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Federal Register
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Monday, July 20, 1987

Presidential Documents

Title 3—

The President

Proclamation 5678 of July 15, 1987

United States Olympic Festival – 1987 Celebration
United States Olympic Festival – 1987 Day

By the President of the United States of America

A Proclamation

In this, the year prior to the 1988 Olympics, it is fitting that we celebrate the coming event throughout the United States with appropriate ceremonies and activities.

One such way to recognize this major athletic event is to join together in support of American athletes now in training to represent this great country in Canada and Korea. Thousands of American athletes participate annually in the Olympic movement all over the world. The International Olympic Games are held every 4 years and are the culmination of the skill and prowess resulting from countless hours of work and preparation.

The United States Olympic Festival is an amateur athletic competition that enables potential Olympians to participate in events identical to those performed in the International Games. During this Festival, skills are refined and a camaraderie is fostered among our athletes that signifies American unity and exemplifies the spirit of the Olympic movement. Some 4,000 athletes, trainers, and coaches, in addition to 7,000 volunteers and more than 300,000 spectators, will participate in the 1987 United States Olympic Festival in Raleigh, Durham, Chapel Hill, Cary, and Greensboro, North Carolina.

In recognition of the role the United States Olympic Festival plays in strengthening America's place in international competition, the Congress, by Senate Joint Resolution 138, has designated the period beginning on July 13, 1987, and ending on July 26, 1987, as United States Olympic Festival – 1987 Celebration and July 17, 1987, as United States Olympic Festival – 1987 Day and authorized 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 July 13–July 26, 1987, as United States Olympic Festival – 1987 Celebration and July 17, 1987, as United States Olympic Festival – 1987 Day.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of July, 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 twelfth.

Ronald Reagan

[FR Doc. 87-16516
Filed 7-16-87; 12:59 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12602 of July 15, 1987

President's Commission on Executive Exchange

By the authority vested in me as President by the Constitution and statutes of the United States of America, it is hereby ordered that Section 2(b) of Executive Order No. 12493 of December 5, 1984, as amended, is further amended by deleting the phrase "90 days" and inserting in lieu thereof the phrase "365 days."

Ronald Reagan

THE WHITE HOUSE,
July 15, 1987.

[FR Doc. 87-16517
Filed 7-16-87; 1:00 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 029CE, Special Conditions No. 23-ACE-28]

Special Conditions; OMAC Model Laser 300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are for the OMAC Model Laser 300 Series Airplanes. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards of 14 CFR Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the aerodynamic configuration of the airplane, the location of the engine and propeller, and an outward-opening, main entry door in the pressurized cabin, for which the regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the OMAC Model Laser 300 Series Airplanes.

EFFECTIVE DATE: August 19, 1987.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1985, OMAC, Inc., P.O. Box 3530, Albany, Georgia 31708, made application to the FAA for a type certificate for the OMAC Model Laser 300 Airplane. The proposed type design of the OMAC Model Laser 300 Airplane contains a number of novel or unusual design features not envisioned by the applicable Part 23 airworthiness standards.

Special conditions are issued, and amended as necessary, as part of the type certification basis when the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis as provided by § 21.17(a)(2).

A Notice of Proposed Special Conditions, (NPRM), Notice No. 23-ACE-28, was published in the **Federal Register** on March 23, 1987 (52 FR 9176).

Notice No. 23-ACE-28 identified several design features which the FAA has found to be novel or unusual.

The OMAC Model Laser 300 Airplane has been designed using new National Aeronautics and Space Administration (NASA) wing design technology.

The current provisions of § 23.221 require spin testing for single-engine airplanes and satisfactory recovery characteristics for either a one-turn spin, a six-turn spin, or the airplanes must be shown characteristically incapable of spinning. After significant research, NASA, in cooperation with the General Aviation Manufacturers Association (GAMA), has developed new wing design technology which provides airplane control characteristics at minimum flight speeds which they believe are far superior to current airplane designs. NASA and GAMA believe this new wing design, commonly described as a "partial-span, drooped leading edge with a sharp discontinuity", provides considerably improved protection against inadvertent loss of control at slow speeds than does the present § 23.221 requirement to demonstrate recovery from a one-turn spin.

The forward-mounted lifting surface; i.e., canard, of the OMAC Model Laser 300 incorporates aerodynamic control surfaces which function as elevators for longitudinal (pitch) control of the airplane, and which have a significant effect on the lift distribution of the main wing.

Additionally, the OMAC Model Laser 300 has vertical extensions at the end of each main wing which act as vertical stabilizers and includes rudders.

The fuselage design for the OMAC Model Laser 300 incorporates outward-opening doors in the pressurized cabin. If this type of door is not properly closed and locked, or if a failure in the door or its locking mechanism occurs, the pressure in the cabin can blow the door open, resulting in an explosive decompression of the cabin and possible injury to its occupants.

OMAC, Inc., has selected an airplane configuration with a rear-mounted pusher propeller which may be susceptible to contact with the runway surface at the maximum pitch attitude attainable during takeoffs and landings.

Since the aft location of the propeller is an unconventional design feature, passenger and ground personnel may be less aware of the proximity of the propeller blades.

Because of the aft propeller location, ice shed from the wing leading edges, engine air inlet duct inertial separator, and other parts of the airplane, may impact the propeller blades. Impact of shed ice fragments may have an adverse effect on the strength and fatigue characteristics of the propeller.

Additionally, because the propeller is located aft of the engine, if engine exhaust gases are discharged into the propeller disc, exhaust gases may adversely affect the strength and fatigue characteristics of the propeller material.

The aft-mounted, single turbine engine does not permit the pilot to visually detect an engine fire. Early detection of a powerplant fire for a fuselage aft-mounted, single turbine engine installation is unlikely since the installation is not visible from the cockpit area.

Special conditions are necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel and unusual design features of the OMAC Model Laser 300 Airplane.

Type Certification Basis

The type certification basis for the OMAC Model Laser 300 Airplane is as follows: Part 23, effective February 1, 1965, as amended by amendments 23-1 through 23-31 and §§ 23.2 and 23.785 (g) and (h) as amended by amendment 23-32, effective December 12, 1985; Special Federal Aviation Regulations (SFAR) No. 27, effective February 1, 1974, as

amended by amendments 27–1 through 27–4; Part 36, effective December 1, 1969, as amended by amendments 36–1 through the amendment effective on the date of type certification; exemptions, if any; and the special conditions amendment adopted by this rulemaking action.

Discussion of Comments

There was one set of comments received by the FAA in response to Notice No. 23–ACE–28.

That commenter questioned the need for the first sentence of paragraph (b) of special condition No. 1, suggesting that "by implication, it has already been covered in paragraph (a) with the reference to § 23.201." The FAA has determined that the speed reduction rate defined in the first sentence of paragraph (b) is a necessary feature to preclude rapid pitch control movements to the stop at speeds higher than those that would result if the included speed reduction rates were used. Because the special condition relies on a time related (seven second) demonstration, the speed reduction rate is necessary and must be clearly defined in paragraph (b).

The commenter suggested rewording of the title of proposed special condition No. 6 and suggested that the shed-ice impingement on the propeller and the exhaust gas impingement on the propeller to be treated as separate special conditions. The FAA agrees and has revised the final special conditions accordingly.

Conclusion

This action affects only one model series of airplanes. It is not a rule of general applicability and applies only to the series and model of airplane identified in these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, and Safety.

Citation

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Adoption of the Special Conditions

In consideration of the foregoing, the following special conditions are issued for type certification of the OMAC Model Laser 300 Series Airplanes:

1. Spin Resistant Requirement

In lieu of the provisions of § 23.221, the following apply:

The airplane must be shown to have spin-resistant safety features by complying with the following:

(a) During the stall maneuvers contained in § 23.201, the pitch control must be pulled back and held against the stop. Then, using ailerons and rudders in the proper sense of direction, it must be possible to maintain wings-level flight within 15 degrees of bank and to roll the airplane from a 30-degree bank in one direction to a 30-degree bank in the other direction.

(b) Reduce the airplane speed, using pitch control at a rate of approximately one knot per second, until the pitch control reaches the stop. With the pitch control pulled back and held against the stop, full rudder control must be applied, in a manner to promote spin entry, for a period of seven (7) seconds or through a 360-degree heading change, whichever occurs first. If the 360-degree heading change is reached first, it must have taken no less than four (4) seconds. This maneuver must be performed with the ailerons in neutral position, and with the ailerons deflected opposite the direction of turn or in the most adverse manner. Power or thrust and airplane configuration must be set in accordance with § 23.201(f) without change during the maneuver. At the end of seven (7) seconds or a 360-degree change, as appropriate, the airplane must respond immediately and normally to primary flight controls applied to regain coordinated, unstalled flight without reversal of control effect and without exceeding the temporary control forces specified by § 23.143(c).

(c) Compliance with §§ 23.201 and 23.203 must be demonstrated with the airplane in uncoordinated flight, corresponding to one-ball-width displacement on a slip-skid indicator, unless one-ball-width displacement cannot be obtained with full rudder; in which case, the demonstration must be with full rudder applied.

2. Forward Wing and Vertical Stabilizer Loads

(a) In addition to the requirements of § 23.301(b), the following shall be required: Methods used to determine load intensities and distribution over the various aerodynamic lifting and control surfaces must be validated by flight test measurement unless the methods used for determining those loads are shown to be reliable or conservative for the configuration under consideration.

(b) In lieu of § 23.301(d), the following applies: The forward lifting surface of the tandem wing configuration must meet all of the requirements of Part 23, Subpart C—Structure, applicable to a wing.

(c) In lieu of § 23.331, the following apply:

(1) The appropriate balancing loads must be accounted for in a rational or conservative manner when determining forward and main wing loads and linear inertia loads corresponding to any of the symmetrical flight conditions specified in §§ 23.333 through 23.341.

(2) The incremental, forward-wing loads due to maneuvering and gusts must be reacted by the angular inertia of the airplane in a rational or conservative manner.

(3) Mutual influence of the aerodynamic surfaces must be taken into account when determining flight loads.

(d) In addition to the gust load requirements of § 23.341, the following applies:

The gust load factors for the tandem wing configuration must be computed using a rational analysis considering the gust criteria of § 23.333(c), or may be computed in accordance with § 23.341 provided the resulting load factors are shown to be conservative with respect to the gust criteria of § 23.333(c).

(e) In lieu of the balancing loads requirements of § 23.421, the following apply:

(1) A horizontal surface balancing load is a load necessary to maintain equilibrium in any specified flight condition with no pitching acceleration.

(2) Horizontal balancing surfaces must be designed for balancing loads occurring at any point on the limit maneuvering envelope and in the flap conditions specified in § 23.345. The distribution in figure B6 of Appendix B of Part 23 may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(f) In lieu of the maneuvering load requirements of § 23.423, the following apply:

(1) Each horizontal surface with pitch control must be designed for maneuvering loads imposed by the following conditions:

(i) A sudden movement of the pitching control at V_A, to (1) the maximum aft movement, and (2) to the maximum forward movement, as limited by the control stops, or pilot effort, whichever is critical. The average loading of B23.11 of Appendix B and the distribution in figure B7 of Appendix B may be used only on aft-mounted horizontal stabilizing surfaces unless its use elsewhere is shown to be conservative.

(ii) A sudden aft movement of the pitching control at speeds above V_A, followed by a forward movement of the pitching control resulting in the following combinations of normal and angular acceleration:

Condition	Normal acceleration (n)	Angular acceleration (radian/sec.^{2})
Nose up pitching ...	1.0	$+39\ n_m\ \frac{(n_m-1.5)}{V}$
Nose down pitching	n_m	$-39\ n_m\ \frac{(n_m-1.5)}{V}$

where—

(A) n_m = positive limit maneuvering load factor used in the design of the airplane; and

(B) V = initial speed in knots

(2) The conditions in this section involve loads corresponding to the loads that may occur in a "checked maneuver", (a maneuver in which the pitching control is suddenly displaced in one direction and then suddenly moved in the opposite direction). The

deflection and timing of the "checked maneuver" must avoid exceeding the limit maneuvering load factor. The total horizontal surface load for both down-load and up-load conditions is the sum of the balancing loads at V and the specified value of the normal load factor n, plus the maneuvering load increment due to the specified value of the angular acceleration. The maneuvering load increment in figure B2 of Appendix B and the distribution in figure B7 (for nose-up pitching) and in figure B8 (for nose-down pitching) of Appendix B may be used only on airplane configurations with aft-mounted surfaces unless their use elsewhere is shown to be conservative.

(g) In lieu of the gust loads requirements of § 23.425, the following apply:

(1) Each horizontal surface, other than the main wing, must be designed for loads resulting from—

(i) Gust velocities specified in § 23.333(c) with the flaps retracted; and

(ii) Positive and negative gusts of 25 feet-per-second (f.p.s.) nominal intensity at V_F corresponding to the flight conditions specified in § 23.345(a)(2).

(2) When determining the total load on the horizontal surfaces for the conditions specified in paragraph (g)(1) of this special condition, the initial balancing loads for steady unaccelerated flight at the pertinent design speeds, V_F, V_C, and V_D, must first be determined. The incremental load resulting from the gusts must be added to the initial balancing load to obtain the total load.

(h) In lieu of the unsymmetrical load requirements of § 23.427, the following apply:

(1) Horizontal surfaces, other than the main wing and their supporting structure, must be designed for unsymmetrical loads arising from yawing and slipstream effects, in combination with the loads prescribed for the flight conditions set forth in paragraphs (e) through (g) of this special condition.

(2) In the absence of more rational data:

(i) 100 percent of the maximum loading from the symmetrical flight conditions may be assumed on the surface on one side of the plane of symmetry; and

(ii) The following percentage of that loading must be applied to the opposite side: Percent = 100—10 (n-1), where n is the specified positive maneuvering load factor, but this value may not be more than 80 percent.

(3) The vertical and horizontal surfaces, and their supporting structures, must be designed for combined vertical and horizontal surface loads resulting from each prescribed flight condition taken separately.

(i) In the absence of specific requirements for wing-mounted vertical stabilizers, the following apply: Vertical stabilizers mounted on the wing must meet the applicable requirements of §§ 23.441, 23.443, and in lieu of a more rational method, § 23.445 for vertical tail surfaces. The effect of these surfaces on the spanwise loading of the wing must also be accounted for.

3. Doors and Exits

In addition to the requirements of §§ 23.783 and 23.807, each external door and exit in the pressurized fuselage, for which the initial opening movement is not inward, must comply with the following:

(a) There must be a means to lock and safeguard each external door and exit against opening in flight either inadvertently by persons or as a result of a mechanical failure or failure of a single structural element, either during or after closure.

(b) There must be a provision for direct visual inspection of the locking mechanism by a crewmember to determine, under operational lighting conditions, or by using a flashlight or equivalent lighting source, that all external doors and exits are fully locked.

(c) There must be a visual warning means to signal a flight crewmember if any external door or exit is not fully closed and locked. The means must be designed such that any failure or combination of failures that would result in an erroneous closed and locked indication is improbable.

4. Propeller Ground Clearance

In addition to the propeller clearance requirements of § 23.925, the following apply:

(a) The airplane must be designed such that the propeller will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoffs and landings; and

(b) If a tail wheel, bumper, or an energy absorption device is provided to show compliance with paragraph (a) of this special condition, the following apply:

(1) Suitable design loads must be established for the tail wheel, bumper, or energy absorption device; and

(2) The supporting structure of the tail wheel, bumper, or energy absorption device must be designed to withstand the loads established in paragraph (b)(1) of this special condition and inspection/replacement criteria must be established for the tail wheel, bumper, or energy absorbing device and provided as a part of the information required by § 23.1529.

5. Propeller Marking

In the absence of specific regulations, the propeller must be marked so that the disc is conspicuous under normal daylight ground conditions.

6. Shed-Ice Impingement on the Propeller

In the absence of protection requirements for a rear-mounted pusher propeller, the following apply:

All areas of the airplane forward of the propeller that are likely to accumulate and shed ice into the propeller disc during any operating condition must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

7. Exhaust Gas Impingement on the Propeller

In the absence of protection requirements for a rear-mounted pusher propeller, the following apply: If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests, or analysis supported by tests, that the propeller material is capable of continuous safe operation.

8. Fire Detection System

In the absence of a specific requirement for rear-mounted, single-engine, turbine-powered airplanes, the following apply:

(a) There must be a means which ensures the prompt detection of a fire in the engine compartment.

(b) Each fire detector must be constructed and installed so as to withstand the vibration, inertia, and other loads to which it may be subjected in the operation.

(c) No fire detector may be effected by any oil, water, or other fluids, or fumes that might be present.

(d) There must be a means to allow the flightcrew to check, in flight, the functioning of each fire detector electric circuit.

(e) Wiring and other components of each fire detector system in the engine compartment must be at least fire resistant.

Issued in Kansas City, Missouri on July 6, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-16334 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ASW-38; Amdt. 39-5643]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, replacement (if necessary), modification, and the establishment of a life limit on main rotor (M/R) flapping bearings on BHTI Model 222, 222B, and 222U helicopters. The AD is needed to preclude operation of the helicopter with a crack in the M/R flapping bearing housing. This crack may propagate and thus result in failure of the M/R flapping bearing housing and loss of the helicopter.

DATES: *Effective Date:* August 7, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1987.

Compliance: As prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101.

A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193–0170.

SUPPLEMENTARY INFORMATION: There have been six reports of cracks in the main rotor flapping bearing housing. These cracks originated from two sources: Three cracks originated in corrosion pits in the area of contact of the housing with the yoke bushing and three cracks originated in the small radius of the counter-sink for the bolt which anchors the flapping bearing to tbe yoke. Any of these cracks may propagate and result in failure of the M/R flapping bearing housing and loss of the helicopter.

Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection, replacement (if necessary), modification, and the establishment of a life limit on M/R flapping bearings on BHTI Model 222, 222B, and 222U helicopters.

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

The FAA 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 action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 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). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Bell Helicopter Textron, Inc: Applies to Model 222, 222B, and 222U helicopters, certified in any category, with flapping bearing P/N 222–310–114–003/–105 installed.

Compliance is required as indicated unless already accomplished.

Compliance schedules required on page 1 of BHTI Alert Service Bulletins (ASB) Nos. 222–86–39, Rev. A and 222U–86–14, Rev. A, are not required by this AD. To prevent failure of the M/R flapping bearing, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, perform Part I of the "Accomplishment Instructions" of BHTI ASB No. 222–86–39, Rev. A, dated January 14, 1987, for Model 222 and 222B helicopters and ASB No. 222U–86–14, Rev. A, dated January 14, 1987, for the Model 222U helicopter. If a crack is detected during the inspections, replace the M/R flapping bearing bafore further flight.

(b) Within the next 100 hours' time in service after the effective date of this AD, perform Part II of the "Accomplishment Instructions" of BHTI ASB No. 222–86–39, Rev. A, dated January 14, 1987, for the Model 222 and 222B helicopters and ASB No. 222U–86–14, Rev. A, dated January 14, 1987, for the Model 222U helicopters.

(c) Comply with Part III of the "Accomplishment Instructions" of BHTI ASB No. 222–86–39, Rev. A, dated January 14, 1987, for the Model 222 and 222B helicopters and ASB No. 222U–86–14, Rev. A, dated January 14, 1987, for the Model 222U helicopter on the effective date of this AD.

(d) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Helicopter Certification Branch, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193–0170.

The above procedures shall be done in accordance with BHTI ASB Nos. 222–86–39, Rev. A, dated January 14, 1987, or 222U–86–14, Rev. A, dated January 14, 1987, as appropriate. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from BHTI, P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective on August 7, 1987.

Issued in Fort Worth, Texas, on June 9, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–16340 Filed 7–17–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–ASW–14, Amdt. 39–5644]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 222B and 222U Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires inspection and repair, if necessary, or modification of tailbooms on BHTI Model 222B and 222U helicopters. The AD is needed to preclude operation of the helicopter with a crack in the tailboom skin. The crack may propagate which could result in failure of the tailboom and loss of the helicopter.

DATES: *Effective Date:* August 7, 1987.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1987. *Compliance:* As prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101.

A copy of the Alert Service Bulletin is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. Gary B. Roach, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624–5179.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and repair, if necessary, or modification of the tailboom on Bell Helicopter Model 222B and 222U helicopters was published in the **Federal Register** on August 21, 1985 (50 FR 33777).

The proposal was prompted by two reports of cracks in the tailboom of BHTI Model 222B and 222U helicopters. These cracks originated in the skin on top of the tailboom between the legs of the aft driveshaft cover support at Boom Station 341. In one report, the crack extended through the upper flange of one supporting longeron.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined this regulation involves 44 helicopters for an estimated total cost of $54,282.80 or approximately $1,233.70 per helicopter. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) 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 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Bell Helicopter Textron, Inc. (BHTI): Applies to BHTI Model 222B and 222U helicopters that have tail boom assembly, P/N 222-035-150-103 or -107, installed.

To prevent failure of the tailboom, accomplish the following:

(a) Within the next 25 hours' time in service and thereafter at intervals not to exceed 25 hours' time in service , inspect the tailboom in accordance with Part I of BHTI Alert Service Bulletin Number 222-85-28 for the Model 222B and Number 222U-85-3 for the Model 222U.

(b) If any crack is identified during the inspection required in paragraph (a) above, Part II (Repair) or Part III (Modification) of Alert Service Bulletin Number 222-85-28 for the Model 222B or Number 222U-85-3 for the Model 222U must be accomplished before further flight.

(c) Upon completion of Part II (Repair) or Part III (Modification) of Alert Service Bulletin Number 222-85-28 for the Model 222B or Number 222U-85-3 for the Model 222U, the inspections required by paragraph (a) of this AD are no longer necessary.

(d) This AD does not apply if Part II (Repair) or Part III (Modification) of Alert Service Bulletin Number 222-85-28 for the Model 222B or 222U-85-3 for the Model 222U has been previously accomplished.

(e) Any alternate method of compliance with this AD which provides an equivalent level of safety must be approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76101.

(f) In accordance with §§ 21.197 and 21.199, flight is permitted to a base where the inspection required by this AD may be accomplished.

The procedure shall be done in accordance with Bell Helicopter Textron, Inc., Alert Service Bulletin Nos. 222-85-28 or 222U-85-3, both dated March 21, 1985.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1). Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This Amendment becomes effective August 7, 1987.

Issued in Fort Worth, Texas, on June 9, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-16338 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-21-AD; Amdt. 39-5683]

Airworthiness Directives; Lockheed-Georgia Company Model 1329 Series Airplanes (JetStar), Equipped With an Auxiliary Power Unit (APU) in Accordance With STC SA1043WE or STC SA3297WE; and Israel Aircraft Industries Aero Commander Model 1121 Series Airplanes, Equipped With an APU in Accordance With STC SA1356WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 1329 series airplanes, equipped with an Auxiliary Power Unit (APU) in accordance with STC SA1043WE or STC SA3297WE, and to Israel Aircraft Industries Aero Commander Model 1121 series airplanes, equipped with an APU in accordance with STC SA1356WE, which would require installation of fuel line shrouds and associated drains. This amendment is prompted by reports of several incidents of ingestion of fuel vapors into the compressor of the APU. This condition, if not corrected, could lead to fuel fumes entering the cockpit and passenger compartment through the APU air inlet and air conditioning system from APU fuel leaks in the APU compartment.

EFFECTIVE DATE: August 26, 1987.

ADDRESSES: The applicable service information may be obtained from AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045; or Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64-26, Zone 668, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires installation of fuel line shrouds and associated drains on certain APU's installed on Lockheed-Georgia Model 1329 services airplanes and Israel Industries Aero Commander Model 1121 series airplanes, was published in the Federal Register on March 30, 1987 (52 FR 10114). The period for public comment ended May 18, 1987.

Interested persons have been afforded an opportunity to participate in the making of this amendment.

No comments were received in response to the proposal.

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

It is estimated that 83 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. It is estimated that the cost of parts is $2,178 per airplane. Based on these figures, the total cost impact of the AD on U.S operators is estimated to be $287,014.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule will not have a significant economic impact on a substantial number of small entities, because of the minimal cost of compliance per airplane ($3,458). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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 (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-Georgia Company and Israel Aircraft Industries: Applies to Lockheed JetStar Model 1329 and Model 1329–25 series airplanes, equipped with AiResearch Aviation Company Model 30–92 APU in accordance with STC SA1043WE or STC SA3297WE; and to Israel Aircraft Aero Commander Model 1121 series airplanes, equipped with the AiResearch Aviation Company Model 30–92 APU in accordance with STC SA1356WE; certificated in any category.

Compliance required as indicated, unless previously accomplished.

To minimize the potential for fuel fumes entering the cockpit and passenger compartment, accomplish the following:

A. Within the next 600 hours time-in-service or 12 months after the effective date of this AD, whichever occurs earlier, install fuel line shrouds and associated drains in accordance with the accomplishment instructions of AiResearch Aviation Company Service Bulletin No. 11.39, Revision A, dated November 20, 1986, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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 Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64–26, Zone 668, Marietta, Georgia 30063; or AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 26, 1987.

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

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–16332 Filed 7–17–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–87–AD; Amdt. 39–5676]

Airworthiness Directives; The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Model DHC–8–101 and –102 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to de Havilland Model DHC–8–101 and –102 series airplanes, which requires inspection of the main landing gear to determine the yoke pin part number installed, and replacement of the yoke pin, if necessary. This amendment is prompted by reports that certain yoke pins, for which the fatigue life is not specified in the airplane's maintenance manual, have been installed in the main landing gears. As a result, yoke pins that have exceeded their fatigue life limit may currently be installed on airplanes. This condition, if not corrected, could result in failure of the yoke pin and collapse of the main landing gear.

EFFECTIVE DATE: August 1, 1987.

ADDRESSES: The applicable service information may be obtained from The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Vito A. Pulera, Aerospace Engineer, Airframe Branch, ANE–172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220.

SUPPLEMENTARY INFORMATION: The FAA has been advised by de Havilland Aircraft Company of Canada that early production main landing gear yoke pins, P/N 10150–3, are not listed in de Havilland DHC–8 Maintenance Program PSM 1–8–7 Section 6, which lists life-limited parts. This yoke pin has a life limit of 4,700 flights (on DHC–9–101 airplanes) to 5,500 flights (on DHC–8–102 airplanes). Another yoke pin, P/N 10150–5, is listed in the maintenance manual; its life limit is 9,293 flights. Since the –5 yoke pin is the only pin whose life limit is listed, operators would replace –3 pins at the life limit specified for the –5 yoke pin. As a result, some –3 yoke pins that have exceeded their fatigue life limit may currently be installed on airplanes. This condition, if not corrected, could result in failure of the yoke pin and collapse of the main landing gear.

De Havilland has issued Service Bulletin 8–32–56, dated May 8, 1987, which describes procedures for inspection and replacement of the yoke pins.

This airplane is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the main landing gears to determine if yoke pin P/N 10150–3 is installed, and replacement, if necessary, in accordance

with the service bulletin previously mentioned.

Since a situation 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 FAA 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 26, 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 is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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 (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

De Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd.: Applies to Models DHC-8-101 and DHC-8-102 series airplanes, serial numbers 3 through 83, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the main landing gear yoke pin, accomplish the following:

A. Within 25 landings after the effective date of this AD:

1. Inspect both main landing gears to determine the yoke pin part number, in accordance with Paragraph 1, Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin 8-32-56, dated May 8, 1987.

2. Reidentify the shock strut, as necessary, in accordance with Paragraph 1, Accomplishment Instructions of de Havilland Aircraft Company of Canada Service Bulletin 8-32-56, dated May 8, 1987.

B. If yoke pin P/N 10150-3 is installed, replace it with yoke pin P/N 10150-5, in accordance with the following schedule:

1. For Model DHC-8-101 airplanes (33,000 lb. airplane): prior to the accumulation of 5,500 flights since installation of the yoke pin.

2. For Model DHC-8-102 airplanes (34,500 lb. airplane): prior to the accumulation of 4,700 flights since installation of the yoke pin.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

This amendment becomes effective August 1, 1987.

Issued in Seattle, Washington, on July 8, 1987.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-16333 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Clarification of Certain Aspects of the Hedging Definition

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Agency Interpretation.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is clarifying through this interpretation its definition of "hedging" under Commission Rule 1.3(z), 17 CFR 1.3(z), in particular, that the temporary substitute criterion contained in Commission Rule 1.3(z)(1) is not a necessary condition for classification of positions as hedging. The Commission also is clarifying the so called "incidental test" concerning the nature of the risks that bona fide hedging positions or transactions must address. In light of this interpretation, it is clear that certain trading strategies not frequently employed in 1977, when Commission Rule 1.3(z) was adopted, nonetheless qualify as "hedging" under the Commission's rule.

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald B. Hobson, Assistant to the Director, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20591, (202) 254-7303.

SUPPLEMENTARY INFORMATION: Paragraph (1) of CFTC Regulation 1.3(z) provides a general description of transactions or positions which the Commission considers to be bona fide hedging under economically appropriate circumstances. In pertinent part, this paragraph of the Commission's hedging definition reads as follows:

> Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, or in a commodity option, *where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel,* and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise . . . . [Emphasis added]

This paragraph provides further that the risks of commodity positions may arise from the potential change in the value of assets, liabilities or services. Finally, for the purposes of enforcement of federal speculative limits in those markets where such limits are in effect, this paragraph stipulates that no transactions or positions shall be classified as bona fide hedging unless their purpose is to offset "*price risks incidental to commercial cash or spot operations* and such positions are established and liquidated in accordance with sound commercial practices . . . . [emphasis added]."

Various users and potential users of financial futures and options recently have expressed concern that the "temporary substitute" component of Regulation 1.3(z)(1), underscored in the first part of the paragraph quoted above, is overly restrictive and precludes the classification as hedging of numerous strategies that are otherwise risk reducing. However, a review of the regulatory history of the Commission's general definition of hedging indicates that the temporary substitute criterion is not a restrictive, necessary condition for hedge classification.

In the preamble to the proposed change to the hedging definition in 1977, the Commission characterized the new

approach as a "general conceptual definition" which ". . . sets out the basic conditions which must be met by a bona fide hedging transaction or position; i.e., it must be economically appropriate to risk reduction, such risks must arise from operation of a commercial enterprise, and the price fluctuations of the futures contracts used in the transaction must be substantially related to fluctuations of the cash market value of the assets, liabilities or services being hedged." (42 FR 14833, March 16, 1977). Thus, it is apparent that the Commission's original purpose was to provide a general definition "to describe the broad scope of risk-shifting transactions which may be possible in the diverse types of futures contracts now under regulation." Id.

Furthermore, in this regard, the proposed version of Regulation 1.3(z)(1) did not include the word "normally" as a modification of the temporary substitute component (42 FR 14833, March 16, 1977). When it added this word to the final version of Regulation 1.3(z)(1) (42 FR 42748–49, August 24, 1977),[1] the Commission stated

> One commentator noted that the language in paragraph (2) of the proposed 1.3(z) does not recognize "balance sheet hedging." Specifically, while conforming to all other aspects of the proposed general definition such transactions or positions do not represent "a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel." [1] The Commission has considered this example and found other relatively infrequent but potentially important examples of risk reducing futures transactions which may not conform to this aspect of the proposed general definition. Accordingly, paragraph (1) of the proposed definition has been amended to state that bona fide hedging transactions and positions "*normally* represent a substitute * * *".
>
> * * * * *
>
> [1] One form of balance sheet hedging would involve offsetting net exposure to changes in currency exchange rates for the purpose of stabilizing the domestic dollar accounting value of assets which are held abroad. In the case of depreciable capital assets, such hedging transactions might not represent a substitute for subsequent transactions in a physical marketing channel.

Thus, the Commission's discussion of the addition of the word "normally" to the final language of Rule 1.3(z) gives further indication that the Commission did not intend that the temporary substitute element of the general definition be construed as a restrictive, necessary condition for bona fide hedging.

While balance sheet and certain other risk-reducing trading strategies were not frequently employed in 1977 when the financial futures markets were in an early stage of their development, innovation in the use of futures in hedging strategies was recognized by the Commission in its proposal for changing the hedging definition:

> Paragraph (1) of the proposed definition describes risks arising from changes in the value of assets, liabilities, or services attendant to the operation of a commercial business. This is a departure from the language of the current definition which refers to offsetting positions in the same commodity. The proposed language will still permit persons to classify offsetting positions as bona fide hedging. However, the Commission understands that many business firms calculate their price risk exposure, less on the basis of risk related to a single transaction and more on the basis of net risk related to changes in the values reflected on balance sheets. 42 FR 14833.

Such strategies now represent an important class of hedging use of these active futures markets. An example of such a strategy in present use would involve a pension fund's use of long Treasury bond futures positions to lengthen the duration of its assets to match the duration of its liabilities. The long futures position reduces the reinvestment risk that the fund might otherwise face and thereby helps assure that sufficient cash will be generated to finance the fund's future cash outflows as reflected in its liabilities. The overall risk-reducing nature of such a strategy, properly structured, holds regardless of whether the fund subsequently replaces the long futures position with additional cash bonds. Moreover, such a duration hedging strategy could be used by a fund engaged in an equity portfolio insurance strategy as well as by a fund that is predominantly invested in bonds.

A related strategy has been employed by savings and loan associations (S&Ls), which generally have longer duration assets (*e.g.*, mortgages) than liabilities (*e.g.*, savings deposits). This difference in duration means that the value of an S&L's assets are more sensitive to changes in interest rates than the value of its liabilities, thus exposing the S&L to significant interest-rate risk. By selling appropriate combinations of futures, an S&L can effectively lengthen the duration of its liabilities or shorten the duration of its assets and thereby hedge its overall interest-rate exposure.

An issue which is related to the temporary substitute element of the general hedging definition that also appears to have generated some confusion among users and potential users of financial futures and options concerns the concept of "completion." Precisely speaking, "completion" refers to the replacement of a futures position with a cash market position when the futures position was initially established as a temporary substitute for the cash market position. As such, completion is not a separate element of the hedge definition but rather is a logical component of the temporary substitute element. In the balance sheet hedging examples above, completion is not a relevant consideration since the risk-reducing nature of the futures positions is not predicated on their use as substitutes for cash market positions to be taken subsequently.

An additional aspect of the Commission's general definition of hedging that appears to have generated uncertainty among some users and potential users of financial futures and options concerns the so-called "incidental test." The name of this test derives from the phrase (also quoted and underscored above) "price risks incidental to commercial cash or spot operations." The phrase comes near the end of paragraph (1) of Regulation 1.3(z) and qualifies the application of the general definition of hedging for purposes of enforcement of federal speculative position limits. However, the term "incidental test" has also been used to describe the more general requirement in Regulation 1.3(z)(1) that bona fide hedging positions or transactions be futures or option positions or transactions which are "economically appropriate to the reduction of risks in the conduct or management of a commercial enterprise."

Apparently, some futures and option market participants and observers have construed the incidental test to mean that futures or options transactions or positions will be classified as bona fide hedging only to the extent that they offset risks incidental to commercial activities in the cash market that *underlies* the futures or option contract or commercial activities in a related cash market. While such an interpretation may follow logically from the typical illustrations of hedging strategies incorporated into many textbooks or futures "primers," it does not follow from either the plain words of the definition, the history of the development of the present definition,[2]

[1] The only difference between the current version of Regulation 1.3(z) and the version approved by the Commission in 1977 is the phrase ". . ., or in a commodity option," which was added to the current version (quoted above) in 1986 (see 51 FR 17464, May 13, 1986).

[2] In proposing Rule 1.3(z) the Commission noted that "[t]his is a departure from the language of the current definition which refers to offsetting positions in the same commodity." 42 FR 14833.

or the regulatory application of that definition. Indeed, the incidental test amounts to a straightforward requirement that the risks that are offset by a futures or option hedge must arise from commercial cash market activities.

In the previous example of the pension fund which uses bond futures for duration management purposes, such use represents a hedge because it reduces the reinvestment risk that results from the fund's normal commercial activities. While these activities include cash bond transactions, they also include the provision of pension benefits. The fund's reinvestment risk can change as a result of changes in the nature of it pension liabilities (*e.g.*, a sudden, unexpected increase in early retirements) independent of changes in bond market conditions or of changes in the fund's bond market activities.

The examples discussed above for purposes of clarifying the application of the Commission's hedging definition involve the use of duration management strategies. However, the Commission notes that the clarification provided herein extends to all balance sheet and other trading strategies that are risk reducing and otherwise consistent with this interpretation. Such strategies include portfolio insurance or dynamic asset allocation strategies that provide protection equivalent to a put option for an existing portfolio of securities.

Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* requires that agencies, in proposing rules, consider the impact of these rules on small businesses. The interpretation published herein, however, is not a "rule" within the meaning of the RFA and therefore not subject to its provisions. Nevertheless, the Commission has considered its impact on small businesses. Previously, the Commission determined that "large traders" are not "small entities" for purposes of the RFA, 47 FR 18618 (April 30, 1982). This interpretation concerns the Commission's "hedging" definition, the principal purpose of which is to determine exemptions from limits on the size of speculative positions which may be held by the largest traders in commodity futures and option markets. Accordingly, this interpretation will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. *et. seq.*, imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined in that Act. This interpretation does not impose any additional, nor does it in any way alter existing, paperwork burdens on the public.

Issued in Washington, DC, on July 14, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-16392 Filed 7-17-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 558

Animal Drugs, Feeds, and Related Products; Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Moorman Manufacturing Co. providing for use of a monensin protein-mineral block as a free-choice vitamin-mineral Type C feed. The product, originally approved as a dosage form product, is for pasture cattle for increased rate of weight gain.

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Moorman Manufacturing Co., 1000 North 30th Street, Quincy, IL 62301-3496, is sponsor of NADA 115-581 which provides for use of a 60-gram-per-pound monensin Type A article to make Moorman's rumensin (monensin) medicated feed block, a Type C feed containing 0.033 percent monensin for use as a free-choice self-limiting feed for pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) for increased rate of weight gain. The drug is consumed at a rate of 50 to 200 milligrams per head daily.

Based on 21 CFR 510.455 and the information submitted, FDA approves the supplement. To reflect the approval, the agency is amending 21 CFR 520.1448 by removing paragraph (b) and marking it "Reserved" and 21 CFR 558.355 by adding paragraphs (b)(13) and (f)(3)(v).

A freedom of information summary is not required for redesignation of the approval from Parts 520 to 558. The basis for approval of the NADA is discussed in the freedom of information summary on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Room, 4-62, 5600 Fishers Lane, Rockville, MD 20857 and may be seen between 9 a.m. and 4 p.m. Monday through Friday.

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

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 520 and 558 are amended as follows:

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

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

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

§ 520.1448a [Amended]

2. In § 520.1448a *Monensin blocks* by removing paragraph (b) and marking it "[Reserved]".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

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

4. In § 558.355 by adding new paragraphs (b)(13) and (f)(3)(v) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(13) *To 021930:* 60 grams per pound, paragraph (f)(3)(v) of this section.

* * * * *

(f) * * *

(3) * * *

(v) *Amount.* 150 milligrams per pound (0.033 percent).

(a) *Indications for use.* Increased rate of weight gain.

(b) *Limitations.* As protein-mineral blocks to be fed free choice to cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers weighing more than 400 pounds) on pasture which may require supplemental feed. Provide 50 to 200 milligrams of monensin (0.34 to 1.33 pounds) per head per day, at least 1 block per 10 to 12 head of cattle. Roughage must be available at all times. Do not allow animals access to other protein blocks, salt or mineral, while being fed this product. Do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal). Block's effectiveness in cull cows and bulls has not been established. Approval must comply with § 510.455 of this chapter.

* * * * *

Dated: July 10, 1987.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 87-16393 Filed 7-17-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Acetyl-Alpha-Methylfentanyl, Alpha-Methylthiofentanyl, Beta-Hydroxyfentanyl, 3-Methylthiofentanyl, Para-Fluorofentanyl and Thiofentanyl Into Schedule I; Correction

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final Rule; Correction.

SUMMARY: This document corrects the final order published on May 29, 1987 (52 FR 20070) by which the Administrator of the Drug Enforcement Administration (DEA) placed the narcotic substances acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxyfentanyl, 3-methylthiofentanyl, para-fluorofentanyl and thiofentanyl into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The findings made by the Administrator must be amended to show that each of these substances has a high potential for abuse.

