), (ii), and (vi), (4), (5), (7) (i), (ii) and (iii), (9) (i), (iii), (vi), (vii) and (10).

ii. By changing the word "recommended" to "required" in paragraph (e)(1)(iv).

iii. By changing the word "should" to "shall" in certain sentences in paragraphs (e)(6)(i) (A) and (B), which are revised to read as follows:

(A) The animals shall be tested in inhalation equipment designed to substain a minimum dynamic air flow of 12 to 15 air changes per hour and ensure an adequate oxygen content of 19 percent and an evenly distributed exposure atmosphere. Where a chamber is used, its design should minimize crowding of the test animals and maximize their exposure to the test substance. This is best accomplished by individual caging. To ensure stability of a chamber atmosphere, the total "volume" of the test animals shall not exceed 5 percent of the volume of the test chamber.

(B) Pregnant animals shall not be subjected to beyond the minimum amount of stress. Since whole-body exposure appears to be the least stressful mode of exposure, it is the method preferred. In general oro-nasal or head-only exposure, which is sometimes used to avoid concurrent exposure by the dermal or oral routes, is not recommended because of the associated stress accompanying the restraining of the animals. However, there may be specific instances where it may be more appropriate than whole-body exposure. The tester shall provide justification/reasoning for its selection.

iv. By revising paragraph (e)(7)(iv), to read as follows:

(iv) Temperature and humidity shall be monitored continuously and be recorded at least every 30 minutes.

v. By changing the word "should" to "shall" in certain sentences in paragraph (e)(9)(iv), which is revised to read as follows:

(iv) Cage-side observations shall include, but not be limited to: Changes in skin and fur, eye and mucous membranes, as well as respiratory, autonomic and central nervous systems, somatomotor activity and behavioral pattern. Particular attention should be directed to observation of tremors, convulsions, salivation, diarrhea, lethargy, sleep, and coma.

vi. By changing the word "should" to "shall" wherever it appears in paragraph (e)(3)(iv), which is revised to read as follows:

(iv) Unless limited by the physical/chemical nature or biological properties of the substance, the highest concentration level shall induce some overt maternal toxicity such as reduced body weight or body weight gain, but not more than 10 percent maternal deaths.

vii. By changing the word "should" to "shall" wherever it appears in paragraph (e)(6)(ii), which is revised to read as follows:

(ii) A dynamic inhalation system with a suitable flow control system shall be used. The rate of air flow shall be adjusted to ensure that conditions throughout the exposure chamber are essentially the same. Test material distribution should be established before animals are committed to dosing. Maintenance of slight negative pressure inside the chamber will prevent leakage of the test substance into the surrounding areas.

viii. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(7) (ii) and (iii), which are revised to read as follows:

(ii) The actual concentration of the test substance shall be measured in the breathing zone. During the exposure period the actual concentrations of the test substance shall be held as constant as practicable, monitored continously or intermittently depending on the method of analysis and measured at least at the beginning, at an intermediate time and at the end of the exposure period.

(iii) During the development of the generating system, particle size analysis shall be performed to establish the stability of aerosol concentrations with respect to particle size. During exposure, analysis shall be conducted as often as necessary to determine the consistency of particle size distribution.

ix. By changing the word "should" to "shall" wherever it appears in paragraph (e)(10)(ii), which is revised to read as follows:

(ii) Immediately after sacrifice or death, the uterus shall be removed, weighed, and the contents examined for embryonic or fetal deaths and the number of viable fetuses. Gravid uterine weights should not be obtained from dead animals if autolysis or where decomposition has occurred. The degree of resorption shall be described in order to help estimate the relative time of death.

b. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (f) (1) and (3).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (f)(2), which is revised to read as follows:

(2) *Evaluation of results.* The findings of a developmental toxicity study shall be evaluated in terms of the observed effects and the exposure levels producing effects. It is necessary to consider the historical developmental toxicity data on the species/strain tested. A properly conducted developmental toxicity study should provide a satisfactory estimation of a no-effect level.

iii. By changing the word "time" to "date" wherever it appears in paragraphs (f)(3)(iii) (C) and (D).

§ 798.4420 [Amended]

7. Section 798.4420 *Preliminary developmental toxicity screen* is amended as follows:

a. Paragraph (c) is amended by changing the word "should" to "shall" wherever it appears in paragraph (c).

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1) (ii), (iii) and (iv), (2), (3) (ii) and (iv), (4), (5), (7) (i), (ii), (iii) and (iv) and (8).

ii. By changing the word "pregnant" to "bred" wherever it appears in paragraph (d)(1)(iv).

iii. By replacing the word "neurotoxic" with "other adverse clinical" wherever it appears in paragraph (d)(3)(iv)(A).

iv. By changing the figure "10" to "1" wherever it appears in paragraph (d)(3)(iv)(B).

v. By changing the words "at the same time" to "at approximately the same time" wherever they appear in paragraph (d)(5).

vi. By removing the phrase "During the treatment and observation periods," wherever it appears in paragraph (d)(7)(iii).

vii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(7)(v), which is revised to read:

(v) During the dosing period females that die or are sacrificed because they are moribund shall be examined for signs of pregnancy and details of the conditions of the uterus and/or its contents recorded. Animals that have not delivered two days after expected date of parturition should be sacrificed and similar examinations made.

viii. By revising paragraph (d)(9)(ii) to read as follows:

(ii) Dead pups shall be subjected to a thorough external examination and gross soft tissue abnormalities noted.

c. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears and by changing the word "time" to "date" wherever it appears in paragraphs (e)(3) (iii) and (iv).

§ 798.4700 [Amended]

8. Section 798.4700 *Reproduction and fertility effects* is amended as follows:

a. Paragraph (c) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (c) (1), (2), (3)(i), (4)(i), (5)(i)(B), (6)(i)(C), (7)(i), (ii), (iv), and (v), (8) and (9) and by revising paragraph (c)(2)(iii) to read as follows:

(iii) If a vehicle or other additive is used to facilitate dosing, it shall not interfere significantly with absorption of the test substance or produce toxic effects.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(4)(ii)(A), which is revised to read as follows:

(A) All P males should be sacrificed at the end of the 3-week mating period, or may be retained for possible production of a second litter. If these animals are retained for a second litter, dosing shall be continued.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (c)(6)(i)(A), which is revised to read as follows:

(A) For each mating, each female shall be placed with a single male from the same dose level until pregnancy occurs or 1 week has elapsed. If mating has not occurred after 1 week, the female shall be placed with a different male. Paired matings should be clearly identified.

iv. By changing the word "should" to "shall" in paragraph (c)(6)(iii) which is revised to read as follows:

(iii) *Special housing.* After evidence of copulation, pregnant animals shall be caged separately in delivery or maternity cages. Pregnant animals shall be provided with nesting materials when parturition is near.

v. By changing the word "weekly" to "weekly except during the mating period" in the last sentence of paragraph (c)(7)(i).

vi. By revising paragraph (c)(7)(iii) to read as follows:

(iii) Each litter should be examined as soon as possible after delivery for the number of pups, stillbirths, live births, sex, and the presence of gross anomalies. Live pups should be counted and litters weighed at birth or soon thereafter, and on days 4, 7, 14, and 21 after parturition.

vii. By changing the word "animals" to "adult animals" wherever it appears in paragraph (c)(8)(i).

viii. By changing the words "target organ(s)" to "target organ(s) when previously identified" wherever they appear in paragraph (c)(8)(iii).

ix. By changing the word "should" to "shall" wherever it appears in the paragraph (c)(9) introductory text, which is revised to read as follows:

(9) *Histopathology.* Except if carried out in other studies of comparable duration and dose levels the following histopathology shall be performed:

b. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d) (1) and (3).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2)(i), which is revised to read as follows:

(i) An evaluation of test results, including the statistical analysis, based on the clinical findings, the gross necropsy findings, and the microscopic results shall be made and supplied. This should include an evaluation of the relationship, or lack thereof, between the animals' exposure to the test substance and the incidence and severity of all abnormalities.

iii. By changing the word "time" to "date" wherever it appears in paragraphs (d)(3) (iii) and (v).

§ 798.4900 [Amended]

9. Section 798.4900 *Developmental toxicity study* is amended as follows:

a. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1), (2), (3)(i), (ii), and (iii), (4), (5), (7)(i), (ii), (iii), (iv), (vi), and (vii), and (8)(i), (iii), (iv), (v), (vi) and (vii).

ii. By changing the word "recommended" to "required" wherever it appears in paragraph (e)(1)(iv).

iii. By revising (e)(3)(iv), to read as follows:

(iv) Unless limited by the physical/chemical nature or biological properties of the substance, the highest dose level shall induce some overt maternal toxicity such as reduced body weight or body weight gain, but not more than 10 percent maternal deaths.

iv. By changing the words "at the same time" to "approximately the same time" wherever they appear in paragraph (e)(5).

v. By removing the phrase "During the treatment and observation period," wherever it appears in paragraph (e)(7)(iv).

vi. By revising paragraph (e)(8)(ii) as follows:

(ii) Immediately after sacrifice or as soon as possible after death, the uterus shall be removed and the contents

examined for embryonic or fetal deaths and the number of viable fetuses. The degree of resorption shall be described in order to help estimate the relative time of death of the conceptus. The weight of the gravid uterus should be recorded for dams that are sacrificed. Gravid uterine weights should not be obtained from dead animals if autolysis or decomposition has occurred.

b. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (f) (1) and (3).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (f)(2), which is revised to read as follows:

(2) *Evaluation of results.* The findings of a developmental toxicity study shall be evaluated in terms of the observed effects and the exposure levels producing effects. It is necessary to consider the historical developmental toxicity data on the species/strain tested. A properly conducted developmental toxicity study should provide a satisfactory estimation of a no-effect level.

iii. By changing the word "time" to "date" wherever it appears in paragraphs (f)(3) (iii) and (iv).

§ 798.5200 [Amended]

10. Section 798.5200 *Mouse visible specific locus test* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the words "are recommended" to "shall be used" in paragraph (d)(3)(i).

ii. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(3) (i), (ii) and (iv), and (4)(i).

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(5)(i), which is revised to read as follows:

(i) *Vehicle.* When possible, test chemicals should be dissolved or suspended in distilled water or isotonic saline buffered appropriately, if needed, for stability. Water-insoluble chemicals shall be dissolved or suspended in appropriate vehicles. The vehicle used shall neither interfere with the test compound nor produce major toxic effects. Fresh preparations of the test chemical should be employed.

iv. By revising paragraph (d)(5)(ii), to read as follows:

(ii) *Dose levels.* Usually, only one dose level need be tested. This should be the highest dose tolerated without toxic effects, provided that any temporary sterility induced due to elimination of spermatagonia is of only moderate duration, as determined by a return of males to fertility within 80 days after treatment. For evaluation of dose-response, it is recommended that at least two dose levels be tested.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1) and (2)(i) and by adding the following sentence to the end of paragraph (e)(1): "Repeated mating cycles should be conducted until the entire spermatogonial cycle has been evaluated and enough offspring have been obtained to meet the power criterion of the assay."

ii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(2)(ii), which is revised to read as follows:

(ii) Nonmutant progeny should be discarded. Mutant progeny shall be subjected to genetic tests for verification.

c. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (f) (2) and (5).

ii. By changing the word "should" to "shall" wherever it appears in paragraph (f)(1), which is revised to read as follows:

(1) *Treatment of results.* Data shall be presented in tabular form and shall permit independent analysis of cell stage specific effects and dose dependent phenomena. The data shall be recorded and analyzed in such a way that clusters of identical mutations are clearly identified. The individual mutants detected shall be thoroughly described. In addition, concurrent positive and negative control data, if they are available, shall be tabulated so that it is possible to differentiate between concurrent (when available) and long-term accumulated mutation frequencies.

§ 798.5265 [Amended]

11. Section 798.5265 *Salmonella typhimurium reverse mutation assay* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(5) (i) and (ii) and (6)(ii)(B).

ii. By revising paragraph (d)(6)(i) to read as follows:

(6) *Test chemicals*—(i) *Vehicle.* Test chemicals and positive control reference substances should be dissolved or suspended in an appropriate vehicle and then further diluted in vehicle for use in the assay.

iii. By changing the word "should" to "shall" wherever it appears in paragraph (d)(6)(ii)(C), which is revised to read as follows:

(C) When appropriate, a single positive response shall be confirmed by testing over a narrow range of concentrations.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e) (4) and (5).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(1), which is revised to read as follows:

(1) *Direct plate incorporation method.* For this test without metabolic activation, test chemica1 and 0.1 m1 of a fresh bacterial culture should be added to 2.0 ml of overlay agar. For tests with metabolic activation, 0.5 ml of activation mixture containing an adequate amount of postmitochondrial fraction should be added to the agar overlay after the addition of test chemical and bacteria. Contents of each tube shall be mixed and poured over the surface of a selective agar plate. Overlay agar shall be allowed to solidify before incubation. At the end of the incubation period, revertant colonies per plate shall be counted.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(2)(i), which is revised to read as follows:

(i) For this test with metabolic activation, 0.5 ml of S–9 mix containing 150 ul of S–9 and 0.1 ml of bacterial culture should be added to a test tube kept on ice. One-tenth milliliter of chemical should be added, and the tubes should be incubated with shaking at 30° C for 30 min. At the end of the incubation period, 2.0 ml of agar should be added to each tube, the contents mixed and poured over the surface of a selective agar plate. Overlay agar shall be allowed to solidify before incubation. At the end of the incubation period, revertant colonies per plate shall be counted.

iv. By changing the word "should" to "shall" in certain sentences in paraqraph (e)(2)(ii), which is revised to read as follows:

(ii) For tests without metabolic activation, 0.5 ml of buffer should be used in place of the 0.5 ml of S–9 mix. All other procedures shall be the same as those used for the test with metabolic activation.

v. By revising paragraph (e)(6), to read as follows:

(6) *Number of cultures.* All plating should be done at least in triplicate.

c. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (f)(1) and (5).

ii. By changing the words "revertants of a statistically" to "revertants or a statistically" in paragraph (f)(3)(ii).

iii. By revising paragraph (f)(5)(ii) to read as follows:

(ii) Metabolic activation system used (source, amount and cofactor); details of preparations of S–9 mix.

§ 798.5275 [Amended]

12. Section 798.5275 *Sex-linked recessive lethal test in Drosophila melanogaster* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraph (d)(4).

ii. By removing the last sentence of paragraph (d)(4)(iv), which is revised to read as follows:

(iv) *Negative controls.* Negative (vehicle) controls shall be included. The size of the negative (vehicle) control group shall be determined by the availability of appropriate laboratory historical control data.

iii. By revising paragraph (d)(5)(ii), to read as follows:

(ii) *Dose levels.* For the initial assessment of mutagenicity, it is sufficient to test a single dose of the test substance for screening purposes. This dose should be the maximum tolerated dose, or that which produces some indication of toxicity, or shall be the highest dose attainable. For dose-response purposes, at least three additional dose levels should be used.

b. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (e) (1) and (2) and by changing the word "excess" to "appropriate number" wherever it appears in paragraph (e)(1).

c. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (f) (1), (2), and (5).

§ 798.5300 [Amended]

13. Section 798.5300 *Detection of gene mutations in somatic cells in culture* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d) (3)(ii), (4), and (5).

ii. By revising paragraph (d)(6)(i), to read as follows:

(i) *Vehicle.* Test substances may be prepared in culture media or dissolved or suspended in appropriate vehicles prior to treatment of the cells. The final concentration of the vehicle shall not interfere with cell viability or growth rate. Treatment vessels should be chosen to ensure that there is no visible interaction, such as etching, between the solvent, the test chemical, and the vessel.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(6)(ii)(B), which is revised to read as follows:

(B) Several concentrations (usually at least 4) of the test substance shall be used. Generally, these shall yield a concentration-related toxic effect. The highest concentration shall produce a low level of survival (approximately 10 percent), and the survival in the lowest concentration shall approximate the negative control. Cytotoxicity shall be determined after treatment with the test substance both in the presence and in the absence of an exogenous metabolic activation system. Relatively insoluble substances should be tested up to their limit of solubility under culture conditions. For freely-soluble nontoxic substances the highest concentration used should be determined on a case-by-case basis.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e) (1) and (2), and by changing the words "without metabolic" to "without exogenous metabolic" wherever it appears in paragraph (e)(1).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(3), which is revised to read as follows:

(3) At the end of the expression period, which shall be sufficient to allow near optimal phenotypic expression of induced mutants, cells should be grown in medium with and without selective agent(s) for determination of number of mutants and cloning efficiency, respectively.

iii. By revising paragraph (e)(4) to read as follows:

(4) Results shall be confirmed in an independent experiment. When appropriate, a single positive response should be confirmed by testing over a narrow range of concentrations.

c. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraph (f) (1) and (5).

§ 798.5375 [Amended]

14. Section 798.5375 *In vitro mammalian cytogenetics* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d) (3)(ii), (4), and (5).

ii. By revising paragraph (d)(6)(i), to read as follows:

(i) *Vehicle.* Test substances may be prepared in culture media or dissolved or suspended in appropriate vehicles prior to treatment of the cells. Final concentration of the vehicle shall not interfere with cell viability or growth rate. Treatment vessels should be chosen to ensure that there is no visible interaction, such as etching, between the solvent, the test chemical, and the vessel.

iii. By replacing the phrase "The highest test substance concentration" with "Generally the highest test substance concentrations" and by changing the words "or cytotoxicity" to "of cytotoxicity" wherever they appear in paragraph (d)(6)(ii).

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e) (3) and (4), and by changing the phrase "absence of a metabolic" to "absence of an exogenous metabolic" wherever it appears in paragraph (e)(3).

ii. By revising paragraph (e)(5)(i) to read as follows:

(i) For established cell lines and strains, multiple harvest times are recommended. However, for screening purposes, a single harvest time may be appropriate. If the test chemical changes the cell cycle length, the fixation intervals should be changed accordingly. If a single harvest time is selected, supporting data for the harvest time should be presented in such a study.

iii. The proposed change to paragraph (e)(5)(ii) is not being made based on comments received.

iv. By revising paragraph (e)(5)(iii), to read as follows:

(iii) Cell cultures shall be treated with a spindle inhibitor, (e.g., colchicine or Colcemid®), 1 or 2 hours prior to harvesting. Each culture shall be harvested and processed separately for the preparation of chromosomes.

v. By revising paragraph (e)(7), to read as follows:

(7) *Analysis.* Slides shall be coded before analysis. In human lymphocytes, only cells containing 46 centromeres shall be analyzed. In established cell

lines and strains, only metaphases containing ±2 centromeres of the modal number shall be analyzed. Uniform criteria for scoring aberrations shall be used.

vi. By adding a new paragraph (e)(8) to read as follows:

(8) *Confirmatory tests.* When appropriate, a single positive response shall be confirmed by testing over a narrow range of concentrations.

c. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraph (f)(5) and by changing the word "time" to "date" wherever it appears in paragraph (f)(5)(vi).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (f)(1), which is revised to read as follows:

(1) *Treatment of results.* Data shall be presented in a tabular form. Different types of structural chromosomal aberrations shall be listed with their numbers and frequencies for experimental and control groups. Data should be evaluated by appropriate statistical methods. Gaps or achromatic lesions are recorded separately and not included in the total aberration frequency.

§ 798.5385 [Amended]

15. Section 798.5385 *In vivo mammalian bone marrow cytocenetics tests: Chromosomal analysis* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(3) (ii) and (iv) and (4).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii), which is revised to read as follows:

(iii) *Number and sex.* At least five female and five male animals per experimental and control group shall be used. Thus, 10 animals would be sacrificed per time per group treated with the test compound if several test times after treatment are included in the experimental schedule. The use of a single sex or smaller number of animals should be justified.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(5)(i), which is revised to read as follows:

(i) *Vehicle.* When possible, test chemicals shall be dissolved in isotonic saline or distilled water. Water insoluble chemicals may be dissolved or suspended in appropriate vehicles. The vehicles used shall neither interfere with the test chemical nor produce toxic effects. Fresh preparations of the test compound should be employed.

iv. By revising paragraph (d)(5)(ii), to read as follows:

(ii) *Dose levels.* For an initial assessment, one dose of the test substance may be used, the dose being the maximum tolerated dose (to a maximum of 5,000 mg/kg) or that producing some indication of cytotoxicity (e.g., partial inhibition of mitosis) or shall be the highest dose attainable (to a maximum of 5,000 mg/kg). Additional dose levels may be used. For determination of dose-response, at least three dose levels should be used.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e) (1)(ii), (2), and (3) and by changing the word "should" to "shall" in certain sentences in paragraph (e)(1)(i), which is revised to read as follows:

(i) Animals should be treated with the test substance once at the selected dose(s). Samples should be taken at three times after treatment. For rodents, the central sampling interval is 24 hours. Since cell cycle kinetics can be influenced by the test substance, one earlier and one later sampling interval adequately spaced within the range of 6 to 48 hours shall be applied. Where the additional dose levels are tested in a subsequent experiment, samples shall be taken at the predetermined most sensitive interval or, if this is not established, at the central sampling time. If the most sensitive interval is known and documented with data, only this one time point shall be sampled.

ii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(4), which is revised to read as follows:

(4) *Analysis.* The number of cells to be analyzed per animal should be based upon the number of animals used, the negative control frequency, the predetermined sensitivity, and the power chosen for the test. Slides shall be coded before microscopic analysis.

c. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraph (f)(5).

§ 798.5395 [Amended]

16. Section 798.5395 *In vivo mammalian bone marrow cytogenetics tests: Micronucleus assay* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(3) (iv) and (d)(4).

ii. By revising paragraph (d)(3)(ii), to read as follows:

(ii) *Age.* Young adult animals shall be used.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii), which is revised to read as follows:

(iii) *Number and sex.* At least five female and five male animals per experimental and control group shall be used. Thus, 10 animals would be sacrificed per time per group if several test times after treatment were included in the experimental schedule. The use of a single sex or a smaller number of animals should be justified.

iv. By changing the word "should" to "shall" in certain sentences in paragraphs (d)(5) (i) and (ii), which are revised to read as follows:

(i) *Vehicle.* When appropriate for the route of administration, solid and liquid test substances should be dissolved or suspended in distilled water or isotonic saline. Water insoluble chemicals may be dissolved or suspended in appropriate vehicles. The vehicle used shall neither interfere with the test compound nor produce toxic effects. Fresh preparations of the test compound should be employed.

(ii) *Dose levels.* For an initial assessment, one dose of the test substance may be used, the dose being the maximum tolerated dose (to a maximum of 5,000 mg/kg) or that producing some indication of cytotoxicity, e.g., a change in the ratio of polychromatic to normochromatic erythrocytes. Additional dose levels may be used. For determination of dose response, at least three dose levels shall be used.

v. By redesignating the text of paragraph (d)(1) as (d)(1)(i) and adding new paragraphs (d)(1) (ii) and (iii) to read as follows:

(d) *Test method*—(1) *Principle*—

(i) * * *

(ii) Micronuclei may also be detected in other test systems:

(A) Tissue culture.

(B) Plants.

(C) Blood smears.

(D) Fetal tissues.

(E) Meiotic cells.

(F) Hepatic cells.

(iii) The present guideline is based on the mammalian bone marrow assay.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (e)(1) (ii) and (iii).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(1)(i), which is revised to read as follows:

(i) Animals shall be treated with the test substance once at the highest tolerated dose. Sampling times should coincide with the maximum responses of the assay which 149 varies with the test substance. Therefore, using the highest dose, bone marrow samples should be taken at least three times, starting not earlier than 12 hours after treatment, with appropriate intervals following the first sample but not extending beyond 72 hours. When other doses are used sampling shall be at the maximum sensitive period, or, if that is not known, approximately 24 hours after treatment. Other appropriate sampling times may be used in addition. If the most sensitive interval is known and documented with data, only this one time point need be sampled.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (e)(2), which is revised to read as follows:

(2) *Analysis.* Slides shall be coded before microscopic analysis. At least 200 polychromatic erythrocytes per animal shall be scored for the incidence of micronuclei. The ratio of polychromatic to normochromatic erythrocytes should be determined for each animal by counting a total of 200 erythrocytes. To ensure consistency with OECD and other guidelines, 1,000 polychromatic erythrocytes are recommended. Additional information may be obtained by scoring normochromatic erythrocytes for micronuclei.

c. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (f) (1) and (5).

d. Paragraph (g)(7) is added to read as follows:

(7) Heddle, J.A., Hite, M., Kurkhart, B., Mavournin, K., MacGregor, J.T., Newell, G.W., Salamone, M.F. "The induction of micronuclei as a measure of genotoxicity. A report of the U.S. Environmental Protection Agency Gene-Tox Program," *Mutation Research*, 123: 61–118 (1983).

§ 798.5450 [Amended]

17. Section 798.5450 *Rodent dominant lethal assay*, is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(3) (ii) and (iv) and (4).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(3)(iii), which is revised to read as follows:

(iii) *Number.* An adequate number of animals shall be used taking into account the spontaneous variation of the biological characteristics being evaluated. The number chosen should be based on the predetermined sensitivity of detection and power of significance. For example, in a typical experiment, the number of males in each group shall be sufficient to provide between 30 and 50 pregnant females per mating interval.

iii. By changing the word "should" to "shall" in certain sentences in paragraphs (d)(5) (i) and (ii), which are revised to read as follows:

(i) *Vehicle.* When possible, test substances shall be dissolved or suspended in isotonic saline or distilled water. Water-insoluble chemicals may be dissolved or suspended in appropriate vehicles. The vehicle used shall neither interfere with the test chemical nor produce toxic effects. Fresh preparations of the test chemical should be employed.

(ii) *Dose levels.* Normally, three dose levels shall be used. The highest dose shall produce signs of toxicity (e.g., slightly reduced fertility and slightly reduced body weight). However, in an initial assessment of dominant lethality a single high dose may be sufficient. Nontoxic substances shall be tested at 5g/kg or, if this is not practicable, then as the highest dose attainable.

b. Paragraph (f) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (f) (2) and (5).

ii. By changing the word "should" to "shall" wherever it appears in paragraph (f)(1), which is revised to read as follows:

(1) *Treatment of results.* Data shall be tabulated to show the number of males, the number of pregnant females, and the number of nonpregnant females. Results of each mating, including the identity of each male and female, shall be reported individually. For each female, the dose level and week of mating and the frequencies of live implants and of dead implants shall be enumerated. If the data are recorded as early and late deaths, the tables shall make that clear. If preimplantation loss is estimated, it shall be reported. Preimplantation loss can be calculated as the difference between the number of corpora lutea and the number of implants or as a reduction in the average number of implants per female in comparison with control matings.

iii. By removing current paragraph (f)(5)(vi) and by revising paragraph (f)(5)(vii) to read as follows and by redesignating it as paragraph (f)(5)(vi):

(vi) Criteria for scoring dominant lethals including the number of early and late embryonic deaths.

iv. By redesignating paragraph (f)(5)(viii) as paragraph (f)(5)(vii).

§ 798.5460 [Amended]

18. Section 798.5460 *Rodent heritable translocation assays* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(3) (ii) and (iv) and (4).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(5)(i), which is revised to read as follows:

(i) *Vehicle.* When appropriate for the route of administration, solid and liquid test substances should be dissolved or suspended in distilled water or isotonic saline. Water-insoluble chemicals may be dissolved or suspended in appropriate vehicles. The vehicle used shall neither interfere with the test chemical nor produce toxic effects. Fresh preparations of the test chemical should be employed.

iii. By revising paragraph (d)(5)(ii), to read as follows:

(ii) *Dose levels.* At least two dose levels shall be used. The highest dose level shall result in toxic effects (which shall not produce an incidence of fatalities which would prevent a meaningful evaluation) or shall be the highest dose attainable or 5g/kg body weight.

b. Paragraph (e) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in the introductory text to paragraph (e)(2).

ii. By changing the words "should be" and "are" to "shall be" in certain sentences in paragraph (e)(1), which is revised to read as follows:

(1) *Treatment and mating.* The animals shall be dosed with the test substances 7 days per week over a period of 35 days. After treatment, each male shall be caged with 2 untreated females for a period of 1 week. At the end of 1 week, females shall be separated from males and caged individually. When females give birth, the day of birth, litter size, and sex of progeny shall be recorded. All male progeny should be weaned, and all female progeny should be discarded.

c. Paragraph (f) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (f) (1), (2), and (5).

§ 798.6050 [Amended]

19. Section 798.6050 *Functional observational battery* is amended as follows:

a. Paragraph (d) is amended as follows:

i. By changing the word "should" to "shall" wherever it appears in paragraphs (d)(1) (ii) and (iii)(B), (3), and (8)(ii).

ii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(2), which is revised to read as follows:

(2) *Number of animals.* At least eight animals of each sex should be used at each dose level and should be designated for behavioral testing. If interim sacrifices are planned, the number should be increased by the number of animals scheduled to be sacrificed before the end of the study. Animals shall be randomly assigned to treatment and control groups.

iii. By changing the word "should" to "shall" in certain sentences in paragraph (d)(8)(i), which is revised to read as follows:

(i) All animals in a given study should be observed carefully by trained technicians who are blind with respect to the animals' treatments. Standard procedures to minimize observer variability shall be followed. Where possible, it is advisable that the same observer be used to evaluate the animals in a given study. If this is not possible, some demonstration of inter-observer reliability is required. All animals should be observed prior to initiation of exposure. Subsequent observations should be made with sufficent frequency to ensure the detection of behavioral and/or neurologic abnormalities, if present. At minimum, observations at 1 hour, 6 hours, 24 hours, 7 days, and 14 days and monthly thereafter are recommended. In a subchronic study, subsequent to the first exposure all observations should be made before the daily exposure. The animals should be removed from the home cage to a standard arena for observation. Effort should be made to ensure that variations in the test conditions are minimal and are not systematically related to treatment. Among the variables that can affect behavior are sound level, temperature, humidity, lighting, odors, time of day, and environmental distractions. Explicit, operationally defined scales for each function should be used. The development of objective quantitative measures of the observational endpoints specified is encouraged.

b. By changing the word "should" to "shall" in certain sentences in paragraph (e)(3), which is revised to read as follows:

(3) *Evaluation of data.* The findings of a functional observational battery should be evaluated in the context of preceding and/or concurrent toxicity studies and any correlative histopathological findings. The evaluation shall include the relationship between the doses of the test substance and the presence or absence, incidence and severity, of any neurotoxic effects. The evaluation should include appropriate statistical analyses. Choice of analyses should consider tests appropriate to the experimental design and needed adjustments for multiple comparisons.

§ 798.6200 [Amended]

20. Section 798.6200 *Motor activity* is amended in paragraph (d)(1)(iii)(B) by changing the word "should" to "shall" wherever it appears.

§ 798.6400 [Amended]

21. Section 798.6400 *Neuropathology* is amended as follows:

a. Paragraph (d) is amended by changing the word "should" to "shall" wherever it appears in paragraphs (d)(1) (i) and (iii) and (8) (ii)(C), (iii), and (iv)(B).

b. Paragraph (e) is amended by changing the word "should" to "shall" wherever it appears in the introductory text and in paragraph (e)(1).

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40 CFR Parts 795 and 799

[OPTS-42033D; FRL 3202-3]

Cresols; Final Test Standards and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final rule under section 4(a) of the Toxic Substances Control Act (TSCA) that specifies test standards and reporting requirements for testing of ortho (o), meta (m) and para (p) cresols (CAS 95-48-7, 108-39-4, 107-44-5).

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on June 3, 1987. This rule shall become effective on July 6, 1987.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 28, 1986 (51 FR 15771), EPA issued a final Phase I rule under section 4(a) of TSCA to require testing of cresols for mutagenic effects, developmental toxicity, and reproductive effects. Also, in that issue of the **Federal Register**, EPA issued a proposed Phase II rule which named the test guidelines to be used for testing and proposed that tests be submitted within specific time frames (51 FR 15803; April 28, 1986). The Agency is now promulgating a final Phase II rule specifying these test standards and reporting requirements for this testing. This test rule for cresols is being promulgated under 40 CFR 799.1250.

I. Background

The Phase I final rule specified the testing requirements for cresols: (1) Mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations) on specified cresol isomers; (2) a developmental toxicity study with each cresol isomer; and (3) a two-generation reproductive effects study with each cresol isomer.

Sections 790.50 and 790.52 of Title 40 of the Code of Federal Regulations (CFR) discuss the test standard rule development procedure. In the case of the cresols test rule, which was initiated under the two-phase process, EPA decided to propose the relevant TSCA test guidelines as the test standards. In addition, EPA proposed that the data from the required studies be submitted within certain time periods. These time periods serve as the data submission deadlines required by TSCA section 4(b)(1). The reasons for this change in the test rule development process for cresols were discussed in the proposed rule.

II. Modifications to the Two-Phase Rulemaking Process

Because EPA proposed certain TSCA guidelines as the test standards and proposed data submission deadlines, persons subject to the Phase I final rule were not required to submit proposed study plans for the required testing or proposed dates for the initiation and completion of that testing. They were, however, still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.45.

On July 8, 1986, the Cresols Program Panel (the Panel) of the Chemical Manufacturers Association (CMA) notified EPA of its intent to conduct the testing required in the Phase I test rule for cresols (Ref. 1). In addition, the

Procter and Gamble Co. and the Sigma-Aldrich Corp., processors of cresols, requested exemptions (Refs. 2 and 3, respectively). EPA is now requiring the test sponsor to conduct testing in accordance with specific test standards and reporting requirements. These standards and reporting requirements reflect the Agency's evaluation of comments received on the proposed rule. Moreover, once this Phase II final rule is promulgated, those persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 45 days before the initiation of each of the required tests.

III. Proposed Phase II Test Rule

A. Test Standards

In the proposed Phase II rule, the Agency proposed that testing of cresols be conducted using the following TSCA test guidelines as test standards:

1. *Mutagenicity.* Chromosomal effects.

a. *In vitro* mammalian cytogenetics test (40 CFR 798.5375).

b. *In vivo* mammalian bone marrow cytogenetics tests: chromosomal analysis (40 CFR 798.5385).

c. Rodent dominant lethal assay (40 CFR 798.5450).

2. *Mutagenicity.* Unscheduled DNA synthesis in mammalian cells in culture assay (40 CFR 798.5550).

3. *Mutagenicity.* Gene mutations.

a. Detection of gene mutations in somatic cells in culture assay (40 CFR 798.5300).

b. Sex-linked recessive lethal test in *Drosophila melanogaster* (40 CFR 798.5275).

4. *Mutagenicity.* Cellular transformations. Morphologic transformation of mammalian cells in culture assay (40 CFR 795.285).

5. *Developmental toxicity.* Developmental toxicity study (40 CFR 798.4900).

6. *Reproductive effects.* Reproduction and fertility effects study (40 CFR 798.4700).

EPA also proposed that the revisions to these guidelines, which were proposed in the **Federal Register** of January 14, 1986 (51 FR 1522), be adopted in the test standards for cresols. EPA has responded to comments concerning these guideline revisions in the record for rulemaking (Ref. 5). These guidelines are discussed and promulgated elsewhere in this issue of the **Federal Register** and are included in this rulemaking docket. In addition, EPA proposed several chemical-specific test standard modifications such as route of administration of test substances, multiple dosing, specific strains, cell lines and species, solvents, negative controls, and specific activation systems. For additional information on proposed test standards and supporting rationale for modifications, consult the proposed Phase II rule on cresols (51 FR 15803; April 28, 1986).

B. Reporting Requirements

EPA proposed that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards (40 CFR Part 792). In addition, test sponsors are required to submit individual study plans at least 45 days prior to beginning each study. The Agency has modified this requirement in a procedural rule published in the **Federal Register** of June 30, 1986 (51 FR 23706). The Agency also proposed specific reporting requirements for each of the proposed tests. For additional information on proposed reporting requirements, consult the proposed Phase II rule on cresols (51 FR 15803; April 28, 1986).

IV. Response to Public Comments

The Agency received comments from the CMA Cresols Program Panel (Ref. 4). The major issues identified during the comment period and EPA's responses to those comments are discussed below.

A. Reporting Requirements

The Panel recommended that the reporting schedules proposed in the Phase II rule be reevaluated. It recommended that all the 12-month reporting schedules be extended to 18 months and that the 29-month reporting schedule for the reproductive effects test be extended to 36 months. The Agency disagrees with the Panel's comments and believes that the proposed reporting schedules are realistic because the Agency's schedule already takes into account the longest possible sequential route of testing, considering administrative and logistical variables specific to each test. These time variables were then added cumulatively to the time required to perform the tests. The Agency did extend the reporting deadline for the *in vivo* mammalian bone marrow cytogenetics test from 12 months to 14 months. This will allow for the *in vivo* testing to follow the negative *in vitro* tests.

B. Repeating Mutagenicity Assays

The CMA Panel commented on the generic requirement to repeat all mutagenicity assays. In particular, the Panel commented on this requirement for the gene mutation in cells in culture assay, the cell transformation assay, and the sex-linked recessive lethal assay in *Drosophila*. The Panel argues that repetition of tests, in some cases, is redundant and would not yield more useful information.

The Agency agrees that a generic requirement to repeat all *in vivo* mutagenicity assays is not routinely necessary; however, the Agency believes that under certain conditions repeats of tests are appropriate and necessary. The Agency interprets any single positive finding at one dose level, but no dose response, as a positive mutagenic response in the absence of a repeat assay. The Agency is therefore not including a generic requirement for repeats of the following assays: *in vivo* mammalian cytogenetics, *Drosophila* sex-linked recessive lethal, and rodent dominant lethal. Because of the nature of *in vitro* tests in comparison to *in vivo* systems, the Agency believes that repeats of equivocal studies are appropriate and necessary for the evaluation of the *in vitro* mammalian cytogenetics, the gene mutation in somatic cells in culture, and the morphologic transformation of mammalian cells in culture assays. The Agency is thus requiring repeats of these *in vitro* assays over a narrow range of concentrations in the event a single, statistically significant increase is produced at one dose point without a dose response.

C. In Vivo Cytogenetics Assay

The Panel recommended that, because there are available LD_{50} data on cresols, the high dose of the three dose levels for this assay be one-tenth of the acute LD_{50} for the test material in the mouse by the oral route. The middle and low test dose should be logarithmically placed.

The Agency believes that there is not adequate reason to proceed as the Panel recommended. This highest dose tested must be the maximum tolerable dose or that producing some indication of cytotoxicity. There is no reason to believe that one-tenth of the available LD_{50} for cresols will be sufficient to cause some cytotoxicity. Therefore, the Agency does not agree with the Panel's suggested modification to the *in vivo* cytogenetics assay.

D. Detection of Gene Mutations in Somatic Cells in Culture

The Panel recommended that cresols be tested in Chinese hamster ovary (CHO) cells rather than the L5178Y mouse lymphoma cells proposed by the Agency for this assay. The Agency specifically proposed the L5178Y cells because of the previous assays with a cresols mixture and with *o*-cresol using that cell line. EPA is interested in obtaining the clearest overall picture of

the mutagenic effects of each of the cresol isomers. Therefore, for the two isomers, *m*-cresol and *p*-cresol, for which testing in this assay is required, the Agency disagrees with the Panel on the use of the CHO cells. The required testing should continue with the L5178Y cells which were used in previous gene mutation assays on cresols.

The Panel also recommended that as part of the test results criteria for this assay, a consideration of a dose dependent increase in mutation and an absolute increase in mutant colony number be included. The Panel stated that this increase should be statistically significant. The section of the TSCA test guideline for this assay that deals with the interpretation of results (40 CFR 798.5300) states that either of the above criteria could be used to determine positive test results.

E. Morphological Transformation of Mammalian Cells in Culture

The Panel recommended that the C3H10T½ mouse embryo cell is a more appropriate test system for this assay and that this cell line be used instead of the Balb/c–3T3 mouse cells which the Agency proposed. Because of a previous positive result in a cellular transformation assay with a mixture of the three cresol isomers, the Agency proposed the use of Balb/c–3T3 cells. The Agency has determined that because of the existing data using this cell line with cresols, the cell line for this assay should continue to be the Balb/c–3T3 cells.

The test criteria for the cell transformation assay are based on those criteria which were used for previous Balb/c–3T3 cell transformation assays on an equimixture of the three cresol isomers, for which a positive result was obtained. The Agency is interested in continuity of test performance so that the existing results can be compared with future test results.

In addition, the Panel does not agree with some of the test criteria included in the standard for determining a positive result. While the Panel did agree with the need for demonstration of a dose-response as a criterion for a positive evaluation, the Panel did not believe that the detection of a reproducible and statistically significant positive response in only one of the test substance concentrations supports a positive finding. Instead, the Panel recommended that a determination of positive evidence for induction of transformation be the demonstration of a dose-related increase in the number of transformed foci and a six- to- eightfold increase over identified background transformation rates. The Panel believes that if both conditions are met, the test substance should be considered positive for cell transformation. If neither condition is met, the test substance should be considered negative. If only one condition is met, the test substance is equivocal and should be repeated, perhaps utilizing more appropriate test concentrations.

The section of this guideline which addresses the interpretation of results states the two criteria suggested by the Panel. However, the Agency has determined that either a statistically significant concentration-related increase or a statistically significant and reproducible positive response at any one dose level will indicate a positive response in this test. As indicated in Unit IV. B., the Agency believes that repeats of equivocal studies are necessary for the evaluation of *in vitro* mutagenicity assays. An unusually elevated response in an *in vitro* assay at a single data point, in the absence of a dose response, warrants a repeat assay over a dose range designed to bracket the dose of interest. If the repeat assay shows a statistically significant positive response for at least one of the test substance concentrations then the results are interpreted as positive.

V. Final Phase II Test Rule

A. Test Standards

The mutagenicity, developmental toxicity, and reproductive effects test guidelines and chemical specific modifications proposed for cresols and finalized in this **Federal Register** shall be the test standards for the testing of cresols under 40 CFR 799.1250 (see Unit III. A. of this preamble). The Agency believes that the conduct of the required studies in accordance with these test standards is necessary to assure that the results are reliable and adequate.

B. Reporting Requirements

All data developed under this rule must be reported in accordance with the TSCA GLP Standards (40 CFR Part 792). In addition, test sponsors are required to submit individual study plans at least 45 days prior to the initiation of each study in accordance with 40 CFR Part 790. This is a change from the proposed rule which stated 30 days (see 51 FR 23706; June 30, 1986).

The Agency is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. On the basis of the Agency's regulatory experience with the health effects tests required for cresols, as well as in response to certain public comments, EPA is adopting the reporting requirements in Table 1 of this preamble. Accordingly, results for the required tests must be reported as specified. After issuing the proposed rule for cresols, the Agency decided that interim reports for the testing required for substances under section 4 of TSCA should be submitted at 6-month intervals rather than at 3-month intervals. This reporting frequency will be sufficient to keep EPA informed of the current status of required testing and of any difficulties which the testing facility may encounter during testing. This change also lessens the reporting burden of test sponsors. Accordingly, the final reporting requirements for the testing required for cresols reflect a requirement for 6-month, rather than 3-month, interim reports.

TABLE 1.—REPORTING REQUIREMENTS FOR CRESOLS

Test	Reporting deadline for final report (months after the effective date of final phase II rule).	Number of interim (6-month) reports required
In vitro mammalian cytogenetics test	12	1
In vivo mammalian bone marrow cytogenetics test	14	1
Rodent dominant lethal assay	24	3
Unscheduled DNA synthesis in mammalian cells in culture assay	12	1
Gene mutation in cells in culture assay	12	1
Sex linked recessive lethal test in *Drosophila*	24	3
Morphologic transformation of mammalian cells in culture assay	12	1
Oral developmental toxicity	12	1
Reproduction and fertility effects	29	4

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

C. Conditional Exemptions Granted

The final rule for test rule development and exemption procedures (40 CFR 790.87) indicates that, when certain conditions are met, exemption applicants will be notified by certified mail or in the final Phase II test rule for a given substance that they have received conditional exemptions from test rule requirements. The exemptions granted are conditional because they will be given based on the assumption that the test sponsors will complete the required testing according to the test standards and reporting requirements established in the final Phase II test rule for the given substance. TSCA section 4(c)(4)(B) provides that if an exemption

is granted prospectively (that is, on the basis that one or more persons are developing test data, rather than on the basis of prior test data submissions), the Agency must terminate the exemption if the test sponsor has not complied with the test rule.

Since sponsors have indicated to EPA by letter of intent (Ref. 1), their agreement to sponsor all of the tests required for cresols in the final Phase I test rule for this substance (51 FR 15771; April 28, 1986) and EPA has established test standards and reporting requirements in this final Phase II rule for cresols, the Agency is hereby granting conditional exemptions to all exemption applicants (Refs. 2 and 3) for all of the testing.

D. Judicial Review

The promulgation date for the cresols Phase I final test rule was established as 1 p.m. eastern daylight time on May 12, 1986. To EPA's knowledge, no petitions for judicial review of that Phase I final rule. Any petition for judicial review of this Phase II final rule will be limited to a review of the test standards and reporting requirements for cresols established in this rule.

E. Other Provisions

Section 4 findings, required testing, test substance specifications, persons required to test, enforcement provisions, and the economic analysis are presented in the final Phase I rule for cresols (51 FR 15771).

VI. Rulemaking Record

EPA has established a record for this rulemaking [docket number (OPTS-42033D)]. This record includes basic information considered by the Agency in developing this final rule and appropriate **Federal Register** notices.

A. Supporting Documentation

The supporting documents for this final rulemaking consist of: The proposed and final Phase I test rule on cresols (48 FR 31812; July 11, 1983 and 51 FR 15771; April 28, 1986, respectively), the proposed Phase II test standards rule on cresols (51 FR 15803; April 28, 1986), and the notice of Revision of TSCA Test Guidelines published elsewhere in this issue of the **Federal Register.**

B. References

(1) CMA. Chemical Manufacturers Association. Letter of intent to conduct testing on behalf of Cresols Program Panel from Geraldine V. Cox, to TSCA Public Information Office, U.S. Environmental Protection Agency. July 8, 1986.

(2) The Procter and Gamble Company. Letter requesting exemption from the test rule for cresols from James T. O'Reilly to TSCA Public Information Office, U.S. Environmental Protection Agency. June 9, 1986.

(3) Sigma-Aldrich Corporation. Letter requesting exemption from the test rule for cresols from David R. Harvey to Document Control Office, U.S. Environmental Protection Agency. June 5, 1986.

(4) CMA. Chemical Manufacturers Association. Comments on the EPA Proposed Testing Standards on behalf of the Cresols Program Panel from Geraldine V. Cox to TSCA Public Information Office, U.S. Environmental Protection Agency. June 12, 1986.

(5) USEPA. "Response to Public Comments, Proposed Revision of TSCA Test Guidelines as published in 51 FR 1522 (January 14, 1986)". Test Rules Development Branch, Existing Chemicals Assessment Division, Office of Toxic Substances, Environmental Protection Agency, Washington, DC (January 1987).

The record (except for documents containing TSCA confidential business information) is open for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. G-004, Northeast Mall, 401 M St. SW., Washington, DC 20460.

VII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of cresols is discussed in the Phase I test rule (51 FR 15771; April 28, 1986).

This final Phase II test rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments received from OMB, together with any EPA response to these comments, are included in the public record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

(1) There are no small manufacturers of this substance.

(2) Small processors are not expected to perform testing themselves, or participate in the organization of the testing effort.

(3) Small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final Phase II rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070-0033. No public comments on these requirements were submitted to the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: May 4, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Chapter I of Title 40 CFR is amended as follows:

PART 795—[AMENDED]

1. In Part 795:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603.

b. By adding new § 795.285 to Subpart D, to read as follows:

§ 795.285 Morphologic transformation of cells in culture.

(a) *Purpose. In vitro* assays for cellular transformation are semi-quantitative assays for the ability of chemical agents to morphologically alter (transform) cells in culture. Such transformation is associated with certain phenotypic changes such as loss of contact inhibition and the ability to form colonies in soft agar medium. The process by which these changes occur is assumed to be closely related to the process of *in vivo* carcinogenesis. Morphologically transformed cells appear as foci of dense, piled-up, altered cells on an underlying monolayer of normal cells. Three types of foci have been recognized. Type III foci appear to be most closely correlated with *in vivo* tumor formation. The ultimate criterion for morphologic transformation is the ability of the transformed cells to induce tumors when inoculated into appropriate hosts. Not all cells which

appear to be morphologically transformed are capable of tumor formation. In general, there is reasonably good correlation between *in vitro* transformation and *in vivo* oncogenesis, although the correlation varies depending on the system being studied. These systems are believed to be reasonably good predictors of *in vivo* activity, and positive results are viewed as potential indications of *in vivo* carcinogenesis.

(b) *Definitions.* (1) Morphologic transformation is the acquisition of certain phenotypic characteristics, most notably loss of contact inhibition and loss of anchorage dependence, which are often but not always associated with the ability to induce tumors in appropriate hosts.

(2) Type III foci of transformed cells are multilayered aggregations of densely staining cells with random orientation and criss-cross arrays at the periphery of the aggregate. They appear as dark stained areas on a light staining background monolayer which is one-cell thick.

(c) *Reference substances.* Not applicable.

(d) *Test method*—(1) *Principle.* (i) Three systems for detecting chemically induced morphologic transformation have been described. They are:

(A) Systems which employ cell lines (cells with an indefinite lifespan).

(B) Systems which employ cell strains (cells with a finite or limited lifespan).

(C) Systems which detect the interaction between chemicals and oncogenic viruses.

(ii) This study shall employ an established cell line for detection of morphologic transformaton.

(2) *Description.* Cells in culture are exposed to the test substance, both with and without metabolic activation, for a defined period of time. Cytotoxicity is determined by measuring the colony-forming ability and growth rate of the cultures after the treatment period. At the end of the treatment period, cultures are maintained in growth medium for a sufficient period of time to allow near-optimal expression of transformed foci.

(3) *Cells.* (i) Balb/c–3T3 mouse cells originally obtained from clone A–31 or its derivatives shall be used in the assay. Cells shall be checked for mycoplasm contamination prior to use in the assay and may be checked for karyotype.

(ii) Appropriate culture media and incubation conditions (culture vessels, CO_2 concentrations, temperature, and humidity) shall be used.

(4) *Metabolic activation.* Cells shall be exposed to test substance both in the presence and absence of a metabolic activation system. The metabolic activation system shall be derived from primary cultures of rat hepatocytes.

(5) *Control groups.* Positive and negative (untreated and vehicle) controls shall be included in each experiment. 3-Methylcholanthrene is an example of a positive control for experiments without metabolic activation. Dimethylnitrosamine is an example of a positive control in experiments with metabolic activation.

(6) *Test chemicals*—(i) *Vehicle.* Test agents shall be dissolved in serum-complete culture medium prior to treatment of the cells.

(ii) *Exposure concentrations.* Several concentrations (usually at least four) of the test substance shall be used. These shall be selected on the basis of a preliminary cytotoxicity assay performed both with and without metabolic activation. The highest concentration shall produce a low level of survival (approximately 10 to 20 percent), and the survival in the lowest concentration shall approximate that of the negative control.

(e) *Test performance.* (1) Cells shall be exposed to the test substance both with and without metabolic activation. Exposure shall be for 72 hours for experiments without metabolic activation and for 48 hours for experiments with metabolic activation unless different exposure times are justified by the investigator.