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxyfentanyl, 3-methylthiofentanyl, para-fluorofentanyl and thiofentanyl were placed into Schedule I of the CSA pursuant to 21 U.S.C. 811(a) by the Administrator of the Drug Enforcement Administration by a final order published in the **Federal Register** on May 29, 1987 (52 FR 20070). 21 U.S.C. 812 requires that a substance must have a high potential for abuse if it is to be placed into Schedule I of the CSA. Although the DEA Administrator made this finding with regard to acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxyfentanyl, 3-methylthiofentanyl, para-fluorofentanyl and thiofentanyl, the word "high" was omittted from the phrase "high potential for abuse" in the May 29, 1987 **Federal Regiser** final order (52 FR 20070). Thus, the first paragraph on page 20071 of the final order published on May 29, 1987 should read "(1) Acetyl-alpha-methylfentanyl, alpha-methylthiofentanyl, beta-hydroxyfentanyl, 3-methylthiofentanyl, para-fluorofentanyl and thiofentanyl each has a high potential for abuse."

Dated: July 7, 1987.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 87-16326 Filed 7-17-87; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3235-4]

40 CFR Part 271

Schedule of Compliance for Modification of Hazardous Waste Programs in the States of Maryland, District of Columbia, Pennsylvania, and West Virginia

AGENCY: Region III, Environmental Protection Agency.

ACTION: Notice of compliance schedule to adopt program modification in Maryland, District of Columbia, Pennsylvania, and West Virginia.

SUMMARY: On September 22, 1986, EPA promulgated amendments to the deadlines for State program modifications, and published requirements for compliance schedule for States to adopt the necessary program modifications. EPA is today publishing a compliance schedule for the above States to modify their programs in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT: John J. Humphries (Phone: 215-597-0320) or Patricia Corbett (Phone: 215-597-7937), EPA Region III, Waste Management Branch (3HW32), 841 Chestnut Building, Philadelphia, PA 19107.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within a State is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear at 40 CFR 271.1 through 271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986 for a complete discussion of these procedures and deadlines.

B. Program Modification Schedules

Maryland, District of Columbia, Pennsylvania, and West Virginia have received final authorization of their hazardous waste programs. Today, EPA is publishing schedules for program revisions for these four States.

• *Maryland:*

The State has requested a compliance schedule for Cluster I and the State availability of information provisions of 3006(f) of RCRA. The State has agreed to obtain needed program changes according to the following schedule:

1. Publish proposed regulations—July 2, 1987
2. Public Hearing on proposed regulations—September 15, 1987
3. Regulations Adopted—December 15, 1987
4. Regulations Effective—January 1, 1988

The State expects to submit an application to EPA for authorization of the above program revisions by February 28, 1988.

• District of Columbia:

The District has agreed to the following compliance schedule for Cluster I, State availability of information [3006(f)] and additional Federal Regulations adopted by the District in June, 1985.

1. Publish Proposed Regulations—June 12, 1987
2. Publish Final Notice of Rulemaking—July 31, 1987
3. Submission of draft application to EPA—August 3, 1987
4. Submission of final application to EPA—November 2, 1987

• West Virginia:

The State has agreed to the following schedule for State availability of information provisions of 3006(f) of RCRA:

1. Publish Proposed Regulations—June 15, 1987
2. Public Hearing on Proposed Regulations—July 30, 1987
3. Submit draft application to EPA—September 30, 1987
4. Submit final application to EPA—December 15, 1987

• Pennsylvania:

The State has requested a compliance schedule for Cluster I and the State availability of information provisions of 3006(f) of RCRA. The State has agreed to obtain needed program changes in two separate packages of conforming regulations (PK–3, PK–4) according to the following schedule:

1. Publish proposed regulations: PK–3—May 9, 1987, PK–4—January 16, 1988
2. End of Public Comment Period: PK–3—September 15, 1987, PK–4—February 16, 1988
3. Regulations Adopted as Final: PK–3—September 15, 1987, PK–4—March 15, 1988
4. Regulations Published as Final: PK–3—December 19, 1987, PK–4—May 17,1988

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(B).

Date: July 8, 1987.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 87–16401 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 272

[SW–5–FRL–3235–1]

Minnesota; Revision to Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Minnesota has applied for authorization of revision to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), as amended. In its application, Minnesota seeks authorization for the elements listed in **SUPPLEMENTARY INFORMATION.**

EPA has reviewed Minnesota's application and has made a decision, subject to public review and comment, that Minnesota's hazardous waste management program revisions satisfy all of the requirements necessary to qualify for authorization. Thus, EPA intends to approve Minnesota's waste management program revisions. Minnesota's application for program revisions is available for public review and comment at the addresses indicated below.

DATES: Authorization for Minnesota's program revisions shall be effective September 18, 1987, unless EPA publishes a prior **Federal Register** action withdrawing this final rule. All comments on Minnesota's program revisions application must be received by the close of business August 19, 1987.

ADDRESSES: Copies of Minnesota's program revisions application are available during the business hours of 8:30 a.m. to 4:30 p.m. at the following addresses for inspection and copying:

Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, Program Development Section, 520 Lafayette Road, St. Paul, Minnesota 55155, Contact: Ms. Carol Nankivel (612) 296–7260

U.S. EPA Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street 5HS–JCK–13, (Corner 13th Floor) Chicago, Illinois 60604, Contact: Ms. Christine Klemme, (312) 886–3715

U.S. EPA, Headquarters Library, PM 211A 401 M Street, SW., Washington, DC 20460, (202) 382–5926.

Written comments should be sent to U.S. EPA Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street, 5HS–JCK–13, P.O. Box A3587, Chicago, Illinois, 60690. Attention: Ms. Christine Klemme.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Klemme, U.S. EPA Region V, Waste Management Division, Solid Waste Branch, Program Management Section, 230 South Dearborn Street, 5HS–JCK–13, Chicago, Illinois 60604, (312) 886–3715.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste management program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allow States to revise their programs to become substantially equivalent, instead of equivalent, to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and may later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste management programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260 through 268, 124 and 270.

B. Minnesota

Minnesota initially received final authorization on February 11, 1985. On June 30, 1986, Minnesota submitted a program revision application for additional program approval. Today, Minnesota is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3), in order to have authorization for federally mandated changes in RCRA regulations. These changes are required to maintain equivalency between State and Federal programs. EPA has reviewed Minnesota's application, and has decided that Minnesota's hazardous waste management program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, U.S. EPA intends to grant authorization for the additional program modifications to Minnesota. The public may submit written comments on EPA's immediate final decision until August 19, 1987. Copies of Minnesota's application for program revision are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice. Approval of Minnesota's program revision shall become effective in 60 days, unless an adverse comment pertaining to the State's revisions, discussed in this notice, is received. If comments pertaining to the revisions application or this decision are received, U.S. EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a

response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Minnesota has revised its program to obtain final authorization for the following provisions:

Biennial reports (January 28, 1983, 48 *FR* 3981)

Permit rules, settlement agreement (September 1, 1983, 48 *FR* 39622)

Interim status applicability (November 22, 1983, 48 *FR* 52718)

Chlorinated aliphatic hydrocarbon listing (February 10, 1984, 49 *FR* 5312)

Uniform manifest (March 20, 1984, 49 *FR* 10500)

Permit rules, settlement agreement (April 24, 1984, 49 *FR* 17718)

Warfarin and zinc phosphide (May 10, 1984, 49 *FR* 19923)

Pickle liquor sludge (June 5, 1984, 49 *FR* 23287)

Household waste (November 13, 1984, 49 *FR* 44980)

Interim status standards applicability (November 21, 1984, 49 *FR* 46095)

Corrections to test methods manual (December 4, 1984, 49 *FR* 47391)

Satellite accumulation (December 20, 1984, 49 *FR* 49571)

Redefinition of solid waste (January 4, 1985, 50 *FR* 614)

Dioxin (January 14, 1985, 50 *FR* 1978)

Interim status standards for treatment, storage, disposal facilities (April 23, 1985, 50 *FR* 16044)

The dates in parentheses identify dates on which U.S. EPA published **Federal Register** notices amending the Federal RCRA program.

Once Minnesota is authorized for the aforementioned provisions, U.S. EPA will continue to enforce those provisions of joint permits issued by U.S. EPA, based on the regulations above, unless the facility requests otherwise or the permit expires.

In its application submitted June 30, 1986, Minnesota had also requested authorization for section 3006(f) of HSWA, availability of information. This provision requires that State agencies provide public access to information equivalent to that provided by U.S. EPA under the Freedom of Information Act, 5 U.S.C. 552. U.S. EPA review of this issue disclosed significant differences between Federal and Minnesota provisions for release of public information in the areas of response time for requests, scope of available records, denial procedures, and appeals-of-denial procedures.

On October 30, 1986, Minnesota submitted a schedule for freedom of information rules adoption. Accordingly, on February 24, 1987, Minnesota withdrew its request for inclusion of 3006(f) in the authorized program.

U.S. EPA's "cluster rule", 51 FR 33712, September 22, 1986, sets July 1, 1986, as the deadline for State authorities for section 3006(f), availability of information. States which fail to meet this deadline must either develop a schedule for adoption or are subject to withdrawal of their RCRA authorization. In that this deadline has not been met, 40 CFR 271.21(e) allows U.S. EPA to place Minnesota on a compliance schedule provided that:

1. The State has received a 6-month deadline extension and has made diligent efforts to revise the program.

2. The State has made progress in adopting needed program modifications.

3. The State submits a proposed timetable for the revisions, for a period not to exceed 1-year.

4. U.S. EPA publishes the schedule of compliance in the **Federal Register.**

Minnesota requested a deadline extension and proposed a schedule for availability of information authorization by its letter of October 30, 1986. The State agreed to seek the needed program modifications according to the following schedule and has subsequently met that schedule:

(1) Freedom of Information rules adopted April 1987.

(2) Freedom of Information rules effective May 1987.

Minnesota expects to submit an application including authorization for section 3006(f) by August 31, 1987.

Minnesota now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, in accordance with its revised program application and previously approved authorities.

Minnesota also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under sections 3008, 3013 and 7003 of RCRA.

Minnesota is not being authorized to operate any portion of the hazardous waste management program on Indian lands.

C. Decision

I conclude that Minnesota's application for program revisions meet all of the statutory and regulatory requirements established by RCRA by section 3006 (b) and (g) and 40 CFR 271.21. Accordingly, Minnesota is granted final authorization to operate its hazardous waste management program as revised. Further, the compliance schedule required by 40 CFR 271.21 is approved.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Minnesota's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Valdas V. Adamkus,

Regional Administrator.

16404

[FR Doc. 87-16404 Filed 7-17-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 392

[OMCS Docket No. MC-131; Amdt. 83-23]

Driving of Motor Vehicles; Out of Service Criteria

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is in response to section 12008(d) of the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99-570). The FHWA is amending Part 392 to establish and enforce an out-of-service period of 24 hours for any commercial driver of a motor carrier who violates the provisions of section 392.5 of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 392.5).

EFFECTIVE DATE: August 19, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Standards, (202) 366–2999; or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 392.5 currently prohibits the consumption of an intoxicating beverage or being under the influence of an intoxicating beverage within 4 hours before going on duty or before operating a commercial motor vehicle. It further prohibits the consumption of an intoxicating beverage or being under the influence of an intoxicating beverage while on duty or while operating a motor vehicle. Possession of an intoxicating beverage while on duty or operating a motor vehicle is also prohibited. Section 12008(d) of the Commercial Motor Vehicle Safety Act of 1986 (the Act), Pub. L. 99–570, requires in part:

(1) The issuance of regulations which establish and enforce an out-of-service period of 24 hours for any person who violates § 392.5 of the FMCSR;

(2) That no person violate an out-of-service order issued to a driver for a violation of the intoxicating beverage rule; and

(3) The issuance of rules requiring the driver of a commercial motor vehicle who is issued such an order to report such issuance to the driver's employer and to the State which issued the driver his/her driver's license.

The primary purpose of this requirement is to remove from service any driver who has violated any of the prohibitions set forth in § 392.5.

The regulation requires that a driver issued an out-of-service order must notify both his/her employer within 24 hours and the State agency which issued his/her driver's license within 30 days of the out-of-service order. The FHWA believes that these time requirements are necessary to properly implement the statutory provisions.

The issuance of an out-of-service order will result in a possible loss of wages for the affected party. The order may lead to disciplinary action by the employer, including discharge of the driver. The State may also initiate an adverse action against the driver. In addition, any driver found to be driving in violation of an out-of-service order issued under this section will be subject to a civil penalty of up to $2,500 under 49 U.S.C. 521(b), as amended by section 12012 of the Commercial Motor Vehicle Safety Act of 1986. Consequently, if a driver believes he/she is aggrieved by the issuance of an out-of-service order, the regulation affords an opportunity to obtain review of that order. This opportunity for review is consistent with 49 U.S.C. 521(b)(5)(A) which requires that an "opportunity for review" shall be provided and such review shall occur not later than 10 days after issuance of an order addressing a violation of a rule promulgated under 49 U.S.C. 3102 or the Motor Carrier Safety Act of 1984. If the driver appeals the order, he or she can delay notification to the State. A reversal of the order should result in removal of the violation from the driver's file. The driver also would not be required to notify the State if the order is reversed.

The FHWA is, therefore, amending § 392.5 by adding an out-of-service criterion for violations of this section, by placing a reporting requirement on the driver recipient of an out-of-service order, and by providing an opportunity to obtain a review of an out-of-service order at the driver's request.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the revisions in this document substantially reflect statutory language mandated by section 12008(d) of the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99–570), public comment is unnecessary. Notice and opportunity for comment are not required under regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information since the revisions incorporated in the regulation require no interpretation and provide for no discretion. It is anticipated that the economic impact of this rulemaking, although mandated by the statutory provisions themselves, will be positive since any cost impact upon the motor carrier industry will be outweighed by the safety benefits to be derived. Accordingly, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 392

Driver requirements, Highway safety, Highways and roads, Motor carriers.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: July 14, 1987.

Robert E. Farris,

Deputy Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 392 as follows:

PART 392—DRIVING OF MOTOR VEHICLES—[AMENDED]

1. The authority citation for Part 392 is revised to read as follows:

Authority: 49 App. U.S.C. 2505; 49 U.S.C. 3102; sec. 12008, Pub. L. 99–570; 49 CFR 1.48.

2. Section 392.5 is amended by adding paragraphs (c), (d), and (e), as follows:

§ 392.5 Intoxicating beverage.

* * * * *

(c) Any driver who is found to be in violation of the provisons of paragraph (a) or (b) of this section shall be placed out-of-service immediately for a period of 24 hours.

(1) The 24-hour out-of-service period will commence upon issuance of an out-of-service order.

(2) No driver shall violate the terms of an out-of-service order issued under this section.

(d) Any driver who is issued an out-of-service order under this section shall:

(1) Report such issuance to his/her employer within 24 hours; and

(2) Report such issuance to a State official, designated by the State which issued his/her driver's license, within 30 days unless the driver chooses to request a review of the order. In this case, the driver shall report the order to the State official within 30 days of an affirmation of the order by either the Regional Director of Motor Carrier Safety for the Region or the Associate Administrator.

(e) Any driver who is subject to an out-of-service order under this section may petition for review of that order by submitting a petition for review in writing within 10 days of the issuance of the order to the Regional Director of Motor Carrier Safety for the Region in which the order was issued. The Regional Director may affirm or reverse the order. Any driver adversely affected by such order of the Regional Director may petition the Associate Administrator for review in accordance with 49 CFR 386.13.

[FR Doc. 87–16433 Filed 7–17–87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61220-7033]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the amount specified as domestic annual processing (DAP) for "other rockfish" for the Gulf of Alaska has been achieved. Directed fishing for, and retention of, "other rockfish" by vessels fishing in the Exclusive Economic Zone (EEZ) of the Gulf of Alaska after 12:00 noon on July 15, 1987, is prohibited. Trawling for all groundfish species is prohibited in the Eastern Regulatory Area of the Gulf of Alaska. This action is necessary to limit the harvest of "other rockfish" in the Gulf of Alaska to the amount that is permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). It is intended as a conservation measure to protect "other rockfish", stocks of which are in a depressed condition, while allowing certain other groundfish fishing to continue.

DATES: This notice is effective at noon, Alaska Daylight Time, (ADT), July 15, until midnight, Alaska Standard Time, December 31, 1987. Public comments are invited on this closure until July 30, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 021668, Juneau, Alaska 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the Alaska Regional Office, NMFS, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS) 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the EEZ in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central, and Eastern Regulatory areas in the Gulf of Alaska. The fishery is directed at an optimum yield for all groundfish species equal to 116,000–800,000 metric tons (mt). Under the procedure set forth at § 672.20(a), interim 1987 Target Quotas (TQs) were established for each of the groundfish species, which were then apportioned among the regualtory areas or districts. One of the species categories is "other rockfish", for which the interim 1987 TQ is 4,000 mt, Gulf-wide, and apportioned entirely to DAP (52 FR 785, Janaury 9, 1987).

Under § 672.20(c)(2)(i), if the Regional Director determines that the TQ for any target species or the "other species" category in any regulatory area or district has been or will be reached, directed fishing for that species will be prohibited and that species will be declared a prohibited species. The DAP catch of "other rockfish" through June 27 was 3,358 mt. At recent catch rates, the Regional Director determines that the DAP quota of 4,000 mt will soon be reached. Therefore, after 12:00 noon on July 15, further fishing directed on "other rockfish" is prohibited. Fishing for other groundfish species for which a quota is available in the Central and Western Regulatory Areas is permitted, but any catches of "other rockfish" must be treated as a prohibited species and discarded at sea. However, directed fishing for other groundfish species in the Eastern Regulatory Area, where substantial amounts of "other rockfish" were harvested, may lead to overfishing of "other rockfish".

Under § 672.20(c)(2)(ii), such directed fishing may be limited in a manner which will prevent overfishing of "other rockfish". The distribution of "other rockfish" in the Eastern Regulatory Area overlaps the distributions of several other groundfish species, such as pollock, Pacific cod, flounder, and Pacific ocean perch (POP). Quotas for these species are still available, but trawling for them would catch "other rockfish", resulting in additional bycatch mortality. These bycatches are unacceptable in view of the declining stock status of "other rockfish". The Regional Director, therefore, is closing the Eastern Regulatory Area to trawling for other groundfish species to prevent overfishing of "other rockfish".

In making these decisions the Regional Director considered (1) the risk of biological harm to "other rockfish" stocks; (2) the risk of socioeconomic harm to authorized users of "other rockfish"; and (3) the impact that a continued closure might have on the socioeconomic well-being of other domestic fisheries. The Regional Director made these findings: (1) Risk of biological harm to "other rockfish" stocks will result if additional fish are caught incidentally while fishing for other groundfish species in the Eastern Regulatory Area, because that is where most of the "other rockfish" were harvested; risk of such harm in the Central and Western Regulatory Areas will not result; (2) the long-term economic interests of authorized users of the "other rockfish" fishery are protected because the stocks are protected from additional decline; furthermore, other groundfish species are still available should the authorized users wish to pursue them; and (3) a continued closure will have no significant impact on the socioeconomic well-being of other domestic fisheries since other species of fish, including shellfish, will not be significantly affected.

This closure will be effective when this notice is filed for public inspection with the Office of the **Federal Register** and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Classification

The continued health of the "other rockfish" fishery could be jeopardized unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under § 672.22 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and Recordkeeping Requirements.

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

Dated: July 15, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-16432 Filed 7-15-87; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 138
Monday, July 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 Part 724

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations at 7 CFR Part 724 with respect to all kinds of tobacco for which marketing quotas are in effect except with respect to flue-cured and burley tobacco. The rule redefines the term "false identification" to include the use of a tobacco marketing card to market a kind of tobacco other than the kind of tobacco for which the marketing card had been issued when both kinds of tobacco are produced on the same farm. This proposed rule also makes minor corrections for clarity.

DATES: Comments on the proposed rule must be submitted on or before July 20, 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: Donald M. Blythe, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA/ASCS, P.O. Box 2415, Washington, DC 20013, (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 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 of 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 requries 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

Section 375 of the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"), provides that the Secretary shall provide by regulation for the identification, wherever necessary, of tobacco so as to aid in discovering and identifying such amounts of tobacco which are subject to marketing restrictions in effect under this Act. If tobacco has been produced in an excess quantity on a farm and the excess quantity is marketed, a marketing penalty is assessed under several provisions of the Act. Such a penalty may also be assessed if the tobacco is falsely identified as having been produced on a farm other than the farm on which the tobacco was actually produced.

A great number of producers produce more than one kind of tobacco on the same farm. Since each kind of tobacco is restricted to the acreage alloted, and each kind of tobacco receives price support at different levels, it is necessary to identify each kind of tobacco which is marketed by using marketing quota cards which have been issued with respect to the farm. Currently, the regulations do not consider as false identification the marketing of one kind of tobacco produced on a farm that is marketed by using a marketing card issued for a different kind of tobacco for the farm.

It is common for a farm to produce both dark air-cured and fire-cured tobacco on the same farm. Both kinds of tobacco have similar characteristics and only differ through the curing process. Separate acreage allotments are established for each of these kinds of tobacco for a farm and each of these kinds of tobacco has a different price support level. The Tobacco and Peanuts Division, ASCS, has received several reports that a considerable amount of dark air-cured tobacco has been marketed as fire-cured types of tobacco which receive a higher level of price support. This type of marketing is referred to as "cross-marketing".

A recent review was undertaken by the Tobacco and Peanuts Division, ASCS, to determine the extent of cross marketing. This review concluded that during the 1986–87 marketing year an estimated 25 percent of dark–air tobacco was identified and marketed as being a fire–cured type of tobacco when both kinds of tobacco were grown on the same farm.

The current regualtions define false identification as the marketing of tobacco produced on a different farm than for which a marketing card was issued, or tobacco marketed from a farm not identified by a tobacco marketing card for the farm, or the use of a marketing card to record a marketing of tobacco when no tobacco was actually marketed from the farm. This proposed rule redefines the term "false identification" to provides that false identification of tobacco occurs when a tobacco marketing card issued to market a kind of tobacco is used to market another kind of tobacco even though both kind of tobacco are produced on the same farm.

This proposed rule makes other minor corrections in the regulations set forth at 7 CFR Part 724. However, none of these changes are considered substantive but are being made only for purposes of accuracy and clarity.

List of Subjects in 7 CFR Part 724

Acreage allotments, Marketing Quotas, Reporting and recordkeeping requirements, Tobacco.

Proposed Rule

For the reasons set forth in the preamble, Part 724 of Chapter VII, Title 7 of the CFR is amended as follows:

PART 724—[AMENDED]

1. The authority citation for Part 724 continues to read as follows:

Authority: Secs. 301, 313, 314, 316, 318, 363, 372–375, 377, 378, 52 Stat. 38 as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended; 7 U.S.C. 1301, 1313, 1314, 1314b, 1314d, 1363, 1372–1377, 1378, unless otherwise noted.

2. Section 724.51 is amended by adding paragraph (j)(4) to read:

§ 724.51 Definitions.

* * * * *

(j) * * *

(4) A tobacco marketing card issued to market a kind of tobacco is used to market another kind of tobacco produced on the same farm.

* * * * *

3. Section 724.91 is amended by revising paragraph (a)(1) to read:

§ 724.91 Producer penalties; false identification; failure to account; canceled allotments.

(a) *Penalties for false identification or failure to account.* (1) If any producer falsely identifies or fails to account for the disposition of any kind of tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in the current year in excess of the farm acreage allotment for the kind of tobacco shall be deemed to have been marketed as excess tobacco from such farm.

* * * * *

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

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87–16364 Filed 7–17–87; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes establishing the quantity of Florida celery which handlers may market fresh during the 1987–88 season at 6,789,738 crates or 100 percent of producers' base quantities. The action is intended to provide consumers with adequate supplies and lend stability to the industry.

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

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, DC 20250–0200. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–0200, telephone: 202/447–5697.

SUPPLEMENTARY INFORMATION: This proposed 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 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 on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that seven handlers of celery under the marketing order for Florida celery would be subject to regulation during the course of the current season. There are 13 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those 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. Some handlers and producers of Florida celery may be classified as small entities.

The proposal would limit the quantity of Florida celery which handlers may purchase from producers and ship to fresh markets during the 1987–88 season to 6,789,738 crates. This marketable quantity is about 18 percent more than the approximately 5.75 million crates expected to be marketed fresh during the 1986–87 season and about 25 percent more than the average number of crates marketed fresh during the 1981–82 through 1985–86 seasons. It is expected that the 6,789,738 crate marketable quantity will be above actual production and shipments for the 1987–88 season. Thus, the 6,789,738 crate marketable quantity is not expected to restrict the amount of Florida celery which growers produce or the amount of celery which handlers ship.

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

This proposed rule is issued under Marketing Agreement No. 149 and Marketing Order No. 967, both as amended, regulating the handling of celery grown in Florida. The marketing agreement and order are effective under the Act. The proposal is based upon the recommendation and information submitted by the Florida Celery Committee and upon other available information.

The committee met on May 20, 1987, and recommended a marketable quantity of 6,789,738 crates of fresh celery for the 1987–88 marketing year beginning August 1, 1987. Additionally, a uniform percentage of 100 percent was recommended which would allow each producer registered pursuant to § 967.37(f) of the order to market 100 percent of such producer's base quantity. These recommendations were based on an appraisal of expected supply and prospective market demand.

This proposal would encourage Florida celery growers to assume the risks of planting celery by placing a ceiling on the amount of Florida celery which could be shipped to fresh markets. It is intended to lend stability to the industry and, thus, help to provide consumers with an adequate supply of the product. However, as in past seasons, the limitation on the quantity of Florida celery handled for fresh

shipment is not expected to restrict the quantity of Florida celery actually produced or shipped to fresh markets, since production and shipments are anticipated to be less than the allotment.

As required by § 967.37(d)(1) of the order, a reserve of 6 percent of the 1986–87 total base quantities is authorized for new producers and for increases by existing producers for the 1987–88 season. However, there were no applications for new or additional base submitted for the 1987–88 season.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

For the reasons set forth in the preamble, 7 CFR Part 967 is proposed to be amended as follows:

PART 967—CELERY GROWN IN FLORIDA

Subpart—Rules and Regulations

1. The authority citation for 7 CFR Part 967 continues to read as follows:

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

2. Add a new § 967.323 under *Subpart—Rules and Regulations* to read as follows:

§ 967.323 Handling regulation, marketable quantity, and uniform percentage for the 1987–88 season beginning August 1, 1987.

(a) The marketable quantity established under § 967.36(a) is 6,789,738 crates of celery.

(b) As provided in § 967.38(a), the uniform percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the marketable allotment of a producer who has a base quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of 6 percent of the total base quantities is hereby authorized for:

(1) New producers and

(2) increases for existing base quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: July 13, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–16366 Filed 7–17–87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR PARTS 1033, 1036, and 1040

[Docket Nos. AO–166–A56, AO–179–A51, AO–225–A38]

Milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan Marketing Areas; Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts certain changes in the classification provisions of the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan milk orders based on industry proposals considered at a public hearing held October 28, 1986. These changes would eliminate raw product cost diferences for certain uses of milk between regulated handlers in the three markets under consideration and, particularly, handlers in the nearby Indiana and Chicago Regional markets by providing the same classified price structure for skim milk and butterfat used in the production of ice cream and other related products, eggnog, and buttermilk biscuit mixes throughout the region.

The decision also adopts several changes in the Southern Michigan order only that make it easier to qualify milk for pool status. In this regard, the pooling standards for cooperative plants and units are relaxed. Also, less-restrictive diversion provisions are adopted. These changes reflect current marketing conditions and assure orderly marketing of the market's reserve milk supplies.

In the Ohio Valley and Southern Michigan markets cooperative associations will be polled and in the Eastern Ohio-Western Pennsylvania market a referendum will be conducted to determine whether producers who supplied milk during April 1987 favor issuance of the order.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

Several of the proposed amendments would modify the classification provisions of the three orders in order to eliminate raw product cost differences for certain uses of milk among handlers regulated by these and nearby orders of the region. The principal changed marketing condition involved an overlap in distribution due to fewer but larger pool plants that operate over much larger areas. Correcting for the cost discrepancy between orders through amendments proposed herein will not result in a significant added price impact on regulated handlers. In fact, only about 7 percent of the producer milk in these three markets will be reclassified and priced slightly higher.

Other proposed amendments herein would modify the pooling standards and the diversion provisions of the Southern Michigan milk order to make it conform more closely to current economic conditions that exist in the marketplace. In this regard, the principal changed marketing condition involves the market's supply-demand relationship for milk, exemplified in a 26 percentage point decrease in the market's Class I utilization percentage since the present provisions were adopted. Reflection of this changed marketing condition through amendments made herein should lessen the regulatory impact of the order on regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued October 14, 1986; published October 17, 1986 (51 FR 37037).

Recommended Decision: Issued May 1, 1987; published May 11, 1987 (52 FR 17586).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), at Romulus, Michigan, on October 28, 1986. Notice of such hearing was issued on October 14, 1986 and published October 17, 1986 (51 FR 37037).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, Agricultural Marketing Services, on May 1, 1987,

filed with the Hearing Clerk, United States Department of Agriculture, a recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, except that three new paragraphs are added at the end of issue 1(a).

The material issues on the record of hearing relate to:

1. Classification changes.
2. Class II price.
3. Pooling standards.
4. Diversion of producer milk.
5. Expedited action.

Findings and Conclusions

1. *Classification changes*—(a) *Classification of ice cream and related products under the Ohio Valley, Eastern Ohio-Western Pennsylvania and Southern Michigan orders.* Skim milk and butterfat in ice cream and related products should be reclassified from Class III to Class II in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan milk orders (i.e., Federal orders 33, 36, and 40). The products involved would specifically include frozen cream, milk shake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and any concentrated milk product in bulk, fluid form other than that used to produce a Class III product. Reclassification to Class II of skim milk and butterfat used in ice cream and related products will provide for more orderly marketing conditions for regulated handlers.

Two cooperative associations, Milk Marketing, Inc. (MMI) and Michigan Milk Producers Association (MMPA), proposed the reclassification of ice cream and related products from Class III to Class II in Federal orders 33, 36 and 40. The proposals were supported by another cooperative association, Independent Cooperative Milk Producers (ICMP) of Grand Rapids, Michigan, and by three proprietary handlers regulated under Federal order 49 (the Indiana milk order), namely, Miller Corporation, New Paris Creamery Company, Inc., and Wayne Dairy Products, Inc. Although at the hearing there was no direct opposition to the reclassification proposals, a proprietary handler, Dean Foods Company (Dean), and a federation of cooperatives, Central Milk Producers Cooperative (CMPC), suggested modifications to the original proposals. Opposition to MMI's reclassification proposal for Order 36 was expressed in the brief of R. Bruce Fike & Sons Dairy, Inc. (Fike).

The spokesman for MMI also testified on behalf of Farmers Union, Scioto County Co-operative, Huntington Interstate Milk producers Association, and Dairymen Incorporated. Together they represent over half of the producers whose milk is pooled under Federal orders 33, 36, and 49. MMI's spokesman stated that handlers regulated under Federal orders 11 (Tennessee Valley), 46 (Louisville-Lexington-Evansville), and 49 (Indiana), whose marketing areas are contiguous to the Ohio Valley marketing area, have complained that the Order 33 handlers have a competitive advantage in the sale of ice cream and related products. The witness attributed this advantage to a difference in the classification and price of milk used to produce these products under the orders (i.e., Class III in Order 33 and Class II in Order 11, 46, and 49) and to an overlap in the sales areas. Proponent referred to an exhibit which he had requested for the hearing to show the inter-market movement of fluid milk. Working under the assumption that ice cream and related products have distribution networks similar to those for fluid milk, if not broader, he stated that the Order 33 handlers have a clear advantage in terms of raw costs for milk used in such products over their neighbors. He further stated that the same reasoning holds for the Order 36 situation and applies to similar proposals for Order 40.

The MMI spokesman also pointed out that the price difference between Class II and Class III can at times go beyond the 10 cent differential value because of the operation of the advance Class II pricing formula. However, he added that reclassifying to Class II ice cream and related products would not impact greatly on the blend price to producers.

The opposition brief filed on behalf of Fike concurred with MMI that reclassification of ice cream and related products in Order 36 should not have a significant impact on the market. However, Fike alleged that such action would have a significant impact on individual ice cream manufacturers regulated under Order 36, and thus, questioned whether reclassification should take place. Furthermore, it is Fike's opinion that such action is discriminatory towards ice cream manufacturers in that their product was selected for up-classification and cheese was not even though cheese plants compete for the same milk supply. It was Fike's belief that if reclassification is the outcome of this proceeding, then the use of cheaper ingredients (i.e., butter, powder) instead of producer milk will be on the rise. Lastly, Fike stated that permanent changes should not be made to accommodate temporary imbalances between markets with differences in classification for the same uses of milk.

The witness for MMPA testified that the Order 40 handlers enjoy a competitive advantage over their competitors regulated under neighboring orders because frozen dessert type products are given a lower Class III classification and price under Order 40 as opposed to a Class II classification and price under Orders 30 (Chicago Regional) and 49. He stated that MMPA, like MMI, has received complaints from ice cream processors regulated under nearby orders about the price differences. He pointed out that since the implementation of advance Class II pricing, the difference between the Class II and Class III prices, instead of being approximately 10 cents, has become much wider. The difference in class prices and thus the difference between the orders in the cost of milk going into these products, he claimed, results in disorderly marketing. Therefore, he rationalized that the same classification should apply to milk used to produce frozen products as is now in effect in adjacent markets in order to properly align the price that regulated handlers pay for milk. MMPA indicated in its brief that this rationalization also applies when considering the MMI proposals.

Furthermore, MMPA's witness pointed out that one can make the same claim today for the reclassification of frozen dessert type products as was made for cottage cheese in 1968 and for sour cream, eggnog, and yogurt in 1973; and that is, that handlers rely upon producers for a regular supply of high quality milk for making these products. Therefore, he also believes that these products should be reclassified in order to reflect the added value associated with milk used to produce them.

The MMPA spokesman added that a reclassification of these products from Class III to the higher priced Class II should not impact the Order 40 blend price by any significant amount because of MMPA's proposal to simultaneously reduce the Class II price by 5 cents (this issue will be addressed later in this decision).

The basic issue developed on the record for consideration is whether certain regulated handlers have a competitive advantage over other regulated handlers that requires certain products to be reclassified in order to eliminate this advantage.

Under Orders 33, 36, and 40, and Class III classification and price applies to

milk used to produce ice cream and related products while under the nearby orders of Indiana (Order 49), Chicago Regional (Order 30), Louisville-Lexington-Evansville (Order 46), and Tennessee Valley (Order 11), milk for the same uses is Class II. From January 1984 through September 1986, the cost to handlers who paid the Class II price for milk used in the production of ice cream and related products was on the average 12.5 cents per hundredweight greater than the cost to handlers who paid the Class III price for such milk uses, ranging from 0 cents to 55 cents higher throughout the 33-month period. This difference would not cause a problem if each order were isolated and there were no overlap in distribution. However, the record establishes that presently there are fewer, larger plants where ice cream and related products are produced that operate over much larger areas. Therefore, substantial inter-market competition occurs between handlers regulated under different orders. Because a difference in classification and price exists, some handlers have a distinct advantage over others. Reclassification, as adopted herein, will take away any competitive advantage in raw milk costs that ice cream manufacturers under Orders 33, 36, and 40 now have over other order handlers and will place them on a par with these competitors.

Data introduced into the record established that there is an overlap in sales areas for fluid milk. One exhibit showed that handlers regulated under five other orders (i.e., Federal orders 11, 36, 40, 46, and 49) have packaged Class I disposition in the Order 33 marketing area while Order 33 handlers have disposition in these same five marketing areas. Also, the witness for MMPA testified that there is substantial competition between Order 40, 49, and 30 handlers. Both proponents testified that distribution patterns for ice cream are similar to packaged Class I disposition. In fact, they claimed that the sales territory of an ice cream processor tends to be larger than the sales territory of a fluid milk processor. Such evidence clearly shows there is a need for uniform classification and pricing of milk used in ice cream and related products under the orders of the region.

Other data introduced into the record showed that for the 33-month period of January 1984 through September 1986, the Class II price in competing orders (i.e., Federal orders 11, 30, 46, and 49) exceeded the Class III price in 23 months. Such data is contrary to Fike's contention that the imbalance between orders is only temporary. Furthermore, during that same 33-month period, the difference in class prices went beyond 10 cents in 17 months, ranging from 11 cents to 55 cents over.

The frequent disparity between Class II and Class III prices can be attributed to the use of the advance Class II formula pricing which is presently used in 39 Federal orders, including all of the orders cited in this decision. The Class II price reflects the Minnesota-Wisconsin (M–W) price for the second preceding month adjusted for subsequent changes in product market prices. Ideally, such calculations should yield a Class II price that is 10 cents greater than the current month's Minnesota-Wisconsin price (i.e., the Class III price). However, in times of rapid downward change in the M–W price, a wide difference between the Class II and Class III prices can occur due to the lag which is built into the formula. For instance, in July 1985 the difference between the Class II price in orders 11, 30, 46, and 49 and the Class III price was 55 cents, due to virtually no change in product market prices in early May and June 1985 and a drop in the M–W price of 36 cents from May to July. (Official Notice is taken of Dairy Market News Vol. 52 Report Nos. 18, 19, 20, 23, 24, and 30.) Such occurrences further enhance the advantage that Order 33, 36, and 40 handlers already have over other order handlers with whom they compete in common sales areas.

As the witness for MMPA pointed out in his testimony, the rationale set forth in decisions providing for a Class II classification for cottage cheese, yogurt, sour cream, etc., also applies when considering the frozen dessert products herein proposed to be reclassified. In the findings and conclusions of the Assistant Secretary's decision of February 19, 1974 (39 FR 8712) concerning uniform classification for 39 markets, official notice of which is taken, he concluded that,

> The demand for producer milk used in these products is related clsoely to the currently consumer demand for such products. Thus, handlers normally want adequate supplies of producer milk made available at their plants in the quantities and at the time needed for these uses. This is in contrast to the more storable residual 'hard' products. Also the processing of such products often takes place at the market center, which entails a greater hauling expense for producers than when reserve milk is processed in the production area.

This rationale is equally applicable to the reclassification of ice cream and related products in the three markets in question.

At the hearing, Dean and CMPC suggested that the classification provisions of the orders under consideration be amended to make them identical with those orders which were involved in the uniform classification decision. To do so, it would make the classification provisions of Orders 33, 36 and 40 identical with Orders 30 and 49 in particular. This would involve reclassifying, in addition to those products proposed, infant and dietary formulas packaged in hermetically sealed glass or metal containers, plastic cream, anhydrous milk fat, custards, puddings, and pancake mixes (Order 40 marketed only).

The spokesman for CMPC alleged that, in part, the purpose for which the hearings was called was to insure unformity. His belief was that the MMI and MMPA proposals did not go far enough, that is, they were not all inclusive, and therefore, fell short of the uniformity goal. Likewise, Dean's spokesman testified in favor of classification uniformity between the three orders under consideration and the orders that were inolved in the uniform classification decision as a matter of principle.

There were no proposals submitted for inclusion in the hearing notice in response to the Department's invitation that dealt with adopting the uniform classification scheme referred to previously for the three markets herein considered. Thus, the requests of Dean and CMPC to adopt uniform classification provisions in the three markets was not within the scope of the proceedings. The Administrative Procedure Act (5 U.S.C. 553(b)) requires that the notice of hearing contain the "terms of substance of the proposed rule or a description of the subjects and issues involved." Accordingly, CMPC's and Dean's requests are denied.

It must be noted that in addition to the classification changes for the three markets, a change has also been made in the composition standard for determining the classification of milk shake and ice milk mixes under Order 36. As provided herein, the classification of skim milk and butterfat in milk shake and ice milk mixes should be determined on the basis of the total solids content of the product. A Class I classification should apply to milk shake and ice milk mixes containing less than 20 percent total solids. Conversely, and as already stated, milk shake and ice milk mixes with 20 percent or more total solids should be Class II.

Presently under Order 36, milk shake and ice milk mixes containing less than 12 percent total milk solids are Class I and those with 12 percent or more total milk solids are Class III. MMI proposed

the change from "12 percent total milk solids" to "20 percent total solids". There was no opposition to the proposal. Under Federal orders 33 and 40, the other orders under consideration, milk shake and ice milk mixes containing less than 20 percent total solids are Class I. Therefore, this change comports with the reclassification of ice cream and related products adopted herein.

Statistics and testimony presented at the hearing indicated that the change in the classification of ice cream and related products adopted herein will not siginificantly impact the blend prices paid to producers. In all three orders it was estimated that reclassification would have had only a one or two cent impact on the blend price if it had any impact at all. Even in July 1985, when the Class II price exceeded the Class III price by 55 cents, the effect on the blend price in Orders 33 and 40 would have only been six cents and two cents respectively. Therefore, such change is not expected to result in any measurable impact on the level of milk production in these markets.

Fike and an individual producer of the handler excepted to the change in the classification of ice cream and certain other related products for the Eastern Ohio-Western Pennsylvania market. Among other things, exceptors contend that such amendments to the order would increase the cost of producer milk to Order 36 handlers and thus would jeopardize the competitive position of such handlers with large ice cream manufacturers under the New York-New Jersey and Middle Atlantic orders that distribute ice cream in the Eastern Ohio-Western Pennsylvania market. They argue that since this potential adverse impact of the proposal was not considered by the proponent, there is no basis in fact to justify the classification change for the Order 36 market.

The argument of the opposing exceptors that this classification change will jeopardize an Order 36 handler's competitive position for ice cream sales in the market is not convincing. The record evidence does not provide any data or other evidence to support this claim. It is true that a higher price resulting from the reclassification change adopted herein would widen the difference between the cost of milk utilized in ice cream under Order 36 and milk similarly used under Orders 2 and 4. However, such differences would be offset generally by the additional transportation costs incurred by the opposing handler's competition from New York and Pennsylvania ice cream manufacturers. Accordingly, exceptors' position in this regard is not supportable and there is no basis for reaching a different conclusion on this matter.

The other points raised by exceptors were either fully considered in the recommended decision or were not relative to the issue at hand. Accordingly, the exceptions are denied.

(b) *Classification of eggnog under the Eastern Ohio-Western Pennsylvania order.* Under Order 36, skim milk and butterfat used to produce eggnog should be Class II. Under the present order, eggnog is Class III.

MMI's proposal to reclassify eggnog from Class III to Class II was unopposed at the hearing. Proponent testified that including eggnog in Class II is appropriate because it is given this classification in Federal orders 33 and 40. Proponent added that marketing conditions are about the same for eggnog as for frozen dessert type products.

Eggnog is distributed on an intermarket basis similar to the marketing of ice cream and related products which are proposed to be reclassified herein. Therefore, eggnog should be given a Class II classification for the reasons already cited in connection with frozen products.

(c) *Classification of buttermilk biscuit mixes under the Ohio Valley and Southern Michigan orders.* Under Orders 33 and 40, a Class III classification should apply to skim milk and butterfat used to produce a product labeled "buttermilk biscuit mixes". Presently, this product is not designated in the classification provisions of the two orders.

Kroger proposed that this product be given a Class II classification in Order 33 and a Class III classification in Order 40. At the hearing, the Kroger spokesman stated that its proposal simply classifies the new product buttermilk biscuit mixes the same as each order now classifies pancake mixes. He added that Kroger would not oppose a decision by the Department to place buttermilk biscuit mixes in Class II in the Southern Micigan order. However, he declined to modify his proposal.

The Kroger proposal was basically supported by three Indiana handlers and was opposed by Dean. Although CMPC supported the proposal, it suggested that it be modified to provide a Class II classification for buttermilk biscuit mixes in all three orders under consideration. CMPC also requested a Class II classification for all new nonfluid milk products that should come onto the markets in the future.

The Kroger spokesman indicated that its development of a new buttermilk biscuit mix product to be used in the making of biscuits prompted them to make such a proposal. The mixture, proponent stated, would contain fluid buttermilk with two percent or more added flour which meets the standards of identity for a food product rather than a fluid milk product as issued by the Food and Drug Administration, U.S. Department of Health and Human Services. Proponent further stated that the product is planned to be distributed to Kentucky Fried Chicken distribution centers from Chicago to New Jersey. He claimed that a classification other than Class I should apply to the mixture so that it will provide more equitable pricing in relation to substitute dried products that can be used in making buttermilk biscuits.

Since the new product was not intended to be distributed for use as a beverage and because the record shows that its basic composition is a nonfluid milk product, it is appropriate to classify the product in question in a lower priced class. It would appear that, if it were not for other overriding considerations, buttermilk biscuit mixes should be included, as proponent proposed, in the same class as pancake mixes since both products have about the same utility value and must be made from quality milk available on a regular basis. However, other factors must be considered including the fact that pancake mix is classified differently between Orders 33 and 40, Class II in the former order and Class III in the latter oder. Beyond this, if a new product other than a fluid milk product, like buttermilk biscuit mix, was marketed by a handler regulated by most any other order, including the nearby orders, a Class III classification would apply. This is because most orders specify that milk used to produce a product, such as buttermilk biscuit mix, which is not a designated or listed product under the order's classification provisions, is Class III. In view of these considerations, a Class III classification for buttermilk biscuit mixes in the two markets is appropriate. Such classification will place Order 33 and Order 40 handlers on a comparable basis with handlers in other regulated markets as to their costs under the orders for skim milk and butterfat used in buttermilk biscuit mixes.

While several Order 49 handlers supported establishing a lower classification for buttermilk biscuit mixes, they did express concern that such lower classification could jeopardize their ability to meet the

requirements for pool qualification. As adopted herein, only milk and butterfat used to produce buttermilk biscuit mixes is given a Class III classification. Buttermilk as a fluid milk product sold to restaurants and subsequently used in biscuits will continue to be Class I. Thus, only if handlers choose to make and distribute buttermilk biscuit mixes will they reduce their Class I utilization. Even so, their concern is a pooling rather than a classification problem and is not a compelling factor in considering the proper classification for the product buttermilk biscuit mix.

In opposing Kroger's proposal, Dean's witness testified that the proposal, if adopted, will result in lower monetary returns to producers. This, however, does not provide an adequate basis for not adopting a lower classification for the product in question. It is not anticipated that classifying buttermilk biscuit mixes in Class III will have any significant impact on returns to producers in the two markets involved.

The CMPC suggestion to place all new nonfluid milk products that should come onto the markets in the future into Class II rather than Class III should not be adopted. It would not be appropriate to consider such a modification except on a regional or national basis if orderly marketing is to be maintained.

2. *Class II price under Order 40.* The Class II price for the month should be the basic Class II formula price for the month plus a differential that would be the amount by which a 12-month moving average of the basic formula price plus 10 cents exceeds a 12-month moving average of the basic Class II formula prices. This should result in a Class II price that on average exceeds the Class III price by 10 cents. Presently, such pricing applies in Orders 33 and 36, whereas in Order 40, the Class II price is determined by adjusting the Class II formula price by a differential that adds 15 cents to the basic formula price.

MMPA proposed that the Class II differential be revised from 15 cents to 10 cents per hundredweight in conjuction with its request to reclassify ice cream and related products as Class II. The spokesman for MMPA stated that the Order 40 Class II Price often exceeds nearby orders' Class II prices by five cents due to differences in the orders' Class II differentials. The witness held that this is a corollary change needed to achieve uniformity in the classification and pricing of ice cream and related products in the region.

In light of the decision made herein to reclassify certain products from Class III to Class II in order to eliminate raw product cost differences in the region, the Order 40 Class II price should also be aligned. Otherwise, handlers regulated under Order 40 who process ice cream and related products would incur a 5 cent higher raw milk price than would be the case for nearby and adjacent other-order handlers. The effect on the blend price of reducing the Class II differential by 5 cents will be negligible when coupled with the reclassification of the frozen dessert type products. Statistics presented at the hearing revealed that the impact of this change in Class II pricing coupled with the classification changes adopted herein will result in an insignificant impact on the blend price (1 or 2 cents if any).

Accordingly, the Class II price should be based on the average of the M-W price plus 10 cents.

3. *Pooling standards for plants other than distributing plants under the Southern Michigan order*—(a) *Supply plants (other than cooperative balancing plants).* The period during which supply plants or a unit of supply plants must ship milk to pool distributing plants to be eligible for automatic pooling status in a later period should be changed from October through March to September through February. Presently, a supply plant or a unit of supply plants that met the pooling standards for each of the months of October through March is automatically qualified for pool status during the following months of April through September without having to meet any shipping requirements.

The principal supplier of fluid milk to the market's pool distributing plants, MMPA, proposed that the months of September through March rather than October through March, should be used as the qualifying period in which a supply plant may earn automatic pooling status for the following months of April through August. Proponent testified that the cooperative's proposal was one of several designed to update the pooling standards for plants other than distributing plants. The proponent's witness stated that including September as a qualifying month for supply plants comports with current marketing conditions in which this is the beginning of the period when there is greater demand for supply plant milk.

Another producer group associated with the market, National Farmers Organization (NFO), supported adding September as the first month in the qualifying period. However, the organization proposed that March be eliminated as a qualifying month for automatic pooling. A spokesman for NFO testified that the Class I utilization during March is more related to the automatic pooling spring and summer months than to the higher utilization months in the fall and winter. He indicated that there is no need to increase the number of months included in the qualifying period as MMPA proposed since additional supply plant milk is not needed.

The months of September-February rather than October-March should be used as the qualifying period in which a supply plant may earn automatic pooling status for the following months of March-August when there is less demand for supply plant milk. This change would more nearly reflect the current seasonal supply-demand pattern for the market. The six months of September-February is the period when milk production is lower relative to demand than in the following six months. For example, during the most recent such six-month period (September 1985 through February 1986) for which data were available at the hearing, Class I utilization of producer milk was 44 percent. In the following six months (March through August 1986) the comparable Class I utilization was 40 percent.

As noted previously, March should be replaced with September as a month in which supply plants are required to make shipments to pool distributing plants. March is the beginning month when production starts its seasonal climb and Class I utilization percentage decline. For example, average daily deliveries by producers serving the Southern Michigan market in March were higher than in February during the entire 1983 through 1986 period. During the same period, Class I utilization of producer milk in March was a lesser percentage than in Feburary except for 1984. This relationship indicates that the supply-demand pattern for March is more comparable with that for the current months of automatic pooling than with that for the months when supply plants are now required to ship milk.

In contrast, September marks the beginning of the period when supply plants should be encouraged to make shipments to distributing plants. This month is now a month of strong demand relative to production. Except for 1986, average daily deliveries in September were lower than in August during the 1983–86 period. For the years 1983, 1984, 1985 and 1986, the Class I utilization of producer milk in September was 43, 42, 41 and 47 percent, respectively. These percentages for September are essentially at the same level or higher than for most months with greater Class I sales. In this circumstance, it is

appropriate to use September rather than March as a qualifying month.

By using September as the starting month of the qualifying period, the Southern Michigan order will be better coordinated with neighboring orders, such as the Chicago Regional order, Indiana order and Ohio Valley order since these orders also use September as the starting month of the qualifying period. Such coordination will assist in planning by handlers and cooperatives concerning which plants and producers to associate with which markets during the qualifying period.

The record, however, does not support MMPA's proposal to expand the number of months included in the qualifying period. Rather, supply plant shipments should be required only when supply plant milk is likely to be needed to meet fluid milk sales. Deleting March as a qualifying month for supply plants and replacing it with September will promote more orderly marketing conditions in that shipments to distributing plants will not be required at a time when supply plants normally are not needed to supplement their fluid milk needs.

(b) *Cooperative balancing plants.* Several modifications should be made in the pooling standards for supply plants operated by a cooperative association.

First, a cooperative operated supply plant or a unit of such plants should continue to acquire pool status on the basis of the cooperative's or unit's overall marketwide performance as evidenced by its total milk movements to distributing plants either by transfer or directly from member producers' farms. However, the quantity of such deliveries needed to qualify this type of plant or unit should be for each month based on a ratio of the market's Class I sales to producer receipts during the same month of the previous year. Changes up or down in this ratio would have to exceed 5 percentage points before the delivery requirement for such plants would change.

Second, any such plant or unit that acquires pool plant status during each of the months of September-February should automatically retain pool plant status for each of the following months of March-August without having to meet any delivery requirement.

Third, a cooperative association(s) should be permitted to include in a balancing plant pooling unit a supply plant(s) operated by a proprietary handler in addition to any plant(s) operated by a cooperative(s). Under this revision, such pooling unit would have to collectively meet the standards herein adopted for a cooperative balancing plant without each individual plant in the unit required to meet a minimum delivery standard.

Fourth, supply plants to be eligible to qualify for pool status as part of a cooperative balancing plant pooling unit should be located within the state of Michigan.

Presently, the order provides separate pooling requirements for supply plants operated by a cooperative association. As provided, a supply plant operated by a cooperative association may qualify as a pool plant if the cooperative delivers at least 50 percent of its members' producer milk, either directly from farms or by transfer from the supply plant to distributing plants. If the cooperative, however, does not meet this 50 percent delivery requirement for the month, the balancing plant can retain its pool plant status for that month if it qualified in each of the preceding 13 months and at least one-half of its members' milk was delivered to distributing plants during the second through the 13th preceding months. Additionally, a cooperative operated plant that is located in the marketing area that has been a pool plant for 12 consecutive months, but which otherwise does not qualify, can acquire pool plant status for the plant if the cooperative has a marketing agreement with another cooperative association whose members deliver at least 50 percent of their milk during the month directly to pool distributing plants. Their total deliveries of member milk to distributing plants, either directly from farms or by transfer from the plant, must not be less than 50 percent of the cooperatives combined member producer milk.

MMPA, who at the time of the hearing operated six pool supply plants under the order, proposed essentially the changes adopted herein that would ease the requirements for pooling a cooperative balancing plant or a unit of such plants. Proponent's witness testified that the changes proposed were designed to correct a long-standing problem encountered by the proponent cooperative in maintaining pool status for all of the milk of its member producers who have been historically associated with the market. The cooperative's witness claimed that the current pooling requirements for the market's principal balancer of supplies for the market are "too inflexible and do not reflect current market conditions." He indicated that MMPA, in order to avoid unnecessary and uneconomic movements of reserve milk supplies, has frequently requested the Department to suspend the pooling requirements for a cooperative balancing plant. On the basis of these requests, such pooling requirements have been suspended during most months since May 1982.

Basically, MMPA testified that its pooling problem stems from two developments that have occurred in the market which were not prevalent when the present pooling requirements for cooperative balancing plants were established in 1968, namely, (1) changes in the relationship of producer milk supplies to Class I sales, and (2) decline in the daily and seasonal demand for supply plant milk. Proponent contended that performance standards should not be established at a level that milk regularly associated with the market can maintain pool status only if uneconomical movements are made for the purpose of qualifying a cooperative balancing plant.

NFO similarly proposed and supported at the hearing relaxing the requirements for pooling a cooperative balancing plant. The organization cited generally the same marketing conditions in support of lower pooling standards for cooperative balancing plants as did MMPA. In this regard, NFO's witness testified that the present qualification requirements for such plants are too inflexible and do not reflect present supply-demand conditions. There was no opposition to any of the proposed changes.

A review of marketing conditions shows that significant changes have occurred since the pooling requirements for cooperative balancing plants were established in 1968. The primary factors affecting the pooling of balancing plants operated by cooperative associations is the increase in producer milk on the market without a corresponding increase in the proportion of such milk used in Class I.

To illustrate, total producer milk on the market increased from 4,609 million pounds in 1981 to 4,970 million pounds in 1985, up nearly eight percent. (Official notice is taken of the 1982 annual summary of "Federal Milk Order Market Statistics," Statistical Bulletin No. 698, published by the Dairy Division, AMS, USDA.) While in 1986, total producer milk in the first nine months was slightly less (1.2 percent) than a year before, the record evidence indicates that this is only a temporary situation and the normal trends in producer receipts is expected to continue upward.

Conversely, during the five-year period of 1981 through 1985, producer milk utilized in Class I outlets decreased from 2,109 million pounds in 1981 to 2,074, down nearly two percent. For the first nine months of 1986, there was no change in the percentage of producer milk used in Class I compared to the

same period in 1985. Also, record data indicate that the Class I use of the market's producer milk averaged 68 percent in 1968, which was the year when the performance requirements for balancing plants were last considered at a hearing. In contrast, Class I use of producer milk in 1985 declined to an average of 42 percent (26 percentage points lower than 1968).

As noted previously, because of these changes in supply-demand relationships, MMPA on a number of occasions since 1982 requested a suspension of the 50 percent delivery requirement for balancing plants. Based on the cooperative's requests, this delivery requirement was suspended for 30 months during the period of May 1982 through September 1986. Proponent cooperative testified that without such suspensions, it would have had to deliver substantially more milk to distributing plants than they needed and then backhaul the excess milk to manufacturing plants solely to maintain pool status for its balancing plants. Thus, the suspensions permitted the proponent cooperative to pool all of its members' milk without incurring unnecessary handling and transportation expenses.

Suspensions, however, are only temporary solutions and are not designed as a solution to an on-going marketing problem. Performance standards for a balancing plant must be changed as conditions in the market change. Under the present conditions existing in the market, it would not be in the interest of orderly marketing to continue the present pooling standards for cooperative balancing plants since they do not accommodate the continued pool status for some of such plants and some producers who have been and continue to be regular suppliers of the market's fluid milk needs.

In view of current supply-demand conditions and in recognition of the additional reserve milk supplies that must be handled through balancing plants in supplying the current fluid needs of the market, the delivery requirement to pool balancing plants should be reduced. This can best be accomplished by providing that the delivery requirement for each month be based on the market's Class I utilization percentage in the same month of the prior year. Changes up or down in this percentage would have to exceed 5 percentage points before the delivery requirement for such plants would be adjusted. This will provide a degree of adjusting automatically such delivery requirements to reflect seasonal and long-term changes in the relationship of producer milk supplies to Class I sales. Use of Class I utilization data for the same month of the preceding year should be entirely appropriate as a measure of the market's Class I needs since for any particular month the Class I utilization percentage for the market does not materially change from one year to the next.

MMPA proposed that only Class I route sales rather than total Class I sales be used as a measure of the market's Class I needs. The cooperative believes that this measure was essential in eliminating the influence of variations in Class I transfers to other markets from one year to the next. The record evidence, however, does not indicate this is a problem warranting the adoption of Class I route sales data as a measure of the market's demand.

Under the scheme adopted herein, the applicable delivery percentages for each month of 1985 would have been 35 percent for the period of May-August, 40 percent for March, April, September, October and December and 45 percent for the remaining three months, averaging 40 percent for the year. This represents an average reduction of 10 percentage points for the year. This lower delivery standard should be adequate to assure that milk associated with balancing plants will continue to be available to distributing plants when needed. It also should reduce to a minimum the need for uneconomic movements of reserve milk supplies which otherwise might be made solely to maintain pool status for a balancing plant.

The order should be modified to provide that a balancing plant or unit of balancing plants that have met the pool performance delivery standards for each of the months of September through February is automatically qualified for pool status during the following months of March through August regardless of the volume of deliveries to distributing plants. Under the present terms of the order, the delivery requirement for a balancing plant is 50 percent for each month.

This modification was a companion balancing plant pooling proposal of MMPA which was supported at the hearing by NFO. Proponent stated that this proposal was made for the purpose of insuring that a balancing plant would not lose its pool status during the months when producer receipts were high in relation to Class I sales. Proponent contended that the automatic pool plant status provision for a balancing plant was needed to accommodate the handling of reserve milk supplies on an efficient basis.

Permitting automatic pool plant status for a balancing plant during the months of March through August on the basis of performance during the preceding September through February period is appropriate in view of the seasonal patterns of milk supplies and sales. A cooperative which serves the majority of the market's fluid needs and has the burden of disposing of the market's reserve milk supplies should be provided the opportunity to pool its balancing plants on a basis which promotes efficiency in operations. Allowing for automatic pooling will assist in accomplishing this and should reduce to a minimum the circumstances of uneconomic handling and movements of reserve milk supplies solely for the purpose of qualifying a cooperative's balancing plants.

The order should also be amended to allow a cooperative association operating a balancing plant(s) to form a balancing plant unit with one or more supply plants operated by a proprietary handler. A proposal to do so was made by MMPA. It was a corollary proposal to the cooperative's series of proposals to update the requirements for pooling a cooperative balancing plant in line with current marketing conditions.

The purpose of the proposal, as stated by proponent, is to enable the cooperative in supplying a large portion of the market's fluid milk needs to perform this function more efficiently. As indicated by the witness, this modification, which is optional, would allow a cooperative to supply the fluid milk needs of the market according to the availability of milk supplies in relation to the location of the distributing plant needing fluid milk rather than requiring a unit of individual plants to ship milk to distributing plants simply to qualify the unit for pooling purposes.

It is concluded that this modification, which allows supply plants operated by a proprietary handler to be included in a cooperative balancing plant pooling unit, is desirable and reasonable under current marketing conditions. This pooling arrangement, in combination with other changes adopted herein with respect to the requirements for pooling a cooperative balancing plant, is expected to accommodate the situation for which the proponent cooperative requested the modification. Permitting a balancing plant pooling unit to include a supply plant(s) of a proprietary handler will promote the efficient handling of milk supplies and eliminate the hauling of producer milk first to a supply plant and then to a distributing plant solely to aid the supply plant or unit of supply plants

in meeting the order's pooling requirements.

The order should be modified to provide that supply plants to be eligible to qualify for pool status as part of a cooperative balancing plant pooling unit be located within the state of Michigan. Presently, plants that qualify for pool status as part of a balancing unit must be located within the Southern Michigan order's marketing area.

As part of its package of proposed changes to ease the pooling requirements for a cooperative balancing plant, MMPA proposed that no geographical restriction apply to where a plant that qualifies for pool status as part of a balancing plant pooling unit is located. Proponent testified that removal of the geographical restriction will promote a more economical and efficient handling of the reserve milk supplies of the market. The witness for the proponent stated that the historical supply area and the location of balancing plants regularly associated with the market extend beyond the present geographical restricted area. This situation results in inefficiency and lower returns to producers because it does not permit multi-plant operators to supply the market's fluid milk needs from plants located closest to distributing plants.

With the rather far-reaching changes adopted herein for qualifying cooperative balancing plants, a geographical restriction should continue to apply to all plants qualifying as part of a pooling unit of balancing plants. This is essential to insure that adequate supplies of supply plant milk will continue to be made available when needed by the market's distributing plants. Otherwise, if no geographical limitaton were provided, situations could arise where milk associated with a plant in a unit would not be available for the fluid segment of the market. This could undermine the effectiveness of the order in insuring an adequate supply of milk for fluid use within the market.

On the basis of this record, however, the present geographical restricted area should be modified to include the entire state of Michigan. This area is a reasonable one in which to restrict the location of plants qualifying as part of a unit since it would include all of the historical supply area for the market.

NFO's proposal that would modify the order's alternative performance requirement for a cooperative balancing plan based on a cooperative's deliveries to pool distributing plants during the preceding 12-month period ending with the current month should not be adopted. The present order provides also for an alternative performance standard for a cooperative balancing plant based on a cooperative's performance in supplying distributing plants over a 12-month period. However, the 12-month period used presently is based on the average proportion of deliveries to distributing plants during the second through the thirteenth preceding months.

The purpose of this alternative performance standard is to offset the potentially disruptive impact of short-run changes in marketing conditions that would advesely affect the pooling status of a cooperative balancing plant. Allowing a cooperative association this pooling flexibility adds stability to the market wherein it permits a cooperative significantly associated with the market to make adjustments in its operations so as to maintain pool status.

NFO's witness did not offer any substantive reasons for the modification in the 12-month moving average. Moreover, the record does not indicate that the present 12-month moving average is not serving its intended purpose. In the absence of any specific reason given for adopting the proposal and in view that there is no indication on the record that there currently exists a marketing problem with using the order's present 12-month moving average based on a cooperative's deliveries to distributing plants during the second through the thirteenth preceding month period, it is concluded that the proposal should not be adopted on the basis of this record.

4. *Diversion of producer milk*—(a) *Producer delivery requirement.* The producer delivery requirement (i.e. the "touch-base" requirement) of Order 40 should be relaxed. In this regard, one day's instead of two day's milk production of an individual producer should be required to be physically received at a pool plant during the month to qualify such producer's milk for diversion to nonpool plants. Also, this requirement should apply only during the six months of September through February instead of for each month as the order now provides.

NFO proposed that the order be revised in this manner and no one opposed these changes. NFO's witness stated that this change is needed because presently, many of NFO's producers are delivering to pool plants more milk than is required solely to insure that all producers meet the minimum touch-base requirement for the month. He indicated that the milk of many of NFO's producers who are on an every-other-day pickup schedule is picked up on routes with the milk of producers who are on an everyday pickup schedule. This, he said, results in many producers delivering four days' production to pool plants, which is two days more production than is required. He stressed that this practice should be avoided. He added that adoption of NFO's proposal should reduce the administrative burden of the touch-base requirement in that a simple check of pool plant weight slips would verify whether or not producers have made their qualifying shipment.

In addition, NFO's witness testified that requiring a producer's milk to be physically received at a pool plant only in each of six months when the market's fluid needs are the greatest promotes a more efficient handling of the market's reserve milk supplies. He pointed out that presently, producers must touch-base even in months when no other delivery requirements apply merely to qualify. Therefore, he believes that the deliveries during non-critical months should cease.

The basic issue developed on the record is whether the present touch-base requirement causes reduced marketing efficiencies that necessitates its relaxation. The record evidence indicates that requiring two days' production of a producer to be physically delivered to pool plants in each month of the year does interfere with efficient milk marketing.

Presently, to comply with the touch-base requirement under Order 40 approximately 6.67 percent of each producer's milk, regardless of where they are located, is physically delivered to pool plants each month whether or not it is needed there. As stated on the record, many producers deliver four days' production or 13.13 percent of their milk simply so that other producers can meet the two days' or 6.67 percent delivery requirement. This scenario goes on during the milk-short months and during the flush months. Obviously, unnecessary shipments are being made.

The purpose of requiring individual producers to touch-base is to insure that they are genuinely associated with the fluid market. Thus, it is known that those producers with milk pooled on this market are capable of delivering approved Grade A milk to pool plants. This practice should be carried out without interfering with efficient marketing, yet, it should maintain the integrity of the order.

Therefore, the order, as amended herein, requires that at least one day's production of a producer be physically received at a pool plant during each of the months of September through February in order for any of that producer's milk to be eligible to be diverted to nonpool plants and remain

pool milk. One day's production during each of the milk-short months is sufficient to demonstrate an association between producers and the market.

Relaxing the touch-base requirement also promotes a more efficient handling of reserve supplies by minimizing the number of necessary milk deliveries of individual producers. Therefore, during the September-February period the most milk any one producer would deliver due to the touch-base requirement would be 6.67 percent (i.e. those on an every-other-day pickup schedule). This is an overshipment of only 3.33 percent of a producer's milk rather than 6.67 percent. In the flush months the reduction in deliveries resulting from the change in the touch-base requirement could be 13.33 percent of a producer's production (again, referring to those on an every-other-day pickup schedule).

In addition, with the number of required deliveries per producer minimized throughout the year, handlers who divert on an aggregate basis are afforded greater flexibility in pooling the milk of their producers. Because the changes adopted herein reduce the per producer deliveries in volume (from two to one day's production) and in frequency (from twelve to six months), handlers are able to develop more efficient shipping schedules. Therefore, the milk of those producers that can be most economically diverted, i.e., that of producers located closer to nonpool manufacturing outlets, will be diverted (in total during the flush months), while the milk of those producers located nearer to the market's center will be delivered to pool plants where needed.

(b) *Limitation on diversions to nonpool plants.* The period when there is a limitation of 60 percent on the amount of a handler's producer milk that may be diverted to nonpool plants should be changed from October through March to September through February. The milk base to which the limit applies should not be altered. Thus, for both cooperatives and operators of pool plants the milk base should continue to consist of the total quantity of producer milk for which they are the handler.

NFO proposed that the limitation on diversions of producer milk to nonpool plants apply during the September–February period rather than the October–March period. NFO also proposed that the quantity of milk to which the limit applies be restricted to only the physical receipts of a pool plant operator. Such a change was not proposed for cooperatives. In its brief, Kraft opposed NFO's proposed unequal treatment of proprietary handlers and cooperative handlers concerning the base to which the diversion percentage applies. In its own brief, NFO withdrew its support of this proposed changed.

The proposal to change the period during which diversion limits apply should be adopted. It conforms with the changes previously adopted in this decision which would add September and delete March from the period for qualifying supply plants. The reasons stated in support of that change, i.e., the market's seasonal production patterns and variations in Class I utilization, and the fact that Class I demand begins to increase in September, are equally valid for permitting unlimited diversions during the March–August period.

The record, however, is void of any reason as to why the base to which the diversion limit applies should be larger for cooperatives than for pool plant operators. Proponent itself withdrew its support for this change. Therefore, in computing a pool plant operator's or a cooperative's diversion allowance, the base to which the diversion percentage applies for both handlers will still include the amount of producer milk physically received plus the amount diverted therefrom. Hence, both handlers will still be treated equally with respect to the percentage of their producer milk that they may divert to nonpool plants under the order.

(c) *Excess diversions to nonpool plants.* Producer milk status should not be forfeited with respect to all milk diverted to nonpool plants by a handler if that handler fails to designate the dairy farmer deliveries which are ineligible to be producer milk due to milk being diverted in excess of the limit set forth in the order. Rather, the present order provisions which prescribe a specific procedure for excluding overdiverted milk from producer milk when a diverting handler does not designate whose milk shall not be producer milk should remain intact. Such procedure excludes milk diverted on the last day of the month first, then, in sequence, milk diverted on the second-to-last day and so on in daily allotments until all of the overdiverted milk is accounted for.

NFO proposed this revision and ws the sole voice heard conerning this issue. NFO's witness implied that this proposal would provide for similar application of such excess diversions among and between orders operating in the region.

No basis was given as to why this particular proposal should be adopted. In addition, neither at the hearing nor in post-hearing briefs was any indication given that the present method of treating nondesignated overdiversions was causing a problem in the market. Therefore, it is appropriate that the order still provide a procedure for determining which diversions shall not be considered producer milk when milk diverted to nonpool plants exceeds the diversion limits prescribed by the order. This procedure was adopted in order to clarify how to exclude nondesignated overdiverted milk. Simply excluding all milk diverted to nonpool plants when a handler fails to designate whose milk is ineligible as producer milk in case of overdiversion, as NFO proposed, would place a greater burden of financial risk on a handler who diverts milk. For these reasons, NFO's proposal is denied.

5. *Expedited action.* The record evidence did not support the omission of a recommended decision on those issues concerning classification and pooling standards for supply plants.

On the record, and without prior notice, the Milk Foundation of Indiana requested that expedited action be taken on proposals 1, 2 and 3 as noted in the hearing notice involving the reclassification of skim milk and butterfat used to produce ice cream and related products for the three markets herein under consideration. Additionally, at the hearing MMPA requested that its proposal with respect to pooling standards for supply plants (issue 3) be, likewise, handled on an expedited basis.

The record evidence, however, with respect to issues 1 and 3 did not support omitting a recommended decision and the opportunity for interested persons to file comments and exceptions thereto. Therefore, all such requests for expedited action were denied.

Rulings On Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan orders were first issued and when they were amended.

The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas, and the minimum prices specified in the tentative marketing agreements and orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an order amending the orders regulating the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register.**

Referendum Order to Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 15th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300–900.311), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be April 1987.

The agent of the Secretary to conduct such referendum is hereby designated to be C. Mack Endsley.

Determination of Producer Approval and Representative Period

April 1987 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Ohio Valley and Southern Michigan marketing areas is approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1033, 1036, and 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC, on: July 14, 1987.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

Order Amending the Order Regulating the Handling of Milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan Marketing Areas

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective dates hereof, the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Micigan marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Administrator, Agricultural Marketing Service, on May 1, 1987 and published in

the Federal Register on May 11, 1987 (52 FR 17586), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

1. The authority citation for Parts 1033, 1036, and 1040 continues to read as follows:

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

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

2. Section 1033.41 is amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

§ 1033.41 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce yogurt, sour cream, sour mixtures (such as dips and dressings), cottage cheese, cottage cheese curd, pancake mixes, puddings, frozen cream, milk shake and ice milk mixes containing 20 percent or more total solids, frozen deserts, frozen dessert mixes, and any concentrated milk product in bulk, fluid form other than that used to produce a Class III product; and

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, nonfat dry milk, dry whole milk, dry whey, dry buttermilk, buttermilk biscuit mixes, casein, cheese (except cottage cheese and cottage cheese curd), dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, any product containing six percent or more nonmilk fat (or oil), and any product that contains by weight less than 6.5 percent nonfat milk solids.

* * * * *

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

3. Section 1036.15 is revised to read as follows:

§ 1036.15 Fluid milk product.

"Fluid milk product" means the following products or mixtures in either fluid or frozen form, including such products or mixtures that are flavored, cultured, modified (with added nonfat milk solids), concentrated, or reconstituted: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milk shake mixes containing less than 20 percent total solids, and mixtures of cream and milk or skim milk containing less than 10.5 percent butterfat. The term "fluid milk product" shall not include those products and mixtures listed in § 1036.40(b) (1) and (3), and (c)(1).

4. Section 1036.40 is amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

§ 1036.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce eggnog, yogurt, sour cream, sour cream products (e.g., dips), cottage cheese, cottage cheese curd, frozen cream, milk shake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and any concentrated milk product in bulk, fluid form other than that used to produce a Class III product; and

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, cheese (excluding cottage cheese and cottage cheese curd), evaporated or condensed milk or skim milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing six percent or more nonmilk fat (or oil), and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

* * * * *

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

5. Section 1040.40 is amended by revising paragraphs (b)(3), (c)(1)(ii), (c)(1)(iv), (c)(1)(v) and (c)(1)(vii) to read as follows:

§ 1040.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Frozen cream, milk shake and ice milk mixes containing 20 percent or more total solids, frozen desserts (including frozen yogurt), and frozen dessert mixes (including frozen yogurt mixes);

(iii) Any concentrated milk product in bulk, fluid form other than that used to produce a Class III product;

(c) * * *

(1) * * *

(ii) Butter, plastic cream, and anhydrous milkfat;

* * * * *

(iv) Any concentrated milk product in bulk, fluid form used to produce Class III products;

(v) Custards, puddings, pancake mixes, and buttermilk biscuit mixes;

* * * * *

(vii) Evaporated or condensed milk or skim milk (plain or sweetened) in a consumer-type package;

* * * * *

6. In § 1040.7, the introductory text of paragraph (b) and paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) are revised and a new paragraph (b)(6) is added to read as follows:

§ 1040.7 Pool plant.

* * * * *

(b) A supply plant which during the month meets one of the performance requirements specified in paragraph (b)(1), (2), (3) or (4) of this section. All supply plants which are operated by one handler, or all the supply plants for which a handler is responsible for meeting the performance requirements of this paragraph under a marketing agreement certified to the market administrator by both parties, may be considered as a unit for the purpose of meeting the performance requirements of paragraph (b)(1), (2), (3) or (4) of this section upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. In any months of March through August a unit shall not contain any plant which was not qualified under this paragraph either individually or as a member of a unit during the previous September through February.

(1) A supply plant from which each month not less than 30 percent of the total quantity of Grade A milk received at such plant from producers and from a handler described in § 1040.9(c), or diverted therefrom by the plant operator or a cooperative association (as described in § 1040.9(b)) pursuant to §1040.13, less any Class I disposition of fluid milk products which are processed and packaged in consumer-type containers in the plant, is transferred to plants described in paragraph (b)(5) of this section. Not more than one-half of the shipping percentage specified in this paragraph may be met through the diversion of producer milk from the supply plant to pool distributing plants.

(2) A plant operated by a cooperative association which supplies distributing plants qualified under paragraph (a) of this section, if the amount of producer milk of members of the association delivered by transfer from such association's plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section is as follows:

(i) During the month, is not less than that percentage which is designated by the market administrator for the current month pursuant to paragraph (b)(6) of this section; or

(ii) During the second through thirteenth preceding months, was not less than that percentage which was designated by the market administrator for the second through thirteenth preceding months pursuant (b)(6) of this section, if such plant was qualified under this paragraph in each of the preceding 13 months.

(3) A plant located in the State of Michigan which has been a pool plant for twelve consecutive months, but is not otherwise qualified under this paragraph, if it has a marketing agreement with a cooperative association and it fulfills the following conditions:

(i) The aggregate monthly quantity supplied by all parties to such an agreement as a percentage of the producer milk receipts included in the unit during the month is not less than that percentage designated by the market administrator for the current month pursuant to paragraph (b)(6) of this section; and

(ii) Shipments for qualification purposes shall include both transfers from supply plants to plants described in paragraph (b)(5) of this section, and deliveries made direct from the farm to plants qualified under paragraph (a) of this section.

(4) A supply plant that qualifies as a pool plant pursuant to paragraph (b)(1), (2), or (3) of this section in each of the months of September through February shall be a pool plant for the following months of March through August. The automatic pool qualification of a plant can be waived if the handler or cooperative requests in writing to the market administrator the nonpool status of such plant. The request must be made prior to the beginning of any month during the March through August period. The plant shall be a nonpool plant for such month and thereafter until it requalifies under paragraph (b)(1) of this section on the basis of actual shipments therefrom. To requalify as a pool plant under paragraph (b)(2) or (3) of this section or on a unit basis, such plant must first have met the shipping requirements of paragraph (b)(1) of this section for 6 consecutive months.

* * * * *

(6) The shipping percentage that applies to a handler described in paragraphs (b)(2) and (b)(3) of this section shall be determined in the following manner:

(i) The market administrator shall calculate the percentage that producer deliveries used in Class I represent of the total producer milk in that months' pool.

(ii) The following table shall be used in determining a cooperative's delivery requirement in qualifying its balancing plant or a unit of such plants as pool plants for the same month of the following year:

Producer deliveries used in Class I as a percentage of total producer milk	Applicable delivery percentage
Below 34.99 %	30
35%–39.99%	35
40%–44.99%	40
45%–49.99%	45
50% +	50

* * * * *

7. Section 1040.13 is amended by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 1040.13 Producer milk.

* * * * *

(d) * * *

(1) During each of the months of September through February, not less than one day's production of a producer must be physically received at a pool plant;

(2) The total quantity of producer milk diverted by a cooperative association or by the operator of a pool plant may not exceed 60 percent during each of the months of September through February of the total quantity of producer milk for which it is the handler;

* * * * *

[FR Doc. 87–16290 Filed 7–17–87; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Temporary Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to revise temporarily certain provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would reduce for September 1987 through March 1988 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status. The limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order would also be revised temporarily, from 40 percent to 55 percent, for the same period. The action was requested by a cooperative which operates pool supply plants and represents a significant number of producers whose milk is pooled under the order. The cooperative states that the temporary revisions are needed to maintain the pool status of producers historically associated with the Nebraska-Western Iowa order and to prevent uneconomic movements of milk.

DATE: Comments are due no later than on or before August 4, 1987.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, AMS, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674), and the provisions of §§ 1065.7(b)(3) and

1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of September 1987 through March 1988.

All persons who desire to submit written data, views or arguments about the proposed revisions should send two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 15th day after publication of this notice in the **Federal Register.**

The comments that are sent will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1065.7(b) and the diversion limits set forth in § 1065.13(d). The revisions would be applicable for the months of September 1987 through March 1988. The specific revisions would reduce the supply plant shipping percentage for the months of September 1987 through March 1988 by 10 percentage points from the present 40 percent to 30 percent. For the same period, the diversion limits on producer milk would be increased by 15 percentage points, from 40 percent to 55 percent.