(2) At the end of the exposure period, cells shall be washed and cultured to determine viability and to allow for expression of transformation.

(3) At the end of the incubation period (generally 4 to 6 weeks), cells shall be fixed and stained, and the number of transformed (Type III) foci shall be enumerated.

(4) All results shall be confirmed in an independent experiment if a single, statistically significant positive effect is produced at one dose point without a dose response. A positive response should be confirmed by testing over a narrow range of concentrations.

(5) Tumorigenic potential of isolated morphologically transformed foci may be determined by inoculation into suitable hosts.

(f) *Data and report*—(1) *Treatment of results.* (i) Data shall be presented in tabular form. Individual colony counts for the treated and control groups shall be presented for both transformation and survival.

(ii) Survival and cloning efficiencies shall be given as a percentage of the controls. Transformation shall be expressed as a number of foci per dish, the number of dishes with transformed foci, and the number of transformed foci per number of surviving cells.

(2) *Interpretation of results.* (i) There are several criteria for determining a positive result, one of which is a statistically significant concentration-related increase in the number of transformed foci. Another criterion may be based upon the detection of a reproducible and statistically significant positive response for at least one of the test substance concentrations.

(ii) A test substance which does not produce either a statistically significant concentration-related increase in the number of transformed foci or a statistically significant and reproducible positive response at any one of the test points is considered to be negative in this system.

(iii) Both biological and statistical significance should be considered together in the evaluation.

(3) *Test evaluation.* (i) Positive results for an *in vitro* mammalian cell transformation assay indicate that, under the test conditions, the test substance induces morphologic transformation in the cultured mammalian cells used.

(ii) Negative results indicate that, under the test conditions, the test substance does not induce morphologic transformation in the cultured mammalian cells used.

(4) *Test report.* In addition to the reporting recommendations as specified under 40 CFR Part 792 Subpart J, the following specific information shall be reported:

(i) Cell type used, including subclone designation and passage number; number of cell cultures; methods used for maintenance of cell cultures.

(ii) Rationale for selection of concentrations and number of cultures.

(iii) Test conditions: Composition of media, CO_2 concentration, concentration of test substance, vehicle, incubation temperature, incubation time, duration of treatment, cell density during treatment, type of metabolic activation system, positive and negative controls, length of expression period (including number of cells seeded and subculture and feeding schedules, if appropriate).

(iv) Methods used to enumerate numbers of viable cells and transformed foci.

(v) Dose-response relationship, where possible.

(g) *References.* For additional background information on this test guideline, the following references should be consulted:

(1) Heidelberger, C., Freeman, A.E., Pienta, R.J., Sivak, A., Bertram, J.S., Castro, B.C., Dunkel, V.C., Francis,

M.W., Kakunaga, T., Little, J.B., Schechtman, L.M., "Cell transformation by chemical agents—a review and analysis of the literature: a report of the U.S. Environmental Protection Agency Gene-Tox Program." *Mutation Research* 114:283–385, 1983.

(2) Kakunaga, T. "A quantitative system for assay of malignant transformation by carcinogens using a clone derived from Balb-3T3." *International Journal of Cancer* 12:463–473, 1973.

(3) Reznikoff, C.A., Bertram, J.S., Brankow, D.W., Heidelberger, C. "Quantitative and qualitative studies of chemical transformation of cloned C3H mouse embryo cells sensitive to postconfluence inhibition of cell division." *Cancer Research* 33:3239–3249, 1973.

(4) Reznikoff, C.A., Brankow, D.W., Heidelberger, C. "Establishment and characterization of a cloned line of C3H mouse embryo cells sensitive to postconfluence inhibition of division." *Cancer Research* 33:3231–3238, 1973.

(5) Sivak, A., Charest, M.C., Dudenko, L., Silveira, D.M., Simons, I., Wild, A.W. "Balb/c–3T3 cells as target cells for chemically induced neoplastic transformation." In: *Advances in modern environmental toxicology, mammalian cell transformation by chemical carcinogens.* Vol. I. Mishra, N., Dunkel, V., Mehlman, M., eds. Princeton Junction, NJ: Senate Press, pp. 133–180, 1981.

(6) Sivak, A., Tu, A.S. "Factors influencing neoplastic transformation by chemical carcinogens in Balb/c-3T3 cells." In: *The predictive value of short-term screening tests in carcinogenicity evaluation.* Williams, G.M., Kroes, R., Waaijers, H.W., Van de Poll, K.W., eds. Amsterdam, New York, Oxford: Elsevier/North Holland Biomedical Press, pp. 177–190, 1980.

(7) Williams, G.M. "Detection of chemical carcinogens by unscheduled DNA synthesis in rat liver primary cell culture." *Cancer Research* 37:1845–1851, 1977.

PART 799—[AMENDED]

2. In Part 799:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In § 799.1250 by adding paragraphs (c)(1) (ii) and (iii), (2) (ii) and (iii), (3) (ii) and (iii), (4) (ii) and (iii), (5) (ii) and (iii), and (d), to read as follows:

§ 799.1250 Cresols.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standards.* (A)(*1*) *In vitro mammalian cytogenetics test.* This test shall be conducted individually with *ortho-*, *meta-*, and *para*-cresols in accordance with § 798.5375 of this chapter, except for the provisions in paragraphs (d) (3)(i) and (4) and (6) (i) and (ii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Type of cells used in the assay.* *Ortho-*, *meta-*, and *para*-cresols shall be tested in established cell lines. The cell lines or strain shall be checked for *Mycoplasma* contamination.

(*ii*) *Metabolic activation.* The metabolic activation system for this assay shall be derived from Aroclor-1254 induced rat liver S–9 preparations.

(*iii*) *Test substance—Vehicle.* *Ortho-*, *meta-*, and *para*-cresols shall be dissolved in DMSO prior to treatment of the cells.

(*iv*) *Exposure concentrations.* At least three concentrations of the test substance over a range adequate to define the response curve shall be tested. The highest test concentration tested with and without metabolic activation shall be 5 milligrams per milliliter or that dose which shows evidence of cytotoxicity or reduced mitotic activity.

(B) (*1*) *In vivo mammalian bone marrow cytogenetics test.* This chromosomal analysis test shall be conducted with each *ortho-*, *meta-*, or *para*-cresol isomer which produces a negative result in the *in vitro* cytogenetics test conducted pursuant to paragraph (c)(1)(i)(A) of this section. This test shall be conducted in accordance with § 798.5385 of this chapter, except for the provisions in paragraphs (d) (3)(i) and (5) (ii) and (iii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Animal selection—Species and strain.* The mouse shall be used. Commonly used laboratory strains should be employed. The test sponsor should provide justification/reasoning for its selection.

(*ii*) *Dose levels.* At least three dose levels shall be used. The highest dose tested shall be the maximum tolerated dose or that producing some indication of cytotoxicity, e.g., partial inhibition of mitosis, or shall be the highest dose attainable.

(*iii*) *Route of administration.* The test substance shall be administered only once by oral gavage.

(C) (*1*) *Rodent dominant-lethal assay.* This assay shall be conducted with *ortho-*, *meta-*, or *para*-cresols in accordance with § 798.5450 of this chapter, except for the provision in paragraphs (d) (3)(i) and (5)(iii) and (e)(1). The rodent dominant-lethal assay shall be conducted for each isomer which produces a positive result in either the in *vitro* or the *in vivo* cytogenetics test conducted pursuant to paragraphs (c)(1)(i) (A) and (B) of this section.

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Animal selection—Species.* The mouse shall be used. Commonly used laboratory strains should be employed. The test sponsor should provide justification/reasoning for its selection.

(*ii*) *Route of administration.* The test substance shall be administered by oral gavage.

(*iii*) *Test performance.* Each male shall be mated to no more than two, and preferably to only one, female per mating interval. Females shall be left with the males for no longer than 7 days, and mating shall continue for at least 6 weeks.

(iii) *Reporting requirements.* (A) The chromosomal aberration tests shall be completed and the final results submitted to the Agency as follows:

(*1*) The *in vitro* and *in vivo* (conditional) tests within 12 and 14 months, respectively, of the effective date of the final Phase II test rule.

(*2*) The dominant lethal assay (conditional) within 24 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be submitted to the Agency for the *in vitro* and *in vivo* cytogenetics assays and the dominant lethal assay at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(2) * * *

(ii) *Test standards.* (A)(*1*) *Unscheduled DNA synthesis in mammalian cells in culture assay.* This assay shall be conducted with *meta*-cresol in accordance with § 798.5550 of this chapter, except for provisions in § 798.5550(d) (3)(i) and (6)(i).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Cells—Types of cells used in the assay.* Primary cultures of rat hepatocytes shall be used.

(*ii*) *Test chemical—Vehicle.* *Meta*-cresol shall be dissolved in DMSO prior to treatment of cells.

(B)(*1*) *Detection of gene mutations in somatic cells in culture.* This assay shall be conducted individually with *meta*- and *para*-cresols in accordance with § 798.5300 of this chapter, except for provisions in § 798.5300(d)(3)(i), (4), (6)(i), and (e)(1).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Cells—Type of cells used in the assay.* L5178Y mouse lymphoma cells shall be used. Cells shall be checked for *Mycoplasma* contamination.

(*ii*) *Metabolic activation.* The metabolic activation system shall be derived from the postmitochondrial fraction (S–9) of rat livers pretreated with Aroclor 1254.

(iii) Test chemical—Vehicle. Meta- and *para*-cresols shall be dissolved in DMSO prior to treatment of the cells. The final concentration of the vehicle shall not interfere with cell viability or growth rate.

(iv) Test performance—Exposure. Exposure shall be for 4 hours unless a different exposure time is justified by the investigator.

(C) *(1) Sex-linked recessive lethal test in Drosophila melanogaster.* This test shall be conducted with *meta*-cresols in accordance with § 798.5275 of this chapter, except for the provisions in § 798.5275(d)(5)(iii). This sex-linked recessive lethal test shall be conducted with *meta*-cresol if it produces a positive result in either one of the assays conducted pursuant to paragraphs (c)(2)(i) (A) and (B) of this section.

(*2*) For the purposes of this section the following provision also applies: *Route of administration.* The oral route of administration shall be used.

(iii) *Reporting requirements.* (A) The genetic toxicity tests shall be completed and final results submitted to the Agency as follows:

(*1*) The unscheduled DNA synthesis in mammalian cells in culture assay within 12 months of the effective date of the final Phase II test rule.

(*2*) The detection of gene mutations in somatic cells in culture assay within 12 months of the effective date of the final Phase II test rule.

(*3*) The sex-linked recessive lethal test in *Drosophila melanogaster*, if required, within 24 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be submitted to the Agency for the unscheduled DNA synthesis in mammalian cells in culture assay, gene mutation in mammalian cells in culture assay, and the *Drosophila* sex-linked recessive lethal test at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(3) * * *

(ii) *Test standards.* (A) *Morphologic transformation of mammalian cells in culture.* This test shall be conducted individually with *ortho-*, *meta-*, and *para*-cresols in accordance with § 795.285 of this chapter, except for provisions in § 795.285(d)(4).

(B) For the purposes of this section the following provision also applies: *Metabolic activation. Meta-* and *para*-cresol shall initially be tested in this assay performed without metabolic activation. Only if they produce negative results in the assay performed without activation will *meta-* and *para*-cresol then be tested in the assay with metabolic activation. *Ortho*-cresol shall only be tested in this assay performed with metabolic activation.

(iii) *Reporting requirements.* (A) The morphologic transformation of mammalian cells in culture assay shall be completed and final results submitted to the Agency within 12 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be submitted to the Agency for the morphologic transformation assay at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(4) * * *

(ii) *Test standards.* (A) *Developmental toxicity.* This study shall be conducted individually with *ortho-*, *meta-*, and *para*-cresols in accordance with § 798.4900 of this chapter, except for provisions in § 798.4900(e)(5).

(B) For the purposes of this section the following provision also applies: *Administration of test substance.* The test substance shall be administered by oral gavage.

(iii) *Reporting requirements.* (A) The developmental toxicity study shall be completed and final results submitted to the Agency within 12 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be submitted to the Agency for the developmental toxicity study at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(5) * * *

(ii) *Test standards.* (A) *Reproduction and fertility effects.* This study shall be conducted individually with *ortho-*, *meta-*, and *para*-cresols in accordance with § 798.4700 of this chapter, except for provisions in § 798.4700(c)(5)(i)(A).

(B) For the purposes of this section the following provision also applies: *Administration of the test substance—Oral studies.* The test substance shall be administered by oral gavage.

(iii) *Reporting requirements.* (A) The reproduction and fertility effects study shall be completed and final results submitted to the Agency within 29 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be submitted to the Agency for the reproduction and fertility effects study at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(d) *Effective date.* The effective date of the final Phase II rule for cresols is July 6, 1987.

* * * * *

[FR Doc. 87–11125 Filed 5–19–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 799

[OPTS–42030D; FRL 3202–2]

Mesityl Oxide; Final Test Standards and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 20, 1985, EPA issued a final Phase I test rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of mesityl oxide (MO; CAS No. 141–97–7). At that time, EPA also proposed that certain TSCA health effects test guidelines be utilized as the test standards for the required studies and that test data be submitted within specified time frames. EPA has reviewed public comments on the proposal and has modified the test guidelines and time frames as appropriate. This final rule specifies these TSCA guidelines as the test standards and the reporting requirements for the testing of MO.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on June 3, 1987. This rule shall become effective on July 6, 1987.

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

SUPPLEMENTARY INFORMATION: On December 20, 1985 EPA issued a final Phase I rule under section 4(a) of TSCA to require testing of MO for chronic effects, mutagenicity, and oncogenicity (conditional on the mutagenicity test results). The Agency is now promulgating a final Phase II rule specifying the test standards and reporting requirements for this testing. This test rule for MO is being promulgated under 40 CFR 799.2500.

I. Background

The Phase I final test rule for MO specifies the following testing requirements: (1) Inhalation subchronic (90-day) toxicity; (2) mutagenicity (including tests for both gene mutations and chromosomal aberrations); and (3) oncogenicity (if certain mutagenicity test results are positive).

Once this Phase I test rule became effective, manufacturers and processors of MO would normally have been required (under the two-phase test rule development process) to submit proposed study plans for each of these required studies and proposed schedules for both the initiation of testing and the submission of study data. (See 40 CFR 790.30, published in the **Federal Register** of May 17, 1985 (50 FR 20658).) EPA would review the submitted study plans and schedules and would thereafter issue them (with any necessary modifications) in a Phase II test rule proposal. This proposal would request public comment on the ability of the proposed study plans to ensure that the resulting data would be reliable and adequate. After evaluating and responding to public comment, EPA would adopt the study plans, including the reporting schedules, in a Phase II final rule as the required test standards and data submission deadlines. (See 40 CFR 790.32, published in the **Federal Register** of May 17, 1985 (50 FR 20659).)

However, in the case of the MO test rule, which was initiated under the two-phase process, EPA decided to propose the relevant TSCA test guidelines as the test standards (50 FR 51888; December 20, 1985). In addition, EPA proposed that the data from the required studies be submitted within certain time periods, these time periods serving as the data submission deadlines required by TSCA section 4(b)(1). The reasons for this change in the test rule development process for MO were discussed in the proposed rule.

II. Modifications to the Two-Phase Rulemaking Process

Because EPA proposed certain TSCA guidelines as the test standards and proposed data submission deadlines, persons subject to the Phase I final rule were not required to submit proposed study plans for the required testing or proposed dates for the initiation and completion of that testing. They were, however, still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25.

On March 3, 1986, the Ketones Program Panel (the Panel) of the Chemical Manufacturers Association (CMA) notified EPA of its intent to conduct the testing required in the Phase I test rule for MO (Ref. 1). The Panel is composed of Exxon Chemical Americas, Eastman Kodak Co., Shell Chemical Co., and Union Carbide Corp. In addition, Aldrich Chemical Co., Inc., a processor, requested an exemption (Ref. 5). EPA is now promulgating a final Phase II rule requiring manufacturers and processors of MO who have not been granted exemptions from the rule to conduct testing in accordance with specified test standards and reporting requirements. These standards and requirements reflect the Agency's evaluation of comments received on the proposed rule. Moreover, once this Phase II final rule is promulgated, those persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 45 days before the initiation of each of the required tests.

III. Proposed Phase II Test Rule

A. Test Standards

The Agency proposed that testing of MO be conducted using the following TSCA test guidelines as test standards:

1. *Subchronic exposure:* Inhalation toxicity (40 CFR 798.2450).

2. *Mutagenicity:* Chromosomal effects.

i. First tier:

a. *In vitro* mammalian cytogenetics (40 CFR 798.5375).

b. *In vivo* mammalian bone marrow cytogenetics tests: Chromosomal analysis (40 CFR 798.5385).

ii. Second tier: Rodent dominant lethal assay (40 CFR 798.5450).

iii. Third tier: Rodent heritable translocation assay (40 CFR 798.5460).

3. *Mutagenicity:* Gene mutations.

i. First tier:

a. *Salmonella typhimurium* (40 CFR 798.5265).

b. Somatic cells in culture (40 CFR 798.5300).

ii. Second tier: Sex linked recessive lethal test (40 CFR 798.5275).

iii. Third tier: Mouse specific locus test (40 CFR 798.5200).

4. *Chronic Exposure:* Oncogenicity (40 CFR 798.3300).

EPA also proposed that the revisions to these guidelines, which were proposed in the **Federal Register** of January 14, 1986 (51 FR 1522), be adopted in the test standards for MO. In addition, EPA proposed several chemical-specific test standard modifications such as requiring inhalation testing, multiple doses, negative controls, specific strains, cell lines and species, and specific activation systems. For additional information on the proposed test standards and supporting rationale for modifications, consult the proposed Phase II rule on MO (50 FR 51888; December 20, 1985).

B. Reporting Requirements

The Agency proposed the following specific reporting requirements:

The subchronic toxicity tests be completed and the final results submitted to the Agency within 15 months of the effective date of the final Phase II test rule.

The mutagenicity studies be completed and the final results submitted to the Agency as follows:

First tier gene mutation and chromosomal aberration tests be completed within 1 year of the effective date of the final Phase II test rule.

Second tier gene mutation and second tier chromosomal aberration tests be completed within 2 years of the effective date of the final Phase II test rule.

Third tier gene mutation and chromosomal effects tests be completed within 4 years of the effective date of the final Phase II test rule.

The oncogenicity tests, to be triggered if certain tier I or II mutagenicity tests are positive, be completed and the final results submitted to the Agency within 53 months after submission of positive mutagenicity test results from these tests. In addition, quarterly reports were proposed for all tests.

IV. Response to Public Comments

The Agency received comments from the Panel (Ref. 2). A public meeting was not requested. However, an extension of the comment period was requested (Ref. 4) to allow additional time to comment on the proposed revisions to the test guidelines published in the **Federal Register** of January 14, 1986 (51 FR 1522). The request was granted (51 FR 5376; February 13, 1986). The major issues identified during the comment period for the required and conditional tests are discussed below.

A. Subchronic Toxicity Test

The Panel commented that continuous monitoring of air concentrations of the test material would preclude use of gas chromatography and that the term "continuous monitoring" should be clarified. Elsewhere in this issue of the **Federal Register** the Agency has issued a final rule revising the TSCA test guidelines. In response to public comment on this rule, the subchronic toxicity test standard has been modified to clarify "continuous monitoring" to include intermittent sampling dependent on the method of analysis. EPA acknowledges that when using gas

chromatography the recording capacity will depend on the retention time of the sample in the column. The method of analysis should be described in detail and specified in the study plan.

The Panel also commented that three animal bleedings (preexposure, day 30, and day 90) would overly stress the animals and are of questionable value since a concurrent control is being run. The Agency agrees that hematological and clinical biochemistry determinations in blood performed at the end of the test period (day 90) may be adequate in certain circumstances. However, the Agency does not believe that day 90 determinations are sufficient if a chemical, such as MO, is suspected of having hematological effects which mandate interim determinations. In addition, it is preferable to have baseline values for these determinations on the animals prior to their undergoing testing since normal range values can be highly variable. The Agency believes that for MO additional blood sampling will clarify apparent blood dyscrasia reported in the Ito study (Ref. 3) which raises concern for potential blood effects from chronic exposure to MO. Sampling only at day 90 would not detect age-dependent blood effects in the treatment groups. Furthermore, preexposure data are needed to ensure that there are no differences in blood parameters between test and control groups and to establish baseline data for each group. The bleedings at all three of these times are technically feasible and are far enough apart so as not to overly stress the animals. The Agency, therefore, has specified that these three animal bleedings be conducted on both exposed and control animals.

B. In Vitro and In Vivo Cytogenetics Tests

The Panel recommended that the Agency not specify DMSO as the solvent for the *in vitro* cytogenetics test and to allow scientific judgment on the selection of an appropriate solvent for this testing. The Agency specified DMSO since comparable testing of an analogue, isophorone, successfully utilized DMSO. A different solvent may be used as long as the sponsor demonstrates that the chosen solvent does not affect test results. The final test standard has been modified to reflect this recommendation.

The Panel also recommended that rats rather than mice be used in the *in vivo* cytogenetics test because rats are more commonly used in this test and rat chromosomes allow more accurate information to be obtained. The Agency proposed mice for this test so that correlations could be made between the lower and upper tier mutagenicity tests. Since correlations between mice and rats have not been established for the *in vivo* cytogenetics and rodent dominant lethal tests, the Agency proposed that mice be used. In addition, mice can successfully be used in this test, and their chromosomes can be equally well evaluated. However, since the Agency has accepted rats as the test species for *in vivo* cytogenetics testing required for other section 4 test rule chemicals and since the Agency has no data to suggest that mice are more sensitive than rats in their response to this test or to MO, mice have not been specified, and the test sponsor may select rats.

The Panel identified scheduling problems for conducting both these tests within 1 year of the effective date of the test rule and requested 3 additional months. Since issuing the proposed Phase II test rule for MO, the Agency has reevaluated the time periods it will specify for conducting these tests. The final reporting requirements have been modified, allowing 15 months to conduct these tests.

C. Dominant Lethal Test

The Panel recommended that the dominant lethal test be conducted in rats rather than mice because evaluation of ovarian corpora lutea is technically easier and more accurate in rats. The Agency proposed mice so that correlations can be made between lower and upper tier mutagenicity tests for MO. In addition, evaluation of ovarian corpora lutea to determine preimplantation loss is discretionary. The guideline states that preimplantation loss can be calculated as the difference between the number of corpora lutea and the number of implants or as a reduction in the average number of implants per female in comparison with control matings. The guideline allows for scientific judgment in selecting which evaluation method is most appropriate. As noted by the Panel, mice have successfully been used for this test, and the Agency has no reason to believe they cannot successfully be used for testing MO. However, since the Agency has accepted rats as the test species for the dominant lethal testing required for other section 4 test rule chemicals and since the Agency has no data that suggest mice are more sensitive than rats in their response to this test or to MO, mice have not been specified as the test species.

The Panel commented that the use of "slightly reduced fertility" at the highest exposure level as a study endpoint is impracticable and urged adoption of an alternative endpoint such as decreased body weight or clinical evidence of toxicity. Slightly reduced fertility is a recommended endpoint for this test. Other endpoints may be more appropriate for a given testing program. The test standard requires only that the highest dose produce signs of toxicity or is the highest dose attainable. Furthermore, the test standard requires that the dosing regimen, doses tested, and rationale for dosage selection be reported (see § 798.5460(f)(5)(iii)). The Agency has left endpoint selection to the scientific judgment of those conducting the test.

D. Salmonella Reverse Mutation Assay

The Panel recommended that the Agency not specify DMSO as the solvent for this assay. The final standard for this test has been modified to accommodate this recommendation. See the above response to the use of DMSO in the *in vitro* cytogenetics test for the rationale for this change.

E. Detection of Gene Mutations in Somatic Cells in Culture

The Panel recommended the forward gene mutation assay at the HGPRT locus in the Chinese hamster ovary cell culture (CHO test) for testing MO instead of the LK5178 mouse lymphoma assay proposed by EPA. The Panel commented that there was no evidence that isophorone (an MO analogue) demonstrated a mutagenic response in the mouse lymphoma assay and that this assay is subject to an inconsistent response. The Agency believes these two assays will be equally sensitive to MO and, as such, accepts the Panel's recommendation. The final test standard reflects this change.

The Panel also recommended that the Agency not specify DMSO as the solvent for this assay. The final test standard has been modified to accommodate this recommendation. See the above response to the use of DMSO in the *in vitro* cytogenetics test for the Agency's rationale for this change.

F. Sex-Linked Recessive Lethal Test

The Panel commented that the inhalation route for this test was inappropriate because arthropods *(Drosophila)* have totally different circulatory and respiratory systems than man. Such differences, they commented, preclude use of the data in risk assessment. Concern over differences in physiology and morphology between mammalian and nonmammalian species can be raised for any of the routes of administration for this test. The scientific community accepts *Drosophila* as an acceptable test species to detect both point mutations and small

deletions on the X chromosome which when expressed cause death to the carrier. Administration of MO via inhalation will ensure accurate quantification of dose. Furthermore, since it is technically feasible to conduct this test via the inhalation route of exposure, and since inhalation is the primary route of exposure to this chemical, the Agency believes conducting this test via inhalation is most appropriate. Therefore, the Agency does not agree with the Panel's suggested modification to allow an alternative route of exposure to be used.

G. Mouse Visible Specific Locus Test

The Panel commented that it was inappropriate for the Agency to establish standards for routes of administration and reporting requirements for this test. They recommended that the Agency should delete specific requirements for this assay until appropriate testing facilities have been identified, additional experience is gained with conducting this test, and there is consensus on the utility of this test.