Pursuant to the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa milk order, the Director of the Dairy Division may increase or decrease the supply plant shipping percentage as set forth in § 1065.7(b) by up to 20 percentage points during any month. Similarly, § 1065.13(d) allows the Director of the Dairy Division to increase or decrease the diversion limitation percentages by up to 20 percentage points during any month. These provisions help to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc. (AMPI), a cooperative association operating supply plants historically pooled under the Nebraska-Western Iowa order and representing producers supplying a significant portion of the producer milk pooled under the order, requested that for the months of September 1987 through March 1988, the supply plant shipping percentage requirement be reduced by 10 percentage points and the diversion limit on producer milk be increased by 15 percentage points.

The cooperative states that producer milk pooled under the Nebraska-Western Iowa order during the first five months of 1987 is less than 1 percent below the same period of 1986 despite the effect of the Dairy Termination Program (DTP). According to AMPI, 75–80 percent of the DTP sellouts have already taken place. AMPI concludes that non-participants in the Program have increased production substantially enough to offset the volume of production lost to the DTP. The cooperative expects that since the majority of buyouts took place in the second half of 1986, the volume of producer milk pooled in late 1987 and early 1988 will increase over the same month of the previous year. AMPI estimates that its own producers' milk pooled on the Nebraska-Western Iowa order will increase 3–5 percent over the previous year in the period for which the temporary revisions are requested.

When the projected production increases are combined with a decrease of 1.5 percent in Class I sales for January through May 1987 from the same months in 1986, AMPI estimates that the percentage of producer milk used in Class I during the months of September 1987 through March 1988 will be little more than 40 percent. AMPI states that a 40-percent level of Class I utilization would make it difficult to justify a requirement that 60 percent of producer milk be moved to pool plants. According to the cooperative, such a requirement would involve delivering milk to pool plants, then pumping it back out into trucks that would haul it to nonpool plants where the milk could be used. AMPI states that such double pumping has a detrimental effect on milk quality.

Because of the expected relationship between milk production and the Class I needs of the market, AMPI states that 55 percent would be a more appropriate limit on diversions of producer milk to nonpool plants than 40 percent, and that 30 percent would be a more appropriate shipping requirement for pool supply plants than 40 percent. According to the cooperative, the requested temporary revisions would allow AMPI to avoid pooling some producer milk on another Federal order or engaging in uneconomic and inefficient milk movements in order to maintain the pool status of the milk of its members who have historically supplied the fluid needs of the Nebraska-Western Iowa marketing area.

Therefore, it may be appropriate to relax the aforementioned provisions of §§ 1065.7(b) and 1065.13(d) for the months of September 1987 through March 1988 to prevent uneconomic shipments of milk, and to assure that dairy farmers long associated with the fluid milk market will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

PART 1065—[AMENDED]

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674. Signed at Washington, DC, on: July 15, 1987.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 87–16422 Filed 7–17–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of September trough November 1987 a portion of the Iowa Federal milk marketing order. The proposed suspension would increase the limits on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. A cooperative association requested the suspension in order to maintain pool status for the milk of its member producers without incurring costs for hauling and handling milk that would otherwise be unnecessary.

DATE: Comments are due on or before August 4, 1987.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 through 612 requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C.

605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for September through November 1987:

In § 1079.13(d) (2) and (3), the words "50 percent in the months of September through November and" and the words "in other months," as they appear in each such paragraph.

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 15th day after publication of this notice in the **Federal Register**.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would allow more than 50 percent of a handler's producer milk receipts to be moved directly from farms to nonpool plants (diverted) and still be priced under the order during the months of September, October, and November 1987. The proposal was submitted by Associated Milk Producers, Inc. (AMPI), a cooperative association of producers. AMPI maintains that the diversion limits need to be relaxed in order to avoid the costs associated with receiving and transferring milk merely to keep it pooled.

In support of its proposal, AMPI points out that the market's milk production in the first five months of 1987 was up one percent from a year earlier. At the same time, Class I use is essentially unchanged from a year earlier. AMPI expects that increased production relative to Class I demand will continue into the fall months because the whole herd buyout program has been mostly completed. Thus, the cooperative expects that it would have to move even more milk to nonpool manufacturing plants than it did last fall, when the Class I utilization percentage was about 30 percent for the same three months.

The Iowa order provides that up to 50 percent of a handler's producer milk supply may be diverted to nonpool plants each month during September through November. It is assumed that the other 50 percent of the milk supply will be needed to meet the market's demand for milk at bottling plants. AMPI experts, however, that because milk supplies are increasing relative to demand, the 50 percent diversion allowance will be inadequate to efficiently dispose of milk supplier associated with the market, but not needed at fluid milk plants.

The cooperative notes that if such reserve supplies cannot be pooled through the diversion provisions of the order, then the only alternative is to first receive the milk at pool plants and then reload it and haul it to nonpool plants. This, according to AMPI, results in handling and hauling costs that can be avoided if the milk is pooled by diversion, and in additional pumping of milk, which adversely affect milk quality.

If the 50 percent diversion limit is suspended, a cooperative association would be able to divert up to 70 percent of its producer milk supplies. However, other pooling standards would only allow the operator of a pool supply plant to divert up to 65 percent of the plant's producer milk supply and the operator of a pool distributing plant to divert up to 60 percent of the plant's producer milk supply.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

Part 1079—[AMENDED]

The authority citation for 7 CFR Part 1079 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 602–674. Signed at Washington, DC, on July 15, 1987.

William T. Manley,

Deputy Administrator Marketing Programs.

[FR Doc. 87–16421 Filed 7–17–87; 8:45am]

BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561, 563, and 571

[No. 87–785]

Classification of Assets; Extension of Comment Period

Date: July 14, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Home Loan Bank Board ("Board") is extending to September 1, 1987 the comment period on its proposed rule regarding classification of assets.

DATE: Comments must be received on or before September 1, 1987.

ADDRESS: Send comments to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lonergan, Staff Attorney, (202) 377–6458, Kathy L. Kresch, Staff Attorney, (202) 377–6417, Regulations and Legislation Division, Office of General Counsel; or Robert J. Pomeranz, Senior Policy Analyst, (202) 377–6782, Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552; Edward J. Taubert, Associate Director—Policy, (202) 778–2511, or Francis E. Raue, Policy Analyst, (202) 778–2517, Office of Regulatory Policy, Oversight and Supervision, Federal Home Loan Bank System, 900 Nineteenth Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On May 5, 1987, the Board proposed to amend its present regulations governing the classification of assets of institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). 52 FR 18369 (May 15, 1987). The proposed rule would ensure the use of broader, but judicious, examiner discretion in the classification of assets, consistent with the examination practices of the bank regulatory agencies. The proposal was published with a 60-day comment period which expired on July 14, 1987.

The Board notes that legislation concerning the recapitalization of the FSLIC is currently pending in the Congress; in its final form, this legislation may contain provisions relating to classification of assets. Under these circumstances, the Board believes that it will serve the public interest to

extend the comment period to ascertain what effects, if any, final recapitalization legislation may have on the proposed rule and to give the Board the benefit of any comments that might address the relationship between the two. Therefore, the Board is hereby extending the comment period on the proposal for an additional time. The comment period will now expire on September 1, 1987.

The Board notes that comments already submitted in response to the proposal need not be resubmitted during the extension of the comment period. The Board will consider all comments submitted in reaching a final decision; it encourages all interested parties to submit their comments on all aspects of the proposed rule.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87-16378 Filed 7-17-87; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 563 and 571

[No. 87-786]

Appraisal Policies and Practices of Insured Institutions and Service Corporations; Extension of Comment Period

Date: July 14, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Home Loan Bank Board ("Board") is extending to September 1, 1987 the comment period on its proposed rule regarding appraisal policies and practices of insured institutions and service corporations.

DATE: Comments must be received on or before September 1, 1987.

ADDRESS: Send comments to: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Kathy L. Kresch, Attorney, (202) 377-6417, or Daniel G. Lonergan, Attorney, (202) 377-6458, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552; or Diana Garmus, Policy Analyst, (202) 778-2525, Office of Regulatory Policy, Oversight, and Supervision, Federal Home Loan Bank System, 900 Nineteenth Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On May 5, 1987, the Board proposed to adopt a rule and a statement of policy pertaining to appraisal policies and practices of institutions insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") and service corporations of such institutions. 52 FR 18386 (May 15, 1987). The proposal is intended to codify the standards to be used by institutions and service corporations, as well as examiners and supervisory staff, in determining compliance with the appraisal requirements of 12 CFR 563.17-1 and 563.17-2. The proposal was published with a 60-day comment period which expired on July 14, 1987.

The Board notes that legislation concerning the recapitalization of the FSLIC is currently pending in the Congress; in its final form, this legislation may contain provisions relating to classification of assets. Under these circumstances, the Board believes that it will serve the public interest to extend the comment period to ascertain what effect, if any, the final recapitalization legislation may have on the proposed rule and to give the Board the benefit of any comments that might address the relationship between the two. Therefore, the Board is hereby extending the comment period on the proposal for an additional time. The comment period will now expire on September 1, 1987. The Board notes that comments already submitted in response to the proposal need not be resubmitted during the extension of the comment period. The Board will consider all comments submitted in reaching a final decision; it encourages all interested parties to submit their comments on all aspects of the proposed rule.

By the Federal Home Loan Bank Board.

John F. Ghizzonzi,

Assistant Secretary.

[FR Doc. 87-16379 Filed 7-17-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 040CE, Notice No. 23-ACE-34]

Special Conditions; DeVore Model 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions for the DeVore Model 100 Series Airplanes. The airplane will have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards of 14 CFR Part 23 of the Federal Aviation Regulations (FAR). These novel and unusual design features include the aerodynamic configuration of the airplane, the location of the engine and propeller, and the use of composite materials for primary flight structure, for which the regulations do not contain adequate or appropriate airworthiness standards. This notice contains the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of Part 23.

DATE: Comments must be received on or before August 19, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 040CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 040CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bobby W. Sexton, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. 040CE." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Type Certification Basis

The type certification basis for the DeVore Model 100 Airplane is as follows: Part 23, effective February 1, 1965, as amended by amendments 23–1 through 23–31 and §§ 23.2 and 23.785 (g) and (h) as amended by amendment 23–32, effective December 12, 1985; Part 36, effective December 1, 1969, as amended by amendments 36–1 through the amendment effective on the date of type certification; exemptions, if any; and the special conditions that may result from this proposal.

Background

On March 28, 1985, DeVore Aviation Corporation, 6104 B Kircher Boulevard, NE, Albuquerque, New Mexico, 87109, made application to the FAA for a type certificate for the DeVore Model 100 Airplane. The Devore Model 100 will be a two-place, single-engine airplane with a pusher propeller, tricycle landing gear, a gross weight of 1050 pounds, and constructed using composite material in the primary structure.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.17(a)(2).

The proposed type design of the DeVore Model 100 Airplane contains a number of novel or unusual design features not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design features of the DeVore Model 100 Airplane.

The DeVore Model 100 has been designed using new National Aeronautics and Space Administration (NASA) wing design technology which is novel and unusual relative to the wing designs envisaged when the requirements of § 23.221 were promulgated.

The current provisions of § 23.221 requires spin testing for single-engine airplanes and satisfactory recovery characteristics for either a one-turn spin, a six-turn spin, or the airplane must be shown characteristically incapable of spinning. After significant research, NASA, in cooperation with the General Aviation Manufacturers Association (GAMA), has developed new wing design technology which provides airplane control characteristics at minimum flight speeds which they believe are far superior to current airplane designs. NASA and GAMA believe this new wing design, commonly described as a "partialspan, drooped leading edge with a sharp discontinuity", provides considerably improved protection against inadvertent loss of control at slow speeds than does the present § 23.221 requirement to demonstrate recovery from a one-turn spin.

Since the earliest of civil certification standards, the phenomena of loss of control at minimum speed has been recognized and criteria has been established to avoid the hazardous conditions that result from that phenomena. The basic tenet was that airplanes would stall, and if stalled, they could spin. Therefore, spin recovery qualifications were established for both pilot and airplane. Subsequent history and accident records proved that just providing spin recovery capabilities did not prevent airplanes from inadvertently spinning. If a spin occurs near the ground, recovery is highly improbable.

After several iterations, the standards of present § 23.221 were set forth in Civil Air Regulations (CAR) Part 03–0 in 1945 and further clarified in Amendment 3–7 of CAR 3 in May 1962. The preamble to these standards in CAR 3 clearly indicates that the objective was "spin prevention" rather than "spin recovery" for normal category airplanes. The one-turn spin tests were intended to be investigations of the ability to regain control of the airplane after delaying recovery or abusing the controls during stalls rather than true spin tests. Concurrent with changes to the airplane spin certification requirements, the pilot licensing rules, CAR Part 20, was changed in 1949 to eliminate spin proficiency demonstrations stating that emphasis on the recognition of, and recovery from, stalls would contribute more effectively to safety.

By strengthening stall criteria in airplane and airman certification and by relaxing spin requirements for both airplane and airman certification, the stated intent was to provide an incentive for manufacturers to build, and operators of schools to use, spin-resistant or spin-proof airplanes. The technology to meet those objectives has been slow in coming. In the extensive NASA research program conducted to develop suitable technology, NASA has coordinated closely with FAA in establishing criteria that would provide equal or better potential for avoiding loss of control at the stall or minimum flight speed. It is emphasized that the intent was not to design an airplane that is absolutely spin-proof, but rather one that would be virtually impossible to accidently spin so that normal use of flight controls would recover or regain straight flight. The emphasis is on "normal" use of flight controls such that no special training or unique flight control movements are necessary to regain control. American Institute of Aeronautics and Astronautics (AIAA) Paper No. 86–9812 presented by NASA personnel to the AIAA serves as a good reference for the technical background for the NASA/GAMA proposed spin-resistance criteria as well as the historical aspect of the spin problem in airplanes.

The current requirements of § 23.221 may not be adequate or appropriate for the unique wing design of the DeVore Model 100 Airplane. Therefore, in accordance with § 21.16, a special condition is proposed to establish adequate safety criteria relative to spin requirements.

The DeVore Model 100 airframe is made of advanced composite material and is assembled by the extensive use of bonding. This material and its assembly is completely different from the typical semi-monicoque aluminum airframes that have been predominant since the early 1940's. Composite materials of the type used on the DeVore Model 100 Airplane are generally not susceptible to initiation of fatigue cracks by the application of repetitive loads, but are susceptible to damage in the form of cracks, breaks, and delaminations from intrinsic and discrete sources growing under application of repetitive loads. Because of this and other factors, the FAA has determined that the wing fatigue requirements of § 23.572 are inadequate to assure that composite material structure can withstand the repeated loads of variable magnitude expected in service.

The use of composite materials and extensive bonding of these materials in primary flight structure is a novel and unusual design feature with respect to the type of airplane construction envisaged by the existing airworthiness standards of Part 23. Because the requirements of Part 23 do not require the level of substantiation necessary for composite material structure, special conditions are proposed to include the necessary airworthiness standards as a part of the type certification basis for the DeVore Model 100 Airplane. This special condition is proposed to assure that a level of safety exists for airplanes made from bonded, composite materials equivalent to those existing for aluminum airplanes.

The proposed special condition will require the wings and other composite structural components critical to safe flight be evaluated by damage tolerance criteria. The damage tolerance consideration includes principal structural elements such as the wing, wing carry-through, wing attaching structure, fuselage, and the vertical and horizontal stabilizers and their carry-through structures, since failure of these structures could have catastrophic results. When damage tolerance is shown to be impractical, the proposed special condition is worded to permit approval, based on safe-life testing. Metal details may continue to be evaluated to the fatigue requirements of § 23.572.

Damage tolerance criteria for composite structure, in combination with the existing material requirements of Part 23, such as §§ 23.603 and 23.613, will provide a level of safety for the composite material airframe structure used in the DeVore Model 100 Airplane equivalent to that required by the airworthiness standards of Part 23.

In addition to those components requiring fatigue/damage tolerance evaluations, other components that are critical to flight safety, such as moveable control surfaces and wing flaps, must also be protected against loss of strength or stiffness. Protection conventionally is provided through design and inspection. Since composite material strength is susceptible to manufacturing defects and damage from discrete sources, including lightning strikes, process controls and inspectibility are limited; therefore, structures design must provide for these limits with adequate protection allowances.

The lack of adequate service experience with composite material structures in airplanes type certificated to the airworthiness standards of Part 23, the unusual mechanical properties characteristics, and the experience with composite material structural bonding, to date, necessitate proposing special conditions to assure an appropriate level of safety for the DeVore Model 100 airframe structure. These proposed special conditions are intended to require: (1) Accounting for environmental effects; i.e., temperature and humidity on material mechanical properties in all structural substantiation analysis and test, (2) limit load residual strength with impact damage from discrete sources; (3) ability to carry ultimate load with realistic intrinsic and discrete impact damage at the threshold of detectability, and (4) design features to prevent disbonds greater than the disbonds for which limit load capability has been shown. Proof-testing of each production component to limit load and reliance on manufacturing quality control procedures between limit and ultimate load may be used in lieu of "design features," provided each bonded joint is subjected to its critical design limit load during the proof testing. Acceptable non-destructive testing techniques do not yet exist in state-of-the-art composite technology to reliably identify weak bonds. However, proof-testing of each production article may be discontinued if such tests are developed and accepted by the FAA.

Because the composite material and bonding may require preventative maintenance and inspection procedures different from those commonly utilized for aluminum airframes, the proposed special condition requires that instructions for continued airworthiness be established in addition to those required by § 23.1529.

Since the aft-location of the propeller on the DeVore Model 100 Airplane is an unconventional design feature, passenger and ground personnel may be less aware of the proximity of the propeller blades. A special condition is proposed to require the necessary visibility of the propeller disc corresponding to similar requirements of Parts 27 and 29 concerning the conspicuity of the tail rotor.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the DeVore Model 100 Airplanes:

1. Spin Resistant Requirement

DeVore must either comply with § 23.221 or the airplane must be shown to have spin-resistant safety features by complying with the following:

(a) During the stall maneuvers contained in § 23.201, the pitch control must be pulled back and held against the stop. Then, using ailerons and rudders in the proper sense of direction, it must be possible to maintain wings-level flight within 15 degrees of bank and to roll the airplane from a 30-degree bank in one direction to a 30-degree bank in the other direction.

(b) Reduce the airplane speed using pitch control at a rate of approximately one knot per second until the pitch control reaches the stop. With the pitch control pulled back and held against the stop, full rudder control must be applied in a manner to promote spin entry, for a period of seven (7) seconds or through a 360-degree heading change, whichever occurs first. If the 360-degree heading change is reached first, it must have taken no less than four (4) seconds. This maneuver must be performed with the ailerons in neutral position, and with the ailerons deflected opposite the direction of turn or in the most adverse manner. Power or thrust and airplane configuration must be set in accordance with § 23.201(f) without change during the maneuver. At the end of seven (7) seconds or a 360-degree heading change, as appropriate, the airplane must respond immediately and normally to primary flight controls applied to regain coordinated, unstalled flight without reversal of control effect and without exceeding the temporary control forces specified by § 23.143(c).

(c) Compliance with §§ 23.201 and 23.203 must be demonstrated with the airplane in uncoordinated flight, corresponding to one-ball-width displacement on a slip-skid indicator, unless one-ball-width displacement cannot be obtained with full rudder, in which case, the demonstration must be with full rudder applied.

2. Evaluation of Composite Structure

In lieu of complying with § 23.572, and in addition to the requirements of §§ 23.603 and 23.613, airframe structure, the failure of which would result in

catastrophic loss of the airplane, in each wing, wing carry-through, wing attaching structure, fuselage, vertical and horizontal stabilizers and their carry-through structures, wing flap, and movable control surface must be evaluated to damage tolerance criteria prescribed in paragraphs (a) through (i) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (j) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (g) of this special condition.

(a) It must be demonstrated by tests, or by analysis supported by tests, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedures employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstrations, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operation and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) Each wing, wing carry-through, wing attaching structure, wing flap, moveable control surface, and wing-mounted vertical stabilizer structure must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extent of damage consistent with the results of the damage tolerance evaluations.

(g) In lieu of a non-destructive inspection technique which assures ultimate strength of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraphs (f) and (g) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(h) The effects of material variability and environmental conditions; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials must be accounted for in the damage tolerance evaluations and in the residual strength tests.

(i) The airplane must be shown by analysis to be free from the flutter to V_D with the extent of damage for which residual strength is demonstrated.

(j) For those structures where the damage tolerance method is shown to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to be able to withstand the repeated loads of variable magnitude expected in service. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

3. Propeller Marking

In the absence of specific regulations, the propeller must be marked so that the disc is conspicuous under normal daylight ground conditions.

Issued in Kansas City, Missouri on July 6, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-16341 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 23

[Docket No. 037CE, Notice No. 23-ACE-33A]

Special Conditions; Ballistic Recovery System, Inc.; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for the submission of public comments relating to Notice 23-ACE-33 (52 FR 19517-19519, dated May 26, 1987), which was closed on June 25, 1987. That notice proposed special conditions necessary for supplementary type certification of the Ballistic Recovery System, Inc. (BRS) Emergency Parachute System. This system is called the General Aviation Recovery Device (GARD-150) and is intended to be installed in the Cessna 150/A150 Series and 152/A152 Model Airplanes. The extension is in response to a petition by Mr. John Cesnik, on behalf of BRS, who contends that BRS takes issue with several of the proposed special conditions and requires an additional 60 days to incorporate up-to-date information in their response to the notice. The FAA has determined that it would be in the public interest to extend the comment period.

DATE: Comments must be received on or before August 19, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 037CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 037CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ronald K. Rathgeber, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications

should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 037CE." This postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice and Notice No. 23–ACE–33 (previously published in the **Federal Register** on May 26, 1987) by submitting a request to the Federal Aviation Administration, Standards Office, ACE–110, Attn: ACE–112, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106, or by calling (816) 374–5688. Communications must identify the notice number of this NPRM.

Background

On January 12, 1987, Ballistic Recovery Systems, Inc. (BRS), 9242 Hudson Boulevard, Lake Elmo, Minnesota 55042, filed an application for a supplemental type certificate (STC) to install the GARD–150 parachute recovery system on Cessna 150/A150 Series and 152/A152 Model Airplanes. The applicant proposes to certificate a parachute recovery system which is intended to recover an airplane in emergency situations; such as mid-air collision, loss of engine power, loss of airplane control, severe structural failure, pilot disorientation, or pilot incapacitation. The GARD–150 system, which is only to be used as a last resort, is intended to prevent serious injuries to the airplane occupants by parachuting the airplane to the ground.

The FAA considered the features proposed by BRS for the GARD–150 installation in the Cessna 150/A150 Series and 152/A152 Model Airplanes and concluded that, notwithstanding the existing requirements applicable to these airplanes, which did not envision the use of such systems, special conditions should be promulgated for such systems to provide the necessary level of safety. A notice of proposed special conditions was published in the **Federal Register** (52 FR 19517–19519, dated May 26, 1987) for the GARD–150 system. This notice requested that comments be received on or before June 25, 1987.

On June 12, 1987, Mr. John Cesnik, on behalf of BRS, petitioned for a 60-day extension of the comment period for Notice 23–ACE–33. BRS stated in their petition, that, for technical reasons, they take issue with proposed Special Conditions 4(f), 5(b), and 7(b), and they need additional time to incorporate up-to-date information for their response to the notice. BRS requires additional time to evaluate the advantages of a parachute, ground-jettisoning capability. Also, the GARD–150 system will use a pressure pack parachute system positively deployed by a solid propellant rocket motor similar to that used in remotely-piloted-vehicles (RPV's) and military ejection seats. For this reason, BRS has requested the additional comment period to obtain and evaluate data concerning: (1) The cannister venting requirements, (2) the parachute repack cycle, and (3) the similarity of the BRS emergency parachute to the auxiliary parachute requirements of § 105.43(a)(2) of the FAR.

The FAA has reviewed this petition and determined that extending the comment period would afford the petitioner, as well as other interested persons, the opportunity to participate in the development of these final special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

Extension of Comment Period

In consideration of the BRS, Inc., petition, the FAA concludes that extending the comment period for an additional 60 days would be in the public interest. Accordingly, the comment period for Notice No. 23–ACE–33 is extended. The comment period will close August 28, 1987.

The authority citation for these special conditions is as follows:

Authority: Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(a).

Issued in Kansas City, Missouri on June 26, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–16336 Filed 7–17–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 21 and 23

[Docket No. 023CE, Notice No. 23–ACE–23A]

Special Conditions; Petersen Aviation, Inc., Modified Cessna Model 210 Series Airplanes to Incorporate Anti-Detonation Injection (ADI) System Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed special conditions.

SUMMARY: This supplemental notice proposes to adopt an additional special condition for Petersen Aviation, Inc., modified Cessna Model 210 Series Airplanes to incorporate ADI system provisions. This special condition, on ADI fluid quantity indicators, was inadvertently omitted from the original Notice of Proposed Special Conditions. This notice presents this proposed special condition for public comment and completes the proposed special conditions for the ADI system installation.

DATE: Comments must be received on or before August 19, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 023CE, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 023CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oscar Ball, Aerospace Engineer, Standards Office, ACE–110, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106, telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified in this

notice. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested parties both before and after the closing date for submission of comments.

Background

On March 25, 1986, Petersen Aviation, Inc., Route 1, Box 18, Minden, Nebraska 68959, submitted an application for supplemental type certificate (STC) approval of the design changes necessary to incorporate an ADI system on the Cessna Model 210 Series Airplanes. This installation incorporates ADI tanks, pumps, lines, and associated control systems to supply ADI fluid to the engine in measured quantities to allow the engine to be operated on automobile gasoline (autogas). The engine will be previously certificated for use of autogas with ADI independently of the airplane installation certification.

ADI systems are considered novel and unusual design features; therefore, to enable the certification of such systems, special conditions were developed and published in the **Federal Register** as a Notice of Proposed Special Conditions on August 21, 1986 [51 FR 29943]. Subsequently, it was discovered that one paragraph of the proposed special conditions had inadvertently been omitted from the notice. This supplemental notice presents that omitted paragraph for public comment.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, Tires. The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g). (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Additional Special Conditions

Accordingly, the Federal Aviation Administration proposes the following additional special condition as part of the type certification basis for Cessna Model 210 Series Airplanes modified to incorporate the Petersen Aviation, Inc., Anti-Detonation Injection (ADI) System.

PART 23—[AMENDED]

§ 23.1337 [Amended]

Proposed Special Condition 2 is revised by adding a new paragraph (k) to read:

* * * * *

(k) In § 23.1337(b), for ADI systems, replace the lead-in paragraph with "There must be a means to indicate the quantity of ADI fluid in each tank. A dipstick, sight gauge, or an indicator, calibrated in either gallons or pounds, and clearly marked to indicate which scale is being used, may be used. In addition,—"

Issued in Kansas City, Missouri on July 6, 1987.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 87-16342 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ASW-29]

Proposed Alteration of Transition Area; Chickasha, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area at Chickasha, OK. The intended effect of the proposed action is to reduce the amount of controlled airspace encompassing the Chickasha Municipal Airport, Chickasha, OK. This action is necessary since the VOR/DME RWY 17 Standard Instrument Approach Procedure (SIAP) to Chickasha Municipal Airport was canceled when the Oklahoma City VORTAC was relocated. A new VOR/DME-A SIAP has been published to serve the airport and this action provides adequate controlled airspace for all SIAP's now serving the Chickasha Municipal Airport.

DATE: Comments must be received on or before August 17, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Department of Transportation, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0530; telephone: (817) 624-5530.

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-ASW-29." 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 Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, 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 Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the

Federal Aviation Regulations (14 CFR Part 71) to revise the existing 700-foot transition area at Chickasha, OK. This action is necessary due to the cancellation of the VOR/DME RWY 17 SIAP, which was canceled due to the relocation of the Oklahoma City VORTAC. This action will reduce the size of the transition area by eliminating that area beyond 6.5 miles northeast of the Chickasha Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated 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 Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

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.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Chickasha, OK [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Chickasha Municipal Airport (lat. 35°05'47" N., long. 97°58'08" W.), and within 2.5 miles each side of the 180° bearing from the airport extending from the 6.5-mile radius to 7.5 miles south of the airport.

Issued in Fort Worth, TX, on June 30, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-16339 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD7 87-25]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, SC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the South Carolina Department of Highways and Public Transportation (SCDHPT), the Coast Guard is considering a change to the regulations governing the Wappoo Creek bridge on State Road 171 at Charleston, South Carolina, to permit further limitations on the number of openings during certain periods. This proposal is being made because of complaints about vehicular traffic delays. This action should accommodate the needs of highway traffic and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before September 3, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, FL 33130-1608. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lee, Chief, Bridge Section, Seventh Coast Guard District, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are inivited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will evalute all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information: The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Wappoo Creek bridge across the Atlantic Intracoastal Waterway currently has closed periods to accommodate weekday commuter traffic from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. Additional restrictions are in effect on weekdays from 9 a.m. to 4 p.m. during the months of April, May, October, and November, when the bridge is required to open only on the hour, 20 minutes past the hour, and 40 minutes past the hour. Weekend limitations are in effect year-around from 2 p.m. to 6 p.m., when the bridge is required to open only on the hour and half-hour.

SCDHPT, elected officials, and local residents have asked for substantial additional restrictions on bridge openings. The Coast Guard has carefully evaluated information about highway traffic volumes and drawbridge operations at this location. Although additional limitation on bridge openings may be needed to reduce highway traffic delays, the data do not appear to justify the extensive restrictions proposed by SCDHPT.

The proposed regulation developed by the Coast Guard would extend the afternoon closed period by 30 minutes, establish a 30-minute "off-peak" weekday operating schedule for 8 months of the year, and adjust weekend restrictions by allowing a 30-minute schedule of operations for 10 hours a day, 8 months each year. These additional controls on bridge openings should improve highway traffic flow substantially, compared to existing conditions.

Year-around limitations on off-peak weekday operation and weekend openings are not proposed because of the significantly reduced level of bridge openings during the winter months. Increasing the length of the weekday morning and afternoon closed periods to 3 hours has not been adopted because of the substantial burden to waterway users that could result. Limiting bridge openings to 5 minutes is not proposed because of the potential hazards to navigation that could occur if large numbers of waiting vessels were forced to attempt to pass through the draw in a very short period of time.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing , the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46: 33 CFR 1.05–1(g).

2. Section 117.911(d) is revised as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(d) *SR 171/700 bridge across Wappoo Creek, mile 470.8 at Charleston.* The draw shall open on signal; except that the bridge need not open from 6:30 a.m. to 9 a.m. and from 4 p.m. to 6:30 p.m., Monday through Friday, except federal holidays. From April 1 to November 30, from 9 a.m. to 4 p.m., Monday through Friday, except federal holidays, the bridge need not open except on the hour and half-hour. From April 1 to November 30, from 9 a.m. to 7 p.m., Saturdays, Sundays and federal holidays, the bridge need not open except on the hour and half-hour.

* * * * *

Dated: July 2, 1987.

M.J. O'Brien,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District Acting.

[FR Doc. 87–16405 Filed 7–17–87; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS–400006; FRL–3213–7]

Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is granting a petition by proposing to delete the substance butyl benzyl phthalate from the list of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. EPA proposes to amend the proposed rule codifying the list of chemicals published on June 4, 1987 (52 FR 21152). Section 313(e) allows any person to petition the Agency to modify the list of toxic chemicals for which toxic chemical release reporting is required.

Comments: Written comments should be submitted on or before October 19, 1987.

ADDRESSES: Written comments should be submitted in triplicate to: Section 313 Petition Coordinator, OTS Docket Clerk, OTS Reading Room NE–G004, Environmental Protection Agency, Mail Stop TS–793, 401 M St., SW., Washington, DC 20460. Attention: Docket Control Number OPTS–400007.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–542, 401 M St., SW., Washington, DC 20460, (202) 554–1411.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

The response to the petition and proposed deletion are issued under section 313(e)(1) of Title III of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499, "SARA" or "the Act"). Title III of SARA is also referred to as the Emergency Planning and Community Right-to-Know Act of 1986.

B. Background

Title III of SARA is intended to encourage and support emergency planning efforts at the State and local level and to provide the public and local governments with information concerning potential chemical hazards present in their communities.

Section 313 of Title III requires owners and operators of certain facilities that manufacture, process, or otherwise use a listed toxic chemical to report annually their releases of such chemicals to the environment. Only facilities that have manufacturing operations (in Standard Industrial Classification Codes 20 through 39) and have 10 or more employees must report. Such reports are to be sent to both EPA and the State in which the facility is located. The basic purpose of this provision is to make available to the public information about total annual releases of toxic chemicals from industrial facilities in their community. In particular, EPA is required to develop a computer data base containing this toxic chemical release information and to make it accessible by telecommunications on a cost reimbursible basis.

For reporting purposes, section 313 establishes an initial list of "toxic chemicals" that is composed of 329 entries, 20 of which are categories of chenicals. This list is a combination of lists of chemicals used by the States of Maryland and New Jersey for emissions reporting under their individual right-to-know laws. Section 313(d) authorizes EPA to modify by rulemaking the list of chemicals covered either as a result of EPA's self-initiated review or in response to petitions under section 313(e).

Section 313(e)(1) provides that any person may petition the Agency to add chemicals to or delete chemicals from the list of "toxic chemicals." EPA issued a statement of policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479). This statement provided guidance to potential petitioners regarding the recommended contents and format for submitting petitions. The Agency must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition is denied. If EPA fails to respond within 180 days, it is subject to citizen suits. In the event of a petition from a State governor to add a chemical under section 313(e)(2), if EPA fails to act within 180 days, EPA must issue a final rule adding the chemical to the list. Therefore, EPA is under specific constraints to evaluate petitions and to issue a timely response.

State governors may petition the Agency to add chemicals on the basis of any one of the three toxicity criteria listed in section 313(d) (acute human health effects, chronic human health effects, or environmental toxicity). Other persons may petition to add chemicals only on the basis of acute or chronic human health effects. EPA may delete substances only if they fail to meet any

of the criteria contained in section 313(d).

Chemicals are evaluated for inclusion on the list based on the criteria in section 313(d) and using generally accepted scientific principles or the results of properly conducted laboratory tests, or appropriately designed and conducted epidemiological or other population studies, that are available to EPA.

II. Description of Petition

The Monsanto Company has petitioned the Agency to delete butyl benzyl phthalate (BBP), CAS No. 85–68–7, from the list of toxic chemicals. The Agency received the petition on January 12, 1987, and under the statutory deadline must respond by July 10, 1987. Monsanto submitted extensive documentation to support its claim that BBP fails to meet any of the statutory criteria in section 313(d).

III. EPA's Review of Butyl Benzyl Phthalate

A. Chemistry Profile

Monsanto submitted documentation of the physical/chemical properties of BBP. The Agency was able to verify certain of these properties, including vapor pressure and solubility (Ref. 3).

B. Toxicity Evaluation

There is a considerable amount of data available concerning the health and environmental effects of butyl benzyl phthalate. EPA reviewed data on the following effects that may be associated with this chemical: Acute toxicity, carcinogenicity, mutagenicity (i.e., heritable gene and chromosome mutations), developmental toxicity, reproductive toxicity, neurotoxicity, other chronic health effects (including hepatotoxicity), and acute and chronic ecotoxicity. These data consist of documents provided by Monsanto, documents obtained from the National Toxicology Program (NTP) of the National Institutes of Health and other Government agencies, and articles retrieved from a search of recent available literature (over the last 10 years). A more comprehensive discussion of the various toxicities and supporting documentation can be found in the document titled "Hazard Assessment of n-Butyl Benzyl Phthalate" in the public docket (Ref. 7).

1. *Acute toxicity (human health).* BBP has very low acute toxicity, as shown by rat oral and rabbit dermal acute toxicity values, and is practically nonirritating to rabbit eyes and skin.

2. *Carcinogenicity.* An NTP bioassay was conducted in female rats and in mice of both sexes. Female rats had increased incidences of leukemia at the high dose only (low-dose females and untreated controls had the same incidence of leukemia), and male and female mice showed no carcinogenic response. The Agency agrees with the conclusion reached by the International Agency for Research on Cancer that these results, taken together, are equivocal evidence of carcinogenicity. The Carcinogen Assessment Group has preliminarily placed BBP in EPA's weight-of-evidence category D (i.e., available evidence inadequate to determine human carcinogenic potential). EPA further concludes that, for purposes of section 313, the available evidence does not indicate that BBP causes or can reasonably be anticipated to cause cancer in humans.

3. *Mutagenicity.* BBP was negative in a variety of genotoxicity tests available for review. The available evidence is insufficient to establish that BBP causes or can reasonably be anticipated to cause heritable genetic mutations in humans.

4. *Developmental/reproductive toxicity.* The only data on developmental toxicity available to EPA is a Monsanto-sponsored teratology study of BBP by Industrial Bio-Test Laboratories, Inc. (Ref. 7). At the dose levels used (0, 3, and 10 mg/kg/day), no signs of maternal or developmental toxicity were seen, which indicates that the dose levels used were too low. However, given the reputation of Industrial Bio-Test Laboratories and the suspicion with which their data are regarded, it can be concluded that essentially there are no data to assess or predict the potential developmental toxicity of BBP at this time.

Although BBP has been shown to cause adverse effects on testicular tissue as well as other organs of the male reproductive system, these effects are only seen at very high doses (>1 g/kg/day) and are not seen at lower levels.

5. *Neurotoxicity.* Available data indicate that BBP is not significantly neurotoxic in animals in that the effects seen were not severe or irreversible.

6. *Other chronic health effects.* Effects on the liver and other organs, if elicited at all, seem to occur only at very high doses (> 1 g/kg/day). Blood-related effects noted in two studies are viewed as biologically insignificant.

7. *Ecotoxicity.* Based on the information discussed below, EPA has concluded that BBP is moderately but not highly ecotoxic.

All aquatic acute toxicity values were >100 ppb (in fact, 4 out of 6 fish species were >1 ppm); all mammalian acute LD_{50}s were >5 mg/kg; all aquatic chronic toxicity Maximum Acceptable Toxicant Concentrations (MATCs) were >10 ppb (in fact, 3 out of 5 algae species were >100 ppb); and all mammalian chronic MATCs were >2 mg/kg food. The toxicity of BBP is expected to be lower for fish ingesting sediments containing BBP than for organisms exposed to BBP in the water column, because the fish will metabolize BBP by hydrolyzing it to a less toxic form.

There is low concern for potential bioconcentration because bioconcentration factors for aquatic organisms are all below 1,000. This value is an approximate demarcation between a low concern level and the beginning of a range of values of moderate concern for bioconcentration.

The half-life for primary biodegradation (deesterification) of BBP (a diester) is approximately 2 days, which indicates that the substance should have low persistence in the environment.

C. Use, Release, and Exposure Analysis

Because the Act provides EPA with broad discretion to deny section 313 petitions, the Agency has undertaken to confirm Monsanto's documentation of the production, use, release, and environmental exposure scenarios for BBP (Refs. 1, 4, and 5).

1. *Production.* The Agency has confirmed that Monsanto is the sole U.S. manufacturer of BBP. The chemical is produced exclusively at a plant in Bridgeport, NJ. EPA's estimate of the 1986 U.S. production volume for BBP is 64 to 65 million pounds, which represents an average growth per year of 1.5 percent from 1984. Annual imports of BBP, primarily from Western Europe, are believed to be approximately 1 million pounds.

EPA's market analysis indicates that more than half of all BBP (perhaps as much as 90 percent, according to Monsanto) is used as a plasticizer in resilient vinyl flooring. Other major applications for BBP are as a plasticizer in polyvinyl acetate foams and adhesive emulsions, as an inert pesticide ingredient, and in a variety of coatings.

2. *Release.* The releases of BBP to air and land from the manufacturing facility are quite low based on data supplied by Monsanto. The aqueous effluent levels from the plant have also been found to be low, with values of <5 ppb, 1.9 ppb, and 1.5 ppb recorded as a result of EPA and/or Monsanto monitoring during the three years 1977 to 1979. Monitoring by EPA and Monsanto in 1984 found all effluent levels to be below detection limits that ranged from 10 to 50 ppb.

While sufficiently specific and quantitative data were not available on processing and use operations to permit a clear and comprehensive release estimate, EPA's limited analysis indicates that it is possible that cleanup operations during processing and after shipping of water-based products, as well as migration of the plasticizer from discarded articles, may contribute to the very low levels of BBP found in the environment. Certain sources of release, such as migration of BBP from end-use articles, would not be reportable under section 313. In monitoring studies of effluents from the plastics molding and forming industry (which would be covered by this requirement), BBP was sought, but not detected (Ref. 2). For this reason, the chemical is not regulated under EPA's Effluent Limitations Guidelines and Standards for this industry.

3. *Exposure.* While unable to estimate the potential releases of BBP from processing and use, EPA was able to quantify the levels at which BBP is present in the environment. When BBP is detected in surface waters, it is usually found at concentrations of less than 1 ppb to 10 ppb. Additionally, when BBP is found in surface waters, sediment concentrations are about 50-fold higher than surface water concentrations. These conclusions are based on monitoring data from the STORET database maintained by EPA on the levels of environmental pollutants in aquatic systems. Monsanto cited less extensive environmental monitoring studies in their petition (Ref. 6) which indicated geometric mean BBP concentrations of <0.5 ppb in surface water and <200 ppb in sediment. The petitioner also stated that BBP has been found in small sample of fish (3 of 62 samples), but indicated that contamination through handling might have led to erroneous results. Monsanto's own sampling of the Delaware River found BBP concentrations of less than 1 ppb.

In a study using 1983 data from the 10 EPA Regional Offices, BBP was found at 47 out of 358 sites (13.1 percent) covered by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). These sites are a statistically representative subset of National Priority List (NPL) and CERCLA sites.

D. Summary of Technical Review

The hazard evaluation shows that human health effects from BBP are not expected to be significant for purposes of section 313. BBP does have moderate aquatic toxicity, with acute and chronic effects values generally greater than 1 ppm and 100 ppb, respectively. However, the very low monitored concentrations of BBP in the aquatic environment (typically not more than 1–10 ppb), coupled with the low concern for persistence and bioconcentration, indicate that BBP's moderate toxicity does not represent a significantly high level of risk for the purposes of section 313.

IV. Butyl Benzyl Phthalate's Relationship to Other Environmental Lists

A. State Environmental Lists

BBP emissions are generally not regulated at the state level. The Agency is aware of one regulation by the State of New York to limit air emissions of BBP. Furthermore, Monsanto has had petitions to remove BBP granted by three State community right-to-know programs: California, Illinois, and New Jersey. The inclusion of BBP initially on many states' lists resulted from BBP's inclusion on the section 307(a) list under the Clean Water Act (also known as the water priority pollutant list).

B. EPA Environmental Lists

BBP was included on the initial section 307(a) list under the Clean Water Act. Monsanto has petitioned the Agency twice (in 1980 and in 1986) to remove BBP from the section 307(a) list. The Agency denied the 1980 petition; the decision regarding the 1986 petition is still pending.

Although the Agency believes that its review of the available data on BBP justifies a decision not to impose a continuing reporting obligation on manufacturers, processors and users pursuant to SARA section 313, the Agency also believes that listing under section 307(a) may continue to be appropriate. The SARA section 313 list contains a broad range of chemicals which may cause human health and/or environmental effects from a variety of pathways. SARA directs the Agency that substances listed solely for environmental toxicity should be restricted to 25 percent of the total list. The section 307 list is more narrow, focussing entirely on substances which pose a risk to human health or the environment by exposure from water. The legislative history of the Clean Water Act of 1977 directs the Agency that "no pollutant listed in Committee Print Numbered 95–30 should be deleted without a clear finding that delisting will not compronise adequate control over the discharge of toxic pollutants" (Cong. Rec. Daily ed. S. 19649). Particularly where BBP continues to be present in surface waters, sediments and fish, the Agency believes that continued section 307 listing may be appropriate. However the Agency has not made a final decision on the section 307(a) petition.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), considers BBP a hazardous substance for purposes of requirements for reporting all releases over 100 pounds to the National Response Center. (See CERCLA section 103).

V. Explanation for Proposed Action To Delete

A. General Policy

EPA has broad discretion in determining whether to grant or deny petitions from the general public under section 313. When granting petitions, the Agency has a clear obligation to show how the granting of the petition fulfills the statutory criteria the Agency is to use in section 313(d) when modifying the list of toxic chemicals. However, in the Joint Conference Committee Report, the conferees made clear that EPA may conduct risk assessments or site-specific analyses in making listing determinations under section 313(d). In cases of petitions to delist substances, EPA believes that such analyses are important factors in determining whether removal of a substance from the list would serve the public's right to know. These analyses might show that while the toxicity of the substance is not of high concern, exposures to humans and the environment are significant enough to warrant maintaining the substance on the list.

B. Reasons for Proposing Deletion

EPA is granting the petition submitted by the Monsanto Company by proposing to delete butyl benzyl phthalate from the list of toxic chemicals subject to toxic chemical release reporting.

The decision to grant the petition and to propose rulemaking to modify the list is based on the toxicity evaluation and confirmed by the Agency's review of other factors including ambient exposure levels. The Agency believes: (1) That there is insufficient evidence to establish that BBP causes significant adverse effects to humans, and (2) that BBP, while moderately toxic in the environment, is not of sufficient concern in the environment to warrant listing under section 313.

Although EPA believes BBP is aquatically toxic, based on available monitoring data, the ambient concentrations are not expected to exceed Maximum Acceptable Toxicant Concentration (MATC) levels for

chronic aquatic toxicity. The appearance of BBP even at these low levels is inexplicable because the available monitoring data at the sole manufacturing site and at plastic forming facilities have shown extremely low releases of BBP. However, our data on processing facilities is limited.

Based on our data, the Agency does not anticipate that facilities reporting under section 313 will provide significant information on releases of BBP. However, because of the presence of the chemical in the environment, and the uncertainty surrounding processors' releases, the Agency believes that it would be prudent to review the first-year reports from facilities that manufacture, import, process, or use BBP in order to confirm that there are no substantial releases of BBP from covered facilities. The Agency plans to promulgate the deletion of BBP only after the 1987 reports have been reviewed by the Agency.

VI. Rulemaking Record

The record supporting this proposed rule is contained in docket control number OPTS–400006. All documents, including an index of the docket, 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, Room NE–G004, 401 M St., SW., Washington, DC 20460.

VII. Request for Public Comment

The Agency requests comment on all the analyses conducted for this review, and on the Agency's proposal to delete butyl benzyl phthalate from the list of toxic chemicals. EPA also requests that any pertinent data on BBP be submitted to the address at the front of this notice.

VIII. References

(1) Delpire, L. SARA Title III, Section 313: Petition on Butyl Benzyl Phthalatge—Exposure Assessment. USEPA. 1987.

(2) Environmental Protection Agency (EPA). Development Document for Effluent Limitations Guidelines and Standards for Plastics Forming and Molding Point Sources Category. EPA 440/1–84/069. 1984.

(3) Israel, R. Title III, Section 313: Petition to Delist Butyl Benzyl Phthalate—Chemistry Report. USEPA. 1987.

(4) Kumar, V. Butyl-Benzyl Phthalate Environmental Release Analysis. USEPA. 1987.

(5) Long, J.W. Economic Report on Production, Uses, Substitutes and Cost Analysis—Benyzl Butyl Phthalate (BBP). USEPA. 1987.

(6) Monsanto Company, Petition for Deletion of Butyl Benzl Phthalate from the List of Toxic Chemical Subject to Requirements of Section 313 of Title III, January 12, 1987.

(7) Randecker, L.M. Hazard Assessment of n-Butyl Benzyl Phthalate. USEPA. 1987.

IX. Regulatory Analyses

A. Regulatory Impact Analysis

This proposed rule would decrease the impact of the section 313 reporting requirements on covered facilities and result in a moderate cost-savings to both industry and EPA. Therefore, under Executive Order 12291, this is a minor regulation.

This proposed rule was submitted to the Office of Management and Budget under Executive Order 12291. Monsanto is the only U.S. producer of BBP. Estimates of the number of processors/users that will be required to report range from 41 to 999 facilities. The estimated cost savings for industry range from $65 thousand to $1.5 million, while the savings for EPA are estimated to be $5 thousand to $120 thousand.

B. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 the Agency must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected. Because the proposed rule results in cost savings to facilities, the Agency certifies that small entities will not be significantly impacted by this rule.

C. Paperwork Reduction Act

OMB has reviewed 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. 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 tor EPA."

List of Subjects in 40 CFR Part 372

Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: July 10, 1987.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that proposed Part 372 of Chapter I of 40 CFR be amended as follows:

PART 372—[AMENDED]

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

Authority: Pub. L. 99–499.

§ 372.45 [Amended]

2. Proposed § 372.45 (a) and (b) are amended by removing the entire entry for butyl benzyl phthalate under paragraph (a) and removing the entire CAS No. entry for 85–68–7 under paragraph (b).

[FR Doc. 87–16322 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for Cirsium pitcheri

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a plant, *Cirsium pitcheri* (Pitcher's thistle), to be a threatened species under the authority contained in the Endangered Species Act of 1973, as amended (Act). The species occurs on the shores of the Great Lakes in Indiana, Michigan, and Wisconsin in the U.S., and Ontario, Canada. Development, loss, and disturbance of dunelands by the public are the principal threats to the species. This proposed rule, if made final, will extend the Act's protection to *Cirsium pitcheri*. Critical habitat is not proposed for this plant. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments from all interested parties must be received by September 18, 1987. Public hearing requests must be received by September 3, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Division, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Engel (see **ADDRESSES** section) at 612/725–3276 or FTS 725–3276.

SUPPLEMENTARY INFORMATION:

Background

Cirsium pitcheri (Pitcher's thistle) was discovered by Z. Pitcher in the 1820's and first described by Torrey as *Cnicus pitcheri* (Eaton 1829); the first use of the current binomial was by Torrey and Gray ca. 1841. *Cirsium pitcheri*, a member of the composite or sunflower family, Asteraceae, possesses dense white-wooly and deeply divided leaves

with long petioles (Smith 1966, Alverson 1981). Other general characteristics include cream-colored or yellowish flowers in heads borne singly or few together on numerous stem branches up to 30 inches (0.76 meters) tall (Alverson 1981). Flowering occurs in late May and seed dispersal begins in late July (Keddy and Keddy 1984).

Cirsium pitcheri occurs primarily in the dry sand of stabilized, well developed dunes along the shorelines of the Great Lakes. It is also found in dry areas of loose sand ("sand blows" or "blowouts") behind main dunes in open areas of older dunes from higher Pleistocene lake levels (Alverson 1981). Plants are frequently found on the lower, moist to wet areas of the beach which are more frequently inundated and disturbed by storm wave action (Alverson 1981). Apparently, *Cirsium pitcheri* can tolerate infrequent disturbance to its habitat (i.e., once every 5–10 years), and it has also been shown to colonize disturbed areas. Periodic disturbance of this species' habitat apparently helps maintain an earlier successional stage of sparsely vegetated, open dunes; colonies of these plants appear to thrive on sites with these ecological conditions. These earlier-to-mid successional stage sites are well drained and support dry sand, prairie-like vegetation communities; sites are sunny and open (Nepstad 1981). However, colonies of this plant do not tolerate frequent (i.e., monthly to annual) modification or disturbance to their habitat (see discussion below).

This plant appears to have originated in the Great Plains area and migrated east to its present range through suitable sandy habitats as the last ice age receded (approximately 8,000 years ago, Moore and Frankton 1963). *Cirsium pitcheri* is closely related to *Cirsium canescens*, a plant characteristic of the western U.S. Sand Hills flora (Ownby and Hsi 1963).

The greatest part of the species' range is in Michigan, where it occurs in 18 counties along Lakes Huron, Michigan, and Superior (Nepstad 1981). Although the plant is still widespread in Michigan, it depends on dynamic dune processes that have largely disappeared. The species is restricted to only one or two sites in each of the 18 counties in Michigan. In Wisconsin the species currently exists at eight sites in four counties on the Lake Superior shoreline (Alverson 1981). No known historic colonies of *Cirsium pitcheri* in Wisconsin have been extirpated but present activities have reduced existing colonies, and threats to these colonies continue (Alverson 1981). In Indiana *Cirsium pitcheri* is restricted to three sites along Lake Michigan, and in Illinois the species is extirpated. This plant also occurs on lands managed by the U.S. National Park Service (NPS) (Indiana Dunes National Lakeshore in Indiana, and Sleeping Bear Dunes and Pictured Rocks National Lakeshores in Michigan), and on a small (100 yard or 91 meter) stretch of shoreline on Lake Michigan (Wisconsin) that is managed by the U.S. Coast Guard. It also occurs on numerous sites within State Parks in Indiana, Michigan, and Wisconsin, and on one site in Ontario, Canada.

Cirsium pitcheri may require up to five years to reach its flowering stage, and seeds are dispersed by a pappus which acts like a parachute for wind dispersal (Keddy and Keddy 1984). Most seeds are dispersed and settle downwind (inland) from parents, and seedling clusters appear to result from seeds that are dispersed with entire heads rather than separate achenes (Keddy and Keddy 1984). Because of their weight, entire seed heads are also more likely to be buried in the sand than are individual seeds. Keddy and Keddy (1984) suggest that dispersal of entire heads rather than separate achenes may be a mechanism that restricts seedling establishment to a narrow band of open beach rather than having all seeds blow inland to shrub and forest habitats. The combination of these reproductive factors, and other life-history requirements, may restrict these plants to clusters in narrowly-defined microhabitats along shorelines of the Great Lakes. These reproductive limitations may also affect the selection of conservation strategies that might be used to protect this species (see discussion in Factor E of the "Summary of Factors Affecting the Species" section).

Federal government actions on this species began on December 15, 1980, when the Service published a revised notice of review for native plants (45 FR 82480). *Cirsium pitcheri* was included in that notice as a Category 1 species. Category 1 includes those species for which the Service has sufficient biological data to propose to list them as endangered or threatened species. In subsequent notices published on November 28, 1983 (FR 48 53640), and September 27, 1985 (50 FR 39526), *Cirsium pitcheri* remained in Category 1.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cirsium pitcheri* (Torrey) Torrey and Gray are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The development of beaches has and will continue to reduce the range of *Cirsium pitcheri*. In Michigan, approximately 5–10 percent of this species' suitable habitat has been lost due to construction of roads, houses, and other facilities (Sue Christman, Michigan Natural Heritage Program, personal communication, 1987). Although there has been little documented loss of *Cirsium pitcheri* from sites throughout this plant's range, many colonies have been reduced in size (Alverson 1981). The reduction of colony size may severely hamper the ability of this plant to recolonize sites that are disturbed naturally (i.e., high water) (see discussion in Factor E of this section).

Historical records indicate that this plant may have occurred on the shores of Lake Michigan in Illinois (Paulson and Schwegman 1976), but recent surveys have failed to relocate any colonies in this State. There are no data to indicate how these colonies might have been lost.

As indicated in the "Background" section, this plant can withstand periodic disturbance to its habitat, and may colonize sites where disturbance creates an earlier successional stage (i.e., open grass dune). However, frequent disturbance and trampling destabilize dunes resulting in reduction or loss of *Cirsium pitcheri* colonies. In addition, road and housing construction result in the permanent loss of dune habitat. In some areas dunes have been bulldozed to reduce relief to provide a better view of the lake for cottage residents (Alverson 1981). On private land some landowners have attempted to eradicate the species because they believed it was a weed (Alverson 1981). As far as is known, all attempted eradications have been via mechanical means; there are no reports of chemical applications. There are sites within the range of *Cirsium pitcheri* that appear to be suitable, but there are no individual plants or colonies on these sites (Nepstad 1981). Whether this is due to human disturbance, ecological limitations, or environmental factors is unknown.

As previously mentioned, this plant occurs on various public lands, including

three National Lakeshores, a small stretch of shoreline managed by the U.S. Coast Guard, and several State parks. Although the maintenance of quality shoreline habitat is an objective of agencies who manage these lands, hikers, campers, swimmers, and others using beach areas unknowingly disturb or trample *Cirsium pitcheri*. Again, these activities appear to be detrimental only when they occur frequently (i.e., monthly to yearly) over a period of years.

The Indiana Dunes, Sleeping Bear Dunes, and Pictured Rocks National Lakeshores are managed by the NPS, and management plans for these sites have provisions for protecting colonies of these plants. No other current or planned projects appear to threaten the existence of this plant of these National Lakeshores. The NPS is currently evaluating a request for road access through the Indiana Dunes National Lakeshore to a proposed marina on private land. However, neither the road nor proposed marina site have any known colonies of *Cirsium pitcheri*, although some colonies occur in the general area.

The Coast Guard operates a lighthouse on a 100 yard (91 meter) stretch of shoreline that has a colony of *Cirsium pitcheri*. That agency neither currently conducts nor plans to conduct any activities that would threaten *Cirsium pitcheri* on this stretch of shoreline.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not applicable.

C. *Disease or predation.* White *et. al.* (1983) report that total seed production of *Cirsium pitcheri* in Pukaskwa National Park, Ontario is reduced by larvae of a plume moth (*Platyptilia carduidactyla*) that feed on immature seeds, and Nepstad (1981) states that juvenile plants are lost due to herbivory by rabbits. It is not known if these forms of predation threaten *Cirsium pitcheri*.

D. *The inadequacy of existing regulatory mechanisms. Cirsium pitcheri* is listed as threatened by Indiana, Michigan, and Wisconsin, and as rare in Ontario. However, State listing does not protect this plant's habitat, and habitat modification appears to be the principal reason for this plant's decline.

E. *Other natural or manmade factors affecting its continued existence.* As previously mentioned, this plant appears to have reproductive characteristics that limit its establishment to clusters within narrow ecological conditions in open dunes along lakeshores. Because of its limited ability to disperse seed and establish seedlings, this plant may require relatively large colonies to effectively colonize and recolonize naturally and artificially disturbed sites. Reduction of colony size due to frequent, human-induced disturbance may decrease the ability of this plant to recolonize sites that are disturbed by natural phenomena such as high water. For example, 100 acres (42 hectares) of habitat was recently lost in Wisconsin due to high water (June Doggerpuhl, Wisconsin Department of Natural Resources, personal communications). The probability of successful recolonization of this site after the water recedes is greater if the colony size is large prior to inundation; however, small colonies are less likely to survive. Large colonies are especially important in areas where plants are widely dispersed since this plant does not disperse seed over large distances. In addition to a lowered ability to survive catastrophic events, the fitness of smaller colonies is also more likely to be lowered by predators such as rabbits and larvae of plume moths. Therefore, conservation strategies for this plant should include establishment and maintenance of large clusters rather than numerous small colonies spread out over the entire range of this plant.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cirsium pitcheri* as threatened. Threatened as opposed to endangered because the species is not in immediate danger of extinction, but does have a restricted range and is confronted by a variety of problems. Critical habitat is not being proposed for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Cirsium pitcheri* at this time. Publishing a detailed description and map of this species' habitat might stimulate public interest and make this species more vulnerable to vandalism and taking by collectors. No benefit would be derived from designating critical habitat and so it would not be prudent or beneficial to determine critical habitat for *Cirsium pitcheri* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following the listing. Some may be undertaken prior to listing, circumstances permitting. Potential habitat management actions that might benefit *Cirsium pitcheri* include: Increasing protection of shorelines within National Lakeshores, setting back succession to an early-to-mid stage on dunes, establishing large colonies of plants in areas with suitable habitat, and reducing frequent disturbance to this plant's habitat throughout its range. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. *Cirsium pitcheri* is known to occur on the Indiana Dunes, Sleeping Bear Dunes, and Pictured Rocks National Lakeshores and on a 100 yard (91 meter) stretch of Lake Michigan that is managed by the U.S. Coast Guard. Habitat management strategies currently employed on the National Lakeshores should eventually help improve the condition of colonies on these sites. No Federal activities or projects are currently proposed on the National Lakeshores that would jeopardize this plant. As mentioned in the "Background" section, the NPS is evaluating a request for road access

through the Indiana Dunes National Lakeshore to a proposed marina. However, neither the use of the road, nor the construction of the proposed marina are expected to impact existing *Cirsium pitcheri* colonies. No current or planned activity of the U.S. Coast Guard is expected to jeopardize any colonies of this plant.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Cirsium pitcheri*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export a threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, or sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued for *C. pitcheri*, since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Cirsium pitcheri*.

(2) The location of any additional populations of *Cirsium pitcheri* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Cirsium pitcheri*.

Final promulgation of the regulation on *Cirsium pitcheri* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Endangered Species Division (see **ADDRESSES** section).

National Environmental Policy Act

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

References Cited

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Ownbey, G.B. and Y. Hsi. 1963. Chromosome numbers in some North American species of the genus *Cirsium*. Rhodora 65:339–354.

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White, D.J., R.V. Maher, and C.J. Keddy. 1981. *Cirsium pitcheri*. *In* G.W. Argus and D.J. White (eds). Atlas of the rare vascular plants of Ontario. National Museum of Canada.

Author

The primary author of this proposed rule is John G. Sidle (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

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

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Sunflower family:						
*	*	*	*	*	*	*
Cirsium pitcheri	Pitcher's thistle	U.S.A. (IL, IN, MI, WI), Canada (Ontario)	T		NA	NA
*	*	*	*	*	*	*

Dated: July 9, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–16359 Filed 7–17–87; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 52, No. 138
Monday, July 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.

DEPARTMENT OF AGRICULTURE

National Advisory Council on Rural Development; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of the Secretary schedules the first meeting of the National Advisory Council on Rural Development:

Name: National Advisory Council on Rural Development.

Date: August 3–4, 1987.

Time and Place: August 3–4, 1987; Grand Hyatt, 1000 H Street NW., Washington, DC 20001. August 3, 1:00 p.m.–5:00 p.m.; August 4, 8:30 a.m.–1:00 p.m.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To advise the Secretary on the rural development needs, goals, objectives, plans, and recommendations of multistate, State, substate and local organizations and jurisdictions. The Council will provide the Secretary with assistance in identifying rural problems and supporting efforts and initiatives in rural development.

Contact person: Kelly Winkler, Assistant, Office of the Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Room 219–A, Administration Building, Washington, DC 20250, telephone (202) 447–5371.

Done at Washington, DC, this 13th day of July, 1987.

Vance L. Clark,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87–16369 Filed 7–17–87; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Order No. 356

Resolution and Order Approving the Application of the Greater Cincinnati Foreign-Trade Zone, Inc., for a Special-Purpose Subzone for the General Motors Plant in Norwood, Ohio, Adjacent to the Cincinnati Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders: After consideration of the application of the Greater Cincinnati Foreign-Trade Zone, Inc., grantee of FTZ 46, filed with the Foreign-Trade Zones Board (the Board) on July 22, 1985, requesting special-purpose subzone status for the auto assembly plant of General Motors Corporation in Norwood, Ohio, adjacent to the Cincinnati Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board Washington, DC

Grant of Authority to Establish a Foreign-Trade Subzone in Norwood, Ohio, Adjacent to the Cincinnati Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Cincinnati Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 46, has made application (filed July 22, 1985, 50 FR 31756) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile manufacturing plant of General Motors Corporation in Norwood, Ohio, adjacent to the Cincinnati Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 22, 1985, the Board hereby authorizes the establishment of a subzone at the General Motors plant in Norwood, Ohio, designated on the records of the Board as Foreign-Trade Subzone No. 46C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance

of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 29th day of June 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-16409 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-DS-M

[ORDER NO. 357]

Resolution and Order Approving the Application of the Greater Detroit Foreign-Trade Zone, Inc., for a Special-Purpose Subzone for the Chrysler Plant in Trenton, Michigan, Adjacent to the Detroit Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders: After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, filed with the Foreign-Trade Zones Board (the Board) on July 29, 1985, requesting special-purpose subzone status at the engine manufacturing plant of Chrysler Corporation in Trenton, Michigan, adjacent to the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board Washington, DC

Grant of Authority To Establish a Foreign-Trade Subzone in Trenton, Michigan, Adjacent to the Detroit Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, has made application (filed July 19, 1985, 50 FR 31756) in due and proper form to the Board for authority to establish a special-purpose subzone at the engine manufacturing plant of Chrysler Corporation in Trenton, Michigan, adjacent to the Detroit Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 29, 1985, the Board hereby authorizes the establishment of a subzone at the Chrysler plant in Trenton, Michigan, designated on the records of the Board as Foreign-Trade Subzone No. 70J at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 29th day of June 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87-16410 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-015]

Television Receivers, Monochrome and Color, From Japan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty Administrative Review.

SUMMARY: In response to request by the petitioners and the respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on television receivers, monochrome and color, from Japan. The review covers five manufacturers and/or exporters of this merchandise to the United States and generally the periods April 1, 1982 through March 31, 1983, and March 1, 1985 through February 28, 1986. The review indicates the existence of

dumping margins for the firms during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 8940) the final results of its last administrative review of the antidumping finding on television receivers, monochrome and color, from Japan (36 FR 4597, March 10, 1971). The petitioners and respondents requested in accordance with §353.53a(a) of the Commerce Regulations that we conduct the administrative review. We published notices of initiation of the antidumping duty administrative review on November 27, 1985 (50 FR 48825) and April 18, 1986 (51 FR 13273). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, and include but are not limited to projection television, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combination of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain subassemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The review covers five manufacturers and/or exporters of Japanese television receivers, monochrome and color, and generally the periods April 1, 1982 through March 31, 1983, and March 1, 1985 through February 28, 1986. In compliance with injunctive orders issued by the Court of International Trade, the review does not cover Matsushita Industrial Co., Ltd. ("Matsushita"), Victor Company of Japan ("Victor"), Sharp Corporation ("Sharp"), and Toshiba Corporation ("Toshiba").

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), both as defined in section 772 of the Tariff Act, as appropriate. Purchase price and ESP were based on the packed f.o.b., c.i.f., or delivered price to unrelated purchasers in the United States. We made adjustments, where applicable, for ocean freight, marine insurance, U.S. and Japanese inland freight, U.S. and Japanese brokerage fees, Japanese customs clearance fees, wharfage, export license fees, forwarding and handling charges, export selling expenses incurred in Japan, discounts, royalties, rebates, commissions to unrelated parties, and the U.S. subsidiaries' selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, because sufficient quantities of such or similar merchandise were sold in the home market. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We accounted for taxes imposed in Japan, but rebated or not collected by reason of the exportation of the merchandise to the United States, by subtraction from home market price. Where applicable, we made adjustments for inland freight, rebates, credit expenses, discounts, warranties, advertising and sales promotion, royalties, differences in the physical characteristics of the merchandise, and packing. Since we received no information on Fujitsu General's packing cost difference we used best information available, which was Fujitsu General's packing costs from the previous review. We made further adjustments, where applicable, for indirect selling expenses to offset commissions and U.S. selling expenses for ESP calculations. We allowed as indirect selling expenses those selling expenses incurred by the related distributors. For Mitsubishi we disallowed those portions of its claimed advertising expenses that were incurred in the next review period. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/ exporter	Time period	Margin (percent)
Fujitsu General	3/85-2/86	6.05
Mitsubishi	3/85-2/86	7.87
Sanyo	3/85-2/86	[1] 2.86
Hitachi	3/85-2/86	0.16
NEC	4/82-3/83	13.67

[1] No shipments during the period.

Fujitsu General and Mitsubishi requested that we revoke the antidumping finding with respect to these firms. Since we preliminarily found margins for these firms in this review, we will not consider those requests further.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments of this merchandise manufactured by Toshiba, Matsushita, Victor, or Sharp, the cash deposit will continue to be at the rates published in the final results of the last administrative review for these firms (52 FR 8940, March 20, 1987; 50 FR 24278, June 10, 1985; and 46 FR 30163, June 5, 1981, respectively).

For any future entries of this merchandise from a new exporter, not covered in this or prior reviews, whose first shipments occurred after February 28, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 7.87 percent shall be required. These deposit

requirements are effective for all shipments of Japanese television receivers, monochrome and color, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

July 14, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-16411 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

[Transmittal No. 06-10-88001-01 Project I.D. No. 06-10-88001-01]

Dallas/Ft. Worth Minority Business Development Center (MBDC)

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $442,118 for the project's performance period of January 1, 1988 to December 31, 1988. The MBDC will operate in the Dallas/Ft. Worth, Texas Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
Dallas/ Ft. Worth, Texas SMSA...	$375,800	*$66,318	$442,118

*Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for the receipt of application is August 31, 1987.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23 Dallas, Texas 75242-0790.

FOR FURTHER INFORMATION CONTACT: Marie Hearne, Business Development Clerk, Dallas Regional Office, 214/767-8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-bid conference will be held in Dallas on July 31, 1987 at 1:00 PM. Conference site information may be obtained by contacting the individual designated above.

Additional RFAs will be available at the conference site.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program Number and Title: *11.800 Minority Business Development.*

Project Name: *Dallas/Ft. Worth, Texas (Geographic Area or SMSA) MBDC.*

Project Identification Number: *06-10-88001-01.*

Project Start and End Dates: *1/01/88 thru 12/31/88.*

Project Duration: *12 months.*

Total *Federal Funding* (85%), $375,800.

Minimum *Non-Federal Funding* Sharing (15%), $66,318.

Total Project Cost (100%), $442,118.

Closing Date for Receipt of this Application: *August 31, 1987.*

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: *Dallas/Ft. Worth, Texas.*

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:

Financial packages, *$6,253,000*
Billable N&TA, *$192,000*
Procurements, *$12,507,000*
Number of Clients, *172*

[FR Doc. 87-16368 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-21-M

[Transmittal No. 06-10-88002-01 Project No. I.D. No. 06-10-88002-01]

Houston Minority Business Development Center (MBDC)

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $628,118 for the project's performance period of January 1, 1988 to December 31, 1988. The MBDC will operate in the Houston, Texas Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
Houston, Texas SMSA...	$533,900	$94,218[1]	$628,118

[1] Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with specific reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for the receipt of application is August 31, 1987.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23 Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION CONTACT: Marie Hearne, Business Development Clerk, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-bid conference will be held in Dallas on July 31, 1987 at 1:00 PM. Conference site information may be obtained by contacting the individual designated above.

Additional RFAs will be available at the conference site.

Melda Cabrera,

Acting Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program Number and Title: *11.800 Minority Business Development.*

Project Name: *Houston, Texas (Georgraphic Area or SMSA) MBDC.*

Project Identification Number: *06–10–88002–01.*

Project Start and End Dates: *1/01/88 thru 12/31/88.*

Project Duration: *12 months.*

Total *Federal Funding (85%),* $533,900.

Minimum *Non-Federal Funding* Sharing (15%), $94,218.

Total Project Cost (100%), $628,118.

Closing Date for Receipt of this Application: *August 31, 1987.*

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: Houston, Texas.

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Peformance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:

Financial packages, *$8,890,000*
Billable M&TA, *$272,000*
Procurements, *$17,780,000*
Number of Clients, *245*

[FR Doc. 87–16367 Filed 7–17–87; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, August 5–6, 1987, at the Ramada Inn, 76 Industrial Highway, Essington, PA (telephone: 215–521–9600), to discuss the Surf Clam Ocean Quahog Fishery Management Plan; joint venture policy; squid, mackerel and butterfish specifications for 1987; domestic observer policy, and discuss other fishery management and administrative matters. The public meeting may be lengthened or shortened depending upon progress on agenda items. The Council also may convene a closed session (not open to the public) to discuss personnel and/or national security matters.

For further information, contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Room 2115, Dover, DE 19901; telephone: (302) 674–2331.

Dated: July 14, 1987.

Richard B. Roe,

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

[FR Doc. 87–16360 Filed 7–7–87; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council's Executive Committee will convene a public meeting on August 3, 1987, from 1 p.m. to 5 p.m. at the Council's Headquarters (address below), to discuss progammatic funding and the status of the proposed Uniform Standards.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: July 14, 1987.

Richard B. Roe,

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

[FR Doc. 87–16361 Filed 7–17–87; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council and its Committees will convene separate public meetings, July 29–30, 1987, at the Sheraton-Kauai, RR1, Box 303, Hoonani

Road, Poipu Beach, Kauai, HI; telephone: (808) 742–1661, as follows:

Council—will convene its 58th public meeting on the afternoon of July 29 to hear routine fisheries reports from the Council's State, Territorial and Federal Government representatives, as well as reports from Hawaii, Guam, and American Samoa private sector Council members. There will be an update and status report presented on "WESPAC 1987 Program Narrative and Summary of Data and Research Needs for Fishery Management Plans (FMPs)", as well as input for additional programmatic project funding, with related decisions presented.

On July 30 all day, the Council will be briefed on the status of: (1) The Northwestern Hawaiian Islands Access Management Proposal which the Council approved at its last meeting; (2) the annual report on the fishery and (3) Amendment #1 to the Bottomfish FMP, which would bring Guam and American Samoa under the Plan's framework approach for access management purposes, and extend the due date of the FMP's annual report from March 31 to June 30 of each year.

With regard to the FMP for pelagic species, the Council will be briefed on the decision made by the Southwest Regional Director, National Marine Fisheries Service, on the experimental drift gillnet permit applications, and will receive a report on the progress made on the annual report covering the fisheries for large pelagic species.

The Council also will review the status of Amendment #5 to the Spiny Lobster FMP. A contractor will present findings of a recently completed study of cost/revenue analysis of the Northwestern Hawaiian Islands Lobster fleet. The Council also will establish a timetable for the final phase of the economic work on the lobster fishery which includes an evaluation of management options.

The Council will review administrative and fiscal matters among other business, as well as conduct a closed session (not open to the public) to discuss personnel matters.

The Council's Committee meetings will be convened during the morning of July 29.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368 or FTS 541–1974.

Dated: July 14, 1987.

Richard B. Roe,

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

[FR Doc. 87–16362 Filed 7–17–87; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON EDUCATION OF THE DEAF

Meetings

AGENCY: Commission on Education of the Deaf.

ACTION: Notice of meetings.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of forthcoming meetings of the Commission on Education of the Deaf and its committees. The purpose of the Commission meeting and Committee meetings is to approve publication of the first of two notices of draft recommendations in the Federal Register. These meetings will be open to the public.

DATES: August 3, 1987, 9:00 a.m. to 5:00 p.m.; August 4, 1987, 9:00 a.m. to 5:00 p.m.; August 5, 1987, 8:00 a.m. to 5:00 p.m.

ADDRESS: GSA Regional Office Building, 7th and D Streets, SW., Washington, DC 20407. August 3rd, the Commission will meet in Room 1909. August 4th, the Precollege Committee will meet in Room 1909, and the Postsecondary/Adult Programs Committee will meet in Room G210. August 5th, the Committees will have a joint meeting from 8:00 a.m. to 12:00 p.m. in Room 1909. The full Commission will meet August 5th from 1:00 p.m. to 4:00 p.m. in the GSA auditorium on the first floor. The Executive Committee will also meet in the autitorium.

FOR FURTHER INFORMATION CONTACT: Monica Hawkins, Commission on Education of the Deaf, GSA Regional Office building, Room 6646, 7th and D Streets, SW., Washington, DC 20407. [202] 453–4353 (TDD) or [202] 453–4684 (Voice). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The full Commission will meet August 3rd from 9:00 a.m. to 5:00 p.m. to receive input from and to engage in discussion on education of persons who are deaf with McCay Vernon, Peter DeVilliers, Richard Silverman, Richard Brill, Gloria Kemp, and David Myers. The Commission's 2 standing committees, Precollege Programs Committee and Postsecondary/Adult Programs Committee, will meet simultaneously on August 4 from 9:00 a.m. to 5:00 p.m. The Precollege Programs Committee will discuss the following topics: early identification, Least Restrictive Environment, parents rights, and placement options. The Postsecondary/Adult Programs Committee will discuss research, dissemination, and outreach activities at Gallaudet University and the National Technical Institute for the Deaf, the Regional Postsecondary Education Programs for the Deaf, the Regional Postsecondary Education Programs for the Deaf, admittance of hearing students to Gallaudet University's undergraduate programs, admittance of foreign students to NTID, and adult education. The committees will meet in a joint meeting on August 5 from 8:00 a.m. to 12:00 p.m. to discuss instructional media (captioned films, closed captioning of television), technology, illiteracy, and training and technical assistance needs of deaf education programs at all levels (educational interpreting, teacher training/certification, clearinghouse/resource center). The full Commission will meet August 5 from 1:00 p.m. to 4:00 p.m. to approve the first of two notices of draft recommendations and to suggest items to put on the agenda for the September meeting. The Executive Committee will then meet from 4:00 p.m. to 5:00 p.m. to discuss details of decisions made during the full Commission meeting.

The proposed agenda for the Commission meeting August 5, 1:00 p.m. to 4:00 p.m. includes the following:

I. Approval of Minutes
II. Reports
  *Chairperson's Report
  *Vice Chairperson's Report
  *Executive Committee Chairperson's Report
  *Staff Director's Report
III. New Business
  First of two notices of draft recommendations for publication in the Federal Register
IV. Committee reports on suggestions for September agenda
V. Adjournment

These meetings will be open to the public. Interpreters will be provided. If you need audio-loop systems or other special accommodations, please contact Monica Hawkins at [202] 453–4353 (TDD) or [202] 453–4684 (Voice), no later than July 24, 1987, 5:00 p.m. E.S.T. These are not toll-free numbers.

Records will be kept of the proceedings and will be available for public inspection at the office of the Commission on Education of the Deaf, GSA Regional Office Building, Room

6646, 7th and D Streets, SW.
Washington, DC.

Pat Johanson,

Staff Director.

[FR Doc. 87-16380 Filed 7-17-87; 8:45 am]

BILLING CODE 5820-SD-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Change in Officials of the Government of Pakistan Authorized To Issue Export Visas From Pakistan

July 15, 1987.

Under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, the Government of Pakistan has notified the Government of the United States that Mr. Sikandar Ali Keeriyo, Deputy Director, Export Promotion Bureau, is now authorized to issue export visas for cotton textile products exported to the United States. Mr. Keeriyo replaces Mr. Riaz Ahmed Jafri, who will no longer sign these documents. The purpose of this notice is to advise the public of this change.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-16398 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-DR-M

Deduction of Charges for Imports of Man-Made Fiber Textile Products Produced or Manufactured in Yugoslavia

July 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 Comissioner of Customs to be effective on July 21, 1987. For further information contact Chris Lozano, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

A CITA directive dated December 23, 1986 (51 FR 47052), as amended, established, among other things, an important restraint limit for man-made fiber textile products in Category 604-A, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the fourteen-month period which began on November 1, 1986 and extends through December 31, 1987.

In reviewing the import charges, the Committee for the Implementation of Textile Agreements has determined that an error in the charges sent to Customs has resulted in 72,213 pounds being incorrectly charged to the limit for Category 604-A. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to deduct 72,213 pounds from the 1987 import charges to Category 604-A. This action will reopen the category.

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 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 15, 1987.

Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Republic of Yugoslavia, I request that, effective on July 21, 1987, you deduct 72,213 pounds from the imports charged to the restraint limit established in the directive of December 23, 1986, as amended, for man-made fiber textile products in Category 604-A,[1] produced or manufactured in the Socialist Republic of Yugoslavia and exported during the fourteen-month period which began on November 1, 1986 and extends through December 31, 1987.

The Committee for the Implementation of Textile Agreement has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

This letter will be published in the **Federal Register.**

Sincerely,
Arthur Garel,
Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 87-16397 Filed 7-17-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 604, only TSUSA numbers 310.5049 and 310.6045.

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Activities for Conversion to Contract

AGENCY: Department of the Air Force, DOD.

ACTION: Notice.

The Air Force recently determined that the Precision Measurement Equipment Laboratory function at Duluth ANGB, MN and Forbes Field, KS will be examined for possible conversion to contract.

For further information contact Mr. Chuck Berry, 8200 MES/CCT, Andrews AFB, MD 20331-6008, telephone (301) 981-4555.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-16427 Filed 7-17-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Intent To Prepare an Environmental Impact Statement for the Biological Defense Research Program and Scheduled Public Scoping Meeting

AGENCY: Department of the Army, DOD.

ACTION: Notice of Intent to prepare an environmental impact statement for the biological defense research program and scheduled public scoping meeting.