EPA believes these concerns are appropriate topics to be discussed during EPA's public program review of all of the available mutagenicity data for MO, as described in the final Phase I test rule. Currently, Oak Ridge National Laboratory (ORNL) may be available for direct contracting of this testing (Ref. 7) A detailed discussion of ORNL's availability is provided in the final test rule for diethylenetriamine (52 FR 3230; February 3, 1987). Other laboratories may be available at the time this testing becomes necessary.

Before the third tier mutagenicity testing is to begin, EPA will hold a public review if the results of the previous tier tests are positive. If, after review of public comment, no change in the test sequence is deemed necessary, EPA will provide formal notification to the test sponsor that the next tier tests must be conducted. If, however, EPA believes additional testing is no longer warranted as a result of the earlier test results, public comment, scientific judgment, and/or other appropriate factors, EPA will issue a proposed amendment to rescind these requirements.

H. Oncogenicity Test

The Panel recommended that the final report be submitted 50 to 56 months after completion of the subchronic inhalation study. This extension, they stated, would accommodate the possible need for additional pathology and other technical or scheduling problems encountered. Based upon the Agency's experience, 53 months (the proposed reporting requirement) after submission of positive mutagenicity test results is sufficient to conduct both the 90-day subchronic study and the 2-year oncogenicity test in two species; prepare and evaluate slides for pathology; and submit the required reports. In the final Phase I rule a chronic bioassay is required if certain specified short term tests produce a positive result. If this occurs, EPA will notify the test sponsors to initiate the chronic study. Final results must then be submitted to the Agency within 53 months of this notification.

V. Final Phase II Test Rule

A. Test Standards

The subchronic toxicity, first, second, and third tier mutagenicity, and oncogenicity test guidelines and chemical specific modifications proposed for MO (see Unit III.A. of this preamble) shall be the test standards for the testing of MO under 40 CFR 799.2500 with the following exceptions:

The subchronic toxicity test to be conducted in accordance with § 798.2450 clarifies the term "continuous monitoring" and the hematological, and clinical biochemistry determinations are required at preexposure, day 30 and day 90.

The *in vitro* cytogenetics test, *Salmonella* reverse mutation assay, and detection of gene mutations in somatic cells in culture test to be conducted in accordance with §§ 798.5375, 798.5265, and 798.5300 do not specify DMSO as the required solvent.

The *in vivo* cytogenetics test, the dominant lethal test, and rodent heritable translocation test to be conducted in accordance with §§ 798.5385, 798.5450, and 798.5460 do not specify mice as the required test species.

The detection of gene mutations in somatic cells in culture test to be conducted in accordance with § 798.5300 shall be conducted using either the HGPRT locus in the Chinese hamster ovary cell culture test or the proposed LK5178 mouse lymphoma assay.

The guideline revisions finalized elsewhere in this issue of the **Federal Register** for tests included in this Phase II rule are adopted in the test standards for the testing of MO. FPA has responded to comments concerning these guideline revisions in the record for that rulemaking (Ref. 8).

The Agency believes that the conduct of the required studies in accordance with these test standards is necessary to assure that the results are reliable and adequate.

B. Reporting Requirements

All data developed under this rule must be reported in accordance with the TSCA Good Laboratory Practice (GLP) Standards (40 CFR Part 792). In addition, test sponsors are required to submit individual study plans at least 45 days prior to the initiation of each study in accordance with 40 CFR 790.50(a).

The Agency is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. On the basis of the Agency's regulatory experience with the health effects tests required for MO, as well as in response to certain public comments, EPA is adopting the reporting requirements specified in Table 1. Accordingly, results for the required tests must be reported as specified in the proposed rule (see Unit III.B. of this preamble) except: The final reports for the *in vitro* and *in vivo* cytogenetics tests must be submitted within 15 months of the effective date of this Phase II test rule instead of the proposed 12 months. In addition, the upper tier mutagenicity and oncogenicity test data must be submitted within the time specified after notification. Furthermore, subsequent to the issuance of the proposed test rule for MO, the Agency decided that interim reports for the testing required for substances under section 4 of TSCA be submitted at 6-month intervals rather than at 3-month intervals. This reporting frequency will be sufficient to keep FPA informed of the current status of required testing and of any difficulties which the testing facility may encounter during testing. This change also lessens the reporting burden of test sponsors. Accordingly, the final reporting requirements for the testing required for MO reflect a requirement for 6-month, rather than 3-month, interim reports.

TABLE 1.—REPORTING REQUIREMENTS FOR MO

Test	Reporting deadline for final report (months after the effective date of final phase II rule, except as indicated)	Number of interim (6-month) reports required
Subchronic toxicity	15	2
Salmonella reverse mutation assay	12	1
Gene mutation cells in culture assay	12	1
Sex-linked recessive lethal test in *Drosophila*	25	3
Mouse specific locus assay	[1]48	7
In vitro cytogenetics test	15	2
In vivo cytogenetics test	15	2
Dominant lethal test	24	3
Heritable translocation assay	[1]24	3
Oncogenicity	[2]53	8

[1] Figure indicates the reporting deadline, in months, calculated from the date of notification of the test sponsor by certified letter or FEDERAL REGISTER notice that, following public program review of all of the then existing data for MO, the Agency has determined that the required testing must be performed.

[2] Figure indicates the reporting deadline, in months, calculated from the date of notification of the test sponsor by certified letter or FEDERAL REGISTER notice that, following submission of positive mutagenicity test results, the Agency has determined that the required testing must be performed.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

C. Conditional Exemptions Granted

The final rule for test rule development and exemption procedures (49 FR 39774; October 10, 1984) indicates that, when certain conditions are met, exemption applicants will be notified by certified mail or in the final Phase II test rule for a given substance that they have received conditional exemptions from test rule requirements. The exemptions granted are conditional because they will be given based on the assumption that the test sponsors will complete the required testing according to the test standards and reporting requirements established in the final Phase II test rule for the given substance. TSCA section 4(c)(4)(B) provides that if an exemption is granted prospectively (that is, on the basis that one or more persons are developing test data, rather than on the basis of prior test data submissions), the Agency must terminate the exemption if any test sponsor has not complied with the test rule.

Since sponsors have indicated to EPA by letter of intent (Ref. 1) their agreement to sponsor all of the tests required for MO in the final Phase I test rule for this substance (50 FR 51857; December 20, 1985) according to the test standards and reporting requirements established in this final Phase II test rule for MO, the Agency is hereby granting conditional exemptions to all exemption applicants for all of the testing required for MO in 40 CFR 799.2500.

D. Judicial Review

The promulgation date for the MO Phase I final rule was established as 1 p.m. eastern standard time on January 6, 1986 (50 FR 51857; December 20, 1985). On March 7, 1986, a petition for review of that Phase I final rule was filed in the United States Court of Appeals for the Fifth Circuit (Ref. 6). Any petition for judicial review on this Phase II final rule will be limited to a review of the test standards and reporting requirements for MO established in this rule.

E. Other Provisions

Section 4 findings, required testing, test substance specifications, persons required to test, enforcement provisions, and the economic analysis are presented in the final Phase I rule for MO (50 FR 51857).

VI. Public Record

EPA has established a record for this rulemaking [docket number (OPTS–42030D)]. This record includes basic information considered by the Agency in developing this final rule and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this final rule consisting of:

(a) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(b) Notice of final rule on test rule development and exemption procedures (49 FR 39774; October 10, 1984).

(c) Notice of final rule concerning data reimbursement (48 FR 41786; July 11, 1983).

(d) Notice of interim final rule on test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(e) Notice of final Phase I rule on mesityl oxide (50 FR 51857; December 20, 1985).

(f) Notice of Proposed Phase II rule on mesityl oxide (50 FR 51888; December 20, 1985).

(g) Notice of proposed rule on revision of TSCA test guidelines (51 FR 1522; January 14, 1986).

(h) Notice of final rule on revision of TSCA test guidelines (this issue of the **Federal Register**).

(i) Notice of extension of comment period for mesityl oxide proposed test standards (51 FR 5376; February 13, 1986).

(j) Notice of final rules on Toxic Substances Control Act test guidelines (50 FR 39252; September 27, 1985).

(k) Notice of final rule on diethylenetriamine (52 FR 3230; February 3, 1987).

(2) Support documents consisting of the economic impact analysis of the final test rule for mesityl oxide.

(3) Communications consisting of:

(a) Written public comments.

(b) Summaries of phone conversations.

B. References

(1) CMA. Chemical Manufacturers Association. Letter of intent to conduct testing of MO from Geraldine Cox. Chemical Manufacturers Association, 2501 M St., NW., Washington, DC 20037, to TSCA Public Information Office, U.S. Environmental Protection Agency, Washington, DC 20460. (March 3, 1986).

(2) CMA. Chemical Manufacturers Association. "Comments of the Ketones Panel of the Chemical Manufacturers Association on EPA's proposed test standards for mesityl oxide." Chemical Manufacturers Association, 2501 M St., NW., Washington, DC 20037 (February 28, 1986).

(3) Ito, S. "Industrial Toxicological Studies on Mesityl Oxide." (translation from Japanese). Yokahama Igaku 20(b):253–269. (1969).

(4) CMA. Chemical Manufacturers Association. Letter requesting extension of comment period from Geraldine Cox. Chemical Manufacturers Association, 2501 M St., NW., Washington, DC to Don R. Clay, Director, Office of Toxic Substances, Environmental Protection Agency, Washington, DC (January 23, 1986).

(5) Aldrich Chemical Co., Inc. Letter requesting exemption from the test rule for mesityl oxide from Irwin L. Klundt, Ph.D. Vice President, Aldrich Chemical

Company, Inc. P.O. Box 355, Milwaukee, WI. (January 27, 1986).

(6) Shell Chemical Co., Exxon Chemicals Americas, Eastman Kodak Co., Union Carbide Corp. and Chemical Manufacturers Association v. *Environmental Protection Agency.* "Petition for Review" filed with the United States Court of Appeals for the Fifth Circuit. (March 7, 1986).

(7) US EPA. US Environmental Protection Agency. Summary of Meeting with US Department of Energy on availability of Oak Ridge National Laboratory to conduct the mouse visible specific locus assay at Industry's expense for chemicals subject to a TSCA section 4 Test Rule requirement. Environmental Protection Agency, Washington, DC (October 1986).

(8) USEPA. "Response to Public Comments, Proposed Revision of TSCA Test Guidelines as published in 51 FR 1522 (January 14, 1986)". Test Rules Development Branch, Existing Chemicals Assessment Division, Office of Toxic Substances, Environmental Protection Agency, Washington, DC (January 1987).

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of mesityl oxide is discussed in the Phase I test rule (50 FR 51857; December 20, 1985).

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

(1) There are no small manufacturers of this chemical.

(2) Small processors are not expected to perform testing themselves, or participate in the organization of the testing effort.

(3) Small processors will experience only very minor costs, if any, in securing exemption from testing requirements.

(4) Small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final Phase II rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. No public comments on these requirements were submitted to the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: May 8, 1987.

John A Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, Part 799 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. In § 799.2500 by adding paragraphs (c)(1) (ii) and (iii), (2) (ii) and (iii), (3) (ii) and (iii), (4) (ii) and (iii), and (d) to read as follows:

§ 799.2500 Mesityl oxide (MO).

* * * * *

(c) * * *

(1) * * *

(ii) *Test standard.* Inhalation subchronic toxicity testing shall be conducted with MO in accordance with § 798.2450 of this chapter, except for the provisions of § 798.2450 (d)(1)(i) and (d)(11)(i)(A).

(iii) For the purposes of this section the following provisions also apply:

(A) *Animal Selection—species and strain.* The rat shall be used. Commonly used laboratory strains should be employed. The tester should provide justification/reasoning for its selection.

(B) *Clinical examinations.* Certain hematological determinations shall be carried out at least three times during the test period: just prior to initiation of dosing (base line data), after approximately 30 days on test, and just prior to terminal sacrifice at the end of the test period. Hematology determinations which shall be appropriate to all studies include the following: Hematocrit, hemoglobin concentration, erythrocyte count, total and differential leucocyte count, and a measure of clotting potential such as clotting time, prothrombin time, thromboplastin time, or platelet count.

(iv) *Reporting requirements.* (A) The subchronic testing shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final Phase II test rule.

(B) Progress reports shall be provided every 6 months beginning 6 months after the effective date of the final Phase II test rule.

(2) * * *

(ii) *Test standard.* (A) (*1*) The *in vitro* mammalian cytogenetics test shall be conducted with MO in accordance with § 798.5375 of this chapter except for the provisions in § 798.5375 (d)(3)(i) and (d)(6)(ii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Type of cells used in the assay.* MO shall be tested in established cell lines. The cell line or strain used shall be checked for *Mycoplasma* contamination and for karyotype stability.

(*ii*) *Exposure concentrations.* At least 3 concentrations of the test substance over a range adequate to define the response shall be tested. The highest test concentration tested with and without metabolic activation shall be 5 milligrams per milliliter or that dose which shows evidence of cytotoxicity or reduced mitotic activity.

(B) (*1*) The *in vivo* mammalian bone marrow cytogenetics test: Chromosomal analysis shall be conducted with MO in accordance with § 798.5385 of this chapter except for the provisions in § 798.5385(d)(5) (ii) and (iii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Dose levels.* Three dose levels shall be used. The highest dose tested shall be the maximum tolerated dose or that producing some indication of cytotoxicity (e.g., partial inhibition of mitosis), or shall be the highest dose attainable.

(*ii*) *Route of administration.* The animals shall be exposed by inhalation for 6 hours/day for 5 consecutive days.

(C) (*1*) The rodent dominant lethal assay shall be conducted with MO in accordance with § 798.5450 of this chapter except for the provisions in § 798.5450(d)(5) (ii) and (iii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Dose levels.* Three dose levels shall be used. The highest dose shall produce signs of toxicity (e.g., slightly reduced fertility or body weight) or shall be the highest attainable.

(*ii*) *Route of administration.* Exposure shall be by inhalation for 5 days for 6 hours/day.

(D) (*1*) The rodent heritable translocation test shall be conducted with MO in accordance with § 798.5460 of this chapter except for the provisions in § 798.5460(d)(5) (ii) and (iii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Dose levels.* At least two dose levels shall be used. The highest dose shall result in toxic effects (which shall not produce an incidence of fatalities which would prevent a meaningful evaluation), or shall be the highest dose attainable.

(*ii*) *Route of administration.* Animals shall be exposed by inhalation.

(*iii*) *Reporting requirements.* (A) The chromosomal aberration tests shall be completed and the final results submitted to the Agency as follows:

(*1*) The *in vitro* and *in vivo* (conditional) tests within 15 months of the effective date of the final Phase II test rule.

(*2*) The dominant lethal assay (conditional) within 24 months of the effective date of the final Phase II test rule.

(*3*) The heritable translocation test (conditional) within 24 months of the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated.

(B) Progress reports shall be submitted to the Agency for the *in vitro* and *in vivo* cytogenetics assays and the dominant lethal assay at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(C) Progress reports shall be submitted to the Agency for the heritable translocation assay at 6-month intervals, the first of which is due within 6 months of the date of EPA's notification of the test sponsor that testing shall be initiated.

(3) * * *

(ii) *Test standards*—(A)(*1*) The *Salmonella typhimurium* mammalian microsomal reverse mutation assay (Ames assay) shall be conducted with MO in accordance with § 798.5265 of this chapter except for the provisions in § 798.5265 (d)(5)(ii), (d)(6)(ii) (A) and (B), and (e)(1).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Strain specific positive controls.* Strain specific positive controls shall be included in the assay. The following controls are examples of those which may be used in the assay without metabolic activation: Strain TA 1535, sodium azide; strain TA 100, nitrofurantoin; strains TA 98 and TA 1537, 4-nitro-*o*-phenylenediamine.

(*ii*) *Exposure concentrations.* The test should initially be performed over a broad range of concentrations. Among the criteria to be taken into consideration for determining the upper limits of test chemical concentration are cytotoxicity and solubility. Cytotoxicity of the test chemical may be altered in the presence of metabolic activation systems. Toxicity may be evidenced by a reduction in the number of spontaneous revertants, a clearing of the background lawn or by the degree of survival of treated cultures. Relatively insoluble compounds should be tested up to the limits of solubility. For freely soluble nontoxic chemicals, the upper test chemical concentration should be determined on a case by case basis. MO shall be tested up to 5 milligrams per plate or to the limits of solubility or toxicity. A suspected positive response not showing a clear dose-related response shall be confirmed by testing over a narrow range of concentrations.

(*iii*) *Test performance—Direct plate incorporation method.* The direct plate incorporation method shall be used for this test. For this test without metabolic activation, test chemical and 0.1 milliliter of a fresh bacterial culture should be added to 2.0 milliliter of overlay agar.

(B)(*1*) The detection of gene mutations in somatic cells in culture shall be conducted with MO in accordance with § 798.5300 of this chapter except for the provisions in § 798.5300 (d)(3)(i), (4), and (6)(i) and (e)(1).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Types of cells used in the assay.* MO shall be tested at the HGPRT locus in the Chinese hamster ovary cell culture test or in LK5178K mouse lymphoma cells.

(*ii*) *Metabolic activation.* Cells shall be exposed to MO both in the presence and absence of a metabolic activation system derived from the postmitochondrial fraction (S–9) of livers from rats pretreated with Aroclor 1254.

(*iii*) *Vehicle.* MO may be prepared in culture media or dissolved or suspended in appropriate vehicles prior to treatment of the cells. The final concentration of the vehicle shall not interfere with cell viability or growth rate.

(*iv*) *Test performance.* Cells shall be exposed to MO both with and without exogenous activation. Exposure shall be for 4 hours unless a different exposure time is justified by the investigator.

(C)(*1*) The sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted with MO in accordance with § 798.5275 of this chapter except for the provisions in paragraph (d)(5)(iii).

(*2*) For the purposes of this section the following provisions also apply: *Route of administration.* Exposure shall be by exposure to MO vapors.

(D)(*1*) The mouse visible specific locus test shall be conducted with MO in accordance with § 798.5200 of this chapter except for the provisions in § 798.5200(d) (5) (ii) and (iii).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Dose levels.* A minimum of 2 dose levels shall be tested. Exposure shall be for 6 hours a day. Duration of exposure shall be dependent upon accumulated total dose desired for each group.

(*ii*) *Route of administration.* Animals shall be exposed to MO by inhalation.

(iii) *Reporting requirements*—(A) The gene mutation tests shall be completed and final results submitted to the Agency as follows:

(*1*) The *Salmonella typhimurium* mammalian microsomal reverse mutation assay and the gene mutation in somatic cells assay (conditional) within 12 months of the effective date of the final Phase II test rule.

(*2*) The sex-linked recessive-lethal test in *Drosophila melanogaster* (conditional) within 25 months of the effective date of the final Phase II test rule.

(*3*) The mouse specific-locus test (conditional) within 48 months of the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated.

(B) Progress reports shall be submitted to the Agency for the *Salmonella typhimurium* mammalian reverse mutation microsomal assay, gene mutation in mammalian cells in culture assays, and *Drosophila* sex-linked recessive lethal test at 6-month intervals, the first of which is due within 6 months of the effective date of the final Phase II rule.

(C) Progress reports shall be submitted to the Agency for the mouse specific locus assay at 6-month intervals, the first of which is due within 6 months of the date of EPA's notification of the test sponsor that testing shall be initiated.

(4) * * *

(ii) *Test standard.* (A) (*1*) An oncogenicity bioassay shall be conducted by inhalation with MO in accordance with § 798.3300 of this chapter except for the provisions in § 798.3300(b) (1)(i), (4), and (6).

(*2*) For the purposes of this section the following provisions also apply:

(*i*) *Species and strain.* MO shall be tested in both rats and mice. Commonly used laboratory strains should be employed. The tester should provide justification/reasoning for their selection.

(*ii*) *Exposure conditions.* Animals shall be exposed to MO for at least 6 hours per day on a 5-day per week basis over a period of at least 24 months for rats and 18 months for mice.

(*iii*) *Administration of the test substance.* Animals shall be exposed to MO by the inhalation route.

(B) [Reserved]

(iii) *Reporting requirements.* (A) The oncogenicity tests shall be completed and final results submitted to the Agency 53 months after the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated.

(B) Progress reports shall be submitted to the Agency at 6-month intervals, the first of which is due within 6 months after the date of EPA's notification of the test sponsor that testing shall be initiated.

(d) *Effective date.* The effective date of this final Phase II rule for mesityl oxide is July 6, 1987.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 795 and 799

[OPTS-42094; FRL 3202-7]

Cyclohexane; Proposed Test Standards and Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In response to the Interagency Testing Committee's (ITC) designation of cyclohexane (CAS No. 110-82-7) for health effects testing consideration, EPA is proposing under section 4(a)(1)(B) of the Toxic Substances Control Act (TSCA) that manufacturers and processors of cyclohexane be required to perform testing of this substance for subchronic toxicity, oncogenicity, reproductive toxicity, developmental toxicity, neurotoxicity, dermal absorption, and dermal sensitization.

DATES: Submit written comments on or before July 20, 1987. If persons request an opportunity to submit oral comments by July 6, 1987, EPA will hold a public meeting on this rule in Washington, DC. For further information on arranging to speak at the meeting see Unit VIII of this preamble.

ADDRESS: Submit written comments identified by the document control number (OPTS-42094) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

SUPPLEMENTARY INFORMATION: EPA is issuing a proposed test rule for cyclohexane under section 4(a) of TSCA in response to the ITC's designation of cyclohexane for health effects testing consideration. Testing is being proposed for cyclohexane under section 4(a)(1)(B) of TSCA because there is substantial production and there is or may be substantial human exposure. The Agency has concluded that existing data are inadequate to assess the risks to health posed by exposure to cyclohexane and that testing of cyclohexane is necessary to develop such data.

I. Introduction

A. ITC Recommendation

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established the ITC under section 4(e) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC recommended cyclohexane with intent to designate for health effects testing in its 17th Report, published in the **Federal Register** of November 19, 1985 (50 FR 47603). The ITC designated cyclohexane for priority consideration in its 18th Report, published in the **Federal Register** of May 19, 1986 (51 FR 18369). The ITC recommended that cyclohexane be tested for chronic toxicity including oncogenicity and neurotoxicity, teratogenicity and reproductive toxicity. The rationale for recommending these tests was as follows: (1) The large production volume and many of the uses of cyclohexane indicating the potential for widespread human exposure; (2) the high number of workers occupationally exposed, and the possibility for general population exposure from cyclohexane's use as a solvent; (3) detection of cyclohexane in body fluids and in ambient air and water; (4) lack of data on chronic effects, including oncogenicity and neurotoxicity; and (5) lack of data on potential teratogenic and reproductive effects.

Ecological effects and chemical fate tests were not recommended because although several static acute toxicity tests with aquatic organisms have indicated moderate toxicity (LC_{50} values greater than 10 and less than 100 mg/L), measured environmental concentrations (low $\mu g/L$ or less) and expected rapid degradation in air and water suggest that cyclohexane will not cause adverse ecological effects at concentrations likely to be found in the environment.

B. Test Rule Development Under TSCA

Under section 4(a) of TSCA, the EPA shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Administrator finds that:

(A)(i) The manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) There are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) There are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) Testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding; both exposure and toxicity information are considered in determining whether available data support a finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine if there is or may be substantial production and significant or substantial human exposure or substantial release to the environment. For the findings under section 4(a)(1) (A)(ii) and (B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the finding under section 4(a)(1) (A)(iii) or (B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules, published in the **Federal Register** of July 18, 1980 (45 FR 48524) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) findings are discussed at 46 FR 48524 and 46 FR 30300, and the section 4(a)(1)(B) findings are discussed at 46 FR 30300.

In evaluating the ITC's testing recommendations for cyclohexane, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of cyclohexane under the TSCA section

8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) for cyclohexane; information submitted by the Cyclohexane Program Panel of the Chemical Manufacturers Association and published; and unpublished data on cyclohexane available to the Agency. From its evaluation, as described in this proposed rule, EPA is proposing health effects testing requirements for cyclohexane under section 4(a)(1)(B).

II. Review of Available Data

A. Chemical Profile

Cyclohexane is a colorless, flammable, mobile liquid with a pungent sweet odor (Refs. 1 and 2). At 25 °C, cyclohexane has a moderate water solubility of 55 mg/L (Ref. 3). Its vapor pressure is 100 mm Hg at 25.5 °C (Ref. 4) and its specific gravity is 0.779 at 20/4 °C (Ref. 2). The log octanol/water partition coefficient (K_{ow}) was experimentally determined to be 3.44 (Ref. 5). A log soil/sediment-absorption coefficient (K_{oc}) is estimated as 3.25 (Ref. 6). Cyclohexane has an estimated Henry's Law constant of 0.196 atm-m^3/mole (Ref. 6). Because of its high volatility and moderate water solubility, cyclohexane is expected to partition into the atmosphere. An estimated atmospheric half-life of 2.83 days (Ref. 6) suggests that cyclohexane will not persist in the atmosphere. A steady state atmospheric concentration of cyclohexane may arise, however, because of the continued release of cyclohexane (Ref. 6).

B. Production

1. *Production methods.* High purity cyclohexane is produced by the hydrogenation of benzene over nickel, palladium, or platinum catalysts in the liquid or vapor phase (Ref. 7). Formation of cyclohexane is greater at lower temperatures (Ref. 8). Hydrogenation is usually carried out at 20 to 30 atm and 300 to 350 °C, yielding cyclohexane containing <500 ppm benzene. Higher temperatures promote higher benzene concentrations and isomerization of cyclohexane to methylcyclopentane. Cyclohexane of 98 percent purity can be produced by the catalytic conversion of petroleum-derived cyclohexane to a mixture of benzene and methylcyclopentane followed by hydrogenation and isomerization, respectively (Ref. 8).