SUMMARY: On April 8, 1987, the Department of the Army announced its intention to prepare an Environmental Impact Statement (EIS) regarding its ongoing biological defense research program in accordance with the National Environmental Policy Act and implementing regulations. (40 CFR Parts 1500-1508) The EIS will be programmatic in nature with an analysis of environmental impacts and alternatives on a program-wide level.

The purpose of this notice is to provide information on the time and place of the scoping meeting. The scoping meeting will be held in two sessions on August 12, 1987 at the Sheraton Tysons Corner Hotel, 8661 Leesburg Pike, Tysons Corner, Virginia beginning at 10:00 a.m. and 7:00 p.m. EDT. Interested members of the public are invited to attend and provide

recommendations on the scope and content of the EIS.

Background

In the April 8, 1987 Notice of Intent, the Department of the Army indicated that, as executive agent for the Department of Defense, it is responsible for the ongoing conduct of research and product development in the biological defense field.

The biological defense research program involves research and product development in equipment, devices, drugs, substances, and biologics that are used to detect biological substances, protect soldiers from the adverse effects of biological substances, treat exposed individuals, and decontaminate exposed individuals, areas and equipment. The work is being carried out at a number of governmental and university laboratories throughout the country. The proposed action for EIS evaluation pursposes is the continuation of the ongoing program in its current form. Possible alternatives to the proposed action for consideration in the EIS include modification in program scope and modification in program implementation.

Public Scoping Meeting

A public scoping meeting will be held August 12, 1987 at the Sheraton Tysons Corner Hotel, 8661 Leesburg Pike, Tysons Corner, Virginia to assist the Army in determining the appropriate issues to be considered in the EIS. The scoping meeting will be held in two sessions beginning at 10:00 a.m. and 7:00 p.m. Interested agencies, organizations and the general public are invited to submit information and comments on the EIS in advance of, during, or following the scoping meeting. Particularly solicited is information on relevant environmental studies, impacts, issues, alternatives and mitigation measures which should be considered in the EIS.

Individuals or group representatives are invited to register for an opportunity to make an oral presentation at the public scoping meeting by calling (800) 255–5230 during normal business hours of 8:00 a.m. to 5:00 p.m. EDT, except in Ohio. In Ohio register by calling (614) 424–5461 (collect). Phone registration can be made up through August 7, 1987. All telephone registrations will be confirmed prior to the meeting.

On-site registration at the meeting will also be available. Those who have registered in advance by phone will be scheduled first or at their preferred times on a first-come, first-served basis. Anyone attending the meeting can register to speak upon arrival and will be accommodated during the first available opportunity in the schedule. Commenters are asked to bring a written copy of their oral remarks for submission to the meeting record if possible. The Army reserves the right to arrange the schedule of presentation to be heard and to establish additional procedures governing the conduct of the meeting.

To ensure that as many interested persons as possible are given the opportunity to present oral comments, the length of each presentation will be limited to no more that 10 minutes, and may be further expanded or limited depending upon the number of persons requesting to be heard. More detailed written comments will be accepted in addition to the oral comments.

Persons or organizations unable to attend the scoping meeting may submit written comments or suggestions on the EIS to the address listed below. Comments should be received no later than 15 days following the scoping meeting to be considered in the draft EIS.

Questions and comments regarding the public scoping meeting or the EIS, in general, should be submitted to: Commander, U.S. Army Medical Research and Development Command, ATTN: SGRD–PA (Mr. Charles Dasey), Fort Detrick, MD 21701–5012. A draft EIS (DEIS) is expected to be available to the public in May 1988. The DEIS will be available for public review and comment. Significant DEIS comments will be considered in preparation of a final EIS. Persons wishing to receive a copy of the DEIS for review and comment should contact Mr. Charles Dasey at the above address.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA(I&L).

[FR Doc. 87–16400 Filed 7–17–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP86–566–002, et al.]

Natural Gas Certificate Filings; Southern Natural Gas Co. et al.

July 10, 1987.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP86–566–002]

July 10, 1987.

Take notice that on June 18, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563 filed in Docket No. CP86–566–002 a petition to amend the order issued August 11, 1986, as amended, pursuant to section 7(c) of the Natural Gas Act so as to provide service to the end user, Nord Kaolin Company (Nord), from additional delivery points and to extend the term of this service, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Southern states that it is currently authorized to transport on an interruptible basis for Nord up to 2,600 MMBtu of natural gas per day from various delivery points on Southern's contiguous pipeline system. Southern states that Nord has acquired the right to purchase natural gas from Entrade Corporation (Entrade) in addition to the sellers originally named in the transportation agreement. Southern therefore requests authorization to amend its certificate to provide service from additional delivery points where the gas would be purchased by Nord from Entrade.

Southern states that in an amendment to the transportation agreement dated June 5, 1987, Southern and Atlanta Gas and Light (Atlanta) have agreed to extend the term of the agreement so that Southern may continue to serve Atlanta as agent for Nord beyond the currently authorized termination date. Southern requests that the limited-term certificate, issued August 11, 1986, in Docket No. CP89–566–000, be extended for a limited term ending October 31, 1988.

Southern does not propose any other changes in the authorized service, and further states that no new facilities are proposed herein.

Comment date: July 31, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

Docket No. CP86–557–006]

July 13, 1987.

Take notice that on July 7, 1987, Natural Gas Pipeline Company of America (Petitioner), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP86–557–006 a petition to amend the order issued June 16, 1986, as amended, pursuant to section 7(c) of the Natural Gas Act so as to extend the term of transportation service for the

end user, CEPEX Inc. (CEPEX), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it is currently authorized to transport on an interruptible basis for CEPEX up to 40,000 MMBtu of natural gas per day from its Gage County, Nebraska plant for a term ending August 26, 1987.

Petitioner states that in an amendment to the transportation agreement dated May 14, 1986, Petitioner and CEPEX have agreed to extend the term of the agreement so that Petitioner may continue to serve CEPEX beyond the currently authorized termination date. Petitioner requests that the limited-term certificate, issued August 25, 1986, in Docket No. CP86–557–000, be extended for a limited term ending September 2, 1989.

Petitioner does not propose any other changes in the authorized service, and states further that no new facilities are proposed herein.

Comment date: July 28, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Alabama-Tennessee Natural Gas Company

[Docket No. CP87–400–000]

July 14, 1987.

Take notice that on June 19, 1987, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP87–400–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the interruptible transportation of natural gas for Reynolds Metals Company and Southern Reclamation Company, a wholly owned subsidiary of Reynolds Metals Company (Reynolds), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible basis up to 25,000 MMBtu of gas per day for a term of two years for Reynolds. Applicant states that it would receive the gas at existing points of interconnection between (1) Applicant and Tennessee Gas Pipeline Company in Alcorn County, Mississippi or Colbert County, Alabama; (2) Applicant and Columbia Gulf Transmission Corporation in Alcorn County, Mississippi; and/or (3) Applicant and Tennessee River Intrastate Gas Company, Inc. in Colbert County, Alabama. Applicant indicates that it would deliver the gas to Reynolds at existing points of interconnection between Applicant and Reynolds near Reynold's plants in Colbert County, Alabama.

Applicant proposes to charge Reynolds its Rate Schedule IT rate for this transportation service.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

4. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP87–417–000]

July 14, 1987.

Take notice that on June 30, 1987, Arkla Energy Resources a division of Arkla, Inc. (Arkla), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP87–417–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA)— (18 CFR 157.205) for authority to construct and operate a pipeline tap and related facilities for the sale and delivery of gas to an affiliate company, Arkansas Louisiana Gas Company (ALG), for resale, under Arkla's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, pursuant to Section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to construct and operate a pipeline tap and related facilities located on its pipeline, Line No. 6, in Haven, Reno County, Kansas, for the sale and delivery of approximately 280 Mcf of natural gas annually and an estimated 4 Mcf of gas per peak day, to Hugh Vaugn for domestic and/or commercial purposes. Arkla states further that the gas will be delivered from its system supply and will not impact service to its other customers. Arkla estimates that installation of the proposed facilities will cost approximately $1,350.

Comment date: August 28, 1987, in accordance with Standard Paragraph G at the end of this notice.

5. Citrus Interstate Pipeline Company

[Docket No. CP87–415–000]

July 14, 1987.

Take notice that on June 30, 1987, Citrus Interstate Pipeline Company, (CIPCO) P.O. Box 1188, Houston, Texas, 77251–1188, filed in Docket No. CP87–415–000 an application pursuant to section 7(c) of the Natural Gas Act requesting (1) authorization to construct and operate a total of approximately 51.9 miles of 30-inch pipeline, consisting of 51.3-mile and 0.6-mile segments, together with metering and appurtenant facilities, in Mobile County, Alabama to connect reserves to be produced in the vicinity of Mobile Bay; (2) approval of its FERC Gas Tariff, Original Volume No. 1, including its proposed transportation rate schedules, FTS–1 and ITS–1; and initial rates; and (3) authorization to transport gas for certain shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIPCO proposes to construct and operate approximately 51.3 miles of 30-inch pipeline, together with metering and appurtenant facilities, extending from a point near Bayou La Batre, Alabama on the west bank of Mobile Bay, where it would connect with the tailgate of the gas processing plant of Mobil Oil Exploration and Producing Southeast, Inc. (MOEPSI) and the plant of an offshore gathering system to be constructed, to points on Florida Gas Transmission Company's (FGT) 24-inch and 30-inch mainlines approximately seven miles west of Citronelle, all in Mobile County, Alabama. CIPCO also proposes to construct and operate approximately 0.6 mile of 30-inch pipeline connecting the gas processing plant to be constructed by Exxon Corp. (Exxon), to be located west of the junction of Fowl River and East Fowl River, approximately three miles north of MOEPSI's plant near the west bank of Mobile Bay.

CIPCO's proposed pipeline would connect gas reserves to be produced generally from the Mobile Bay and Viosca Knoll Areas. CIPCO states that estimates of proven and probable reserves in the Mobile Bay Area range from 3.5 Tcf to 10 Tcf. CIPCO anticipates that over 1,000 MMcf/d may be produced within a few years from the deep Jurassic-Norphlet formation alone. Estimates of the shallow Miocene production currently indicate a maximum production of 310 MMcf/d, CIPCO states. CIPCO asserts that proven and probable reserves are now estimated at 680 Bcf.

CIPCO advises that MOEPSI's plant, which will process Norphlet gas, will have an initial capacity of 80 MMcf/d, while the gathering system plant (scheduled to be completed in November 1988) will receive Miocene gas and will have a capacity of 310 MMcf/d. CIPCO states that, according to Exxon's development plan, Exxon's plant is to be completed in 1991 and will be capable of treating 300 MMcf/d of gas initially, with capacity to be expandable to 600 MMcf/d.

CIPCO states that the proposed pipeline is designed to transport 550

MMcf of natural gas per day without compression. Should further development in the Mobile Bay Area warrant such, CIPCO states that modest compression facilities could increase the capacity to over 900 MMcf/d. Initial throughput available to the CIPCO system is expected to be approximately 150 MMcf/d, increasing to 550 MMcf/d by 1992, states CIPCO.

CIPCO estimates the total cost of the proposed facilities at $32.4 million. CIPCO states that the facilities are scheduled to be constructed and in service by January 1, 1989 assuming all regulatory approvals are received before April 1, 1988.

CIPCO states that the proposed pipeline route would avoid heavily populated areas, particularly Mobile, Alabama, and would minimize effects on other potentially sensitive areas, such as the wetlands in the Mobile Bay Area. The only adverse effects of the project, CIPCO asserts, would be insignificant and of limited duration, occurring during the construction of the proposed facilities.

CIPCO proposes to accomplish the permanent financing of the proposed facilities by issuing $17,820,000 of long-term debt ($17,663,000 net proceeds) and obtaining $14,837,000 of equity contributions from its parent, Citrus Corp. at the time the facilities are scheduled to be in service. CIPCO proposes to finance the project in a manner which would result in a capitalization ratio for CIPCO of approximately 55 percent debt and 45 percent equity at the commencement of operation of all facilities.

CIPCO states that the Mobile Bay Area is expected to prove a significant source of long-term domestic gas supplies in the near future. CIPCO's proposed pipeline would provide facilities to move this gas to other pipeline systems for distribution to markets throughout the country.

CIPCO also requests authorization to transport gas for certain shippers (Shippers) from one or more receipt points on the CIPCO system—at the tailgates of the three plants—to the proposed interconnection with the facilities of FGT in Mobile County, for possible further transportation by other pipeline systems to Shippers.

CIPCO states that its proposed tariff is designed to reflect the Commission's current policies regarding the rendering of NGA Section 7(c) transportation services on a nondiscriminatory basis. CIPCO further states it believes that the proposed tariff provisions would ensure that the system will be operated without undue discrimination from the time operations commence.

The maximum rates being proposed for firm transportation service under Rate Schedule FTS–1 consist of three charges: (1) A reservation charge; (2) a commodity charge; and (3) an overrun charge. The reservation charge, CIPCO states, is designed to recover all fixed costs associated with providing the firm transportation service, including fixed operation and maintenance expense, return, income taxes, and taxes other than income. CIPCO is proposing a commodity charge designed to recover all variable costs. Since no compression facilities are proposed at this time, CIPCO states that the only variable cost anticipated to be incurred would be the depreciation expense which is proposed to be computed and recognized on a unit of throughput basis. In addition, CIPCO is proposing an overrun charge designed to be equal to the ITS–1 commodity charge since overrun gas would be scheduled and accepted on a capacity-available basis and would be treated as interruptible gas for curtailment purposes.

CIPCO states that the maximum rate being proposed for interruptible transportation service under Rate Schedule ITS–1 consists of a commodity charge designed to recover all fixed and variable costs associated with providing the interruptible transportation service.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Florida Gas Transmission Company

[Docket No. CP87–406–000]

July 14, 1987.

Take notice that on June 23, 1987, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP87–406–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT proposes to transport up to 75,000 MMBtu equivalent of natural gas per day on an interruptible basis for Enron Industrial Natural Gas Company (Industrial). FGT states that it would receive natural gas for Industrial's account at existing points of interconnection between:

(1) FGT and Houston Pipe Line Company (HPL) in Matagorda County, Texas;

(2) FGT and HPL in Orange County, Texas;

(3) FGT and Northern Natural Gas Company in Refugio County, Texas; and

(4) FGT and Shell Oil Company in Matagorda County, Texas.

FGT proposes to deliver gas to or for the account of Industrial, less Industrial's pro rata share of for compressor fuel, and vented and lost gas, at the following existing points of interconnection:

(1) Industrial and FGT in Calcasieu Parish, Louisiana;

(2) Louisiana Resources Company (LRC) in Vermilion Parish, Louisiana; and

(3) FGT and HPL in Matagorda County, Texas.

FGT states that the transportation agreement provides for a primary term of two years from the date of initial deliveries and from year to year thereafter.

FGT proposes to charge Industrial a maximum rate consisting of a facility charge and a service charge. FGT states that effective July 1, 1987, the facility charge would be 7.3 cents per MMBtu delivered and the service charge would be calculated based on 3.9 cents per MMBtu per 100 miles of forward haul, pursuant to FGT's Stipulation and Agreement approved in Docket No. RP86–137–000, it is explained. FGT further explains that it would charge Industrial the Gas Research Institute surcharge of 1.48 cents per MMBtu.

In addition, FGT requests that upon authorization of the service proposed herein the Commission also authorize the submission of the transportation agreement as tariff sheets to the Commission and the incorporation of the same into Original Volume No. 3 of FGT's FERC Gas Tariff without the payment of any additional filing fee.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Great Lakes Gas Transmission Company

[Docket No. CP87–410–000]

July 14, 1987.

Take notice that on June 25, 1987, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP87–410–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, authorizing the transportation of natural gas for Northern Minnesota Utilities division of Utilicorp United Inc. (Northern Minnesota), amendments to existing certificates and abandonment of sales service, so as to be able to terminate the existing service agreement under which Great Lakes currently sells gas to Northern Minnesota, abandon

such service, and provide transportation service for Northern Minnesota for volumes of gas that Northern Minnesota would purchase directly from TransCanada PipeLines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Lakes states that under the current service agreement, dated September 24, 1980, between Great Lakes and Northern Minnesota, Great Lakes sells up to 5,000 Mcf of natural gas per day to Northern Minnesota and, from time to time, has additional volumes available for resale on an interruptible basis, all of which Great Lakes purchases from TransCanada. During the last two years, Northern Minnesota has negotiated new market-oriented pricing arrangements with TransCanada, it is stated. Great Lakes states that its role has become that of a conduit between its resale customers and TransCanada.

Great Lakes requests that the Commission authorize Great Lakes to (1) abandon its sales service to Northern Minnesota pursuant to its Rate Schedule CQ; (2) cancel the existing service agreement under which Great Lakes currently sells gas to Northern Minnesota; (3) provide transportation service for Northern Minnesota for volumes of gas that Northern Minnesota would purchase directly from TransCanada; and (4) approve the transportation service agreement between Great Lakes and Northern Minnesota to be filed as Rate Schedule T-15 to Great Lakes' FERC Gas Tariff.

Great Lakes states that, long with Northern Minnesota, it is filing a petition with the Economic Regulatory Administration to obtain authorization allowing Northern Minesota to succeed to Great Lakes' import authorization so that Northern Minnesota may purchase amounts of gas directly from TransCanada. The sole purpose of the new arrangement, it is stated, is to "unbundle" the sale of Canadian gas by Great Lakes to Northern Minnesota, so that Northern Minnesota may purchase such gas directly from TransCanada.

The rates Great Lakes proposes to charge for its transportation service would be the transportation component of resale rates for Great Lakes' western zone under its existing Rate Schedule CQ. The proposed transportation service has a term expiring November 1, 1990.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

8. National Fuel Gas Supply Corporation

[Docket No. CP87-407-000]

July 14, 1987.

Take notice that on June 23, 1987, as supplemented on June 30, 1987, National Fuel Gas Supply Corporation (Applicant), 10 Lafayeete Square, Buffalo, New York 14203, filed in Docket No. CP87-407-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157.7 of the Commission's Regulations under the NGA for a certificate of public convenience and neccessity authorizing the interruptible sale of natural gas off-system to the Indicated Customers, listed below, for a term of one year, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests limited-term authorization to sell up to 184,495 Dt equivalent of natural gas per day, and 29,184,655 Dt overall, for a one-year term beginning on July 1, 1987, or the date when authorization is received from the Commission, whichever is later, to the following Indicated Customers:

Indicated customers	Maximum Dt equivalent of gas per day	Maximum Dt equavalent of gas per year
The Berkshire Gas Co	2,667	400,000
Boston Gas Co	20,000	3,100,000
Central Hudson Gas & Electric Corp	10,000	1,500,000
Colonial Gas Co	16,000	2,400,000
The Connecticut Light & Power Co	20,000	3,000,000
Connecticut Natural Corp	30,000	5,500,000
Delmarva Power & Light Co	5,000	1,825,000
Essex County Gas Co	3,262	358,750
Gas Service Inc	5,569	656,000
Granite State Gas Transmission, Inc	16,000	2,400,000
Manchester Gas Co	3,256	358,750
Orange and Rockland Utilities Inc	10,000	1,500,000
Penn Fuel Gas, Inc	4,741	711,165
Pennsylvania & Southern Gas Co	1,142	171,275
The Southern Connecticut Gas Co	5,000	500,000
UGI Corp	25,358	3,803,715
Valley Gas Co	6,500	1,000,000
Total	184,495	29,184,655

Applicant states that such sales would be on an interruptible basis pursuant to its Rate Schedule I-1 under a service agreement which is attached to the precedent agreements filed in Exhibit I of the application.

Applicant states that the gas sold would be delivered to the Indicated Customers throught the facilities of Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporaton (Transco), Columbia Gas Transmission Corporation, Tennessee Gas Pipeline Company, and/or Penn-York Energy Corporation (Penn-York). The gas would be transported by these pipelines on an interruptible basis pursuant to Section 284 of the Commission's Regulations under the Natural Gas Policy Act of 1978, or other authority, for redelivery at their respective existing delivery points to the Indicated Customers.

Applicant further states that to facilitate these proposed sales, as well as permanent sales under other rate schedules, Applicant proposes to add the following new delivery points:

Company	Rate schedules	New delivery point
UGI	X-30	Existing interconnection between Applicant and Transco at East Fork, Pennsylvania (up to 2,500 Dt equivalent of gas per day).
Elizabethtown Gas Co.	CD (CDS-4), CD (CDS-7), SI.	Existing interconnection between Applicant and Penn-York at Ellisburg, Pennsylvania.

Applicant asserts that the new delivery points do not require the construction of any new facilities.

Applicant states that the revenues accruing from the proposed sales are subject to the outcome of Applicant's rate proceedings at Docket No. RP86-136-000, which includes consideration of off-system sales.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

9. Pacific Interstate Transmission Company

[Docket No. CP87-411-000]

July 14, 1987.

Take notice that on June 26, 1987, Pacific Gas Interstate Transmission Company (Applicant), 720 W. Eighth Street, Los Angeles, California 90017, filed in Docket No. CP87-411-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to commence a sale for resale of natural gas in interstate commerce to Southern California Gas Company (SoCalGas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application seeks authority to sell up to 640,000 Mcf of natural gas per day imported from Canada, or purchased from domestic suppliers, to SoCalGas under Rate Schedule IS-1, Original Voume No. 3 to Applicant's FERC Gas Tariff.

Applicant states that it is concurrently seeking authority of the Economic Regulatory Administration pursant to Section 3, in ERA Docket No. 87-32-NG, to import gas purchased from Pan-Alberta Gas Ltd., and Westcoast Transmission Company Limited.

Applicant proposes to resell the gas at five delivery points for which it has

previously received authority to sell gas to SoCalGas. Applicant proposes to transport the gas under open access plans in several pipelines. Applicant states that Rate Schedule IS–1 is said to allow SoCalGas to purchase whatever gas it wishes without a fixed or variable minimum bill obligation or any demand charge. Applicant states further that the rate would consist of gas costs, transportation and fuel charges and 1.0 cent per MMbtu charge to cover all normal business costs, and regulatory expenses to Applicant. Applicant does not propose to charge any costs related to this rate schedule throughout any other schedule but does propose to credit revenues from this rate schedule which exceed costs against costs related to its Rate Schedule CQS–1.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

10. Southern Natural Gas Company

[Docket No. CP87–403–000]

July 14, 1987.

Take notice that on June 22, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP87–403–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Pennzoil Co. (Pennzoil), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests limited-term authorization to transport natural gas on behalf of Pennzoil, according to an April 1, 1987, transportation agreement between Pennzoil and Southern. Subject to the receipt of all necessary governmental authorizations, Southern states that it has agreed to transport on an interruptible basis up to 1,025 MMBtu of natural gas per day produced by Pennzoil in Dexter Field, Walthall County, Mississippi. Southern requests that the Commission issue a limited-term certificate which would expire on April 1, 1990.

The transportation agreement provides for natural gas volumes to be delivered to Southern for transportation at the various existing points on Southern's contiguous pipeline system specified in Exhibit F to the application. It further provides that Southern would redeliver to Pennzoil at existing sales taps on Southern's pipeline system located in Tinsley Field, Yazoo County, Mississippi, an equivalent quantity of natural gas less 3.25 percent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses), less any and all shrinkage, fuel or loss resulting from or consumed in the processing of natural gas and less Pennzoil's pro-rate share of any naural gas volumes delivered for Pennzoil's account which is lost or vented for any reason.

Southern states that Pennzoil has agreed to pay Southern each month the transportation rate of 34.8 cents per MMBtu of natural gas redelivered by Southern. Southern further states it would collect from Pennzoil the GRI surcharge of 1.52 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern states that the transportation arrangement would enable Pennzoil to obtain gas at competitive prices for use in its oil field operations. In addition, Southern asserts it would obtain take-or-pay relief on gas that Pennzoil may deliver for transportation by Southern.

Comment date: August 4, 1986, in accordance with standard Paragraph F at the end of this notice.

11. Southern Natural Gas Company

[Docket No. CP87–414–000]

July 14, 1987.

Take notice that on June 29, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP87–414–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity for a term expiring on October 31, 1988, authorizing the transportation of natural gas for the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia (Dalton), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes, on an interruptible basis, to transport gas on behalf of Dalton in accordance with the terms and conditions of a transportation agreement between Dalton and Southern dated June 5, 1987.

Subject to the receipt of all necessary governmental authorizations, Southern states that it has agreed to transport on an interruptible basis up to 42,000 MMBtu of gas per day purchased by Dalton from SNG Trading Inc., Texican Natural Gas Company, Entrade Corporation and Panhandle Trading Company. Southern requests that the Commission issue a limited-term certificate for a term expiring October 31, 1988.

Southern states that the agreement provides for gas to be delivered to Southern for transportation at the various existing points on Southern's contiguous pipeline system specified in Exhibit A and First Supplemental Exhibit A to the agreement. It is stated that Southern will redeliver to Dalton at the Dalton Area Delivery Point as set forth in the Exhibit A to the Service Agreement between Southern and Dalton dated September 26, 1969, an equivalent quantity of gas less 3.25 per cent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses) less and and all shrinkage, fuel or loss resulting from or consumed in the processing of gas and less Dalton's pro-rata share of any gas delivered for Dalton's account which is lost or vented for any reason.

Southern states that Dalton has agreed to pay Southern each month the following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Dalton under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Dalton does not exceed the daily contract demand of Dalton, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Dalton under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Dalton exceeds the daily contract demand of Dalton, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern proposes to collect from Dalton the GRI surcharge of 1.52 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern states that the transportation arrangement would enable Dalton to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern states that it would obtain take-or-pay relief on gas that Dalton may obtain from its suppliers.

Comment date: August 28, 1987, in accordance with Standard Paragraph G at the end of this notice.

12. Transcontinental Gas Pipe Line Corporation

[Docket No. CP87-409-000]

July 14, 1987.

Take notice that on June 25, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP87-409-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Petrofina Gas Pipeline Company (Petrofina), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated June 1, 1987, Transco has agreed to transport on an interruptible basis up to 34,500 dekatherms of natural gas per day on behalf of Petrofina. It is further stated that the gas would be produced by Fina Oil and Chemical Company, Fina Oil & Gas Inc., Petrofina Delaware Incorporated and Fina Exploration, Inc. in certain blocks in the Offshore Gulf of Mexico area. Transco asserts it would receive such gas at eight existing points of receipt located in the following offshore blocks: (1) West Cameron Area Block 436, Offshore Louisiana; (2) West Cameron Area Block 480, Offshore Louisiana; (3) High Island Area Block 154-155, Offshore Texas; (4) High Island Area Block A-546, Offshore Texas; (5) High Island Area Block A-573, Offshore Texas; (6) Galveston Area Block 255, Offshore Texas; (7) Ship Shoal Area Block 246, Offshore Louisiana; and (8) Vermilion Area Block 16, Offshore Louisiana.

Transco states that it would deliver equivalent quantitaties (less compressor fuel and line loss make-up) to Petrofina at the following existing points on Transco's system: (1) existing interconnections with United Gas Pipe Line Company at Gibson, Gueydan, and Vinton, Louisiana; (2) existing interconnections with Louisiana Resources Company, Louisiana Industrial Gas Supply Corporation, and Acadian Gas Pipeline System in south Louisiana; (3) existing interconnections with Houston Pipeline Company at Bammel and Katy, Texas; and (4) the existing interconnection with Texas Eastern Transmission Company's Provident City—Houston Ship Channel line near Wharton, Texas.

It is stated that Transco would retain a percentage of the gas quantities it receives for compressor fuel and line loss make-up and would charge Petrofina a transportation rate based on Original Sheet No. 19 of Transco's FERC Gas Tariff, Second Revised Volume No. 1, as such rates may be amended or superseded from time to time.

Transco avers that the transportation agreement would remain in force for a primary term of 10 years from the date of initial deliveries, and year to year from the date of initial deliveries, and year to year thereafter unless and until terminated by either party giving proper notice.

Transco states that by filing this application, it is not electing "non-discriminatory access" as such term is described and defined in Section 284.8(b) and 284.9(b) of the Commission's Regulations (promulgated in Order No. 436).

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

13. United Gas Pipe Line Company

July 14, 1987.

[Docket No. CP87-423.000]

Take notice that on July 1, 1987, United Gas Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-423-000 an application pursuant to section 7(c) of the Natural Gas Act for authority to make firm and interruptible direct sales of natural gas to various customers, all as more fully set forth in the application which is on file with the Commission an open to public inspection.

United states that it received permisison to abandon certain firm direct industrial sales to the following customers whose contracts had expired. United further states that the following customers are those who have signed new firm or interruptible contracts with United.

Customer	CDQ (Mcf)
Firm contracts:	
1. BHP Petroleum "Americas", Inc. (formerly Energy Reserves Group, Inc.)	60
2. Dixie Gin Incorporated (formerly Sentell Gin Company)	200
3. St. Charles Grain Elevator Company	500
4. Westvaco Corporation	[1] 530
Interruptible contracts:	
5. BHP Petroleum "Americas", Inc. (formerly Energy Reserves Group, Inc.)	100
6. Champion International Corporation (formerly St. Regis Corporation)	18,000
7. Cooper Industries, Inc.—Crouse-Hines Company (formerly Westinghouse Electric Company)	1,100
8. Exxon Company, U.S.A.	500
9. Exxon Company, U.S.A.	1,000
10. Georgia Pacific Corporation	500
11. Hess Pipe Line Company	2,000
12. Hess Pipe Line Company	1,000
13. International Salt Company	40
14. Lone Star Industries (formerly Marquette Company)	6,500
15. Masonite Corporation	17,000
16. Monsanto Company	[1] 30,000
17. Parade Company, The	100
18. Speed, Jr., Carleton D., The Estate of	[1] 10
19. Westvaco Corporation	[1] 4,000
20. Willamette Industries, Inc.	[1] 900

[1] Denotes MMBtu.

Comment date: August 4, 1987, in accordance with Standard Paragraph F at the end of this notice.

United Gas Pipe Line Company

[Docket No. CP87-416-000]

July 14, 1987.

Take notice that on June 30, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-416-000, a request pursuant to section 157.205 of the Commission Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to construct and operate a 2-inch sales tap to replace an existing 1-inch tap, located on United's existing 8-inch main in Collins, Covington County, Mississippi, under the authorization issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the proposed sales tap would enable United to supply an estimated average of 2,000 Mcf/d of natural gas to Willmut Gas & Oil Company for resale to Sanderson Farms, an industrial customer under United's Rate Schedule G-N. United explains that the effective service agreement for such service is dated June 1, 1983. United advises it has sufficient capacity to render the proposed service without detriment or disadvantage to United's other customers.

Comment date: August 28, 1987, in accordance Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16408 Filed 7-17-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. C187-669-000]

Application to Permanently Abandon Purchaser From Shell Western E&P Inc. and on Behalf of Shell Western to Permanently Abandon Sales to Applicant ANR Pipeline Co.

July 14, 1987.

Take notice that on June 3, 1987, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 (Applicant) filed an application pursuant to section 7(b) of the Natural Gas Act for authorization (1) to abandon ANR's purchase of gas, and (2) to abandon Shell Western E&P Inc.'s (Shell Western) sale of gas to ANR from the Kings Bayou Field, Cameron Parish, Louisiana, under Shell Western's Rate Schedule No. 97. Additionally, Applicant has requested action from the Commission by July 11, 1987, the effective date upon which ANR has notified Shell Western the contract will be terminated. ANR refers to severe consequences which a delay in granting this application will have on ANR and its customers.

Applicant states that the sale of gas by Shell Western to ANR was certificated by the Commission by Order issued May 11, 1965, in Docket No. CI65-739. Applicant also states that the underlying gas sales contract was dated December 22, 1964, and that, pursuant to the terms of that contract, ANR has notified Shell Western of the termination of the contract effective July 11, 1987. Applicant states that its sales have been drastically reduced and that the public convenience and necessity no longer require the sale by Shell Western nor the purchase by ANR of the gas at issue. Applicant states further that it has sufficient gas to meet its customers demands into the future and that abandonment will reduce its cost of gas while permitting Shell Western to sell the gas at market-based prices. Applicant states that the subject gas qualifies under NGPA section 104.

Applicant states that as is evidenced by its Form 15 for 1985, deliverability on Applicant's system currently exceeds demand and is projected to do so for the foreseeable future. Consequently, Applicant states it must reduce its obligations to purchase in order to achieve an equilibrium with reduced demand. In this regard, Applicant states it has already drastically altered its purchasing patterns from all producers including Shell Western. Applicant states it has attempted to nominate only 5% of the production from the subject field at an average price of $2.46 per Mcf. Nevertheless, Shell Western has refused to reduce its prices so as to make its gas more marketable.

Applicant states that the public convenience and necessity require approval of the application to abandon Shell Western's sales to Applicant, and Applicant's concomitant purchase of said gas. Abandonment will clearly benefit Applicant's customers by reducing Applicant's gas costs as the gas involved herein is priced above Applicant's current weighted average cost of gas. Applicant states that a grant of the requested abandonment will not seriously injure Shell Western, if it is harmed at all, since it will be able to sell its gas at prices set by the market. Applicant states it is willing to transport Shell Western's gas abandoned hereunder, as the Commission directed those pipelines receiving abandonment authority in *Mississippi River Transmission*, 39 FERC ¶ 61,113 (1987) to do, so long as such transportation does not constitute that type of transportation which triggers the CD reduction/conversion provision of § 284.10 of the Commission's Regulations, 18 CFR § 284.10.[1]

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] On July 3, 1987, the Commission issued an order staying the effectiveness of § 284.10 of the Commission's Regulations, subject to leave of court, in light of the decision in *Associated Gas Distributors* v. *FERC*, No. 85-1611 (D.C. Cir. June 23, 1987).

unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16348 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-736-000]

Application; Chevron Natural Gas Services, Inc.

July 14, 1987.

Take notice that on July 1, 1987, Chevron Natural Gas Services, Inc. ("CNGS"), a wholly-owned subsidiary of Chevron Corporation, filed an abbreviated application with the Federal Energy Regulatory Commission ("Commission") requesting a blanket certificate of public convenience and necessity with pre-granted abandonment authorizing sales for resale of natural gas in interstate commerce; sales of natural gas by others to CNGS for resale in interstate commerce; sales for resale of natural gas in interstate commerce by producers for whom CNGS acts as agent; and sales for resale in interstate commerce of natural gas produced from the Outer Continental Shelf ("OCS").

CNGS asked the Commission for pre-granted abandonment of all sales for resale for which certificate authority was sought, and a waiver of Parts 154 and 271 of the Commission's Regulations concerning maintenance of rate schedules. CNGS further requested that the Commission limit its NGA jurisdiction over the activities of CNGS to the transactions for which authorization was sought.

CNGS states that the requested authority will give it maximum flexibility to make sales for resale of spot market gas at market-responsive prices. By bringing increased supplies of natural gas to the marketplace and promoting competition, CNGS states that it will serve the public interest.

Any person desiring to be heard or to make any protests with reference to said application should on or before July 27, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20436, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16349 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-747-000]

Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting Pregranted Abandonment; Maxus Exploration Co. and Diamond Shamrock Offshore Partners Limited Partnership.

July 14, 1987.

Take notice that on July 6, 1987, Maxus Exploration Company and Diamond Shamrock Offshore Partners Limited Partnership (jointly referred to as "Applicants") filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), the provisions of 18 CFR Parts 154 and 157, seeking a blanket certificate of public convenience and necessity with pregranted abandonment authority to enable Applicants to sell natural gas that remains subject to the Commission's NGA jurisdiction and for which producers have received abandonment approval from the Commission through other procedures, gas never previously sold but which would require a certificate if sold, and NGA gas which is not committed to a contract. The requested blanket sales certificate with pregranted abandonment authority would cover sales for resale of all jurisdictional Natural Gas Policy Act (NGPA) categories of gas in interstate commerce, including volumes whose maximum lawful price is at or below that established by section 109 of the NGPA. The term of the authorizations requested by Applicants is two (2) years, without prejudice to extension.

Applicant states that the authority as requested is consistent with the Commission's rules and regulations and is necessary for Applicant to make various types of gas sales as set out in the Application which is on file with the Commission and open for public inspection.

Applicants further state that their requests are consistent with the Commission's recently issued order in *Entrade Corporation*, Docket Nos. CI87-89-000, *et al.* (issued March 31, 1987), wherein the Commission amended and extended blanket sales certificates with pre-granted abandonment authorizing several marketing companies to make sales for resale, and granting pregranted abandonment authorization for such sales.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 29, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16350 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-746-000]

Application; Mobil Oil Exploration & Producing Southeast Inc.

July 14, 1987.

Take notice that on July 6, 1987, Mobil Oil Exploration & Producing Southeast Inc. (MOEPSI), of Nine Greenway Plaza, Suite 2700, Houston, Texas 77046, filed an application pursuant to section 7(c) of the Natural Gas Act, 15 U.S.C. 717f, and § 157.23 of the Commission's Regulations under the Natural Gas Act, to continue certain services previously authorized to Hamilton Brothers Oil Company (Hamilton Brothers) under a small producer certificate issued in Docket No. CS71-1145 and under a certificate issued in Docket No. CI79-424, all as more fully shown on the attached Exhibit "A". MOEPSI has acquired certain interests in Offshore Louisiana from Hamilton Brothers by assignments dated December 23, 1986 and December 31, 1986, to be effective on November 1, 1986, and proposes to continue such service effective November 1, 1986. This application is on file with the Commission and open to public inspection.

The interests MOEPSI has acquired from Hamilton Brothers are dedicated to six gas purchase contracts. Sales under four of the contracts were covered by Hamilton Brothers' small producer certificate and sales under the fifth contract were covered under a certificate in Docket No. CI79-424 as shown on Exhibit A hereto.

MOEPSI states that no written contract currently covers the sixth sale. Under a contract dated September 25, 1972, Hamilton Brothers dedicated 20.25 Bcf from Eugene Island Block 306 to ANR Pipeline Company. MOEPSI states that on October 25, 1980, the contract and certificate authorization expired upon delivery of the dedicated volumes. However, sales from the remaining reserves have continued without certificate authorization. MOEPSI requests certificate authorization to cover this sale effective November 1, 1986. MOEPSI also requests authorization to collect the NGPA section 109 price for this gas effective November 1, 1986.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT 'A'

Contract Date	Purchaser	Location	Former authorization
1/02/68	ANR Pipeline Co.	Ship Shoal 204, 205, 207 and 216, Offshore Louisiana.	CS71-1145
[1]	ANR Pipeline Co.	Eugene Island 306, Offshore Louisiana.	
5/31/74	Trunkline Gas Co.	South Marsh Island 268, 269 and 281, Offshore Louisiana.	CI79-424
9/11/71	ANR Pipeline Co.	Eugene Island 296, Offshore Louisiana.	CS71-1145
11/3/71	ANR Pipeline Co.	West Cameron 171, Offshore Louisiana.	CS71-1145
9/27/72	ANR Pipeline Co.	West Cameron 171, Offshore Louisiana.	CS71-1145

[1] There is no written gas sales contract currently in effect for this sale.

[FR Doc. 87-16351 Filed 7-17-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI87-684-000]

Application to Abandon Purchases; Natural Gas Pipeline Co. of America

July 14, 1987.

Take notice that on June 9, 1987, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CI87-684-000 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon the purchase of natural gas under certain producer contracts which have expired or will expire by December 31, 1987, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Natural seeks permanent authorization to abandon the purchase of natural gas, and to terminate the underlying rate schedules.

Natural states it is currently experiencing a gas supply/demand imbalance due to an excess of supply, and expects this imbalance to increase. Approval of Natural's requests will be a critical step in dealing with its supply/demand imbalance and the alleviation of its substantial take-or-pay exposure. At a time in which Natural is claiming force majeure with its suppliers to excuse performance under its existing contracts, Natural states it believes it is no longer in the public interest to continue purchases under expired gas purchase contracts. These expired contracts have not been extended and Natural states it is under no contractual obligation to purchase the gas supplies underlying them.

Natural states it has in most cases attempted to negotiate long-term rollover contracts with market responsive pricing and take provisions covering NGA gas, but agreement for continued sales of the gas could not be reached. Producers holding these contracts informed Natural of their intention to seek enforcement of the terms of their expired contracts against Natural, relying on their certificates for sale and NGA authority. Natural states it does not agree with this position but, during negotiations, continued to purchase a small quantity of gas tendered by the producers. Natural states it is filing the instant request for abandonment of its service obligation relating to contracts which have expired, or will expire as of December 31, 1987, and which Natural has been unable to rollover.

The requested abandonment covers a variety of vintages of natural gas which remain subject to the Commission's jurisdiction under section 601(a)(1)(A) of the NGPA. All of the contracts have been certificated pursuant to section 7(c) of the NGA and are either incorporated into rate schedules or are covered by small producer certificates. Therefore, Natural states that without abandonment authority, producers cannot sell the gas to other markets.

As of December 31, 1986, as reported in Natural's Form 15, Natural states it had a total of 4.859 TCF of saleable gas supply. This requested abandonment involves approximately 900 gas purchase contracts, covering an aggregate total of remaining reserves of only approximately 251 BCF. This amounts to 5.1% of the total gas supply currently committed to Natural. In addition, Natural states that its sales have largely been displaced by transportation gas. For the twelve months ended April 30, 1987, Natural has sold only 345 BCF compared to the 761 BCF sold for the twelve months ended April 30, 1986. Furthermore, Natural states it is expecting a further deterioration in its sales as reflected in its Form 16 filed April 30, 1987, which forecasts approximate annual sales of 228 BCF for the April 1987 through March 1988 period. After deducting the approximate 251 BCF of reserves, Natural states it will still have a 20-year reserve/sales ratio based upon current annual sales projections. This proposed abandonment of 251 BCF will assist Natural in solving its current gas supply/demand imbalance, and would also allow the producers to market their gas elsewhere.

Natural submits that the proposed abandonment is appropriate under the circumstances enumerated, and is consistent with the Commission's policies on abandonment in cases where a pipeline has substantially reduced

takes [1] from producers and where contracts have expired. Natural also states that this abandonment application is consistent with Order No. 451 in which the Commission found that blanket abandonment would serve the public interest because increasing the flow of gas is in the interest of the national gas market. Natural also requests that the application be considered on an expedited basis as provided for in said policies.

Natural states that the question of the producers' certificate obligations may be dealt with here as the Commission did in its recent order in *Mississippi River Transmission Corporation, et al.* 39 FERC ¶ 61,113 (1987), where the Commission issued to the producers of Sea Robin Pipeline Company continuing authority to sell their gas while relieving the pipeline of any obligation to continue purchasing. Further, Natural states that its facilities will remain in service and Natural will agree to the transportation condition found in the Sea Robin order.

Natural states that the instant application is consistent with these precedents; it seeks no intervention into contract matters, nor does it purport to invalidate producer obtained certificates of public convenience and necessity. Natural states that it seeks only what the Commission requires of it, that Natural obtain a determination that abandonment of its service obligation is permitted by the public convenience and necessity.

Notwithstanding the Commission's Notice of Proposed Rulemaking in Docket No. RM87–16–000, Abandonment of Sales and Purchases of Natural Gas Under Expired, Terminated or Modified Contracts; Natural states that the public interest would best be served by the Commission granting permanent abandonment of the subject contracts as soon as possible. The time frame inherent in any rulemaking procedure would unnecessarily delay the ability of the producers to market their gas reserves to other parties. Natural states it is not proposing the abandonment of any facilities at this time, therefore, Natural is willing to transport under its existing tariff any gas volumes which the producers require to market their gas through existing facilities, subject to capacity limitation.[2]

Since Natural indicates that its producers are subject to substantially reduced takes without payment and has requested that its application be considered on an expedited basis all as more fully described in the application which is 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 application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–16352 Filed 7–17–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187–734–000] 734

Application; Northwest Marketing Co.

July 14, 1987.

Take Notice that on June 30, 1987, Northwest Marketing Company (NW Marketing), P.O. Box 8900, Salt Lake City, Utah 84108–0900, filed at Docket No. C187– –000, an application pursuant to sections 154 and 157 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder for a limited-term blanket certificate of public convenience and necessity authorizing NW Marketing to sell natural gas for resale in interstate commerce, with pre-granted abandonment of any such sale.

It is stated that the volumes of natural gas subject to the Commission's jurisdiction under the NGA which NW Marketing proposes to sell for resale will be acquired by NW Marketing from producers who have contractual authority to sell to NW Marketing and, if necessary, have received appropriate Commission authority in other proceedings to make such gas available to NW Marketing.

NW Marketing proposes to sell the subject gas, along with other acquired supplies from wells not subject to the Commission's jurisdiction, to various spot market purchasers. NW Marketing's sale of any particular package of gas will be consistent with the pricing terms and conditions under the related sales authority of the producer from whom NW Marketing acquired the gas.

NW Marketing proposes that the requested certificate be effective for a limited term ending two years from the date of initial authorization.

NW Marketing requests that the Commission waive Part 154 of its regulations as to the establishment and maintenance of rate schedules. NW Marketing requests that the limited term blanket sales certificate be conditioned so that the rates charged in the authorized sales would be limited by the applicable maximum lawful price prescribed by the NGPA, including any rate that NW Marketing may have established the right to collect pursuant to Parts 273, 274 or 275 of the Commission's Regulations. In addition, automatic collection of the appropriate monthly adjustments under the Commission's wellhead ceiling price regulations is requested, with a waiver of the requirement to file blanket affidavits to cover such sales in accordance with § 154.94(h) of the Regulations. In order to keep the Commission informed of implementation of the proposals sought herein, NW Marketing is willing to file quarterly reports detailing terms and conditions of any authorized sales of the subject gas.

NW Marketing believes that good cause exists for the requested waivers. NW Marketing's ability to successfully sell gas in the spot market on a competitive basis requires that it have flexible terms of service with the spot-market gas purchasers. Absent these requested waivers, NW Marketing could not adapt readily to the changing volumes, purchasers, delivery points and prices present in the spot market environment.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a

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[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

[2] On July 3, 1987, the Commission issued an order staying the effectiveness of § 284.10 of the Commission's Regulations, subject to leave of court, in light of the decision in *Associated Gas Distributors v. FERC*, No. 85–1811 (D.C. Cir. June 23, 1987).

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16353 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-232-011]

Compliance Filing; Panhandle Eastern Pipe Line Co.

July 14, 1987.

Take notice that on July 6, 1987, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 32-AH
Original Sheet No. 32-AH.1
First Revised Sheet No. 32-AI
First Revised Sheet No. 32-AK.

Panhandle requests an effective date of July 6, 1987. Panhandle also requests waiver of section 154.22 of the Commission's regulations in order to implement these tariff modifications.

Panhandle states that these revised tariff sheets are being filed in compliance with Ordering Paragraphs (B) and (C) of the Commission's Opinion No. 275 and Order of June 4, 1987.

Panhandle has served copies of this filing on all jurisdictional sales and transportation customers and applicable state regulatory agencies as well as all parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 22, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16354 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-751-000]

Application; Pennzoil Gas Marketing Co.

July 14, 1987.

Take notice that on July 8, 1987, Pennzoil Gas Marketing Company, P.O. Box 2967, Houston, Texas 77252-2967, filed pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c and 717f, and the Commission's regulations thereunder, 18 CFR Part 157; *id* §§ 375.307 and 270.202, an application of Pennzoil Gas Marketing Company for Blanket Certificate of Public Convenience and Necessity Authorizing Sales of Natural Gas in Interstate Commerce for Resale with Pregranted Abandonment Authorization, all as more fully set forth in the application on file with the Commission and open to public inspection.

Approval would authorize Pennzoil Gas Marketing Company to make sales of natural gas in interstate commerce for resale for an unlimited term. Pennzoil Gas Marketing Company is a reseller of natural gas governed by 18 CFR 270.202. Pursuant to the authority in 18 CFR 157.11, and in accordance with Rule 802 of the Rules of Practice and Procedure, PGMC requests that the Commission omit the intermediate decision procedure. PGMC waives oral hearing and opportunity to file exception to the decision of the Commission in order to expedite the application process.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1987, filed with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16355 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-737-000]

Application; SEMCO Energy Services, Inc.

July 14, 1987.

Take notice that on July 2, 1987, SEMCO Energy Services, Inc. (SEMCO), pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c and 717f, and the provisions of 18 CFR Part 157, applied for a blanket certificate of public convenience and necessity and for pregranted abandonment to permit sales, and pregranted abandonment of such sales, of natural gas which remains subject to the Commission's jurisdiction under the Natural Gas Act (NGA) for which producers have already received any applicable abandonment authority under section 7(b) of the NGA in separate proceedings.

SEMCO states that it is seeking authority to purchase and resell natural gas with pregranted abandonment authority, with respect to both natural gas sold by SEMCO to others and natural gas supplies sold by others to SEMCO. SEMCO is not seeking any transportation authority. SEMCO states that it is seeking authority similar to that recently granted in *Citizens Energy Corp.*, 39 F.E.R.C. ¶ 61,106 (1987).

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16356 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-738-000]

Application; Williams Gas Marketing Co.

July 14, 1987.

Take notice that on July 2, 1987, Williams Gas Marketing Company (WGM), P.O. Box 3288, Tulsa, Oklahoma, 74101, filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and Parts 154 and 157 of the Commission's regulations. The application requests the Commission to issue an order granting (1) a blanket certificate of public convenience and necessity authorizing the sale for resale in interstate commerce, with pre-granted abandonment, of any and all categories of gas subject to the Commission's jurisdiction under the Natural Gas Policy Act (NGPA) or the NGA (a) by WGM, (b) by others selling such gas to WGM and (c) by others selling such gas through WGM acting as agent on their behalf and (2) blanket, limited-term abandonment authority, for producers or other suppliers of such gas to WGM to the extent such gas is released by interstate, intrastate or Hinshaw pipelines or other purchasers to such producers or suppliers for sale by WGM or by such producers or suppliers through WGM acting as their agent, all as more fully set forth in the application on file with the Commission and open for public inspection.

WGM requests waiver of the Commission's regulations which require the establishment and maintenance of rate schedules for the sales for which such authorizations are requested, including 18 CFR 154.94(h), 154.94(k), and Parts 154 and 271, and waiver of any other rules, regulations, and reporting requirements that may be inconsistent with the authority requested under the application. WGM requests that the application be processed expeditiously under 18 CFR 385.802 and 18 CFR 2.77, as appropriate. In granting these authorizations and waivers, WGM requests that the Commission limit its assertion of jurisdiction under the NGA with respect to WGM to the transactions for which such authorizations are sought under the application.

WGM states that the authorizations sought will provide benefits to all segments of the natural gas industry by making more market-responsive supplies available in the marketplace and by facilitating the production of natural gas which would otherwise not be produced.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-16357 Filed 7-17-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders for the Week of May 4 Through May 8, 1987

During the week of May 4 through May 8, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

David Soler, 5/4/87; KFA-0

David Soler filed an Appeal from a denial by the Chicago Operations Office of a request for information which he had submitted under the Privacy Act. In considering the Appeal, the Department of Energy found that given the breadth of the request, the procedures employed in the search, and Soler's opportunity to personally inspect the relevant records, an adequate search of systems of records was performed. In addition, the DOE determined that the portion of Soler's appeal claiming that the DOE improperly obtained and maintained his personnel records was not directly related to a denial of a request for information under the Act, and thus the Office of Hearings and Appeals lacked jurisdiction to consider it.

Request for Exception

Halron Oil Co., Inc., 5/7/87; KEE-0120

Halron Oil Co., Inc. filed an Application for Exception in which the firm sought relief from its obligation to submit Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." In considering Halron's request, the DOE found that the firm is permitted to provide estimates of its sales volumes and that this option should provide sufficient immediate relief to the firm until its new computer system is installed. Since Halron failed to demonstrate that it was particularly adversely affected by the requirement that it file the Form, exception relief was denied.

Implementation of Special Refund Procedures

O.B. Mobley, Jr. et al., 5/4/87; HEF-0499 et al.

The DOE issues a Decision and Order implementing procedures for the distribution of $10,916,587.92 plus accrued interest in alleged crude oil overcharge funds obtained from nine firms. The DOE determined that the funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. Accordingly, 80 percent of the money in these cases was divided between the state and federal governments, and 20 percent of the funds was reserved for direct restitution to injured parties. The specific information to be included in applications for refund is set forth in the Decision. The deadline for filing applications is December 31, 1987.

Pennzoil Company, 5/7/87; KCF-0047

Pursuant to a remand order of the United States District Court for the Eastern District of Michigan, the DOE issued a decision providing for final procedures for distributing the funds remaining in the Pennzoil Company consent order fund. The DOE determined that these funds should not be used to provide Pennzoil refund recipients with refunds beyond those already granted. Instead, the DOE decided to effect indirect restitution, by disbursing the funds to States whose citizens were injured by alleged Pennzoil overcharges.

Refund Applications

Allen Transportation Co. et al., 5/5/87; *RF270-141 et al.*

The Department of Energy issued a Decision and Order approving applications for refund from the Surface Transporters Escrow filed by ten private bus companies. Each company based its application on purchases of diesel fuel or motor gasoline. The DOE approved each company's purchased volumes with a slight adjustment for one company's computational error. The DOE will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Badger Cab Company, Inc. et al., 5/6/87; *RF270-149 et al.*

The Department of Energy issued a Decision and Order approving applications for refund from the Surface Transporters Escrow filed by seven taxicab companies. Each company based its application on purchases of motor gasoline or propane. The DOE approved each company's purchase volumes and will determine a per gallon refund amount and establish the amount of each company's refund after it completes its analysis of all Surface Transporter claims.

Crystal Oil Co./Mid-Continent Systems, Inc., 05/08/87; *RF233-38*

Mid-Continent Systems, Inc., a reseller of diesel fuel, filed an Application for Refund,

seeking a portion of funds remitted pursuant to a Consent Order that Crystal Oil Company entered into with the DOE. The DOE found that since Mid-Continent had banks of unrecouped product costs and since the prices Crystal charged Mid-Continent from April 1974 through August 1975 and in November and December 1975 were significantly higher than average market prices, Mid-Continent incurred a competitive injury during those months. Accordingly, the DOE granted Mid-Continent a refund based upon the 15,585,810 gallons of No. 2 diesel fuel purchased from Crystal during these months. The total refund approved equals $26,684 ($14,920 in principal plus $11,764 in interest).

D & P Trucking Co., Inc., 5/4/87; *RF270–2450*

D&P Trucking Company submitted an Application for Refund from the Surface Transporters Escrow. Because the firm did not offer good cause for filing its application after the official filing deadline for Surface Transporter claims, the DOE determined that the application was untimely. Accordingly, the Application was dismissed.

Gulf Oil Corporation/North Middletown Gulf Lewis Dukes Gulf, 5/8/87; *RF40–3687, RF40–3688*

The DOE issued a determination concerning two inadvertent overpayments of a total of $2,644 to Energy Refunds, Inc. A computer check revealed that two clients of Energy Refunds, Inc., North Middletown Gulf and Lewis Dukes Gulf, had receive duplicate refunds for their purchases of Gulf petroleum products. Accordingly, Energy Refunds, Inc. was ordered to remit $2,644, plus $73 accrued interest, to the DOE.

Gull Industries, Inc./Digas Oil, 5/5/87; RF258–6, RF259–10

The DOE issued a Decision and Order granting two Applications for Refund from two consent orders funded by Gull Industries, Inc. to Digas Oil, a reseller of Gull petroleum products. According to Gull audit documents, Digas was eligible for a refund of $106.55 with respect to one consent order fund. With respect to the second fund, Digas elected to limit its claims to the $5,000 small claims amount. Accordingly, no further proof of injury was required. The refunds approved in the decision totaled $7,847.02, representing $5,106.55 in principal and $2,740.47 in interest.

Hells Canyon Guide Services, Inc. Ventura County Railway Company Yancy Railroad Company, 5/6/87; RF 271–64, RF271–168, and RF271–169

The DOE issued a Decision and Order concerning three Applications for Refund from the Rail and Water Tansporters Escrow. In reviewing these Applications, the DOE found that none of the claimants had purchased more than 250,000 gallons of U.S. petroleum products during the settlement period, the minimum volume required by the *Order Establishing Tranporters Escrow*. Accordingly, all three Applications were denied.

MacMillan Ring-Free Oil Co., Inc./Gulf States Oil & Refining Company, 5/8/87; RF217–3

The DOE issued a Decision and Order concerning an Application for Refund filed by Gulf States Oil & Refining Co. from a consent order fund made available by Macmillan Ring-Free Oil Co., Inc. The DOE found that as a spot purchaser of Macmillan motor gasoline, Gulf States was not eligible to receive a refund, unless it rebutted the presumption that it was not injured. Since Gulf States did not make this showing, its Application for Refund was denied.

Mapco, Inc./Oeding Corporation, 5/5/87 RF108–32

Oeding Corporation filed a refund application in the Mapco, Inc. refund proceeding, based on purchases of 328,939 gallons of natural gas liquids from Mapco. Since the firm's claim did not exceed the small claims threshold level of $5,000, the DOE granted a refund to Oeding on a volumetric basis, without requiring a detailed showing of injury. Accordingly, Oeding was granted a refund of $592.09 in principal and $306.24 in accrued interest.

Mapco, Inc./Wynn-Fowler Trading Co., Inc., 5/5/87; *RF108–27*

Wynn-Fowler Trading Company, Inc. filed an Application for Refund seeking a portion of the consent order funds remitted by Mapco, Inc. Wynn-Fowler purchased 10,788,142 gallons of propane, butane and natural gasoline from Mapco during the consent order period. Based on a comparison of Mapco prices and averages prices, the DOE found that Wynn-Fowler experienced an injury in its Mapco purchases and granted the firm a refund of $19,419, plus $10,044 in interest.

Marathon Petroleum Company/James W. Welch, Shelby & Sons Marathon, 5/5/87; RF250–2075, RF250–2509

The DOE issued a Decision and Order concerning two Applications for Refund filed by direct and indirect purchasers of products covered by a consent order that it entered into with Marathon Petroleum Company. James W. Welch demonstrated the volume of his purchases from Marathon, and was granted a refund of $529 in principal and $48 in interest under the small claims presumption of injury. Shelby & Sons Marathon demonstrated the volume of its purchases of Marathon branded gasoline from an intermediate supplier, and was granted a refund of $558 in principal and $51 in interest under the small claims presumption of injury.

Mobil Oil Corporation/Albert Prince et al., 5/7/87; RF225–8796 et al.

The DOE issued a Decision granting 49 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $34,040 ($27,985 in principal plus $6,055 in interest).

Mobil Oil Corporation/Babler's Mobil et al., 5/5/87; RF225–182 et al.

The DOE issued a Decision granting 30 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $59,215 ($48,678 in principal plus $10,537 in interest).

Mobil Oil Corp./Bethlehem Steel Corp., 5/8/87; RF225–10760

The DOE issued a Decision and Order concerning a revised Application for Refund filed on behalf of The Bethlehem Steel Corp., an end-user of Mobil Oil Corp. refined petroleum products. Based on information from Bethlehem Steel that in a previously granted refund the purchase volume indicated for aviation fuel had been overstated, the DOE rescinded the firm's initial refund and granted it a new refund based upon a revised purchase volume figure. Bethlehem Steel's total refund was $15,265, representing $12,498 in principal plus $2,767 in interest.

Mobil Oil Corporation/Wynn-Fowler Trading Company, Inc., 5/6/87; RF225–10588

The DOE issued a Decision and Order concerning an Application for Refund filed by Wynn-Fowler Trading Company, Inc. in the Mobil Oil Corporation special refund proceeding. Since Wynn-Fowler was a reseller whose purchases of Mobil product were sporadic and occurred in only three months of the consent order period, the DOE determined that Wynn-Fowler was a spot purchaser and presumed not to have been injured by Mobil's overcharges. Because Wynn-Fowler made no attempt to rebut that presumption, its Application for Refund was denied.

North Shore Bus Co., Inc. et al., 5/6/87; RF270–868 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by five private bus companies and will use those gallonages as a basis for the refunds that will ultimately be issued to the five firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the five firms' refunds will be determined at a later date.

Petrolane-Lomita Gasoline Co./Strube Propane, Inc. et al., 5/8/87; *RF208–12 et al.*

Strube Propane, Inc. and five other firms filed Applications for Refund, seeking a portion of the consent order funds remitted to the DOE by Petrolane-Lomita Gasoline Company. Each of the applicants stated the volume of covered product purchased from Petrolane during the consent order period. Since none of the refund claims exceeded the small claims refund threshold level of $5,000, none of the Applicants was required to demonstrate injury. The total refund granted in this Decision and Order was $17,317.90.

representing $12,724.39 in principal and $4,593.51 in interest.

Southern Union Company/Union Carbide Corporation, 5/8/87; RF182-2

The Department of Energy issued a Decision and Order concerning an Application for Refund filed by Union Carbide Corporation from a consent order fund made available by Southern Union Company. As an end-user of natural gas liquids sold by the consent order firm, Southern Union was eligible to receive a refund without a demonstration of injury. Accordingly, Southern Union was granted a refund of $139,790 ($85,736 in principal plus $54,054 in interest).

Virco Mfg. Corporation et al., 5/7/87; RF270-111 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonages of refined petroleum products claimed by eleven companies and will use those gallonages as a basis for the refunds that will ultimately be issued to the eleven firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the refunds of the eleven firms will be determined at a later date.

Dismissals

The following submissions were dismissed:

Company name	Case No.
Apco Liquidating Trust	KEE-103
Barge Transport Co., Inc.	RF250-2702
Broyhill Furniture Ind.	RF271-215
City Fuel Oil Service	RF225-6645
	RF225-6646
	RF225-6647
Friendly Service Oil Company	FR225-6639
	RF225-6640
Haney Oil Company	RF225-6632
	RF225-6633
	RF225-6634
Harrell Petroleum Company	RF225-6609
	RF225-6610
Henderson Oil Company	RF225-6641
J.W. Fields Oil Company	RF225-6630
	RF225-6631
Keneco	KEE-0129
Kirkland Oil Company	RF225-6649
	RF225-6650
	RF225-6651
Lakewood Oil Co., Inc.	RF225-6627
	RF225-6628
	RF225-6629
Larko, Inc.	RF225-6648
Lunde Fuel & Oil Supply	RF225-359
	RF225-360
	RF225-361
Mid-Continent Oil Company	RF225-357
	RF225-358
Peninsula Fuel Company	RF225-341
Stroehmann Bakeries, Inc.	RF270-1609
Mile & Ryan	RF225-191
	RF225-192
	RF225-193

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal hokidays. They are also available in *Energy Management: Federal Energy Guidelines*, aa commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 13, 1987.

[FR Doc. 87-16415 Filed 7-17-87; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of May 11 Through May 15, 1987

During the week of May 11 through May 15, 1987, the decisions and orders summarized below were issued with respect to and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Petition for Special Redress

Ohio, 5/13/87; KEG-0007

The DOE issued a Decision and Order concerning the Petition for Special Redress filed by the State of Ohio. Ohio sought approval for the Non-Profit Building Retrofit Program, which was previously determined to fall outside the terms of the Stripper Well Settlement. After discussing the need for Stripper Well plans to meet the objectives of energy conservation, restitution, and overall balance, the DOE determined that Ohio's program met these criteria. Nonprofit social services agencies will be able to use $1 million to reduce their energy use and costs through implementation of energy conservation measures. The agencies will therefore be able to increase the proportion of their funding allocated to direct services for Ohio residents. In addition, up to $50,000 of these funds will be used for energy conservation measures in government buildings, a use approved under the Stripper Well Settlement.

Requests for Exception

Ackerman Oil Co., Inc., 5/13/87; KEE-0110

Ackerman Oil Co., Inc. (Ackerman) filed an Application for Exception from the requirement that it file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that Ackerman's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Hy-Test Oil Company, Inc., 5/13/87; KEE-0114

Hy-Test Oil Company, Inc. (Hy-Test) filed an Application for Exception from the requirement that it file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that Hy-Test's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Refund Applications

A. Tarricone, Inc./Spano Fuel Company, 5/12/87; RF155-5

The DOE issued a Decision and Order concerning an Application for Refund filed by Spano Fuel Company, a purchaser of products covered by a consent order that the agency entered into with A. Tarricone, Inc. The applicant estimated the volume of its A. Tarricone purchases, and requested a refund on the basis of those volumes which it purchased from A. Tarricone at above-market prices. The DOE revised the applicant's purchase estimate on the basis of the firm's sales and price records, adn compared the monthly average prices which the firm paid to the local prevailing market prices. The DOE concluded that the applicant had been injured in its purchases of 1,360,184.50 gallons of No. 2 heating oil, and was granted a refund of $13,739 in principal, and $9,604 in interest, on the basis of those purchases.

Dorchester Gas Corporation/Swanee Petroleum Corp., Chevron U.S.A. Inc., Strube Propane, Inc., 5/14/87; RF253-1, FR253-7, FR253-10

Swanee Petroleum Corporation, Chevron U.S.A. Inc and Strube Propane, Inc. filed Applications for Refund, seeking a portion of funds remitted by Dorchester Gas Corporation pursuant to a consent order that Dorchester entered into with the Department of Energy. Each of the applicants stated that it purchased certain volumes of covered product from Dorchester during the consent order period, but none of the refund claims exceeded the small claims refund threshold level of $5,000. The DOE therefore granted each of the applicants a refund plus accrued interest under the presumption-of-injury principle. The total amount of refunds granted in this Decision and Order was $10,226.76, representing $8,141.76 in principal and $2,125.00 in interest.

Gary Energy Corporation/Acorn Petroleum, Inc., 5/13/87; RF47-17

The DOE issued a Decision and Order concerning an Application for Refund filed by Acorn Petroleum, Inc. (Acorn) in connection with the Gary Energy Corporation special refund proceding. Acorn sought a refund for its purchases of Gary motor gasoline. Acorn argued convincingly that is claim should be evaluated according to the three-step competitive disadvantage methodology normally reserved for cases involving natural gas liquid products. From price data submitted by Acorn, the DOE applied the three-step competitive disadvantage methology, and determined that the applicant was entitled to a refund of $21,939 in principal and $6,006 in interest from the Gary deposit escrow account.

Mapco, Inc./Oeding Corporation, 5/12/87; RF108-35

On May 5, 1987, the Office of Hearings and Appeals (OHA) of the Department of Energy issued a Decision and Order to Oeding Corporation, granting an Application for

Refund that the firm filed in the Mapco, Inc. refund proceeding. That refund in the amount of $592.09, plus interest was based upon a purchase volume of 328,939 gallons. The OHA subsequently found that Oeding had documented a purchase volume of 3,471,233 gallons of propane, and would be eligible for a refund of $6,248.22. Oeding, however, elected to limit its claim to the small claims refund level of $5,000. In this Decision and Order, the OHA granted Oeding an additional refund of $4,407.91 plus accrued interest of $2,279.76. The additional refund combined with the $592.09 granted in the May 5, 1987 Decision and Order enabled Oeding to receive a total principal refund of $5,000.

Marathon Petroleum Company/Kean Brothers, Inc., 5/12/87; RF250–2214

The DOE issued a Decision and Order concerning an Application for Refund filed by Kean Brothers, Inc. (Kean), a reseller of Marathon covered products. The firm's purchases of motor gasoline from Marathon during the consent order period entitled it to a refund exceeding the threshold refund level established in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986). Kean therefore elected to file its refund application in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the *Marathon* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Kean should receive a refund of $15,342.65 in principal and $1,172.19 in accrued interest for a total refund of $16,514.84.

Marathon Petroleum Company/Key Energy Enterprises, 5/13/87; RF250–2722

The DOE issued a Supplemental Decision and Order concerning a refund granted to Key Energy Enterprises, a purchaser of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The DOE determined that the refund granted to the applicant in a Decision and Order issued on March 27, 1987, *Marathon Petroleum Co./Hodges Development Corp.*, 15 DOE ¶ 85,443 (*Hodges*), in Case Number RF250–1406, was based on an understatement of the firm's purchases from Marathon. Therefore, the DOE issued an additional refund to the firm on the basis of the difference between the purchase volume approved in *Hodges* and the purchase volume the firm had demonstrated in its Application for Refund. The additional refund granted to the applicant was $161, representing $147 in principal and $14 in interest.

Marathon Petroleum Company/L.T. Distributing, Inc., 5/14/87; RF250–2612, RF250–2613, RF250–2614, and RF250–2615

The DOE issued a Decision and Order concerning an Application for Refund filed by L. T. Distributing, Inc. (LTD) in connection with the Marathon Petroleum Company special refund proceeding. LTD filed on behalf of two retailers of Marathon product that operated independently during the consent order period. Because LTD did not request a refund greater than the $5,000 small claims threshold, the DOE did not require a detailed demonstration of injury. Accordingly, LTD was granted a refund of $1,695 in principal and $149 in interest from the Marathon deposit escrow account.

Marathon Petroleum Company/Stonestreet & Stonestreet Oil Co. of Auburn, Inc., 5/14/87; RF250–1819, RF250–1820

The DOE issued a Decision and Order concerning two Applications for Refund filed by Stonestreet & Stonestreet Oil Co. of Auburn, Inc. (Stonestreet), a reseller of Marathon covered products. The firm's purchases of middle distillates and motor gasoline from Marathon during the consent order period entitled it to a refund exceeding the threshold refund level established in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986). Stonestreet therefore elected to file its refund applications in accordance with procedures for filing claims based upon the 35 percent presumption of injury outlined in the *Marathon* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Stonestreet should receive a refund of $7,023.21 in principal and $536.18 in accrued interest for a total refund of $7,559.39.

Marathon Petroleum Company/Vogel Oil, Inc., 5/11/87; RF250–92, RF250–93

The DOE issued a Decision and Order concerning two Applications for Refund filed by Vogel Oil, Inc. (Vogel), a reseller of motor gasoline and distillates. Although the firm's purchases of motor gasoline and distillates from Marathon during the consent order period entitled it to a refund exceeding the threshold refund level established in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986), Vogel elected to file its refund applications in accordance with procedures for filing small claims outlined in the *Marathon* decision. After examining the evidence and supporting data submitted by the firm, the DOE concluded that Vogel should receive a refund of $5,000 in principal and $381.61 in accrued interest for a total refund of $5,381.61.

Public Belt Railroad Commission—City of New Orleans, 5/12/87; RF271–69

The DOE issued a Decision and Order concerning an Application for Refund from the Rail and Water Transporters Escrow filed by the Public Belt Railroad Commission, an official organ of the municipal government of the City of New Orleans, Louisiana. Relying on paragraph 16 of the *Order Establishing Rail and Water Transporters Escrow*, the DOE held that the claimant's status as part of a municipal government expressly excluded it from participating in the Rail and Water Transporters Escrow. Accordingly, the DOE denied the Application.

U.S.A. Petroleum, Inc./Mobil Oil Corporation, 5/13/87; RF252–2

The DOE issued a Decision and Order granting a refund to Mobil Oil Corporation from the U.S.A. Petroleum (USAP) escrow account. Although Mobil made only spot purchases of USAP product, it successfully rebutted the spot purchaser presumption. To rebut the presumption, Mobil submitted information that indicated that it made isolated purchases of USAP product in order to insure a supply for its own customers. Mobil also submitted data that showed that it was unable to recover the price it paid to USAP. Accordingly, the DOE granted Mobil a refund totalling $2,211.

Dismissals

The following submissions were dismissed:

Name	Case No.
Baker R. Littlefield	KRR–0025
Robert L. McAdams	
Brookville Leasing Ltd	RF270–1635
Buzz's Enterprises	RF265–22
Dennis Green	RF270–1610
Eddie's Mobil	RF225–10383
Garland Bros. Petroleum Products, Inc.	RF263–34
Mass. Bay Transportation Authority	RF40–3541
NJ Transit Bus Operations, Inc.	RF270–757
Pee Dee Regional Transportation Authority.	RF270–1166
Pepsi-Cola Bottling Co. of Salina, Inc.	RF271–146
Step-N-Fetchit, Inc.	RF83–159
T & G Auto	RF225–10277
Tesoro Petroleum Corp.	RF270–1
Van Orden's Mobil	RF225–10280
Whitehead Specialties, Inc.	RF270–1051

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

July 13, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 87–16416 Filed 7–17–87; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Period of May 18 Through June 26, 1987

During the period of May 18 through June 26, 1987, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For

purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 13, 1987.

Southeastern Oil, Dothan, Alabama, KEE-0136 Reporting Requirements

Southeastern Oil filed an Application for Exception from the requirement to complete and file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report". On June 23, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Winco Inc., Alamosa, Colorado, KEE-0123 Reporting Requirements

Winco Inc. filed an Application for Exception from the reporting requirements of EIA-782B pursuant to 10 CFR § 205.55(b)(2). The exception request if granted, would exempt Winco from filing the "Retailers/Resellers' Monthly Petroleum Product Sales Report". On June 23, 1987, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

[FR Doc. 87-16417 Filed 7-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed, Week of June 12 Through June 19, 1987

During the Week of June 12 through June 19, 1987, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person will be aggrieved by the DOE action sought in these cases may file written comments on the applications within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 13, 1987.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 12 through June 19, 1987]

Date	Name and location of applicant	Case No.	Type of submission
June 8, 1987	Wallack Freight Lines, Inc., Copiague, NY	RR270-2	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The June 3, 1987 determination (Case No. RF270-2457) issued to Wallack Freight Lines, Inc. would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
June 11, 1987	Simonik Moving & Storage, Inc., Plainfield, NJ	RR270-6	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The June 3, 1987 determination (Case No. RF270-2465) issued to Simonik Moving & Storage, Inc. would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
June 12, 1987	Holmes Transportation, Inc., Framingham, MA	RR270-3	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The June 3, 1987 determination (Case No. RF270-2468) issued to Holmes Transportation, Inc. would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
Do	Schafer Bakeries, Inc., Lansing, MI	RR270-5	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The June 3, 1987 determination (Case No. RF270-2440) issued to Schafer Bakeries, Inc. would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
June 15, 1987	Mt. Airy Refining Company, Washington, DC	KRR-0029	Request for modification/rescission. If granted: The May 27, 1987 determination issued to Mt. Airy Refining Co., et al. would be modified regarding the Office of Hearings and Appeals' decision not to allow Mt. Airy to respond to the Economic Regulatory Administration's Motion.
Do	New England Telephone, Boston, MA	RR270-4	Request for modification/rescission in the Stripper Well Litigation Proceeding. If Granted: The June 3, 1987, determination (Case No. RF270-2467) issued to New England Telephone would be modified regarding the firm's application for refund submitted as a Surface Transporter in the Stripper Well Litigation Proceeding.
June 18, 1987	Nuclear Fuel, Washington, DC	KFA-0104	Appeal of an Information Request Denial. If Granted: The Freedom of Information Request Denial issued by the Office of International Security Affairs would be rescinded, and Nuclear Fuel would receive access to records of DOE approvals of nuclear technology transfers.
June 19, 1987	Phillips Petroleum Company, Bartlesville, OK	RR271-1	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The May 20, 1987 Decision and Order (Case No. RF271-135) would be modified regarding the firm's application for refund submitted as a rail transporter in the Stripper Well Litigation Proceeding.
Do	Union Pacific Railroad Company, Washington, DC	RR271-2	Request for modification/rescission in the Stripper Well Litigation Proceeding. If granted: The May 20, 1987 Decision and Order issued to Union Pacific Railroad Company would be modified regarding the firm's application for refund submitted as a rail transporter in the Stripper Well Litigation Proceeding.

Date received	Name of refund proceeding/ name of refund applicant	Case No.
6/12/87	OKC Corp./Louisiana	RQ13-375
6/1/87	Palo Pinto, Belridge, Amoco, Ada Resources, World Wide, Fagadau, Loveladdy & Gas Engine/ Texas.	RQ5-376 RQ8-377 RQ21-378 RQ24-379 RQ31-380 RQ32-381 RQ33-382 RQ35-383
6/12/87-6/19/87	Getty Refund Applications Received.	RF265-1653-RF265-1861
6/12/87-6/19/87	Crude Oil Refund Applications Received.	RF272-513-RF272-594
12/18/86	T.A. Wiseman	RF225-10847
3/26/86	Central & Grove Mobil	RF225-10848
6/11/87	G.N. Renn, Inc	RF238-80
6/11/87	Home Oil Company, Inc	RF253-15
6/12/87	General Electric Co	RF277-45
6/15/87	Al's Bait and Self Service	RF253-17
6/15/87	Logan Gas Co	RF253-18
6/15/87	Wilson Petroleum, Inc	RF253-19
6/15/87	Hook Bros. L.P. Gas Co	RF277-48
6/15/87	Top-O-Texas Butane Co	RF253-16
6/12/87	Tifton Aluminum Company, Inc	RF277-46
6/15/87	PPG Industries, Inc	RF277-47
6/16/87	William E. Seymour, Jr	RF276-289
6/17/87	Evans Oil Company	RF253-19
6/17/87	Schaapveld Oil Co	RF253-20
6/18/87	Northern Utilities	RF277-49
6/18/87	White Brothers Gas Co	RF139-169
6/19/87	Caterpillar, Inc	RF225-10849
6/2/87	Hare Cartage, Inc	RF270-2482
6/19/87	Public Service Electric & Gas	RF277-50
6/19/87	Manchester Gas Co	RF277-51

[FR Doc. 87-16413 Filed 7-17-87; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of June 19 Through June 26, 1987

During the Week of June 19 through June 26, 1987, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

July 13, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 19 through June 26, 1987]

Date	Name and location of applicant	Cae No.	Type of submission
June 23, 1987	Cities Service Oil & Gas Corporation, Washington, DC	KRD-0025	Motion for discovery. If Granted: Discovery would be granted to Cities Service Oil & Gas Corporation in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO-0285) issued to Cities Service Oil & Gas Corporation.
June 23, 1987	Texaco, Inc., Washington, DC	KCX-0036	Federal Energy Regulatory Commission remand. If Granted: The July 23, 1986 Decision and Order (Case No. HRO-0272) issued to Texaco, Inc. by the Office of Hearings and Appeals would be modified in connection with the June 19, 1987 Order issued by the Federal Energy Regulatory Commission.
June 25, 1987	State of California, San Francisco, California	KEG-0013	Petition for special redress. If Granted: The Office of Hearings and Appeals would review the proposed expenditures for Stripper Well funds which were disapproved by the Assistant Secretary for Conservation and Renewable Energy.
June 25, 1987	Science Magazine, Washington, DC	KFA-0105	Appeal of an information request denial. If Granted: The June 17, 1987 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Science Magazine would receive access to public comments on the Draft Environmental Impact Statement for the cleanup of Hanford's radioactive defense wastes.

REFUND APPLICATIONS RECEIVED

[Week of June 19 to June 26, 1987]

Date received	Name of refund proceeding/ name of refund applicant	Case No.
06/22/87	Amoco/New Jersey	RQ251-384
06/19/87 thru 06/26/87	Getty Oil	RF265-1862 thru RF265-2051
06/19/87 thru 06/26/87	Crude Oil	RF272-595 thru RF272-851
06/25/87	Globe Oil Co., Inc	RF250-2729
06/25/87	Alfred W. Pullano	RF276-291
05/06/87	Wilkerson Fuel Company	RF40-3702
06/24/87	Eagle Pitcher Industries, Inc.	RF139-171
06/24/87	Charles H. Hill	RF225-10850
06/24/87	Charles H. Hill	RF225-10851
06/24/87	Vernon E. Miller	RF225-10852
06/24/87	David S. Massengill	RF250-2728
06/25/87	Kerr-McGee	RF253-23
06/24/87	Itt Fluid Technology Corp.	RF277-53
06/24/87	Joseph E. Skeeles	RF277-54
06/16/87	Botsford Ready Mix Company	RF294-6
06/22/87	Isaacson's Bottle Gas	RF139-170
06/22/87	Carl Losson, Inc	RF253-21
06/22/87	Barbara Braddy	RF276-290
06/22/87	Consolidated Rail Corporation	RF277-52

[FR Doc. 87-16414 Filed 7-17-87; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Period of June 1 Through June 26, 1987

During the week of June 1 through June 26, 1987, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 13, 1987.