Cyclohexane occurs naturally in all crude oils at concentrations of 0.5 to 1.0 weight percent (Ref. 9). According to Kirk-Othmer (Ref. 7), the concentration range is 0.1 to 1.0 percent. A small amount of low purity cyclohexane is produced by fractional distillation of crude oil and from catalytic reformer effluent (Ref. 7). The cyclohexane recovered from petroleum is about 85 percent pure. Low purity cyclohexane is also derived from natural gas naphthas by fractionation and high-efficiency distillation to give an 85 percent pure product (Ref. 8).

2. *Domestic production.* Total U.S. production volume of cyclohexane from 1977 to 1982 ranged from 1.27 to 2.24 billion pounds per year (Ref. 9). The seven U.S. producers of cyclohexane reported 1.788 billion pounds of production in 1985 (Ref. 10). According to the chemical profile for cyclohexane in the Chemical Marketing Reporter of 1983, the projected production of cyclohexane in 1987 is 230 million gallons or 1.5 billion pounds (Ref. 11). It is expected that cyclohexane will be produced at 60 to 65 percent of plant capacity through 1990 (Ref. 11). According to the Chemical Manufacturers Association (CMA), in 1986, there were seven manufacturers of cyclohexane (Ref. 10).

3. *Imports.* Import volume of cyclohexane for the years 1980 to 1982 was 13.5 to 30.6 million pounds per year (Refs. 12 through 14). Imports of cyclohexane for the period January–July, 1985, were only 9,000 pounds compared to 21.1 million pounds for that period in 1984 (Ref. 15). The decline was attributed to increased imports of finished textile products, which lowered the demand for cyclohexane as a synthetic fiber intermediate (see Unit II.C).

4. *Anthropogenic sources—a. Sources from hydrocarbon processing.* Cyclohexane occurs in crude oils at concentrations of 0.5 to 1.0 weight percent (Ref. 9). Approximately 179 billion gallons of crude oil was used as feedstock in domestic refineries in 1983 (Ref. 20). The average specific gravity of Arabian crude oil is 0.86 (Ref. 7). From this value, a weight/gallon ratio of crude oil of 7.16 pounds/gallon was calculated. Assuming the latter value to be representative of crude oil in general, the amount of cyclohexane in the 179 billion gallons of crude oil feedstock was calculated to range from 6.41 to 12.82 billion pounds. Oil spills in the United States during 1981 released 10,697,000 gallons of crude oil to the environment (Ref. 16). Using the range of cyclohexane in crude oil and the average weight/gallon for crude oil given above, this translates into 382,000 to 766,000 pounds of cyclohexane released to the environment in 1981 by oil spills. About 0.2 percent of the annual production, or as much as 1 million pounds/year of cyclohexane may have been lost in the years 1979 to 1980 as fugitive emissions and evaporative losses from refineries, but an unspecified percentage of this cyclohexane is flared (Ref. 17). The amount of cyclohexane entering the atmosphere as a result of these losses, therefore, cannot be estimated. Volatile liquid hydrocarbon (VLH) cycloalkanes, including cyclohexane, are present in underwater vent plumes and formation water from offshore oil production operations (Ref. 18). The amount of cyclohexane released in this way cannot be estimated from the available information.

b. *Sources from the distribution and use of finished fuel products.* According to SRI International (Ref. 9), the concentration of cyclohexane in gasoline ranges from 5 to 15 percent. The concentration of cyclohexane in an unleaded gasoline composite used for comparing gasolines is 1.58 volume percent, and cyclohexane at 1.05 volume percent was detected in one unleaded gasoline (Ref. 19). The value of 1.58 volume percent was used for the following calculations since it probably reflects the cyclohexane concentration in a variety of gasolines. The 1983 production volume of gasoline was 97 billion gallons (Ref. 20). This translates into 1.53 billion gallons of cyclohexane or about 9.5 billion pounds of cyclohexane in finished gasoline in 1983. In 1980, an estimated 7.7 million tons of hydrocarbons were released by land transportation vehicles. Exhaust samples from a variety of automobiles without emission control devices were found to contain an average of 0.6 percent (weight/weight) of cyclohexane (Ref. 21). Cyclohexane has been detected but not quantified in the distillate fuel, JP–4 (Ref. 22). An estimate of the amount of cyclohexane released by the use of JP–4 cannot be made with the available information.

5. *Solvent related sources.* One pesticide grade *n*-hexane, used as a solvent in chemical analyses, contained 0.1 to 1.0 percent cyclohexane (Ref. 23). Hexane A, a relatively impure hexane, contains 0.78 volume percent cyclohexane (Ref. 7). No information on commercial uses of hexane A was available. Hexanes B and C, which are widely used, contain no measurable amounts of cyclohexane (Ref. 7). Release of cyclohexane due to the use of *n*-hexanes, therefore, is expected to be low. A Japanese study detected cyclohexane in only one of 1,179

samples of thinners, degreasers, and miscellaneous solvents. The unspecified thinner contained 21.0 percent cyclohexane (Ref. 24).

6. *Cyclohexane in biological materials.* Cyclohexane was detected but not quantified in the hydrocarbon fraction of cigarette smoke gases (Ref. 25). This study was designed to qualitatively identify hydrocarbon components, but semi-quantitative data were obtained that suggest cyclohexane is present only in trace amounts. The origin of the cyclohexane in the tobacco was not specified. Muscat oil (from muscat grapes) was analyzed by GLC and found to contain cyclohexane (Ref. 26). It was suggested that the cyclohexane found may have been due to unspecified solvents sprayed on the fruit before harvesting.

C. Uses

The primary use of cyclohexane is as a raw material in the production of Nylon-6 and Nylon-66 (Refs. 2 and 7). Cyclohexane is oxidized to cyclohexanol or cyclohexanone followed by conversion to adipic acid, which is used in the preparation of Nylon-66 (Ref. 8). Cyclohexane can also be oxidized solely to cyclohexanone, from which caprolactam is prepared and then used in the production of Nylon-6 (Ref. 8). Approximately 58.1 percent and 26.7 percent of the total 1981 United States production of cyclohexane was used for the production of nylon or nylon-related production via adipic acid and caprolactam, respectively (Ref. 9). According to a chemical profile for cyclohexane, 54 percent of the 1983 cyclohexane production volume was used for adipic acid for the production of Nylon-66 and 26 percent was used for caprolactam for the production of Nylon-6 (Ref. 11). Exports and miscellaneous uses accounted for 19 percent and 1 percent of 1983 cyclohexane production, respectively (Ref. 11). It is assumed that solvent uses including azeotroping medium compose the bulk of these miscellaneous uses (Ref. 6). Using a 1983 cyclohexane production volume of 2.1 billion pounds (Ref. 27), as much as 21 million pounds of cyclohexane, therefore, may have been used as solvent in 1983. A recent survey by the Chemical Manufacturers Association (Ref. 28) from 12 of 35 identified users, however, indicates that 1.66 billion pounds of cyclohexane was used as an intermediate and 42.1 million pounds as a solvent (Ref. 28). Cyclohexane was received by barge (65.1 percent), pipeline (18.9 percent), rail car (15.4 percent), tank truck (0.6 percent) and drum (<0.01 percent) (Ref. 28).

Cyclohexane is increasingly used to dehydrate ethyl and isopropyl alcohols (Ref. 28). Addition of cyclohexane to ethanol:water and isopropanol:water azeotropes breaks the azeotropes, allowing the pure alcohols to be isolated. Some important alcohol azeotropes are ethanol:cyclohexane (30:70) and isopropanol:cyclohexane (22:67). Consumption of cyclohexane for non-nylon uses was estimated to be 58 million pounds in 1985. This amount was estimated to be distributed among current uses as follows: high pressure polyethylene synthesis—2 million pounds; purification of ethanol—30 million pounds; purification of isopropanol—1.5 million pounds; catalyst carriers—25 million pounds (Ref. 28). Cyclohexane serves as the solvent for the catalyst used in the production of Shell Company's Kraton thermoplastic elastomer and the solvent for the polymerization process (Ref. 28).

Minor reported uses include solvent uses for cellulose ethers, fats, oil, waxes, bitumens, resins, and crude rubber; the extraction of essential oils; uses in organic syntheses and as a recrystallation medium; as a paint or varnish remover; in fungicides (Ref. 2); and in the manufacture of solid fuels for camp stoves (Ref. 1). It is not known to what extent these uses currently occur. Cyclohexane may be found in paint removers and rubber adhesives (Ref. 29). Cyclohexane was listed on the label as a component of two consumer spray adhesives (See Unit II.D.2.), Scotch Sprayment Art and Display Adhesive and Super 77 Spray Adhesive (Ref. 30).

D. Human Exposure

1. *Occupational exposure.* Provisional data from 1981 to 1983 from the National Occupational Exposure Survey (NOES) indicate that 42,558 workers, including 12,021 females, were exposed to cyclohexane at 985 plants (Ref. 31). The level of exposure and whether this exposure was routine or intermittent were not specified.

Worker exposure standards for atmospheric cyclohexane include the permissible exposure limit of 300 ppm established by OSHA (29 CFR 1910.1000, Table Z-1), which is also the threshold limit value/time-weighted average recommended by ACGIH (Ref. 32).

The Cyclohexane Program Panel (the Panel) of the Chemical Manufacturers Association (CMA) is composed of the seven U.S. cyclohexane producers, one of which is also a processor. The following information on the exposure of cyclohexane workers in manufacturing was developed by the Panel (Ref. 10). The survey covers 11 production units at 10 manufacturing locations.

The producers report that a total of 119 workers are exposed routinely (3 or more 8 or 12-hour work days per week) and an additional 62 persons are exposed intermittently (2 or fewer 8 or 12-hour work days per week) to cyclohexane. One producer has an internal exposure limit of 150 ppm per 12-hour time-weighted-average (TWA). The others operate under the Occupational Safety and Health Administration (OSHA) 300 ppm Permissible Exposure Limit (PEL). Four of these producers operate on 8-hour shifts for maintenance personnel and a 12-hour shift for operators.

Two of the seven producers reported that no respiratory protection is used at any of the sites to minimize exposure to cyclohexane. Five producers reported use of protective clothing such as goggles, face shields, gloves, and synthetic outer garments impervious to cyclohexane. Four producers report the use of formal training programs on hazard awareness and one producer minimizes exposure by adjustment of work assignments.

Four producers have conducted area monitoring for cyclohexane or volatile organic chemicals. Monitoring data from over 5,000 samples ranged from .001 to 4,171 ppm. The arithmetic average ranged from .3 to 20 ppm from 3 producers for 8 or 12 hour shifts. The other producer reported a geometric mean of .03 to 1.65 ppm.

Additional occupational exposure information from production facilities is as follows: About 48 operating, maintenance and supervisory personnel at Texaco are potentially exposed to cyclohexane (Ref. 33). These workers were monitored at an unspecified Texaco plant and the arithmetic mean for the 56 personal 8-hour TWA samples taken was 1.77 ppm. According to Walker (Ref. 27), the Texaco plant at Port Arthur, TX, was the site of data collection in the monitoring study above. Personal monitoring data (about 3,305 samples) from about 200 workers at three Phillips facilities ranged from undetectable levels to 112.97 ppm with a geometric mean of <0.29 ppm. According to Dynamac (Ref. 17), the three Phillips plants were the Borger and Sweeney refineries in Texas and the Puerto Rico Core Refinery.

Texaco (Ref. 34) provided monitoring data quantifying worker exposure to cyclohexane in its Port Arthur cyclohexane manufacturing plant. Worker exposure to cyclohexane ranged from an 8-hour time-weighted-average of 0.03 to one of 11.57 ppm. The mean cyclohexane concentration was 1.59 ppm. The minimum and maximum

exposure levels were associated with operators with an unknown type of respirator exposed to "running unknown spills." Cyclohexane concentrations ranged from 0.03 to 28.0 ppm with a mean concentration of 1.73 ppm in area samples. The maximum concentration resulted from a spill in an unknown location. Short-term samples for cyclohexane ranged from 0.06 to 180.0 ppm with a mean concentration of 9.25 ppm. The maximum value was associated with a pipefitter; no specific activity or location was reported.

In the CMA Panel User Survey (Ref. 28), to which 12 of 35 identified users and processors responded, a total of 1,388 employees (assigned to production units and/or involved in distribution) in 22 locations were potentially exposed to cyclohexane. Routine exposure to cyclohexane (3 or more work schedules/week) occurred in 477 persons and intermittent exposure (2 or less work schedules/week) in 577 persons. No information was offered about the remaining 334 potentially exposed persons or the workers employed by the remaining 23 identified uses. Personal monitoring data indicated that 8 or 12 hour TWAs ranged from 0 to 50 ppm. One of the companies had internal exposure guidelines of 150 ppm based on a 12-hour TWA. Nine of 12 companies used protective clothing including gloves, goggles or face shields, respirators, rubber boots, SCBA equipment, acid suits and fireproof suits. Engineering controls used to minimize exposure to cyclohexane were closed loading (10 companies), flow check valves (7 companies), closed-loop sampling (2 companies), remote atmosphere venting (4 companies), vent to flare (7 companies), local exhaust (6 companies), vapor recovery (7 companies), dripless, self-closing valves (2 companies), double mechanical seals (6 companies) and double-sealed valves (6 companies). Three other companies reported using a variety of exposure minimization techniques including catalytic incineration; seal, flush, vent through scrubber; minimum purge coupling; floating roofs and nitrogen blanket. Other minimization techniques included administrative controls (adjustment of work assignments) (2 companies) and formal hazard awareness training programs (11 companies). The parenthetical numbers correspond to the number of companies using the various techniques.

The levels of cyclohexane in all 55 samples of workplace atmospheres of seven Standard Industrial Code (SIC) industries taken from 1981 to 1984 were <300 ppm (4 codes N.D.; 2 codes <150 ppm) (Ref. 19). The samples were taken from the following SIC industries: (a) Commercial printing, lithographic; (b) miscellaneous plastic products; (c) gaskets, packing and sealing devices; (d) architectural and ornamental metal work; (e) semiconductors and related devices; (f) orthopedic prosthetic and surgical appliances and supplies; and (g) computer programming and software.

Worker exposures to cyclohexane are also possible through its use as a laboratory chemical, particularly as a solvent for extraction and separation in preparative and analytical chemistry. Cyclohexane is sold in bottles and drums by a number of chemical companies including Fisher and Aldrich Chemical Companies (Refs. 35 and 36).

A reasonable worst-case laboratory exposure estimate was created as follows by Syracuse Research Corporation (SRC) (Ref. 6): A 500 g quantity of cyclohexane was allowed to evaporate into an unventilated laboratory of dimensions 25 m x 10 m x 5 m (i.e., 1,250 m^3 volume). This created a cyclohexane concentration in air of 400 mg/m^3, or about 120 ppm. This is an unlikely event, but one that could occur through neglect or accident, such as failure to work in an operative fume hood, or otherwise vent solvent vapors during an evaporative operation. According to SRC laboratory personnel, the air in the SRC chemistry laboratories is completely exchanged about every 2 hours, exclusive of fume hood operation. This will significantly limit the levels of cyclohexane that can be achieved, even in case of grossly incompetent laboratory technique. NIOSH (Ref. 37) notes that the odor threshold of cyclohexane is 0.41 ppm and that 300 ppm (the OSHA PEL) is somewhat irritating to the eyes. Despite this, cyclohexane is classified by NIOSH as having poor warning properties because of the sweetish nature of the odor and insufficient irritancy.

EPA has estimated 8-hour TWAs for workers in various paint and glue formulation operations ranged from 2 to 26 ppm with an average value of 7.5 ppm (Ref. 29). Inhalation exposure to cyclohexane ranged from 0.1 to 0.9 ppm in spray painting and 3.5 to 5.7 ppm in glue spraying operations, based on personal monitoring data (Ref. 29). An 8-hour TWA of 2 to 7 ppm was obtained using the volatilization model of the Chemical Engineering Branch, Office of Toxic Substances, USEPA (Ref. 38), for exposure resulting from cyclohexane volatilization from open dip and brush paint and glue application equipment. It should be noted that EPA is uncertain that cyclohexane is used in paint and glue formulations and seeks additional information on these uses (See Unit V.3 of this document). Worker exposure to cyclohexane from gasoline was estimated to range from 0.001 to 1.02 ppm, based on the typical cyclohexane content of gasoline, 8 hours exposure and methylcyclopentane data submitted to the ITC (Ref. 29).

Exposure to cyclohexane from gasoline found in a survey of 231 workers in a variety of jobs ranged from an average of 0.02 to 2.36 ppm (Ref. 39). Although maximum exposure values ranged from .08 to 9.40 ppm, in three cases the average exposure value reported was higher than the corresponding maximum exposure level, a discrepancy that leaves this information open to question.

2. *Consumer exposure.* The cyclohexane content in three rubber solvents ranged from 1.18 to 1.93 percent, commercial hexane contained from 0.4 to 2.0 percent cyclohexane and textile spirit contained from 1.9 to 4.3 percent cyclohexane (Ref. 39). Cyclohexane was listed as a component on the label of two spray adhesives: Scotch Spraymount Art and Display Adhesive (Cat. No. 6060) and Super 77 spray adhesive (Ref. 30). Cyclohexane may also be present in paints, paint removers and rubber glues and other adhesives. (See Unit V.2 and V.3 of this document.)

3. *General population exposure.* Human milk from five of eight mothers contained cyclohexane at unquantitated levels (Ref. 40). The authors suggested that the cyclohexane in the milk resulted from the mothers' exposure to environmental pollutants since they resided near chemical manufacturing plants or industrial user facilities. Krotoszynski and O'Neill suggested that the cyclohexane found but not quantified in non-smokers by GC/MS was due to exposure to the compound in the environment (Ref. 41).

A number of studies have been conducted in which cyclohexane has been detected in ambient air. Concentrations of 0.1 to 31 parts per billion (ppb) have been reported in the atmosphere of seven U.S. cities (Ref. 6) indicating that cyclohexane is widespread in urban air. This is likely due to the presence of cyclohexane in automobile exhaust. The presence of cyclohexane in air samples from rural or remote areas may be due to nonanthropogenic sources, but the available information is equivocal. Arnts and Meeks presented monitoring data from six sites in Rio Blanco county in Colorado, an area containing shale oil deposits. Cyclohexane was found in

only one of the six sites, however, so the authors' conclusion that the hydrocarbons detected were not due to a distant urban source must be regarded as tentative (Ref. 42). No quantitative statements can be made about total human exposure to cyclohexane with the available information.

Thirteen of an unspecified number of surface water samples collected from 204 sites near industrial areas across the United States contained cyclohexane at unspecified concentrations (Ref. 43). Because of the expected rapid volatilization of cyclohexane, however, it is likely that human exposure to cyclohexane from this source will be insignificant. A cyclohexane concentration of 540 ppb was detected in a drinking water well in New York. It was not specified whether this was a maximum, minimum or average value, nor was the frequency with which cyclohexane was found in the samples taken (Ref. 44).

4. *Non-human populations.* No data were available which indicate the level of cyclohexane exposure in nonhuman populations. Since the majority of cyclohexane is released in urban areas and estimations suggest complete partitioning to the atmosphere, the cyclohexane levels to which organisms, particularly aquatic species, may be exposed are expected to be low.

E. Environmental Releases

Release of cyclohexane to the environment occurs mainly from the use of products in which cyclohexane is an inadvertent component. In 1980, an estimated 92.4 to 92.8 million pounds of cyclohexane was released primarily by hydrocarbon emissions from land transportation vehicles and to a lesser extent by oil spills (Ref. 6). About 0.2 percent of the annual production of cyclohexane or 1,050,000 pounds/year of cyclohexane may have entered the environment in the years 1979 to 1980 as fugitive emissions or evaporative losses from refineries, but an unspecified amount of this cyclohexane is flared (Ref. 17). The amount of cyclohexane released in this way cannot, therefore, be estimated.

The CMA provided the following estimates for environmental release of emissions from producers (Ref. 10). The CMA panel used EPA AP–42 equations (Ref. 45) and 600/2–79–044 (fugitive) guidelines (Ref. 46) to generate these numbers.

Source	Emissions (metric tons/yr)
Fugitive	147.21
Storage	23.29
Production	28.04
Barge loading	58.9
Total	257.44

In the same submission, the CMA reported that one producer reports a cyclohexane level of less than 1 ppm in the effluent from waste water treatment plants and one other reports a measured level less than 0.5 ppm (Ref. 10).

The CMA user survey (Ref. 28) provided the following information. Cyclohexane emissions were estimated at 372,000; 202,000; 970,000; and 1,053,000 kg/yr for fugitive, storage, production, and residuals in product, respectively. Disposal methods included off-site incineration (2,043,163.6 kg), flaring (1,198,181.82 kg), boiler fuel (13,636.6 kg), deep well injections (<454.5 kg), direct release to air (43,181.8 kg), and handling by a waste disposal firm followed by incineration or landfilling (1,363.6 kg). None of the companies supplied data on cyclohexane levels in waste water treatment plant effluents.

Potential sources of cyclohexane release that cannot be quantified are cigarette smoke, the deliberate venting of waste hydrocarbon gases and dumping of formation waters (water produced with oil and gas) associated with offshore crude oil production operations, and the use and disposal of solvents containing cyclohexane.

F. Health Effects

1. *Pharmacokinetics.* The Agency has reviewed several cyclohexane intravenous, oral, and inhalation absorption, distribution, metabolism and elimination studies (Refs. 47 through 60) and concluded that no further pharmacokinetic testing is necessary except for dermal absorption. However, it is possible that the chronic toxicity study proposed in this document will show some unusual target organ and/or possible mechanism of action that will require further metabolic studies.

Jeffcoat performed intravenous and oral studies on the absorption, distribution, metabolism and excretion of ^{14}C-cyclohexane in adult male Fischer 344 rats (Ref. 47). The results indicated that cyclohexane had a short residence time. The elimination half-lives of total ^{14}C for plasma and tissues were on the order of 10 to 15 hours. Eighty percent of the intravenous dose was excreted via the lung in 24 hours. Greater than 61 percent of the oral dose was excreted via the lungs in 12 hours. Approximately 14 percent of the intravenously administered dose and from 12 to 29 percent of the oral dose was excreted via the urine in 72 hours. Cyclohexane, cyclohexanol and cyclohexanone were detected only as trace quantities in the urine. The chemical structures of the three major metabolites detected by HPLC were not determined, but the author stated that they elute from the column "in the region typical of conjugates."

Results from oral, inhalation and dermal toxicity studies of cyclohexane in rabbits by Treon et al. (Refs. 48 and 49) indicated that cyclohexane metabolites are excreted in the urine as sulfate and glucuronic acid conjugates.

Elliott et al. (Ref. 50) studied the urinary metabolites of ^{14}C-cyclohexane in adult female chinchilla rabbits. The compound was administered in water by gavage. When a dose of 300 to 400 mg cyclohexane/kg (higher dose group) was administered, 35 to 45 percent of the dose was detected in expired air. Approximately 10 percent of the dose was detected as carbon dioxide; the remainder was unchanged cyclohexane. At a very small dose (0.3 mg/kg, low dose), 5.5 percent of the administered dose was detected in expired air as carbon dioxide. No unchanged cyclohexane was found. The two metabolites found in the urine were glucuronide conjugates of cyclohexanol, (30 to 40 percent of the high dose and 60 percent of the low dose) and (±) transcyclohexane-1,2-diol, (5 to 8 percent of the high dose and 17 percent of the low dose).

Cyclohexane has also been found in five out of eight human breast milk samples collected from women in Bayonne, NJ (2/2); Jersey City, NJ (1/2); Pittsburgh, PA (2/2); and Baton Rouge, LA (0/2) (Ref. 40).

2. *Acute toxicity.* Acute toxicity data for cyclohexane are summarized below. The data are sufficient to reasonably determine or predict the acute effects of cyclohexane except for dermal sensitization.

a. *Acute oral toxicity.* Phillips Petroleum Company has provided the results of an acute oral toxicity study performed with rats (in groups of five males, five females; strain not reported) conducted by Hazleton Laboratories (Ref. 61). A single oral dose of 5 g/kg body weight (bw) was administered to the animals by gavage, followed by observation at 1, 2 and 4 hours post-dosing. Animals were observed twice daily for a further 14 days. No animals died during the study, and all animals gained weight over the 14-day observation period. Clinical observations of depression, salivation

and soft feces seen 1, 2, and 4 hours post-dosing were not noted from day 2 through termination of the study. Necropsies performed on all 10 rats revealed no gross pathology findings in any animal. This result indicates that the acute oral lethal dose for cyclohexane is greater than 5 g/kg bw in the rat.

Kimura et al. (Ref. 62) investigated the acute oral toxicity of cyclohexane to rats of different age groups over a 7-day observation period. LD_{50} values of <0.78, 6.2, 30.3, and 12.8 g/kg cyclohexane were reported for neonate (24 to 48 hours old), immature (14 days old), young adult (80 to 160 g) and adult (300 to 470 g) rats, respectively. Rabbits administered a single oral dose of 1 to 10 g/kg cyclohexane exhibited overt signs of intoxication including severe diarrhea and increased respiration (Ref. 48). The minimum lethal dose of cyclohexane was between 5.5 and 6 g/kg (Ref. 48).

b. *Acute inhalation toxicity.* Phillips provided the results for an acute inhalation toxicity study performed with rats (five/sex) conducted by Hazleton Laboratories (Ref. 64). The mean analytical concentration was reported to be 21,250.0 ppm (S.D. 925.82) in methane equivalents, or 4,044 ppm (13.9 mg/L) cyclohexane. The duration of exposure was 4 hours, and animals were observed for a further 14 days before sacrifice and necropsy. Over the 4-hour exposure, tremors, hyperactivity, rapid respiration and prostration were noted in all animals. Ataxia was observed in one animal. During the post-exposure observation period, all females appeared normal, one male exhibited localized alopecia (noted on days 1 to 10), and one male (the report does not state whether this is the same or a different animal) exhibited sores around the left eye (noted on days 8 to 10). No exposure-related trends were reported in either mean body weights or gross pathology. This result indicates that the acute inhalation lethal dose for cyclohexane is greater than 4,044 ppm (13.9 mg/L) in rats.

A precis of the acute toxic effects of inhalation exposures to cyclohexane reported in the earlier literature is presented in Patty (Ref. 65). Overt signs of intoxication exhibited in mice exposed to 18,000 ppm included trembling within 5 minutes, disturbed equilibrium within 15 minutes and complete recumbency within 25 minutes of continuous exposure. Atmospheric concentrations of 18,000 ppm cyclohexane produced slight trembling in guinea pigs over an unspecified period of exposure, disturbed equilibrium (11 minutes) and complete recumbency (18 to 25 minutes) in cats, and slight trembling (6 minutes), disturbed equilibrium (15 minutes) and complete recumbency (30 minutes) in rabbits. Following a single exposure of rabbits to cyclohexane vapors, Deichmann and LeBlanc (Ref. 66) reported no visible effects at 3,330 ppm and lethargy, narcosis, increased respiration and convulsions at 12,600 and 18,500 ppm over an 8-hour observation period. Death was observed within 1 hour in rabbits exposed to 26,572 ppm cyclohexane (Refs. 49 and 66). Rabbits exhibited severe, rapid, "running-like" movements of the feet, tremors and rapid narcosis preceding death.

c. *Acute dermal toxicity.* No mortality was reported following dermal application of cyclohexane to rabbits (Ref. 67). Six rabbits (New Zealand White/Dutchland strain; three per sex) were used. Cyclohexane was applied dermally to clipped skin under a non-absorbent binder at a dose level of 2,000 mg/kg bw. Animals were observed at 1, 2 and 4 hours post-application and then twice daily for 14 days. By 2 hours post-application, all animals were reported to appear normal and remained normal throughout the 14-day observation period. Animals gained weight during the observation period. No gross pathology was observed upon necropsy. This result indicates that the acute dermal lethal dose for cyclohexane is greater than 2,000 mg/kg bw in rabbits.

d. *Acute intravenous toxicity.* Braier (Ref. 68) reported the toxic effects of intravenous injections of cyclohexane to groups of 10 rabbits. Complete mortality was observed following a single injection of 0.23 g/kg, 10 percent mortality occurred at 0.15 g/kg, and no mortality occured at 0.12 g/kg. No clinical symptoms were reported prior to death.

e. *Acute subcutaneous toxicity.* Braier (Ref. 68) reported that a single subcutaenous injection of 0.78 g/kg in male and female rabbits caused granulopenia in all animals over a 6-day observation period, although bone marrow remained normal.

f. *Dermal irritation.* A primary skin irritation study in rabbits was also provided by Phillips Petroleum Company (Ref. 69). Six rabbits (three male, three female) were exposed to cyclohexane (0.5 mL under a non-absorbent binder) for 24 hours. An intact and an abraded skin site were employed on each animal. No erythema, edema or other dermal effects were reported at 24 or 72 hours after compound administration. The primary irritation score was reported to be zero.

Dermal irritation scores in rabbits were also presented as part of the acute dermal toxicity study by Phillips (Ref. 67). The dose was 2,000 mg/kg. Two out of three male rabbits exhibited very slight erythema on days 1 and 3 after application of cyclohexane. All three female rabbits exhibited erythema ranging from very slight (two out of three) to well-defined (one out of three) on day 1. On day 3, two females exhibited erythema. No erythema was noted in any rabbit on day 7. Very slight edema was observed in all female rabbits and one of three males on day 1. Slight edema was observed in one other male on day 1. No edema was observed on day 3. Epidermal scaling was reported in one female on day 10.

g. *Eye irritation.* Phillips Petroleum Company has submitted washed and unwashed primary eye irritation studies in rabbits (Refs. 70 and 71). Each study employed six rabbits (three male, three female). The dose of cyclohexane employed was 0.1 mL instilled into the conjunctival sac of the left eye. After cyclohexane administration, animals were observed and scored at 1, 24, 48 and 72 hours, and at 4 and 7 days. When eyes were washed (Ref. 70), conjunctival redness was observed in four animals (one male, three females) at the 1-hour observation period. This redness was not observed at 24 hours. No corneal opacity, iritis, conjunctival chemosis or discharge was observed in any of the animals. When eyes were not washed (Ref. 71), conjunctival redness was observed in five animals (three male, two female) at 1 hour after cyclohexane administration. Conjunctival chemosis was observed in one rabbit (male), corneal opacity involving ≦25 percent of the cornea was observed in another rabbit (male) and iritis was observed in another (male). No ocular lesions were observed at 24 hours. The overall eye irritation index was 1.3 for washed eyes and 3.7 for unwashed eyes at 1 hour. At 24 hours through 7 days, the primary irritation score was 0.0 for both washed and unwashed eyes.

h. *Dermal Sensitization.* No data on the dermal sensitization of cyclohexane have been found in the literature or have been reported under the TSCA section 8(d) rule (50 FR 47538) for this chemical.

3. *Subchronic toxicity.* The Agency has reviewed several subchronic studies on cyclohexane and found them insufficient to reasonably determine or predict the subchronic toxicity of cyclohexane. Treon et al. (Ref. 49) exposed rabbits (four/group) to cyclohexane by inhalation. Exposure concentrations ranged from 1.47 mg/L (435 ppm) for 1,040 hours (26 weeks) to 62.6 mg/L (18,600 ppm) for 60 hours. Exposure regimens were 6 or 8 hours/day, 5 days/week over a 2-, 5-, 10-, or 26-week period (see following Table 1).

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Table 1 -- MULTIPLE EXPOSURE INHALATION TOXICITY TESTS WITH CYCLOHEXANE (Ref. 49)

Species	Exposure Level ppm	Exposure Level mg/L	Duration of Observation	Effects/Comments
Rabbits	7400 12,600 18,600	25.1 42.1 62.6	6 hours/day, 5 days/week, 2 weeks	7,400 ppm; lethargy, light narcosis, increased respiration and diarrhea. Mortality: 1/4; weight gain (16 g/animal). 12,600 ppm; spasmodic convulsions, lethargy, light narcosis, increased respiration, diarrhea and salivation. Mortality: 1/4; weight loss (260 g/animal). 18,600 ppm; rhythmic "running-like" movements of feet, tremors, spasmodic jerking, narcosis, paresis of legs, salivation, conjunctival congestion and labored respiration. Mortality: 3/4; weight loss (188 g/animal).
Rabbits	9,200	31.1	6 hours/day, 5 days/week, 5 weeks	Tremors, lethargy, paresis of legs, incoordination, increased respiration and salivation. Mortality: 3/4; weight loss (311 g/animal).
Rabbits	430 790 3,300	1.5 2.7 11.2	6 hours/day, 5 days/week 10 weeks	No grossly observable effects; minor microscopic changes detected in the liver and kidney at 790 ppm. No mortality; weight gain at 430 and 3,300 ppm (531 and 262 g/animal, respectively). Weight loss at 790 ppm (115 g/animal) considered not compound related.
Rabbits	435	1.5	8 hours/day, 5 days/week, 26 weeks	No observable effects. Weight gain (531 g/animal).
Monkey	1,200	4.2	6 hours/day, 5 days/week, 10 weeks	Weight loss: 333 g. Only one animal used; no other observable effects.

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This study has a number of design flows that limit its usefulness including: (1) The small numbers of animals used (4/group; minimum requirement is 20/group); (2) survivors were sacrificed and necropsied 2 months after exposure ended rather than immediately allowing for possible recovery or reversibility of effects (3) while hemoglobin concentration and erythrocyte and leucocyte counts were measured, other important clinical markers (e.g., clinical biochemistry such as electrolyte balance and liver and kidney function) were not reported.

Treon et al. (Ref. 48) applied repeated doses of cyclohexane to the clipped anterior abdominal skin of a single rabbit for 14 days (total dose was 180.2 g/kg). Increased injury to the skin was noted during the exposure period. Within a week following the last application, healing had occurred. No narcosis or convulsions were observed. Upon autopsy, unspecified toxic changes in the heart, liver and kidney were noted, accompanied by chronic bronchitis and some vascular degeneration in the lung.

In a study reported by Naruse (Ref. 53), 20 mice (sex and strain not clear from the report, but probably male ddY mice), initial weight approximately 15 g each, were exposed to vapors of adhesive D (36.3 percent cyclohexane, 15.3 percent acetone, 7.1 percent isopropyl acetate, 6.8 percent *n*-hexane, 1.5 percent methylcyclopentane, 1.0 percent 3-methylpentane, 0.8 percent 2,3-dimethylbutane and 2-methylpentane, and 0.5 percent toluene) in air at 18 °C for 1 hour, 6 days/week over 120 days. Mice exposed to adhesive D exhibited a significant ($p<0.01$) inhibition of body weight gain and significantly ($p<0.01$) decreased food and water consumption when compared with controls. The liver/body weight ratio was significantly ($p<0.01$) increased with respect to controls; other organ/body weight ratios were not significantly different. No gross or microscopic abnormalities were reported in any organs. The significance of these findings with respect to cyclohexane is impossible to assess because cyclohexane was only one of several constituents of the chemical mixture tested.

4. *Neurotoxicity.* EPA concludes that the neurotoxicity data on cyclohexane are not sufficient to reasonably determine or predict the neurotoxicity of cyclohexane. The experimental evidence accumulated to date, relative to cyclohexane's neurotoxic potential, is very limited. Cyclohexane has been shown to be a central nervous system (CNS) depressant in rabbits (Ref. 49). Observed effects have included dizziness, nausea, and unconsciousness (Ref. 72). At high vapor concentrations, convulsions in rabbits have also been reported (Refs. 49 and 73). No definitive experimental data appear to exist in the published literature on the potential of cyclohexane to induce neuropathological changes, following long-term chronic exposure.

In one animal study (Ref. 74) six to nine rats were intermittently exposed to cyclohexane (9 to 10 hours/day, 5 to 6 days/week) via inhalation for up to 30 weeks at concentrations of 1,500 and 2,500 ppm. Post-exposure histologic examination of both tissue and sectional preparations from the peripheral nervous system did not reveal any pathologic alteration; however, the CNS was not examined. In the same study, rats treated with *n*-hexane at 2,500 ppm for 30 weeks and 5,000 ppm for 14 weeks developed solvent-induced giant axonal neuropathies.

This study indicates that cyclohexane did not induce neuropathic changes under experimental conditions in which *n*-hexane induced extensive peripheral neuropathy. Although the study design included use of a highly pertinent exposure route, monitoring of atmospheric test concentrations and exposure durations of up to 30 weeks, several important deficiencies must be noted. Numbers of test animals were somewhat low (6 to 9/treatment). Most important, the lack of weight gain effects or other evidence of signs of toxicity in the cyclohexane-treated group suggests that a high enough dose was not tested. Therefore, while it appears from the data that cyclohexane does not change the peripheral nerves of rats at exposure levels that produce extensive nerve damage in *n*-hexane-treated groups, it cannot be inferred that higher cyclohexane concentrations would be non-neurotoxic as well or that the tested exposure levels do not cause CNS effects (i.e. not examined). For any repeated exposure study to provide adequate evidence of a substance or mixture's lack of potential to cause a specific effect, EPA believes that a dose effect range should be obtained that demonstrates both frank toxicity and no effect levels. Because, no toxicity was demonstrated this study is inadequate to predict the neurotoxic potential of cyclohexane.

EPA has also reviewed four neurotoxicity studies where cyclohexane was a component of a mixture. EPA finds that these studies are inadequate. Egan et al. (Ref. 75) exposed male rats nearly continuously to vapors of a mixture of hexane isomers containing 109 mg/m^3 cyclohexane (31.7 ppm) but only 5.3 mg./m^3 (1.5 ppm) *n*-hexane for up to 6 months. The purpose of the study was to determine whether components of commercial hexane other than *n*-hexane contribute to the neuropathic properties of this mixture. The 6-month exposure failed to reveal any compound-related clinical or histopathological effects on the central or peripheral nervous systems.

EPA believes that this study is well-conducted. Egan et al. used appropriate control animals and carefully monitored actual exposure concentrations and other variables, such as diet. However, the study was not designed to investigate the chronic neurotoxic potential of cyclohexane itself. The presence of multiple hexane isomers allows the possibility of antagonistic interactions affecting expression of neurotoxicity. In addition, EPA believes that the doses used were too low to adequately demonstrate lack of neurotoxic potential of cyclohexane, in view of the lack of observable clinical effects obtained.

In two American Petroleum Institute (API) studies (Refs. 76 and 77) the general objective of both studies was to evaluate the potential synergistic effects of C_6 isomers found in commercial hexanes on the chronic inhalation toxicity of *n*-hexane, emphasizing neurotoxic effects. The use of test mixtures of hexane isomers precludes the use of these data to determine the toxicity of cyclohexane, which was a relatively minor component of the isomer mixture.

Franchini et al. (Ref. 78) exposed 49-day-old Ubbart chickens to five mixtures (A–E) containing 2.1 to 17.1 percent cyclohexane by painting on shaved thoracic skin (about 10 cm^2) daily for up to 65 days (initially, 1 g/kg bw/day). All of the test mixtures contained *n*-hexane, a demonstrated neuropathic agent. Untreated animals (five) were used as controls. The report states that the dose was gradually increased as body weight increased, but no further explanation was given. Histological and microstructure analyses were made of spinal cord cervical and lumbar swellings and of sciatic nerves. Chickens from A and B groups showed no symptoms of paralysis. Microscopic examination of sciatic nerve fiber bundles, however, revealed ball-shaped swellings and demyelination. Four out of five chickens in C group (the only solvent containing tricresylphosphate, a known neurotoxin) were completely paralyzed by the treatment, and deterioration of the

myelin sheath was seen upon microscopic examination. In groups D and E also, four out of five animals were paralyzed. In group D, the myelin sheath was observed to be swollen and frequently broken. Microscopic findings for group E animals were not reported. The significance of these findings with respect to cyclohexane is difficult to assess since cyclohexane was only one component in the complex mixtures.

5. *Developmental toxicity.* No data on the developmental toxicity of cyclohexane have been found in the literature or have been reported under the TSCA section 8(d) rule (50 FR 47538) for this chemical.

6. *Reproductive toxicity.* No data on the reproductive effects of cyclohexane have been found in the literature or have been reported under the TSCA section 8(d) rule (50 FR 47538) for this chemical.

7. *Mutagenicity.* Negative results on cyclohexane were reported in the following: (a) Gene mutation assays in *S. typhimurium* reverse mutation assay with and without metabolic activation (Refs. 79 and 80) and in the mouse lymphoma forward mutation assay (Refs. 81 and 82); (b) in the *in vivo* bone marrow cytogenetics tests in rat: chromosomal analysis (Ref. 83); (c) in a sister chromatid exchange assay in Chinese hamster ovary (Ref. 84); (d) in an unscheduled DNA synthesis assay (Ref. 85); and (e) in a DNA binding assay at 10 nM (Ref. 86). An equivocal result was reported in the DNA binding assay at 100 nM (Ref. 86). EPA concludes that although there are some deficiencies in the reporting of some of the studies, these do not appear to be sufficient reason to question the results. Cyclohexane has not demonstrated mutagenic activity in any of the reported studies. The one equivocal report in the DNA binding assay (Ref. 86) is in a study whose overall use as a predictive assay for carcinogenesis has not been validated. Therefore, the reported equivocal response does not change the overall evaluation that cyclohexane is not mutagenic in these assays.

Given the negative results in all assays in which cyclohexane was tested, including the negative response in a rat bone marrow cytogenetics assay, EPA has concluded that it is not necessary to test cyclohexane for its ability to induce chromosomal aberrations *in vitro* in the *in vitro* mammalian cytogenetics test: chromosomal aberration in cultured mammalian cells. These tests fulfill the Agency's requirements for first tier mutagenicity testing. Therefore, no further mutagenicity testing for this agent is necessary.

8. *Carcinogenicity.* EPA concludes that existing data are not sufficient to reasonably predict the carcinogenicity of cyclohexane. There have been no carcinogenicity studies conducted using currently accepted standard testing protocols. It should be noted, however, that pure cyclohexane was used as a vehicle control in 3 dermal oncogenicity studies (Refs. 87 through 89). A 50/50 cyclohexane/acetone mixture was used as a vehicle control in one dermal oncogenicity study (Ref. 90) and cyclohexane mixed with test compound as a 80/20 percent mixture in another dermal oncogenicity study (Ref. 91). Three of these studies (Refs. 89 through 91) were submitted to EPA by the CMA. While no oncogenic response was reported for cyclohexane in these studies, a number of shortcomings prevent their use for judging oncogenicity.

These include small doses employed (less than 20 to 100 μl, 16–78 μg; 2 to 3 times per week), failure to use pure cyclohexane, use of insufficient number of animals, use of animals of only one sex, failure to expose animals for their entire lifetime, use of only one rodent species. More importantly, none of the investigations was designed to directly address the carcinogenicity of cyclohexane. Hence, because of the intended purpose of each study, these investigations must be considered inadequate for evaluating cyclohexane's carcinogenic potential. Table 2 lists summary of these studies.

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TABLE 2--SUMMARY OF EXISTING CYCLOHEXANE DATA

Route	Species	Sex	Dose or Exp. level	Duration of Exposure	Comments	(Ref)
Dermal	C3Hf/Bd mice	30 M, 30 F	50 µl cyclohexane was vehicle control	3x/wk for 60 weeks	Middle distillates were tested. Looked at nephrotoxicity. Cyclohexane was vehicle control. Skin tumor in 1/60 mice. No macroscopic renal lesions. 42 of 336 in treatment group had renal lesions. Exposure regimen not adequate. Animals not exposed during entire life span.	87
Dermal	C3H mice	35 M	0, 60 µl	2x/wk 50 weeks	Promoting activity of pristine ($C_{19}H_{40}$) and several n-alkanes in cyclohexane. All animals were treated with the initiating carcinogen DMBA. Cyclohexane was vehicle control and solvent. Benign and malignant tumor rate of cyclohexane exposed animals not significant from controls. Animals not exposed during entire lifetime. Exposure regimen not adequate. Only male mice used.	88
Dermal	ICR/Ha Swiss mice	50 F	100 µl	3x/wk 72 weeks	Carcinogenic activity of di- and trifunctional alpha-chlor: ethers and 1,4-Dichlorobutene-2 in ICR/Ha Swiss mice Cyclohexane was vehicle control. Only female mice used. Exposure regimen not adequate.	89
Dermal	C0-1 and C3H/HeJ mice	50 M	50 µl Cyclohexane/ acetone	2x/wk 18 months	Asphalt volatiles were applied as 50 percent solutions in cyclohexane/acetone. Cyclohexane/acetone vehicle control. Exposure regimen not adequate. Only male mice were used.	90
Dermal	Swiss mice	50 F	20 µl (one drop) of 20/ 80 mixture	3x/wk 60 weeks	Promotion activity following single dose of DMBA of various alkanes and alkanols prepared as a 20 percent (w/v) solution in cyclohexane studied. Exposure regimen not adequate. Only female mice were used. 3 agents (n-hexane, octane, and hexanol) dissolved in cyclohexane were inactive	91

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III. Findings

Under TSCA section 4(a)(1)(B), EPA finds that cyclohexane is produced in substantial quantities and that there is or may be substantial human exposure from its manufacture, processing, and use. Approximately 1.8 billion pounds of cyclohexane was produced in 1985 (Ref. 10). In addition, according to the National Occupational Exposure Survey of 1981 to 1983 (NOES), 42,558 workers including 12,021 women were potentially exposed to the compound in the workplace at 985 plants in 1980 (Ref. 31). Cyclohexane is used as a solvent and may be a component of paint remover and rubber adhesives and textile solvents. It also appears on the label as a component of at least two spray adhesives, Scotch Sprament Art and Display Adhesive and Super 77 spray adhesive, and may occur in other consumer products. The above uses may result in widespread exposure to workers and consumers.

While EPA believes that there may be substantial human exposure to cyclohexane in finished gasoline, EPA is not considering exposure from finished gasoline as part of its basis for finding substantial human exposure to cyclohexane. The Agency believes that exposures associated with the manufacture and processing of cyclohexane, solvent uses and other uses provide sufficient basis for a finding of substantial human exposure under TSCA section 4(a)(1)(B)(i) for cyclohexane.

EPA finds, as discussed in Unit II of this document, that existing data are not sufficient to reasonably determine or predict the subchronic, oncogenic, reproductive, developmental, and neurotoxic effects as well as dermal absorption and dermal sensitization following exposure to cyclohexane resulting from its manufacture, processing, and use. EPA further finds that testing is necessary to develop such data. EPA believes that the data resulting from this testing will be relevant to a determination as to whether the manufacture, processing, and use of cyclohexane does or does not present an unreasonable risk of injury to human health.

IV. Proposed Rule

A. Proposed Testing and Test Standards

The Agency is proposing that testing be conducted in accordance with specific test guidelines set forth in 40 CFR Parts 796, 797, and 798 of this chapter. Revisions to these guidelines are published elsewhere in this issue of the **Federal Register**. The test guideline cited under § 795.250 of this chapter was proposed in the **Federal Register** of May 15, 1986 (51 FR 17890). The test guideline in § 795.226 of this chapter is proposed and published with this rule for cyclohexane. All persons conducting tests must submit plans, and conduct tests in accordance with the TSCA Good Laboratory Practice (GLP) Standards (40 CFR Part 792).

On the basis of the findings presented above for health effects testing, the Agency is proposing that cyclohexane be tested under TSCA section 4(a)(1)(B) for: (1) Subchronic inhalation toxicity as specified in § 798.2450 of this chapter; (2) oncogenicity by inhalation as specified in § 798.3300 of this chapter; (3) reproductive toxicity by inhalation as specified in § 798.4700 of this chapter; (4) developmental toxicity by inhalation as specified in § 798.4350 of this chapter; (5) neurotoxicity by inhalation as specified in §§ 798.6050, 798.6200, 798.6400, 798.6500 and 795.250 of this chapter; (6) dermal absorption as specified in § 795.226 of this chapter; and (7) dermal sensitization as specified in § 798.4100 of this chapter.

Acute neurological effects are of concern because such effects may increase accident proneness, impair self-rescue, or reduce work efficiency (Ref. 92). This is of particular concern to the 42,558 workers potentially exposed to cyclohexane (Ref. 10). In order to assess the acute neurologic effects of inhaled cyclohexane at low levels on behavior, the Agency is proposing that the neurotoxicity testing include a schedule-controlled operant behavior study (§ 798.6500). In order to assess the effects of repeated inhalation exposures to cyclohexane, the Agency is proposing a subchronic neurobehavioral toxicity evaluation, consisting of a neuropathologic evaluation of tissues perfused *in situ* (§ 798.6400), a functional observation battery (§ 798.6050), and measurement of motor activity (§ 798.6200). Furthermore, EPA believes that cyclohexane's presence in breast milk samples raises concerns for neonates and children, whose developing neurological systems may be more susceptible to damage from exposure to cyclohexane than adults. Therefore, in order to assess potential functional and morphological hazards to the nervous system which may arise in neonates from exposure of the mother to cyclohexane during pregnancy and lactation, the Agency is proposing that cyclohexane be tested for developmental neurotoxicity (§ 795.250), if warranted after the results of the other neurotoxicity tests and the reproductive effects tests are reviewed by the Agency. If the Agency decides that the developmental neurotoxicity test is warranted, it will reopen the comment period, review the comments, and if the Agency still concludes that the testing is warranted, it will finalize the developmental neurotoxicity test in a separate **Federal Register** notice.

In order to assess the degree of toxicological activity of cyclohexane upon various target organs, the Agency is proposing that cyclohexane be tested for subchronic toxicity by inhalation (§ 798.2450). Because of the widespread exposures to cyclohexane, the Agency believes that it is necessary to assess the oncogenic potential of cyclohexane and is thus proposing a 2-year inhalation bioassay in two species (§ 798.3300). Testing for developmental toxicity (§ 798.4350) and reproductive effects (§ 798.4700) is being proposed because of widespread human exposure and lack of data to reasonably predict these effects. EPA is proposing that the above tests be done via inhalation because this is the major route of exposure. EPA is also proposing a dermal absorption test (§ 795.226) and dermal sensitization test (§ 798.4100). Dermal exposure to cyclohexane is of concern to EPA because of cyclohexane's solvent uses. No data are available on dermal sensitization and EPA believes that a dermal absorption test will be needed in its assessment of cyclohexane (see Unit II.E.1 of this document).

The Agency is proposing that the TSCA health effects test guidelines be employed as the test standards for the purposes of the proposed tests for cyclohexane. The TSCA test guidelines for health effects testing specify generally accepted minimal conditions for determining the health effects for substances like cyclohexane to which humans are expected to be exposed. The Agency's review of the TSCA Test Guidelines, which occurs on a yearly basis according to the process described at 47 FR 41857 (September 22, 1982), has found no reason to conclude that these guidelines need to be modified significantly.

B. Test Substance

EPA is proposing under TSCA section 4(a)(1)(B) that cyclohexane (CAS No. 110–82–7) of at least 99.9 percent purity be used as the test substance. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributable to cyclohexane itself. EPA believes that this grade of cyclohexane is readily available for testing purposes. Radiolabeled cyclohexane of greater than 99 percent purity will be needed for the dermal absorption test.

C. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing ("process" is defined in section 3(10) of TSCA as the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce). Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because EPA has found that there are insufficient data and experience to reasonably determine or predict the effects on human health of the manufacture, processing, and use of cyclohexane, EPA is proposing that persons who manufacture and/or process, or who intend to manufacture and/or process cyclohexane, other than as an impurity, at any time from the effective date of the final test rule to the end of the reimbursement period be subject to the testing requirements in this proposed rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time equal to that which was required to develop data, if more than 5 years, after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. The Agency anticipates that the current manufacturers of cyclohexane will form the reimbursement pool and sponsor the required testing. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers, including importers subject to this rule, are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing, unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanisms. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond; this procedure is described in 40 CFR Part 790.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for cyclohexane.

Manufacturers and processors who are subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

D. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans at least 45 days prior to the initiation of each study.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed tests for cyclohexane in the following Table 3:

TABLE 3.—REPORTING REQUIREMENTS

Test	Reporting deadline for final report[1]	Number of interim (6-mo) reports required
Testing for cyclohexane:		
A. Subchronic inhalation toxicity: § 798.2450	15	2
B. Oncogenicity: § 798.3300	53	8
C. Reproduction and fertility effects: § 798.4700	29	4
D. Inhalation developmental toxicity: § 798.4350	15	2
E. Neurotoxicity tests: §§ 798.6050, 798.6200, 798.6400, and 798.6500	15	2
F. Developmental neurotoxicity test: § 795.250	[2] 15	2
G. Dermal Sensitization: § 798.4100	12	1
H. Dermal Absorption: § 795.226	12	1

[1] Number of months after the effective date of the final rule.

[2] Number of months after the effective date of the final rule which would require the developmental neurotoxicity test.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707. In brief, as of the effective date of this test rule, an exporter of cyclohexane must report to EPA the first export or intended export of cyclohexane to a particular country in a calendar year. EPA will notify the foreign country concerning the test rule for the chemical.

E. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and

procedures outlined in TSCA section 11 by duly designated EPA representatives to determine compliance with any final rule for cyclohexane. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations to determine compliance with TSCA GLP standards under 40 CFR Part 792 and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violated section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. This provision would also apply to processors who fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents as stated in 40 CFR 790.48(b). Knowing and willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Issues for Comment

1. The authors of the EPA monitoring study (Ref. 40) raised concerns that infants might be uniquely susceptible to some pollutants because of their small body weights and their metabolic systems which differ from those of adults. Is additional testing of cyclohexane needed to assess potential adverse health effects upon neonates, who may be exposed to cyclohexane through mother's milk, and whose developing neurological sytems may be more susceptible to damage from exposure to this compound? What test methods should be used for such testing?

2. Cyclohexane is listed as a component on the label of two spray adhesives, Scotch Sprament Art and Display Adhesive, Cat. No. 6060 and Super 77 spray adhesive (Ref. 30). EPA seeks additional information on cyclohexane in these two consumer products or any other consumer products. EPA seeks information on how widespread consumer exposure to cyclohexane might be.

3. EPA is uncertain whether and to what extent cyclohexane is used in paint formulations, rubber glues, and paint removers. EPA seeks additional information on these uses. EPA also seeks additional information on human exposure to cyclohexane used as a laboratory solvent.

4. EPA solicits comments on whether or not manufacturers and processors of cyclohexane who do so in the course of producing gasoline or other motor or heating fuels should be subject to this rule.

5. This rule proposes oncogenicity testing for cyclohexane. EPA has often used a tiered approach to oncogenicity testing when making exposure findings under section 4(a)(1)(B). EPA and others have found shorter term tests, i.e. subchronic tests and mutagenicity screening tests, very useful for determining the priority of oncogenicity testing needs. However, EPA believes that in the case of cyclohexane, with its potential for substantial worker and consumer exposure, a 2-year bioassay is necessary to give the Agency the degree of assurance required for regulatory decision-making. EPA seeks comment on the appropriateness of this approach.

VI. Economic Analysis of Proposed Rule

To assess the potential economic impact of this rule, EPA has prepared an economic analysis that evaluates the potential for significant economic impacts on the industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of cyclohexane: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. If these indications are negative, no further economic analysis is performed. However, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Total testing costs for the proposed testing of cyclohexane are estimated to range from $2,052,300 to $2,651,850. In order to predict the financial decisionmaking practices of manufacturing firms, these costs have been annualized. Annualized costs are compared with annual revenue as an indication of potential impact. The annualized costs represent equivalent constant costs which would have to be recouped each year of the payback period in order to finance the testing expenditure in the first year. The annualized testing costs range from $225,330 to $291,160, using a 7 percent cost of capital estimate over a period of 15 years.

Based on 1985 production of 1.8 billion pounds, the unit test costs range from $0.0001 to $0.0002 per pound. In relation to the selling price of $0.14 per pound for cyclohexane, these costs are equivalent to 0.09 to 0.12 percent of price.

Based on these costs and the uses of cyclohexane, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is low. This conclusion is based on the following observations:

1. The estimated unit test costs are very low, 0.12 percent of current price in the upper bound case.

2. The overall demand for cyclohexane appears relatively inelastic with respect to price in all of its major uses.

3. The market expectations for cyclohexane are moderate, with demand

projected to grow at a rate of 3 to 7 percent annually.

Refer to the economic analysis included in the rulemaking record for a complete discussion of test cost estimation and the potential for economic impact resulting from these costs.

VII. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider ". . . the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82–140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

VIII. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting after the close of the public comment period in Washington, D.C. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): (202) 554–1404 by July 6, 1987. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency would transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

IX. Public Record

EPA has established a record for this rulemaking, (docket number OPTS–42094). This record contains the basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this proposed rule consisting of:

(a) Notice containing the ITC recommendation with intent to designate cyclohexane (50 FR 47603; November 19, 1985).

(b) Notice containing the ITC designation of cyclohexane to the Priority List (51 FR 18359; May 19, 1986).

(c) Rules requiring TSCA section 8(a) and 8(d) reporting on cyclohexane (50 FR 47538; November 19, 1985).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(e) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(f) Notice of final rule on data reimbursement policy and procedures (48 FR 31786; July 11, 1983).

(g) Notice of final rule revising TSCA test guidelines.

(2) Support documents consisting of:

(a) Cyclohexane technical support document for proposed rule.

(b) Economic impact analysis of NPRM for cyclohexane.

(3) TSCA test guidelines cited as test standards for this rule.

(4) Communications before proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

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X. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order; i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place, NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: May 1, 1987.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 795—[AMENDED]

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

1. In Part 795:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. Section 795.226 is added to read as follows:

§ 795.226 Dermal absorption for compounds that are volatile and metabolized to carbon dioxide.

(a) *Purpose.* The purpose of these studies is to: Determine the extent of absorption of test substance after dermal administration.

(b) *Definitions.* Percent of dermal absorption is defined as 100 times the ratio between total excretion of compound following dermal administration and total excretion following intravenous administration.

(c) *Test Procedures*—(1) *Animal selection*—

(i) *Species.* The rat and guinea pig shall be used.

(ii) *Test animals.* Adult male and female Fischer 344 rats shall be used. At 7 to 9 weeks of age, the male rats should weigh 125 to 175 g and the female rats 110 to 150 g. Guinea pigs, 5 to 7 weeks old, shall also be used. The animals should be purchased from a reputable dealer and shall be identified upon arrival. The animals shall be selected at random for the testing groups and any animal showing signs of ill health shall not be used. In all studies, unless otherwise specified, each experimental group shall contain at least 4 animals of each sex for a total of at least 8 animals.

(iii) *Animal care.* (A) Animal care and housing should be in accordance with DHEW Publication No. (NIH)–78–23, 1978, "Guidelines for the Care and Use of Laboratory Animals."

(B) The animals should be housed in environmentally controlled rooms with at least 10 air changes per hour. The rooms shall be maintained at a temperature of 25±2 °C and humidity of 50±10 percent with a 12-hour light/dark cycle per day. The animals shall be kept in a quarantine facility for at least 7 days prior to use.

(C) During the acclimatization period, the animals should be housed in suitable cages. All animals shall be provided with certified feed and tap water *ad libitum.* The guinea pig diet shall be supplemented with adequate amounts of ascorbic acid in the drinking water.

(2) *Administration of Test Substance*—(i) *Test compound.* The use of radioactive test substance is required for all studies outlined in paragraph (c)(2)(ii) of this section. Ideally, the purity of both radioactive and nonradioactive test substance should be greater than 99 percent. If the purity is less than 99 percent or if the radioactive and nonradioactive compounds differ significantly, the EPA should be consulted.

(ii) *Dosage and treatment*—(A) *Intravenous.* The "low" dermal dose of test substance, in an appropriate vehicle, shall be administered intravenously to four rats of each sex and to four guinea pigs of each sex.

(B) *Dermal.* For dermal treatment, the "low" and "high" doses shall be dissolved in a suitable vehicle and applied at a volume adequate to deliver the doses. The backs of the animals should be lightly shaved with an electric clipper 24 hours before treatment. The chemical shall be applied to the intact shaven skin (approximately 2 cm^2 for rats, 5 cm^2 for guinea pigs). To prevent losses of test substance by evaporation, the use of a stainless skin depot glued to the backs of the animals with a cyanoacrylate adhesive is recommended. The depot is fitted with a screw cap to prevent the escape of vapor and with a basket of activated charcoal to adsorb compound which vaporizes (Ref. 1).

(*1*) *Washing efficiency study.* Before initiation of the dermal absorption studies described in this section, an initial washing efficiency experiment shall be conducted to assess the removal of the applied test substance by washing the exposed skin area with soap and water and an appropriate solvent. The low dose of test substance shall be applied to 4 rats and 4 guinea pigs. After application (2 to 5 minutes), the areas shall be washed with soap and water and an appropriate solvent (2 rats, 2 guinea pigs). The amounts recovered in the washings shall be determined to assess efficacy of test substance removal by washing the skin.

(*2*) [Reserved].

(iii) *Dosing and sampling schedule*—(A) *Rat studies*— (*1*) *Intravenous study.* (*i*) Group A is to be dosed once intravenously at the low dose of test substance. The rats shall be placed in individual metabolic units (Ref. 2) for collection of urine, feces and expired air at 8, 24, 48, 72 and 96 hours after dosing. The metabolic units are to be cleaned after the final collection period to remove any excreta that might adhere to the units.

(*ii*) [Reserved].

(*2*) *Dermal studies* The test substance shall be kept on the skin for a minimum of 6 hours.

(*i*) Group B shall be dosed once dermally with the low dose of test substance.

(*ii*) Group C shall be dosed once dermally with the high dose of test substance. During and after the exposure period, each animal shall be placed in an individual metabolic unit for the collection of urine, feces and expired air at 8, 24, 48, 72 and 96 hours after dosing. The metabolic units are to be cleaned after the final collection period to remove any excreta that might adhere to the units. At the time of removal of the skin depot, the treated area and the steel depot shall be washed with an appropriate solvent to remove any test substance. Also, the test substance shall be desorbed from the activated charcoal with a suitable solvent. The washings and extracts shall be assayed to recover residual test substance. At the termination of the experiments, each animal shall be sacrificed and the exposed skin area removed. The skin (or an appropriate section) shall be solubilized and assayed for radioactivity to ascertain if the skin acts as a reservoir for test substance.

(B) *Guinea pig studies.* (*1*) Group D is to be dosed once intravenously at the low dose of test substance. The guinea pigs shall be placed in individual metabolic units for the collection of urine, feces and expired air as for Group A.

(*2*) *Dermal studies.* The studies conducted on groups B and C as specified in paragraph (c)(2)(iii)(A)(*2*) of this section shall be repeated using four guinea pigs per group.

(*i*) Group E shall be dosed once dermally with the low dose of test substance.

(*ii*) Group F shall be dosed once dermally with the high dose of test substance.

(*iii*) *Measurements—Excretion.* The quantities of radioactivity excreted in the urine, feces, and expired air shall be determined at appropriate time intervals as described above and, if necessary, daily thereafter until at least 90 percent of the applied dose has been excreted or until 7 days after dosing (whichever occurs first).

(d) *Data and reporting*—(1) *Treatment of results.* Data shall be summarized in tabular form.

(2) *Evaluation of results.* All observed results, quantitative or incidental, shall be evaluated by an appropriate statistical method.

(3) *Test report.* In addition to the reporting requirements as specified in the EPA Good Laboratory Practice Standards (40 CFR Part 792, Subpart J) the following specific information shall be reported:

(i) Species and strains of laboratory animals;

(ii) Information on the site(s) and extent of test substance labeling, including specific activity, chemical purity, radiochemical purity and results of chromatography;

(iii) A full description of the sensitivity, precision, and accuracy of all procedures used to produce the data;

(iv) Percent of absorption of test substance after dermal exposures to rats and guinea pigs;

(v) Quantity and percent recovery of test substance in feces, urine, and expired air. In dermal studies on rats and guinea pigs, include recovery data for skin, skin washings, and residual compound in the skin depot and charcoal.

(e) *References.* For additional background information on this test guideline the following references should be consulted:

(1) Susten, A.S., Dames, B.L., Niemeier, R.W., "In *vivo* percutaneous absorption studies of volatile solvents in hairless mice. I. Description of a skin-depot." *Journal of Applied Toxicology* 6:43–46. (1986).

(2) Jeffcoat, A.R. Research Triangle Institute. Absorption, distribution, metabolism and excretion of cyclohexane. Project report No. 5. Research Triangle Park, N.C. National Institute of Environmental Health Sciences. Contract NOI–ES–1–5007. (1984)

PART 799—[AMENDED]

2. In Part 799:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. Section 799.1295 is added to read as follows:

§ 799.1295 Cyclohexane.

(a) *Identification of test substance.* (1) Cyclohexane (CAS No. 110–82–7) shall be tested in accordance with this section.

(2) Cyclohexane of at least 99.9 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture or process, or intend to manufacture or process cyclohexane, other than as an impurity, from the effective date of this rule (44 days after the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to conduct testing, submit study plans, conduct tests in accordance with Part 792 of this chapter, and submit data or submit exemption applications as specified in this section, Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking.

(c) *Health effects testing*—(1) *Subchronic inhalation toxicity*—(i) *Required testing.* A subchronic inhalation toxicity test shall be conducted with cyclohexane in accordance with § 798.2450 of this chapter.

(ii) *Reporting requirements.* (A) The subchronic inhalation toxicity test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(2) *Oncogenicity*—(i) *Required testing.* An oncogenicity test shall be conducted by inhalation with cyclohexane in accordance with § 798.3300 of this chapter.

(ii) *Reporting requirements.* (A) The oncogenicity test shall be completed and the final results submitted to the Agency within 53 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(3) *Reproduction and fertility effects*—(i) *Required testing.* A reproduction and fertility effects test shall be conducted by inhalation with cyclohexane in accordance with § 798.4700 of this chapter.

(ii) *Reporting requirements.* (A) The reproduction and fertility effects test shall be completed and the final results submitted to the Agency within 29 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(4) *Inhalation developmental toxicity*—(i) *Required testing.* An inhalation developmental toxicity test shall be conducted with cyclohexane in accordance with § 798.4350 of this chapter.

(ii) *Reporting requirements.* (A) The inhalation developmental toxicity test shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(5) *Neurotoxicity*—(i) *Required testing.* Inhalation neurotoxicity tests snall be conducted with cyclohexane in accordance with §§ 798.6050, 798.6200, 798.6400, and 798.6500 of this chapter.

(ii) *Reporting requirements.* (A) The neurotoxicity tests shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(6) *Developmental neurotoxicity*—(i) *Required testing.* An inhalation developmental neurotoxicity test shall be conducted with cyclohexane in accordance with 795.250 of this chapter.

(ii) *Reporting requirements.* (A) The developmental neurotoxicity test (conditional) shall be completed and the final results submitted to the Agency within 15 months of the effective date of the final rule which would require the developmental neurotoxicity test.

(B) Progress reports shall be submitted to the Agency for the developmental neurotoxicity test (conditional) at 6-month intervals beginning 6 months after the effective date of the final rule which would require the developmental neurotoxicity test.

(7) *Dermal Absorption*—(i) *Required testing.* Dermal absorption test shall be conducted with cyclohexane in accordance with § 795.226 of this chapter.

(ii) *Reporting requirements.* (A) The dermal absorption test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(B) Progress reports shall be submitted 6 months from the effective date of the final rule.

(8) *Dermal Sensitization*—(i) *Required testing.* (A) Dermal sensitization test shall be conducted with cyclohexane in accordance with § 798.4100 of this chapter.

(B) [Reserved].

(ii) *Reporting requirements.* (A) The dermal sensitization test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the final rule.

(B) Progress reports shall be submitted 6 months from the effective date of the final rule.

(d) *Effective date.* (44 days after publication of the final rule in the **Federal Register**).

(Approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc. 87–11127 Filed 5–19–87; 8:45 am]

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federal register

Wednesday
May 20, 1987

Part VI

Department of Transportation

Federal Highway Administration, Research and Special Programs Administration

49 CFR Parts 171, 173, and 387

Enforcement of Motor Carrier Financial Responsibility Requirements; Advance Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Research and Special Programs Administration

49 CFR Parts 171, 173 and 387

[Docket Nos. HM-199; Notice 87-5 and MC-129; Notice 87-5]

Enforcement of Motor Carrier Financial Responsibility Requirements

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA); Office of Motor Carrier Standards, Federal Highway Administration (FHWA).

ACTION: Advance Notice of Proposed Ruelmaking (ANPRM).

SUMMARY: This notice solicits comments on the merits of a petition for rulemaking filed with RSPA and FHWA proposing to amend Title 49 of the Code of Federal Regulations to require each person offering a hazardous material for transportation, by highway, in cargo tanks to obtain documentary proof that the motor carrier possesses the minimum level of financial responsibility currently prescribed by regulation (49 CFR Part 387); that such persons maintain such proof for a certain period of time; and that such proof should be produced for review upon reasonable request by a member of the public. Comments are also sought on a corresponding amendment that would require such documentation be tendered by motor carriers to those shippers for whom they transport hazardous materials.

DATE: Comments must be submitted on or before August 18, 1987.

ADDRESS: All comments should refer to the docket numbers and notice numbers that appear at the top of this document and should be submitted, preferably in quadruplicate, to the Office of Hazardous Materials Tranportation (OHMT), RSPA, Dockets Branch, DHM-62, Room 8426, 400 Seventh Street, SW., Washington, DC 20590. The Office of Hazardous Materials Transportation is compiling the information received in response to this notice, and written comments should be submitted to this office. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped post card. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday. Telephone (202) 366-5046.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Nalevanko, Policy Development and Information Systems Division, (202) 366-4484, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, or Mr. Neill L. Thomas, Office of Motor Carrier Standards, (202) 366-4989, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION

Background

On February 17, 1986, the National Tank Truck Carriers, Inc. (NTTC) filed a petition for rulemaking under the provisions of 49 CFR 106.31 and 389.31. The petition is published verbatim in this notice. This ANPRM is issued to obtain comments on the merits of the petition from interested parties as one aspect of the Department's decision on whether to proceed with rulemaking. In requesting comments from parties interested in participating in this action, RSPA and FHWA have formulated a series of questions that are designed to assist in determining the potential costs and safety benefits associated with the NTTC petition. These questions follow immediately after the verbatim transcript of the NTTC petition. Additionally, without prejudice to the merits of the NTTC petition, we call attention to the following paragraph which appears in the petition:

> Another deficiency in this system is the unavailability of adequate enforcement staff to effectively determine carrier compliance. Under anticipated budgetary constraints, the level of enforcement staffing within DOT is unlikely to increase. A major benefit of the proposed amendments would be the creation of a ready mechanism for shippers to verify their carriers' compliance, without expenditure of any government resources.

The FHWA has no authority over shippers. Therefore, this ANPRM does not propose to expand the authority of the FHWA over shippers in the area of hazardous materials regulation. The RSPA has authority to promulgate regulations governing the shipment and transportation of hazardous materials as they apply to both shippers and carriers.

The petition for rulemaking follows:

Before the Administrator, Federal Highway Administration and the Administrator, Research and Special Programs Administration, United States Department of Transportation, a Petition for Rulemaking in the Matter of

Proposed Amendments to Current Regulations Dealing with Mandatory Evidence of Financial Responsibility

Filed by National Tank Truck Carriers, Inc., 2200 Mill Road, Alexandria, Virginia 22314, (703) 838-1960, Clifford J. Harvison, Managing Director.

February 17, 1986.

This document is a petition by National Tank Truck Carriers, Inc. (NTTC) to amend the Federal Motor Carrier Safety Regulations (at 49 CFR Parts 387 and 390-397) and the Hazardous Materials Regulations (at 49 CFR Parts 170-178).

NTTC is the trade association of the for-hire tank truck industry and is composed of over 200 corporate members engaged in the transportation of hazardous and non-hazardous materials in intrastate, interstate and international commerce throughout the 48 Continental United States. As such our carrier/members are subject to the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations (which, with certain exceptions, have been adopted therein).

The objective of this petition is to amend Title 49 of the Code of Federal Regulations to require shippers of hazardous materials in cargo tanks to maintain documentary evidence of carrier compliance with regulatory requirements for so-called "mandatory evidence of financial responsibility", for those motor carriers they use to transport hazardous materials. Furthermore, we seek a corresponding amendment to the regulations to require that such documentation be tendered by motor carriers to those shippers for whom they transport hazardous materials.

Background

Beginning in 1980 (and pursuant to Congressional passage of the Motor Carrier Act (MC Act)) all motor carriers were required to obtain evidence of financial responsibility in varying amounts and forms, usually by insurance and/or bonding. Subsequent to passage of the MC Act, the Federal Highway Administrator promulgated regulations which require all carriers to have appropriate evidence of financial responsibility available for public inspection at their principal place of business (see 49 CFR 387.7). Contemporaneously, the Interstate Commerce Commission (ICC) issued conforming regulations applicable to for-hire carriers of property, prescribing the use of Form BMC-90 which would be maintained within the carrier's public docket (on file at the ICC).

In taking these actions, the Federal Highway Administrator and the ICC designed a two-pronged method whereby carriers could document for the

public and appropriate Federal and State enforcement personnel that they complied with Section 30 of the Motor Carrier Act.

The Problem

Given over 5 years of experience with this legislative and regulatory structure, it is evident that serious deficiencies in both compliance and enforcement still exist, and such deficiencies work to frustrate the objectives of Congress as stated on page 42 of the House of Representatives Report No. 96–1069, to-wit: ". . . to encourage the carriers to engage in the practices and procedures that will enhance the safety of their equipment so as to afford the best protection to the public."

The most serious deficiency in the present regulatory scheme is that the hazardous materials shipper—the entity which initiates the transportation—is not required to be included in the communications "loop" designed to assure compliance with section 30 of the MC Act. In other words, as the regulations are written today, a shipper would have to make a special effort to determine a carrier's compliance with the mandates of section 30 of the MC Act, by either physically checking the carriers' ICC file, or by requesting such information from individual carriers. The NTTC proposal (if adopted) would eliminate this shortcoming.

Another deficiency in this system is the unavailability of adequate enforcement staff to effectively determine carrier compliance. Under anticipated budgetary constraints, the level of enforcement staffing within DOT is unlikely to increase. A major benefit of the proposed amendments would be the creation of a ready mechanism for shippers to verify their carriers' compliance, without the expenditure of any government resources.

The Proposed Solution

This petition seeks to close this communications loop and to strengthen the compliance mechanism by amending the regulations to require carriers to give evidence of financial responsibility to hazardous materials shippers, prior to or at the time of loading. Furthermore, the proposed amendments would require hazardous materials shippers to keep copies of evidence of financial responsibility given to them by their carriers.

DOT Jurisdiction

Our proposal would amend both the Federal Motor Carrier Safety Regulations (promulgated under the jurisdiction of the Federal Highway Administrator) and the Hazardous Materials Regulations issued by the Administrator, Research and Special Programs Administration. Thus, we have elected the procedure of filing this petition, jointly.

There can be no reasonable doubt that the Administrators have sufficient jurisdiction within which to act in accordance with this petition. Section 105 of the Hazardous Materials Transportation Act (HMTA) of 1974 specifies that the Secretary's regulations ". . . shall be applicable to any person who *transports*, or *causes to be transported or shipped*, a hazardous material . . . ." (emphasis supplied)

Additionally, the HMTA Act states that, "Such regulations may govern any safety aspect of the transportation of hazardous materials which the Secretary deems necessary or appropriate. . ."

Therefore, there can be no dispute as to the Secretary's (and, hence, the Administrations') authority to promulgate more viable regulations in this area. Also, it is important to note that nothing in NTTC's proposal would impact ICC regulations or jurisdiction, since the Commission exercises no jurisdiction over the shipping community.

Why These Amendments Are Sought

Regardless of the current dislocations in the insurance market, NTTC suggests that significant post-1980 changes in the hazardous materials transportation marketplace mandate refinement of the current "insurance regulations", in order to better protect the public and carry out the intent of Congress. Ample evidence exists that noncompliance is widespread. Indeed, the Director of the Bureau of Motor Carrier Safety has stated publicly that 1983 and 1984 field audits of carriers' document that approximately 25% of audited carriers did not have appropriate evidence of financial responsibility to comply with current regulations.

Three of the more significant post-1980 changes in the motor carrier industry which prompt this petition are: (1) The expanded entry of new motor carriers into the field of the transportation of hazardous materials; (2) the increased use by shippers of socalled "customer pick-up" of hazardous materials in their own vehicles; and (3) the increase in the number of commodities regulated as "hazardous materials/hazardous substances/hazardous wastes" by the Department and EPA.

There can be little doubt that the number of individuals, corporations, partnership, etc., involved in interstate trucking has increased substantially. While Dun & Bradstreet estimates that some 3,400 carriers have exited the business since 1980, the ICC points out that (through 1984) some 19,000 certificates of public convenience and necessity have been issued to new entrants. Generally, such new entrants are small businessmen to whom economic survival dictates extensive backhauling with just about any type of load they can find. It is, therefore, quite reasonable to assume (particularly in view of the BMCS Director's remarks noted above) that many carriers transporting hazardous materials (in a variety of packaging) are doing so in noncompliance with current financial responsibility regulations.

It is impossible to calculate with any degree of precision the true impact of post-1980 entry into motor carriage. For instance, ICC decisions dealing with intercorporate hauling, so-called "Toto" transportation, relaxed leasing requirements, and ICC interpretations which have greatly expanded the scope of Certificates of Public Convenience and Necessity and Permits for Contract Carriage, tend to validate virtually any shipper/carrier arrangement as being in compliance with the MC Act.

While no regulatory action is going to correct every problem area, these proposed amendments would create a threshold requirement (passing of documentation from carrier to shipper) which would enhance public protection and safety, and ease enforcement burdens. This would establish a self-checking mechanism by both parties involved in the transportation.

Yet another significant change in the post-1980 period is the acceleration of so-called "customer pick-up". Typical of such a situation is the following:

The XYZ Company sells 6,000 gallons of a hazardous chemical to a customer. The customer specifies that it will use its own vehicle for transporting the product from the XYZ Company to final destination. Change of title for the product occurs at the loading of the customer's vehicle at the XYZ Company's loading point.

Since title was transferred "at the point of sale,(") (sic) it is unclear whether the XYZ Company is bound to perform the duties and accept the responsibilities of the role of a shipper (e.g., provide placards, product classification and description for the shipping papers, inspect the vehicle, etc.). This confusion has led many hazardous materials producers to think they have no regulatory responsibilities for loads that were picked up by their customers. As motor carriers of

hazardous materials, the customer is subject to the financial responsibility requirements under the MC Act.

This scenario is no rare exception to common transportation practices. Major chemical companies have indicated to NTTC that *up to 30 percent* of their total tank truck shipments involve so-called "customer pick-up". The proposed amendments would assure that any person offering hazardous materials to any motor carrier would have proof of the carrier's compliance with the law, before or at the time of loading.

While transportation lawyers and regulators may differ in their interpretations of lawful obligations by the parties (involved in customer pick-up), the issue of public safety may be somewhat compromised. The amendments, proposed by NTTC, would enhance public safety by requiring that minimum required evidence of financial responsibility for hazadous materials transportation be "in place" either prior to or at the time of loading.

Just as there can be no rational argument against the fact that motor carrier entry has expanded—so too must the same reality be applied to the considerable expansion of the list of commodities regulated (as hazardous materials, hazardous substances and hazardous wastes) by the Administrators and the Secretary.

Congressional passage of and subsequent amendments to the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Restoration and Clean-up Liability Act of 1980 (CERCLA) (Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)) (sic), created new classifications of measurement of transportation hazards and has led to much uncertainty and confusion in the transportation marketplace. For example, all hazardous substances are deemed by DOT regulation to be hazardous materials, yet not all hazardous materials are hazardous substances. The phrase "listed, but not regulated. . ." is in common usage, but is not commonly understood; and certain hazardous wastes are specified, while others may or may not fall within the "hazardous waste" classification (depending upon concentration, waste stream constituents, and other characteristics known only to the product shipper).

In light of the many regulatory anomalies created, NTTC respectfully suggests that most of the new entrants into motor carriage (and many of the established carriers) do not know and would be hard pressed to determine whether or not carriage of certain products would trigger the appropriate levels of "evidence of financial responsibility" necessary for compliance.

Historically, the Department has relied upon the shipper—the entity in the transportation chain most familiar with the hazard characteristics of the product—to properly classify and package the commodity placed in commerce as the first step to regulatory compliance. Yet, as the BMCS Director's comments noted above prove, a significant loophole in the regulatory scheme exists.

Adoption of the NTTC proposal would help close this loophole by requiring a very basic change of existing information proceeding or at the time of the shipment of a hazardous material, hazardous substances or hazardous waste. All the shipper need do is "cross-check" the hazard class of the shipment against the evidence of financial responsibility offered by the carrier to assure regulatory compliance.

Again, the regulatory goal of public protection would be served by assuring that properly insured carriers are handling sensitive products.

Specific Relief Sought

NTTC hereby petitions that the following sections of Title 49 CFR be amended to read:

At 49 CFR 387.7(e)—add the italicized language:

(e) The proof of minimum level of financial responsibility required by this section shall be considered public information, *and in the case of transportation in cargo tanks shall be provided to every person using the services of* the motor carrier. Such proof also shall be produced for review upon reasonable request by a member of the public.

At 49 CFR 171.2(b)—add the italicized language:

(b) No person may transport a hazardous materials in commerce unless that material is handled and transported in accordance with this subchapter, or an exempiton issued under subchapter B of this Chapter. *Transportation in cargo tanks by highway must be conducted in accordance with minimum levels of financial responsibility required under 49 CFR Part 387.*

At 49 CFR 173.22—add new italicized paragraph (e):

(e) *A person offering a hazardous materials for transportation by highway in cargo tanks shall obtain proof that the motor carrier possesses the required minimum level of financial responsibility prescribed under 49 CFR Part 397.* (sic).

At 49 CFR 177.804—amend the phrase ". . .shall comply with 49 CFR Parts 390 through 397" to read, "shall comply with 49 CFR Parts *387 and* 390 through 397. . ." (amendment italicized).

This petition (if granted) would impose minimal obligations on parties who "offer" hazardous materials for transportation by highway, and motor carriers engaged in such transportation. We have crafted our proposed amendments to reflect DOT jurisdiction over both shipper and carrier.

Adoption of the Proposal Would not be Burdensome to any Party Including the Government

NTTC is cognizant of the need to craft a regulatory structure that is effective, yet does not unduly burden the resources of either government or the regulated community.

Currently, the Department requires that carriers simply maintain "proof of financial responsibility" for public inspection. The NTTC proposal does not call for the creation of any new forms or documents.

In some cases, the "proof" may be in the form of a photocopied insurance (or bonding) binder, while in others it may be a photocopy of an ICC carrier's Form BMC–90 (already required by regulation). Where the shipper and carrier have an existing business arrangement, documentation could be filed by mail and maintained on file. Where the transportation arrangement is of a more immediate or temporary nature, such documentation could easily be carried on the vehicle and transferred at the point of loading. In short, the means of providing evidence of financial responsibility will be a matter between carrier and shipper.

This proposal does not intrude into normal business relationships or deviate from standard business practices. By requiring what is, in effect, the carrier's verification of his regulatory compliance, the NTTC proposal simply borrows a concept from other governmental programs. For instance, the Equal Employment Opportunity Commission requires persons engaged in business relationships to certify compliance with statutory requirements for non-discriminatory hiring and promotion practices, use of minority-owned firms for contracts, etc. The Internal Revenue Service is heavily reliant on self-certification of wages, fees, etc. paid to contractors and other independent businesspersons. The Environmental Protection Agency requires gasoline terminal loading points to maintain copies of a tank vehicle's most recent certification of leak tightness test conducted under the so-

called "Method 27" test—filed by the motor carrier.

At least two major shippers of hazardous materials—Texaco and the Mobil Oil Corporation—already require carriers to provide them with exactly the same information as would be required by the NTTC proposal.

The NTTC proposal would not create a paperwork burden. Shippers and carriers have long demonstrated that they have no aversion to generating paperwork *for their own protection.* Such may range from complex contracts—wherein obligations, terms and conditions and responsibilites are expressly outlined—to simple and standard lease forms, bills of lading, etc. Transferring a single piece of paper represents little more than minor inconvenience that is more than outweighed by the public benefit to be gained.

Given the fact that NTTC is simply proposing a mandated exchange of copies of existing information to be accomplished prior to or during the time of loading of hazardous materials, we stress the fact that this aspect of the regulatory program can be implemented and enforced at no cost to the government. These amendments would be entirely consistent with the Paperwork Reduction Act, because of the minimal photocopying obligation imposed on motor carriers, and the total lack of any paperwork burden on the shippers or government.

In conclusion, we respectfully submit this petition before the Administrator, Federal Highway Administration and the Administrator, Research and Special Programs Administration. We seek expeditious publication of this proposal as a "Notice of Proposed Rulemaking" and prompt handling under the Administrators' Rules of Procedure and the Administrative Procedures (sic) Act.

Respectfully submitted,

Clifford J. Harvison,

Managing Director.

To assist in the evaluation of the merits of the NTTC petition, RSPA and FHWA invite interested parties to comment on the petition, in particular, on the following questions.

Questions

1. The NTTC petition states that a "major benefit of the proposed amendments would be the creation of a ready mechanism for shippers to verify their carriers' compliance, without expenditure of any government resources." How would DOT enforce this proposal, if adopted, against *shippers?* Would there be any need for the government to inspect *shippers* for compliance with such a proposal, if adopted? What impact will this have for shippers?

2. The NTTC petition states that "In light of the many regulatory anomalies created, NTTC respectfully suggests that most of the new entrants into motor carriage (and many of the established carriers) do not know and would be hard pressed to determine whether or not carriage of certain products would trigger the appropriate levels of 'evidence of financial responsibility' necessary for compliance." If this suggestion is true for motor carriers, is there any reason to believe that it would not also be true for shippers of hazardous materials, especially for small shipper? Are there any grounds for believing that shippers, especially small shippers, ought to be or are *more knowledgeable* concerning the financial responsibility obligations of motor carriers than the motor carriers themselves?

3. A substantial number of instances involving motor carrier noncompliance with the minimum financial responsibility requirements involves operating without appropriate levels of financial responsibility; that is, these motor carriers had proof of financial responsibility (a Form MCS–90 endorsement) but, in fact, the level of financial responsibility carried was inappropriate or inadequate in terms of the motor carrier's activity or activities. Since an appropriate level of financial responsibility is a function of the hazardous material carried, the containment system, and whether the motor carrier operates in intrastate, interstate, or foreign commerce, what additional fact-finding mechanism will shippers have to employ in order to determine that the copy of the Form MCS–90 endorsement furnished to the shipper by the motor carrier does represent an appropriate level of financial responsibility for the motor carrier's activity, if the current instances of motor carriers having inappropriate or inadequate levels of financial responsibility are to be avoided?

4. Information submitted by the NTTC shows that a large percentage of the number of audits of motor carriers of hazardous materials in cargo tanks involves failure to maintain proof of financial responsibility at the motor carrier's principal business office. Yet, 49 CFR 387.7(d) states, in clear and unambiguous fashion, that "Proof of the required financial responsibility shall be maintained at the motor carrier's principal place of business." Would requiring shippers, as proposed by the NTTC, to obtain and maintain a copy of the motor carrier's proof of financial responsibility reduce the number of instances of motor carriers failing to maintain proof of their financial responsibility at the motor carrier's principal place of business? What are the resource implications for federal and state inspection efforts if 49 CFR 387.7(d) is still to be enforced on motor carriers and, if the NTTC proposal were adopted, on shippers as well?

5. Where would the shipper be required to maintain a motor carrier's proof of financial responsibility, at the principal place of business or at each shipping origin? What files should the proof be maintained in? How long would the shippers be required to keep the proof of financial responsibility for each motor carrier used? How often would shipper be required to obtain proof of financial responsibility? If the shipper and consignor are different, where should the evidence of financial responsibility be on file? How would a shipper be aware or notified if a motor carrier's financial responsibility coverage were canceled?

6. In light of the fact that motor carriers who are unable to obtain insurance in the voluntary insurance market may have to obtain coverage in the residual risk market, and that there may be less incentive for motor carriers insured through assigned risk premiums to maintain good safety records (since premium rates in the assigned risk market are not affected by a motor carrier's safety record), what safety benefit is achieved by the NTTC proposal that shippers be given proof of a motor carrier's financial responsibility?

7. The NTTC proposal would, as a practical matter, only affect for-hire "bulk" motor carriers of hazardous materials, and customers picking up hazardous materials in bulk in their own vehicles. A large percentage of "bulk" hazardous materials shipments are made by private motor carriers. (In one study, it was found that 78 percent of the liquid tank truck fleet was operated by private motor carriers.) From the standpoint of regulatory equity and nondiscriminatory competitive impact, is there a mechanism comparable to that proposed by the NTTC that could be applied to private bulk motor carriers? Should the requirement be applied to all motor carriers, transporters of explosives, poison A materials, and radioactive materials? What effect would this proposal have on the transportation by farmers that transport anhydrous ammonia or other products in nurse tanks, or other fertilizer application equipment? How would this

proposal be implemented in "Turn-Key" operations?

8. Because shippers of hazardous materials must decide from what plant or warehouse a shipment should be made to a customer's plant or warehouse, and must match shipment orders with appropriate motor carriers, what administrative and management information transaction costs would adoption of the NTTC proposal impose on shippers, especially where the transportation arrangement is of a more immediate or temporary nature?

9. Please summarize your understanding of the costs which adoption of the NTTC proposal would impose on your firm or industry in terms of the following categories and, if possible, provide substantiating data.

- Costs in checking the documentation of the financial responsibility provided by motor carriers.
- Costs in paper work in providing and maintaining such documentation.
- Costs, including litigation costs, associated with liability claims and counter-claims that might arise due to the adoption of the proposal.
- Costs to shippers and motor carriers due to delays in furnishing or properly checking the documentation or evidence provided by motor carriers to shippers.
- Costs in responding to requests from members of the public to review such documentation.
- Costs associated with enforcement penalties due to inadvertently being in noncompliance with the requirements of the NTTC proposal, if adopted.
- Costs of rule familiarization (managerial and technical).

10. How would the foregoing costs vary if the proposed requirement were applied only to "bulk" motor carriers? If applied to all motor carriers?

11. The American Bus Association has petitioned the FHWA to require a copy of the proof of financial responsibility be carried on each motor vehicle at all times. Would adoption of a requirement for motor carriers to maintain a copy of the proof of financial responsibility on all motor vehicles at all times satisfy the concerns expressed by NTTC in their petition for rulemaking? Are there other alternatives for improving the compliance record of motor carriers with the requirements for minimum levels of financial responsibility?

Commenters are not limited to responding to the questions raised above and may submit any facts and views consistent with the intent of this notice. In addition, commenters are encouraged to provide comments on "major rule" considerations under terms of Executive Order 12291, "significant rule" considerations under DOT regulatory procedures (44 FR 11034), information collection burdens which must be reviewed under the Paperwork Reduction Act, and economic impact on small entities subject to the Regulatory Flexibility Act. A draft regulatory evaluation will be prepared as this rulemaking action progresses, based upon the comments received in response to this notice.

List of Subjects

49 CFR Parts 171 and 173

General requirements, Shipper's responsibility, Motor carrier safety.

49 CFR Part 387

Highways and roads, Insurance, Motor carriers, Surety bonds.

(Catalogue of Federal Domestic Assistance Program Number 20.217)

Authority: 49 U.S.C. 10927 note; 49 CFR 1.48 and 301.60. 49 U.S.C. 1803, 1804, 1805, 1808, 1809; 49 CFR 1.53(e), 1.53, App. A to Part 1, 49 U.S.C. 1655, 1655(c).

Issued in Washington, DC on May 14, 1987.

R.A. Barnhart,
Administrator, Federal Highway Administration.

Alan I. Roberts,
Director, Office of Hazardous Materials Transportation, Research and Special Programs Administration.

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federal register

Wednesday
May 20, 1987

Part VII

The President

Federal Register
Vol. 52, No. 97
Wednesday, May 20, 1987

Presidential Documents

Title 3—

The President

Proclamation 5657 of May 18, 1987

Extending United States Copyright Protections to Works of the Republic of Singapore

By the President of the United States of America

A Proclamation

Section 104(b)(4) of Title 17 of the United States Code provides that when the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States of America or to works first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under that title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which are first published in that nation.

Satisfactory assurances have been received that as of April 10, 1987, the Republic of Singapore has granted to works of United States nationals and domiciliaries and works first published in the United States protection in Singapore on the same basis as works of Singaporean nationals and domiciliaries and works first published in Singapore, and that such protection also has been extended to works of United States nationals and domiciliaries and works first published in the United States, which were in the Singapore public domain on April 9, 1987, if such works still enjoy copyright protection in the United States.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by Section 104 of Title 17 of the United States Code, do declare and proclaim that the conditions specified in Section 104(b)(4) of Title 17 of the United States Code have been satisfied in the Republic of Singapore with respect to works of which one or more of the authors is, on the date of first publication, a national or domiciliary of the United States of America, or which are first published in the United States, and as of this day works of Singaporean nationals and domiciliaries and works first published in Singapore are entitled to protection under Title 17 of the United States Code.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, in the year of our Lord nineteen hundred and eighty-seven, and the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-11722
Filed 5-19-87; 11:44 am]
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Presidential Documents

Proclamation 5658 of May 18, 1987

National Tourism Week, 1987

By the President of the United States of America

A Proclamation

Today, as always, travelers from our country and overseas cross the United States to meet the American people, to see our cities, plains, and natural wonders, and to visit the historic sites of our Nation. We do well each year to pay tribute to tourism for all it means to our way of life and to understanding and friendship among people of many lands.

Travelers in the United States truly have a panorama of opportunities before them. This year, as we celebrate the Bicentennial of the Constitution, let us remember that the record of the winning and keeping of our precious liberties is written all across the face of our beautiful land. In countless American places—courtyards and country lanes, fields and forts, monuments and memorials, battlefields and bridges, cemeteries and sanctuaries, hills and homes and halls—we can ever read the struggles and sacrifices of a people and a glorious cause. That is nowhere more true than in Philadelphia, the home of so much of the history of liberty and our headquarters for the Bicentennial of the Constitution.

Let us always be sure to offer heartfelt welcome to the tourists we meet as they discover for themselves how America became the land of the free and the home of the brave.

In recognition of the educational, economic, and recreational benefits of tourism, the Congress, by Public Law 99–394, has designated the week beginning May 17, 1987, as "National Tourism Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 17, 1987, as National Tourism Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, 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

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LIST OF PUBLIC LAWS

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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. 67 / Pub. L. 100–39

To authorize and request the President to issue a proclamation designating May 3 through May 10, 1987, as "Jewish Heritage Week."

H.R. 2360 / Pub. L. 100–40

To provide for a temporary increase in the public debt limit. (May 15, 1987; 101 Stat. 308; 1 page) Price: $1.00

S. 903 / Pub. L. 100–41

To extend certain protections under title 11 of the United States Code, the Bankruptcy Code. (May 15, 1987; 101 Stat. 309; 1 page) Price: $1.00

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1986

Additions to Table III, February 27, 1986 through November 17, 1986

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those acts of the second session of the 99th Congress which require Federal agencies to publish documents in the Federal Register. Table III appears in the CFR Index and Finding Aids volume revised as of January 1, 1987.

Description of Act	*Citation*
Petrified Forest National Park	Public Law 99-250; 100 Stat. 13; 16 U.S.C. 119a note.
White Earth Reservation Land Settlement Act of 1985	Public Law 99-264; 100 Stat. 64, 66-68; 25 U.S.C. 331 note.
Consolidated Omnibus Budget Reconciliation Act of 1985	Public Law 99-272; 100 Stat. 140; 100 Stat. 387; 38 U.S.C. 219 note.
Chilocco Indian School, OK, lands in trust	Public Law 99-283; 100 Stat. 404.
Designation of Patrick Henry's home, Red Hill, as a National Memorial	Public Law 99-296; 100 Stat. 429; 16 U.S.C. 431 note.
Firearms Owners' Protection Act	Public Law 99-308; 100 Stat. 461; 18 U.S.C. 921 note.
Protection and Advocacy for Mentally Ill Individuals Act of 1986	Public Law 99-319; 100 Stat. 483; 42 U.S.C. 10822.
Safe Drinking Water Act Amendments of 1986	Public Law 99-339; 100 Stat. 643, 646; 42 U.S.C. 300g-1.
Omibus Diplomatic Security and Antiterrorism Act of 1986	Public Law 99-399; 100 Stat. 891; 46 U.S.C. app. 1804.
Conservation Service Reform Act of 1986	Public Law 99-412; 100 Stat. 936; 42 U.S.C. 8227.
Comprehensive Anti-Apartheid Act of 1986	Public Law 99-440; 100 Stat. 1107; 22 U.S.C. 5081.
Education of the Handicapped Act Amendments of 1986	Public Law 99-457; 100 Stat. 1162; 20 U.S.C. 1423; 100 Stat. 1163; 20 U.S.C. 1424a; 100 Stat. 1170; 20 U.S.C. 1441; 100 Stat. 1175; 20 U.S.C. 1418.
Higher Education Amendments of 1986	Public Law 99-498; 100 Stat. 1309; 20 U.S.C. 1070a; 100 Stat. 1322-1323; 20 U.S.C. 1070a-5; 100 Stat. 1365; 20 U.S.C. 1077a; 100 Stat. 1470-1471; 20 U.S.C. 1087rr; 100 Stat. 1477; 20 U.S.C. 1089; 100 Stat. 1591, 1593; 20 U.S.C. 1221e; 100 Stat. 1602; 20 U.S.C. 4412.
Superfund Amendments and Reauthorization Act of 1986	Public Law 99-499; 100 Stat. 1617; 42 U.S.C. 9602; 100 Stat. 1667; 42 U.S.C. 9620; 100 Stat. 1687; 42 U.S.C. 9622.
Continuing appropriations, fiscal year 1987	Public Law 99-500; 100 Stat. 1783-172; 10 U.S.C. 2320 note; 100 Stat. 1783-264; 30 U.S.C. 1005 note.
Federal Technology Transfer Act of 1986	Public Law 99-502; 100 Stat. 1792; 15 U.S.C. 3710c.
Rehabilitation Act Amendments of 1986	Public Law 99-506; 100 Stat. 1832; 29 U.S.C. 795g; 100 Stat. 1839; 29 U.S.C. 796e.
Omnibus Budget Reconciliation Act of 1986	Pubhic Law 99-509; 100 Stat. 1883; 15 U.S.C. 4502; 100 Stat. 1887; 15 U.S.C. 4506; 100 Stat. 1966; 19 U.S.C. 58c; 100 Stat. 2017; 42 U.S.C. 1395hh; 100 Stat. 2027; 42 U.S.C. 1395u; 100 Stat. 2030; 42 U.S.C. 1395rr.
Asbestos Hazard Emergency Response Act of 1986	Public Law 99-519; 100 Stat. 2984; 15 U.S.C. 2647.
Commission on the Bicentennial of the Constitution of the United States	Public Law 99-549; 100 Stat. 3064.
Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.	Public Law 99-554; 100 Stat. 3124; 29 U.S.C. 581 note.
Federal Employees' Retirement System Technical Corrections Act of 1986.	Public Law 99-556; 100 Stat. 3133; 5 U.S.C. 8477.
Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986.	Public Law 99-566; 100 Stat. 3185; 25 U.S.C. 1724 note.
Anti-Drug Abuse Act of 1986	Public Law 99-570; 100 Stat. 3207-140; 25 U.S.C. 2411; 100 Stat. 3207-186; 49 U.S.C. app. 2711.
Santa Ana Pueblo, New Mexico, transfers affecting, etc	Public Law 99-575; 100 Stat. 3245; 100 Stat. 3246; 25 U.S.C. 415 note.
Truth in Mileage Act of 1986	Public Law 99-579; 100 Stat. 3310; 15 U.S.C. 1988 note.
Wild and Scenic Rivers Act, amendments	Public Law 99-590; 100 Stat. 3335; 16 U.S.C. 1274.
Continuing appropriations, fiscal year 1987	Public Law 99-591; 100 Stat. 3341-172; 10 U.S.C. 2320 note; 100 Stat. 3341-264.
Immigration Reform and Control Act of 1986	Public Law 99-603; 100 Stat 3364; 8 U.S.C. 1324a; 100 Stat. 3425, 3426; 8 U.S.C. 1161.
Public lands, withdrawals for military purposes, etc	Public Law 99-606; 100 Stat. 3459, 3465-3467.
Futures Trading Act of 1986	Public Law 99-641; 100 Stat. 3566.
Emergency Wetlands Resources Act of 1986	Public Law 99-645; 100 Stat. 3590; 16 U.S.C. 668dd.
Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, establishment.	Public Law 99-647; 100 Stat. 3625.
Commemorative works, placement standards, District of Columbia	Public Law 99-652; 100 Stat. 3654; 40 U.S.C. 1010.
Drug Export Amendments Act of 1986, etc	Public Law 99-660; 100 Stat. 3745; 21 U.S.C. 382; 100 Stat. 3761; 42 U.S.C. 300aa-12; 100 Stat. 3766; 42 U.S.C. 300aa-14; 100 Stat. 3775; 42 U.S.C. 300aa-25; 100 Stat. 3776; 42 U.S.C. 300aa-26; 100 Stat. 3779, 3780, 3782; 42 U.S.C. 300aa-1 note; 100 Stat. 3785; 42 U.S.C. 1111.
National Defense Authorization Act for Fiscal Year 1987	Public Law 99-661; 100 Stat. 3930; 15 U.S.C. 632 note; 100 Stat. 3952; 10 U.S.C. 2320 note.
Water Resources Development Act of 1986	Public Law 99-662; 100 Stat. 4087; 33 U.S.C. 2214; 100 Stat. 4101; 33 U.S.C. 2233; 100 Stat. 4104; 33 U.S.C. 2236; 100 Stat. 4202; 33 U.S.C. 579a.
Columbia River Gorge National Scenic Area Act	Public Law 99-663; 100 Stat. 4276, 4277; 16 U.S.C. 544b.