Merit Petroleum, Inc., Kingwood, Texas, KRO-0350, Crude Oil

On June 25, 1987, Merit Petroleum Inc. (Merit) and Thomas H. Battle, 2802 Valley Way, Kingwood, Texas 77339, and Anton E. Meduna, 10846 Pepper, Spring Branch, Texas 77339, filed Notices of Objection to a Proposed Remedial Order which the DOE Enconomic Regulatory Administration (ERA) issued to them on October 20, 1986. In the PRO the ERA found that during the period November 1978 through December 1980, Merit resold crude oil without performing any traditional or historical service in violation of 10 CFR 212.186, 10 CFR 205.202 and 10 CFR 210.62(c). The ERA finds that Thomas A. Battle and Anton E. Medana are jointly and severally liable for these violations.

According to the PRO the violation resulted in $46,290,793.17 of overcharges, plus interest.

[FR Doc. 87-16418 Filed 7-17-87; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3234-1]

Draft Updated Assessments for Trichloroethylene and Dichloromethane

AGENCY: U.S. Environmental Protection Agency.

ACTION: Availability of external review drafts.

SUMMARY: This notice announces the availability of three external review drafts:

1. Addendum to the Health Assessment Document for Trichloroethylene: Updated Carcinogenicity Assessment of Trichloroethylene, EPA/600/8-82/006FA.

2. Update to the Health Assessment Document and Addendum for Dichloromethane (Methylene Chloride): Pharmacokinetics, Mechanism of Action, and Epidemiology, EPA/600/8-87/030A.

3. Technical Analysis of New Methods and Data Regarding Dichloromethane Hazard Assessments, EPA/600/8-87/029A.

DATES: The Agency will make the documents available for public review and comment on or about Monday, July 27, 1987. Comments must be postmarked by Wednesday, September 9, 1987.

ADDRESSES: To obtain a single copy of each document, interested parties should contact the ORD Publications Center, CERI-FRN, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268, (513) 569-7562 or FTS/684-7562. Please provide your name and mailing address and request the external review drafts by title(s) and number(s).

The draft documents also will be available for public inspection and copying in the Public Information Reference Unit of the EPA library, U.S. EPA headquarters, Waterside Mall, 401 M Street SW., Washington, DC 20460.

Commenters are requested to submit separate comments for each document rather than making a combined submission. Comments must be made in writing and addressed as follows:

For the trichloroethylene document, send comments to: Project Officer for Trichloroethylene (C), Office of Health and Environmental Assessment (RD-689), U.S. Environmental Protection Agency, Room 3812, Waterside Mall, 401 M Street SW., Washington, DC 20460.

For the dichloromethane documents, send comments to: Project Officer for Chlorinated Solvents (E), Office of Health and Environmental Assessment (RD-689), U.S. Environmental Protection Agency, Room 3817, Waterside Mall, 401 M Street SW., Washington, DC 20460.

These documents will be the subject of a Science Advisory Board meeting on August 13, 1987. Notice of the time and place of the Science Advisory Board meeting will be published in a separate **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Technical Information Staff, Office of Health and Environmental Assessment (RD-689), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-7345.

SUPPLEMENTARY INFORMATION: The three documents have been prepared as part of an interagency Chlorinated Solvents Project established to coordinate risk assessment and risk management activities concerning several chlorinated solvents. The following federal regulatory agencies are participating in this effort: the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, the Food and Drug Administration of the U.S. Department of Health and Human Services, and the Occupational Safety and Health Administration of the U.S. Department of Labor.

The Technical Analysis of New Methods and Data Regarding Dichloromethane Hazard Assessments is a product of the Hazard/Risk Assessment Committee (HRAC), a health assessment subgroup within the interagency Chlorinated Solvents Project. Scientists from the participating agencies cooperated in an intense effort to review the numerous technical papers on dichloromethane that had been submitted to the agencies or published since the publication of EPA's Health Assessment Document for Dichloromethane and Addendum in 1985. The draft document does not replace previously published documents, nor is it a risk assessment per se. It is the HRAC's intention that this document be used as background when each agency develops its most up-to-date risk assessment for dichloromethane for its own mandated purpose.

The Addendum to the Health Assessment Document for Trichloroethylene: Updated Carcinogenicity Assessment of Trichloroethylene, and the Update to the Health Assessment Document for Dichloromethane (Methylene Chloride): Pharmacokinetics, Mechanism of Action, and Epidemiology, were prepared by the EPA to update specific regulatory analyses under various acts such as the Clean Air Act, as amended, and the Toxic Substances Control Act. The EPA update on dichloromethane draws on the evaluations of the HRAC; thus, the HRAC report should be regarded as a companion document to the EPA report. The EPA addendum for trichlorethylene has no accompanying HRAC document at this time, although one is in preparation.

Dated: July 10, 1987.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 87-16319 Filed 7-17-87; 8:45 am]
BILLING CODE 6560-50-M

[FRC. 3234-5]

Science Advisory Board Environmental Health Committee, Drinking Water Subcommittee; Open Meeting

Under Public Law 92-463, notice is hereby given that a three-day meeting of the Drinking Water Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on August 5-7, 1987 in the St. James Hotel, 950 24th Street, NW., Washington, DC. 20037. The meeting will start at 8:30 a.m. on August 5th and adjourn no later than 4:00 p.m. on August 7th.

The purpose of the meeting is to review the Office of Drinking Water's proposed rules for Filtration and Coliforms. The Subcommittee will also make plans for future meetings. The purpose of the meeting on August 5th is to enable the Filtration Technology Rule Workgroup to discuss and prepare its report on this rule. This report will be presented to the full Subcommittee on August 6th and also discussed on the morning of August 7th. The afternoon of August 7th will consist of discussion of future Subcommittee plans.

Documentation is available for the rules and can be obtained from Mr. Stig Regli, Office of Drinking Water, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, (202) 382-7379.

The meeting is open to the public. Any member of the public wishing to present information to the Subcommittee must contact, in writing, Dr. Terry F. Yosie,

Director, Science Advisory Board, (202) 382–4126, or Dr. C. Richard Cothern, Executive Secretary to the Subcommittee, or Mrs. Frederica Jones, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101–F), 401 M Street SW., Washington, DC, 20460 no later than c.o.b. on July 29, 1987.

Terry F. Yosie,

Director.

July 13, 1987.

[FR Doc. 87–16317 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3234–4]

Science Advisory Board, Environmental Health Committee

Open Meeting

Under Pub. L. 92–463, notice is hereby given that a four-day meeting of the Science Advisory Board's Environmental Health Committee and its Halogenated Organics Subcommittee will be held on August 11–14, 1987, at the St. James Hotel, 950 24th Street, NW, Washington, DC 20037. The meeting will begin at 1:00 p.m. on August 11 and adjourn no later than 4:00 p.m. on August 14.

The Environmental Health Committee will hold a general business meeting on August 11. On August 12 the Committee and its Halogenated Organics Subcommittee will jointly meet to conduct a workshop on scientific information pertaining to mouse liver and rat kidney tumors and their role in risk assessment. The objectives of the workshop are to update the committees' current understanding of these issues to discuss how to proceed in the assessment of human health effects in view of the incomplete data and differing interpretations of these issues and to identify potenial research opportunities and directions to increase the scientific knowledge to support regulatory decision making at EPA. On August 13 and 14, the Halogenated Subcommittee will carry out an independent scientific review of Addenda to EPA's Health Assessment Documents for Dichloromethane and Trichloroethylene.

An agenda for the workshop is available from Mrs. Frederica Jones, Staff Secretary, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, Washington, DC, 20460, (202) 382–2552. The Health Assessment Documents for Dichloromethane and Trichloroethylene are available from: The Center for Research Information (CERI), 26 W. St. Clair Street, Cincinnati, OH 45268, (513) 569–7562.

The meeting will be open to the public. Any member of the public wishing to attend, obtain information or other participate in these meetings must contact Dr. C. Richard Cothern, Executive Secretary, Environmental Health Committee, or Mrs. Frederica Jones, by telephone at (202) 382–2552 or by mail to: Science Advisory Board [A–101–F], 401 M Street, SW., Washington, DC, 20460 no later than c.o.b. on August 3, 1987.

Dated: July 7, 1987.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 87–16318 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-59824; FRL–3234–7]

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 EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Registert** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of ten such PMNs and provides the summary.

DATES: Close of Review Period:

Y 87–182, 87–183, and 87–184—July 22, 1987.

Y 87–185 and 87–186—July 27, 1987.

Y 87–187, 87–188, 87–189, 87–190, and 87–191—July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TSD–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washingtron, DC 20460 (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the exemption received by EPA. The complete non-confidential documents 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.

Y 87–182

Importer. Ricoh Corporation.

Chemical. (G) Styrene, acrylic polymer

Use/Import. (G) Component of copier toner. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Irritation: Skin—Non-irritant; Ames test: Non-mutagenic.

Y 8l7–183

Manufacturer. Aristech Chemical Corporation.

Chemical. (G) Unsaturated, thermosetting polyester resin.

Use/Production. (G) Thermosetting polyester resin used for compression molding applications, open, non-dispersive use. Prod. range: Confidential.

Y 87–184

Manufacturer. Aristech Chemical Corporation.

Chemical. (G) Unsaturated thermosetting polyester resin.

Use/Production. (G) Thermosetting polyester resin used for compression molding applications (open, non-dispersive use). Prod. range: Confidential.

Y 87–185

Importer. Marubeni America Corporation.

Chemical. (S) Copolymer of acrylamide, 2-hydroxy propyl methacrylate, N-methylol acrylamide methyl methacrylate, ammonium persulfate and triethanol amine.

Use/Import. (S) Industrial thermal paper coating. Import range: 400,000 to 1,000,000 kg/yr.

Y 87–186

Importer. Confidential.

Chemical. (G) Polyamide resin.

Use/Import. (S) Printing ink component used to disperse pigment an to provide gloss, adhesion and resistance properties when printed on paper, plastic and metal substrates. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Eye—Non-irritant.

Y 87–187

Manufacturer. Valchem Polymers.

Chemical. (G) Modified styrene—acrylic acid polymer.

Use/Production. (G) Surfactant and dispersant aid. Prod. range: Confidential.

Y 87–188

Manufacturer. Valchem Polymers.
Chemical. (G) Modified styrene—acrylica acid polymer.
Use/Production. (G) Polymer additive. Prod. range: Confidential.

Y 87–189

Manufacturer. Valchem Polymers.
Chemical. (G) Modified styrene—acrylic acid polymer.
Use/Production. (G) Polymer additive. Prod. range: Confidential.

87–190

Manufacturer. Valchem Polymers.
Chemical. (G) Modified styrene—acrylic acid polymer.
Use/Production. (G) Surfactant and dlispersant aid. Prod. range: Confidential.

Y 87–191

Manufacturer. Valchem Polymers.
Chemical. (G) Modified styrene—acrylic acid polymer.
Use/Production. (G) Surfactant and dispersant aid. Prod. range: Confidential.

Dated: July 10, 1987.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87–16323 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51684; FRL–3234–8]

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 thirty-eight such PMNs and provides a summary of each.

DATES: Closed of Review Period:

P 87–1354, 87–1355, 87–1356, 87–1357 and 87–1358—September 29, 1987.
P 87–1359 and 87–1360—October 3, 1987.
P 87–1361, 87–1362, 87–1363, 87–1364, 87–1365 and 87–1366—October 4, 1987.
P 87–1367, 87–1368, 87–1369, 87–1370, 87–1371, 87–1372, 87–1373, 87–1374, 87–1375, 87–1376 and 87–81–1377—October 5, 1987.
P 87–1378, 87–1379, 87–1380, 87–1381, 87–1382, 87–1383, 87–1384, 87–1385, 87–1386, 87–1387, 87–1388, 87–1389, 87–1390 and 87–1391—October 6, 1987.

Written comments by:

P 87–1354, 87–1355, 87–1356, 87–1357 and 87–1358—August 30, 1987.
P 87–1359 and 87–1360—September 3, 1987.
P 87–1361, 87–1362, 87–1363, 87–1364, 87–1365 and 87–1366—September 4, 1987.
P 87–1367, 87–1368, 87–1369, 87–1370, 87–1371, 87–1372, 87–1373, 87–1374, 87–1375, 87–1376 and 87–1377—September 5, 1987.
P 87–1378, 87–1379, 87–1380, 87–1381, 87–1382, 87–1383, 87–1384, 87–1385, 87–1386, 87–1387, 87–1388, 87–1389, 87–1390 and 87–1391—September 6, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51684]" 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 Divison (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted form 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 87–1354

Manufacturer. Confidential.
Chemical. (G) Modified aliphatic polyester polyurethane.
Use/Production. (G) Polymeric industrial coating component. Prod. range: 5,000 to 30,000 kg/yr.

P 87–1355

Manufacturer. Confidential.
Chemical. (G) Substituted anitrophenoxy substituted naphthoic acid derivative.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 800 to 6,900 kg/yr.

P 87–1356

Manufacturer. Confidential.
Chemical: (G) Substituted nitrophenoxy substituted naphthoic acid derivative.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 500 to 4,400 kg/yr.

P 87–1357

Importer: Confidential.
Chemical. (G) Poly (oxyalkylene-ethylene acrylonitrile styrene) polyol.
Use/Import. (G) Polyurethane coatings. Import range: Confidential.

P 87–1358

Manufacturer. Confidential.
Chemical. (G) Hydroxyalkylnitrophenoxy substituted naphthoic acid derivative.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 600 to 4,800 kg/yr.

P 87–1359.

Manufacturer. Amoco Corporation.
Chemical. (G) Polyarylether sulfone.
Use/Production. (G) Resin for molded or extruded articles. Prod. range: 10,000 to 100,000 kg/yr.

P 87–1360

Manufacturer. Amoco Corporation.
Chemical. (G) Aromatic sulfonyl chloride.
Use/Production. (S) Intermediate for the manufacture of polymers. Prod. range: 13,000 to 130,000 kg/yr.

P 87–1361

Manufacturer. Confidential.
Chemical. (G) Metal alkyl compounds.
Use/Production. (S) Organometallic source for deposition of compound semi-conductor films and for doping compound semi-conductors and chemical reagent used as reactant and/or catalyst in preparation of other compounds. Prod. range: Confidential.

P 87–1362

Manufacturer. Confidential.
Chemical. (G) Metal alkyl compounds.
Use/Production. (S) Organometallic source for deposition of compound semi-conductor films and for doping compound semi-conductors and chemical reagent used as reactant and/or catalyst in preparation of other compounds. Prod. range: Confidential.

P 87 1363

Manufacturer. Confidential.
Chemical. (G) Metal alkyl compounds.
Use/Production. (S) Organometallic source for deposition of compound semi-conductor films and for doping compound semi-conductors and chemical reagent used as reactant and/

or catalyst in preparation of other compounds. Prod. range: Confidential.

P 87–1364

Importer. Confidential.
Chemical. (G) Modified polyacrylic acid.
Use/Import. (S) Industrial dispersant. Import range: Confidential.
Toxicity Data. Acute oral: > 10,000 mg; Irritation: Skin – Non-irritant, Eye – Non-irritant.

P 87–1365

Importer. Confidential.
Chemical. (G) Modified polyacrylic acid, sodium salt.
Use/Import. (S) Industrial dispersant. Import range: Confidential.
Toxicity Data. Acute oral: > 10,000 mg; Irritation: skin – Non-Irritant, Eye – Non-irritant.

P 87–1366

Importer. Confidential.
Chemical. (G) Indanthrone, substituted.
Use/Import. (G) Colorant additive for coatings. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin – Non-irritant, Eye – Non-irritant; Ames Test: Non-mutagenic.

P 87–1367

Importer. Rhone Poulenc.
Chemical. (G) Sulfated and ethoxylated synthetic fatty alcohol, salt form.
Use/Import. (G) Pesticide inert. Import range: Confidential.

P 87–1368

Importer. Rhone Poulenc.
Chemical. (G) Sodium alkyl naphthalene sulfonate.
Use/Import. (G) Pesticide inert. Import range: Confidential.

P 87–1368

Importer. Rhone Poulenc.
Chemical. (G) Sodium methyl naphthalene sulfonate, condensed.
Use/Import. (G) Agrochemical inert. Import range: Confidential.

P 87–1370

Importer. Rhone Poulenc.
Chemical. (S) Sodium mono-, di, and triisopropyl naphthalene sulfonate.
Use/Import. (G) Pesticide inert. Import range: Confidential.

P 87–1371

Importer. Rhone Poulenc.
Chemical. (G) Cyclic alkyl amine alkylaryl sulfonate.
Use/Import. (G) Pesticide inert. Import range: Confidential.

P 87–1372

Importer. Rhone Poulenc.
Chemical. (G) Polycarboxylate, aqueous solution.
Use/Import. (G) Pesticide inert. Import range: Confidential.

P 87–1373

Manufacturer. Confidential.
Chemical. (G) Poly(acrylonitrile-co-styrene).
Use/Production. (S) Polyurethane foams. Prod. range: Confidential.

P 87–1374

Manufacturer. The Dow Chemical Company.
Chemical. (G) Aromatic carbonyl halide.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

P 87–1375

Manufacturer. The Dow Chemical Company.
Chemical. (G) Aromatic silyl amide.
Use/Production. (S) Industrial conductive die-attach adhesive. Prod. range: Confidential.

P 87–1376

Manufacturer. The Dow Chemical Company.
Chemical. (G) Unsaturated aromatic hydrocarbon.
Use/Production. (S) Industrial protective electronic polymers. Prod. range: Confidential.

P 87–1377

Manufacturer. The Dow Chemical Company.
Chemical. (G) Aromatic diamide.
Use/Production.(S) Industrial conductive die-attach adhesive. Prod. range: Confidential.

P 87–1378

Importer. Orient Chemical Corporation.
Chemical. (G) Metal complex of azo dye.
Use/Import. (G) Commercial component of electrographic toner. Import range: 10,000 to 12,000 kg/yr.
Toxicity Data. Irritation: Eye-Irritant.

P 87–1379

Importer. Orient Chemical Corporation.
Chemical. (G) Triarylmethane sulfonic acid salts.
Use/Import. (S) Commercial oil base ink. Import range: 5,000 to 10,000 kg/yr.
Toxicity Data. Irritation: Eye-Irritant.

P 87–1380

Importer. Confidential.
Chemical. (G) Polyurethane polyether elastomer.
Use/Import. (G) Industrial manufacture of polyurethane elastomer articles. Import range: Confidential.

P 87–1381

Importer. Confidential.
Chemical. (G) Extract of a naturally occuring microorganism.
Use/Import. (G) Removal of contaminants from manufactured chemicals. Import range: Confidential.

P 87–1382

Importer. Emser Industries.
Chemical. (S) Copolyamide of caprolactam, hexamethylene diamine and azelaic acid.
Use/Import. (S) Industrial polymer for extrusion of laminated packaging films. Import range; Confidential.

P 87–1383

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Acrylic polyelectrolyte.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 87–1384

Importer. Confidential.
Chemical. (G) Rosin ester.
Use/Import. (S) Industrial tackifier for adhesive. Import range: Confidential.

P 87–1385

Importer. Confidential.
Chemical. (G) Alcohol ethoxylate.
Use/Import. (S) Laundry detergent component, hard surface cleaner component and chemical intermediate. Import range: Confidential.

P 87–1386

Importer. Confidential.
Chemical. (G) Alcohol ethoxylate.
Use/Import. (S) Laundry detergent component, hard surface cleaner component and chemical intermediate. Import range: Confidential.

P 87–1387

Importer. Confidential.
Chemical. (G) Alcohol ethoxylate.
Use/Import. (S) Laundry detergent component, hard surface cleaner component and chemical intermediate. Import range: Confidential.

P 87–1388

Manufacturer. Confidential.
Chemical. (G) Blocked aliphatic aromatic urethane polymer.
Use/Production. (G) Industrial coating polymer having a non-dispersive use. Prod. range: 200,000 to 3,000,000 kg/yr.

P 87–1389

Manufacturer. Confidential.
Chemical. (G) Modified olefin tetrapolymer.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral >5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Non-mutangenic.

P 87–1390

Manufacturer. Finetex, Incorporated.
Chemical. (G) Benzoate ester of C_{20} alcohol.
Use/Production. (S) Industrial textile fiber lubricant with high thermal stablility, non toxic dye carrier for synthetic textiles and plasticizer for selected polymer systems requiring high thermal stability. Prod. range: 23,000 to 35,000 kg/yr.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: skin—Slight, Eye—Irritant.

P 87–1391

Importer. Confidential.
Chemical. (G) Styrene acrylate copolymer.
Use/Import. (S) Industrial binder for coatings. Import range: Confidential.

Dated: July 10, 1987.

Denise Devoe,

Acting Division Director,

Information Management Division.

[FR Doc. 87–16321 Filed 7–17–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Coimmission 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.: 224–010825–001.
Title: The City of Los Angeles Terminal Agreement.
Parties:

The City of Los Angeles
Evergreen Marine Corporation

Synopsis: The proposed agreement amendment makes three areas at the Port's "Seaside Terminal" (Berths 231–236) and Berths 87–89 part of the Agreement. Minimum annual guarantee is increased to $7,878,322 per year. The point at which Tenant may retain 75% of the qualifying tariff charges is increased to $5,389,553 per year. Tariff rate compensation which Evergreen had paid the City for use of Berth 87 and certain spare assignment areas at Seaside Terminal since January 1, 1987 will be adjusted. Provides that terminal size may be increased or decreased and for compensation increased or decreased by applicable per acre charge.

Agreement No.: 224–010825–A.
Title: The City of Los Angeles Terminal Agreement.
Parties:

The City of Los Angeles
Evergreen Marine Corporation

Synopsis: The proposed agreement amendment provides Evergreen 3 cranes at Berths 231–236. Allows Evergreen to pay a flat rate annual compensation rather than per hour tariff charge.

Agreement No.: 224–010825–B.
Title: The City of Los Angeles Terminal Agreement.
Parties:

The City of Los Angeles
Evergreen Marine Corporation

Synopsis: The proposed agreement amendment provides Evergreen 2 cranes at Berths 87–89. Allows Evergreen to pay a flat rate annual compensation rather than per hour tariff charge.

Agreement No.: 224–010873–003.
Title: Port of Oakland Terminal Agreement.
Parties:

Port of Oakland
Gerbulk Container Services

Synopsis: The proposed agreement amendment provides for Gearbulk's discontinuation of wharfage payments to the Port in any contract year it generates over 31,000 revenue tons of containerized cargo per acre of its assigned premises and to provide for an alternate 50% tariff wharfage payment for certain non-unitized breadbulk cargo which cannot be accommodated at assigned premises.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: July 15, 1987.

[FR Doc. 87–16371 Filed 7–17–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 19, 1987

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 19, 1987.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests on balance that economic activity is expanding at a moderate pace in the current quarter. Total nonfarm payroll employment rose considerably further in April, with most of the gains continuing to be in the service-producing sectors. The civilian unemployment rate fell to 6.3 percent from 6.6 percent in March. In April, industrial production declined after increasing at a moderate rate in the first quarter. Total retail sales changed little but were up somewhat from their average level in the first quarter. Housing starts were down somewhat in April from their first-quarter average. Recent indicators of business capital spending point to some recovery over the near term from a depressed level in the first quarter. Consumer and producer prices have risen more rapidly this year, primarily reflecting sizable increases in prices of energy and non-oil imports. Labor cost increases have remained relatively moderate in recent months.

Growth of M2 and M3 strengthened in April from a sluggish pace in February and March, but for 1987 to date expansion of these two aggregates has been slightly below the lower ends of their respective ranges established by the Committee for the year. M1 surged in April prompted by exceptionally large tax payments.

In foreign exchange markets, the dollar was under heavy downward pressure over most of the intermeeting period and intervention purchases of dollars were substantial. Recently the dollar has tended to stabilize, but on balance its trade-weighted value against the other G–10 currencies declined over the period. In March the merchandise trade deficit was close to the average for January and February.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee at its February meeting established growth ranges of 5½ to 8½ percent for both M2 and M3, measured from the fourth quarter of 1986 to

[1] Copies of the Record of policy actions of the Committee for the meeting of May 19, 1987, are available upon request to The Board of Governors of the Federal System, Washington, DC 20551. Expansion in total domestic nonfinancial debt has moderated somewhat thus far this year. Most interest rates have risen considerably since the March 31 meeting of the Committee, with the largest increases occurring in longer-term markets.

the fourth quarter of 1987. The associated range for growth in total domestic nonfinancial debt was set at 8 to 11 percent for 1987.

With respect to M1, the Committee recognized that, based on experience, the behavior of that aggregate must be judged in the light of other evidence relating to economic activity and prices; fluctuations in M1 have become much more sensitive in recent years to changes in interest rates, among other factors. During 1987, the Committee anticipates that growth in M1 should slow. However, in the light of its sensitivity to a variety of influences, the Committee decided at the February meeting not to establish a precise target for its growth over the year as a whole. Instead, the appropriateness of changes in M1 during the course of the year will be evaluated in the light of the behavior of its velocity, developments in the economy and financial markets, and the nature of emerging price pressures.

In that connection, the Committee believes that, particularly in the light of the extraordinary expansion of this aggregate in recent years, much slower monetary growth would be appropriate in the context of continuing economic expansion accompanied by signs of intensifying price pressures, perhaps related to significant weakness of the dollar in exchange markets, and relatively strong growth in the broad monetary aggregates. Conversely, continuing sizable increases in M1 could be accommodated in circumstances characterized by sluggish business activity, maintenance of progress toward underlying price stability, and progress toward international equilibrium. As this implies, the Committee in reaching operational decisions during the year might target appropriate growth in M1 from time to time in the light of circumstances then prevailing, including the rate of growth of the broader aggregates.

In the implementation of policy for the immediate future, the Committee seeks to increase somewhat the degree of reserve pressure sought in recent weeks, taking into account the possibility of a change in the discount rate. Somewhat greater reserve restraint would, or somewhat lesser reserve restraint might, be acceptable depending on indications of inflationary pressures and on developments in foreign exchange markets, as well as the behavior of the aggregates and the strength of the business expansion. This approach is expected to be consistent with growth in M2 and M3 over the period from March through June at annual rates of around 6 percent or less. Growth in M1 is expected to remain well below its pace during 1986. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, July 14, 1987.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 87-16327 Filed 7-19-87; 8:45 am]

BILLING CODE 6210-01-M

Formation of, Acquisition by, or Merger of Bank Holding Companies; Buchel Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Baord of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 3, 1987.

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Buchel Bancshares, Inc.*, Cuero, Texas; to acquire United Bancorp, Inc., Victoria, Texas, and thereby indirectly acquire Crossroad Bank, Victoria, Texas.

Board of Governors of the Federal Reserve System, July 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16574 Filed 7-17-87; 8:45am]

BILLING CODE 6210-01-M

Acquisition of Shares of Banks or Bank Holding Companies; Ronald J. Moore

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 4, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Ronald J. Moore*, Birmingham, Alabama; to acquire 3.61 percent of the voting shares of Cahaba Bancorp, Inc., Trussville, Alabama, and thereby indirectly acquire Cahaba Bank & Trust, Trussville, Alabama.

Board of Governors of the Federal Reserve System, July 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16328 Filed 7-19-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; County Bancorporation, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are 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 August 10, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **County Bancorporation, Inc.,** Jackson, Missouri; to acquire 100 percent of the voting shares of the First National Bank of Perryville, Perryville, Missouri.

2. **Miles Bancshares, Inc.** (formerly Miles-Advance Bancshares, Inc.), Advance, Missouri; to acquire at least 98 percent of the voting shares of The First National Bank of Lerna, Lerna, Illinois.

Board of Governors of the Federal Reserve System, July 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16329 Filed 7-19-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; First Colonial Bankshares Corp.

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 10, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Colonial Bankshares Corporation,* Chicago, Illinois; to acquire Mid-States Financial Corporation, Schaumburg, Illinois, and thereby engage in the leasing of personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16330 Filed 7-19-87; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; First Wachovia Corp. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 10, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Wachovia Corporation,* Winston-Salem, North Carolina; to engage *de novo* through its subsidiary, First Wachovia Brokerage Service Corporation, Winston-Salem, North Carolina; in underwriting and dealing in government obligations; and providing investment advice relating solely to such obligations pursuant to § 225.25(b)(16) and (b)(4) 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. *First Interstate Bancorp,* Los Angeles, California; to engage *de novo* through its subsidiary, First Interstate Mortgage Company, Pasadena, California, in real estate appraisal pursuant to § 225.25(b)(13) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16331 Filed 7-19-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0221]

Filing of Food Additive Petition; Phillips Petroleum Co.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the Phillips Petroleum Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *Pichia pastoris* dried yeast as an additive in animal feeds.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 5600 Fishers

Lane, Rockville, MD 20857, 301–443–5362.

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 2207) has been filed by Phillips Petroleum Co., 13A4 Phillips Bldg., Bartlesville, OK 74004. The petition proposes that Part 573—Food Additives Permitted in Feed and Drinking Water of Animals (21 CFR Part 573) be amended to include the use of *Pichia pastoris* dried yeast as an additive in animal feed.

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: July 10, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87–16394 Filed 7–17–87; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Program Announcement for Grants for Graduate Training in Family Medicine

The Health Resources and Services Administration, announces that applications for Fiscal Year 1988 Grants for Graduate Training in Family Medicine are beging accepted under the authority of section 786(a) of the Public Health Service Act, as amended by Pub. L. 99–129.

Section 786(a) authorizes the Secretary to make grants to public or nonprofit private hospitals, accredited schools of medicine or osteopathy, and other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 786(a) authorizes assistance in meeting the cost of supporting trainees in such program who plan to specialize or work in the practice of family medicine.

Approximately $7.0 million is expected to be available in Fiscal Year 1988 for competing awards. It is expected that approximately 55 competing grant awards will be made at an average amount of $127,000.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR Part 57, Subpart Q.

In the funding of approved applications, preference will be given to projects in which:

1. Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants or nurse practitioners; and/or

2. Substantial portions of the training program are conducted in a primary medical manpower shortage area which is part of a health manpower shortage area(s) designated under section 332 of the Public Health Service Act or in an Area Health Education Center, funded at least in part, under Section 781 of the Act.

Special Consideration

Special consideration will be given to applicants whose applications indicate substantial efforts to recruit and retain minorities.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–15), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6960.

If additional programmatic information is needed, please contact: Primary Care Graduate, Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–04, Rockville, Maryland 20857, Telephone: (301) 443–6820.

The standard application form and specific instructions for this program have been approved by the Office of Management Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The deadline date for receipt of applications is September 4, 1987. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the dealine date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.379 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: July 8, 1987.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87–16343 Filed 7–17–87; 8:45 am]

BILLING CODE 4160–5–M

Public Health Service

Health Care Quality Improvement Act of 1986; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of May 27, 1987, by the Secretary of Health and Human Services to the Assistant Secretary for Health (52 FR 22686, June 15, 1987), the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, with authority to redelegate, the authorities under the Health Care Quality Improvement Act of 1986, Title IV, Pub. L. 99–660, excluding the authorities pertaining to the imposition and collection of civil money penalties, and the authorities to issue guidelines or regulations and submit reports to Congress.

This delegation was effective on July 13, 1987.

Dated: July 13, 1987.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 87–16395 Filed 7–17–87; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–940–07–4520–12; ES–037453, Group 57]

Survey Plat Filings, Louisiana; Filing of Plat of Jean Lafitte National Historical Park, Barataria Unit, Portion of the East Boundary of the Park Protection Zone

July 13, 1987.

2. The plat, in two sheets, representing the survey of a portion of the east boundary of the Park Protection Zone of the Jean Lafitte National Historical Park, Barataria Unit, Township 14 and 15 South, Range 23 East, Louisiana Meridan, Louisiana, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on August 27, 1987.

2. The survey was made at the request of the National Park Service, Southwest Region.

3. All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., August 27, 1987.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 87-16344 Filed 7-17-87; 8:45 am]

BILLING CODE 4310-GJ-M

National Park Service

Availability of Environmental Impact Statement; Huntley Meadows Park; Fairfax County, VA

Notice is hereby given in accordance with the National Park Service Guidelines (NPS-12; 526 DM 3.3; 40 CFR 1506.6) that the public is invited to provide written comments on the Supplemental Environmental Assessment for the Proposed Lockheed Boulevard Connector Road across Huntley Meadows Park, Fairfax County, Virginia.

Comments will be accepted for a period of 45 days from the date of publication of this notice.

Copies of the Supplemental Environmental Assessment and supporting documentation are available for inspection at County Libraries or through Mr. Rich Little, Fairfax County Office of Comprehensive Planning, 10640 Page Avenue, Fairfax County, Virginia, 22030 (telephone: 703/691-4253).

Written comments are to be submitted to Mr. Manus J. Fish, Regional Director, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, Atttention: Mr. Jeffrey L. Knoedler, Room 201.

For further information contact Mr. Rich Little, Fairfax County Office of Comprehensive Planning, 10640 Page Avenue, Fairfax County, Virginia, 22030 (telephone: 703/691-4253) or Mr. Jeffrey L. Knoedler, Office of Land Use Coordination, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Room 201, Washington, D.C., 20242 (telephone: 202/426-7704).

Dated: July 13, 1987.

Lowell V. Sturgill,

Acting Regional Director, National Capital Region.

[FR Doc. 87-16314 Filed 7-17-87; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: July 24, 1987, 7:00 p.m.

Inclement Weather Reschedule Date: August 14, 1987.[1]

ADDRESS: Town of Tusten Hall, Narrowsburg, NY.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764-0159, 717-729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 7804(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround discussion of the issue of definition of the strand of the Upper Delaware Scenic & Recreational River.

The meeting will be open to the public.

Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: March 2, 1987.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 87-16315 Filed 7-17-87; 8:45 am]

BILLING CODE 4310-70-M

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Fee Liability for Culm Combustion Projects; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is holding a public meeting to discuss whether culm should be considered coal, and therefore subject to the Abandoned Mine Land (AML) reclamation fees.

DATE: A public meeting will be held starting at 9:00 local time, on August 11, 1987.

ADDRESSES: *Public meeting:* The meeting will be held at the Penn Harris Motor Inn and Convention Center; Camp Hill Bypass and U.S. 11 and 15; Camp Hill, Pa.

Written comments: Hand-deliver to Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L St., NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131-L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Written Comments: to assist OSMRE in preparing appropriate questions, OSMRE requests that persons who plan to participate in the meeting and to submit written comments, or who wish to present written comments but not attend the meeting, should submit to OSMRE an advance copy of their testimony or comments at the address specified for the submission of written comments (see **ADDRESSES**), by 4:00 local time, on August 3, 1987.

FOR FURTHER INFORMATION CONTACT: Jane Robinson, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone 202-343-2853 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE has received inquiries from companies proposing to construct culm fueled electrical power generation facilities in the Commonwealth of Pennsylvania regarding their AML fee liability for culm. The culm, to be used as fuel in the combustion units, was originally produced as a waste product from surface and subsurface anthracite mines that operated in Pennsylvania from approximately 1900 to 1956. OSMRE is advised that the facilities will utilize newly developed technology in their proposed operations that will eliminate the need to separate the combustible

from the non-combustible materials contained in the culm. The companies contemplating the use of this new technology are of the opinion that such an operation will not be feasible if OSMRE imposes the AML fee on the culm.

To assist OSMRE in making its determination on whether an AML fee should be imposed on Pennsylvania culm combustion operations, a public meeting has been scheduled. This meeting will provide a forum for OSMRE to obtain comments, information, and recommendations from all interested parties. Among the panelists at the meeting will be a representative of the Department of Natural Resources of the Commonwealth of Pennsylvania. OSMRE is particularly interested in receiving comments on the following:

The impact of the payment of AML fees will have on the economic viability of a culm combustion project.

Suggestions for an equitable measurement of the tonnage upon which the fee is calculated, assuming the actual percentage of coal by bulk is low.

The economic consequence of environmental conditions imposed by Federal or State regulatory authorities on the use of culm as a fuel.

A rationale and/or legal basis for making a determination that culm is or is not coal.

Any impact that an existing or proposed Federal or State legislation, or regulation, will have on the economic viability of these projects.

OSMRE will rely, in part, on information obtained at this meeting to make its decision regarding AML fee liability of culm operations.

Robert E. Boldt,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

July 15, 1987.

[FR Doc. 87-16399 Filed 7-17-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

[Civil Action No. 4-86-311]

Pollution Control; Lodging of Consent Judgment Pursuant to the Clean Air Act; City of Rochester

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that on May 26, 1987, a proposed Consent Judgment in *United States v. City of Rochester,* Civil Action No. 4-86-311, was lodged with the United States District Court for the District of Minnesota. The proposed Consent Judgment concerns the discharge of sulfur dioxide emissions from defendant's Silver Lake Generating Plant. The proposed Consent Judgment requires the defendant: to be permanently enjoined from emitting sulfur dioxide into the atmosphere from the Silver Lake Generating Plant in excess of emission standards established under the Minnesota State Implementation Plan, as approved by the United States Environmental Protection Agency pursuant to the Clean Air Act; to pay a civil penalty of $50,000; and to pay $3,000 in fees and costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Rochester,* D.J. Ref. 90-5-2-1-917.

The proposed Consent Judgment may be examined at the office of the United States Attorney, 110 South 4th Street, Minneapolis, Minnesota 55401, and at the Region 5 Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington DC 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-16346 Filed 7-17-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. C85-2898Y]

Pollution Control; Lodging of Consent Decree Pursuant to Clean Air Act; EASCO Corp.

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that on June 23, 1987 a proposed consent decree in *United States of America v. EASCO Corporation,* Civil Action No. C85-2898Y was lodged with the United States District Court for the Northern District of Ohio. The proposed consent decree concerns control of air pollution at EASCO's plant in Girard, Ohio. The proposed consent decree requires the defendant to comply with limits on emissions of volatile organic compounds and pay a civil penalty of $64,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America v. EASCO Corporation,* D.J. Ref. 90-5-2-1-818.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, 1404 East Ninth Street, Suite 500, Cleveland, Ohio 44114 and at the Region V Office of the Environmental Protection Agency, Office of Regional Counsel, 16th Floor, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-16345 Filed 7-17-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. 86-0672]

Pollution Control, Consent Decree in Action To Enjoin Discharge of Water Pollutants; Silverman-Gorf, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Silverman-Gorf, Inc.,* Civil Action No. 86-0672, was lodged with the United States District Court for the Eastern District of New York on July 2, 1987. The consent decree establishes a compliance program for the New York plant owned and operated by Silverman-Gorf, Inc. to bring the plant into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and the applicable pretreatment regulations relating to the discharge of pollutants and required payment of a civil penalty of $13,480.00.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Silverman-Gorf, Inc.*, D.J. Ref. No. 90–5–1–1–2479.

The consent decree may be examined at the office of the United States Attorney, Eastern District of New York, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–16347 Filed 7–17–87; 8:45 am]

BILLING CODE 4410–01–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 26, 1987, and published in the Federal Register on April 3, 1987; (52 FR 10825), McNeilab, Inc., DBA first State Chemical Company Inc., 803 Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 9, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87–16324 Filed 7–17–87; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Registration

By Notice dated March 26, 1987, and published in the Federal Register on April 3, 1987; (52 FR 10825), McNeilab, Inc., DBA First State Chemical Company Inc., 803 Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substance listed below:

Drug:	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

No comments or objections have been received. Therefore, pursuant to Section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 9, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87–16325 Filed 7–17–87; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (26 U.S.C. 656) will meet on August 4 and 5 (and August 6 if necessary), 1987 in Room C2318 Francis Perkins Building, Department of Labor, Washington, DC. The meeting is open to the Public and will start at 9:00 a.m. each day.

The agenda for this meeting includes: a briefing/update by The National Institute for Occupational Safety and Health (NIOSH) on confined spaces; an update on the building collapse in Bridgeport, Connecticut; proposed rules on respiratory protection; proposed construction rule on steel erection; and a final construction rule on steel erection. Written data, views or comments may be sumitted, perferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affiars before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N–3647, Third Street and Constitution Avenue, NW. Washington, DC, 20210. Telephone: 202–523–8615.

The official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N–3670, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 14th day of July, 1987.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 87–16306 Filed 7–17–87; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Consumers Power Co., Palisades Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Operating License No. DPR–20 to Consumers Power Company (the licensee) for Palisades Plant located in Covert Township, Van Buren County, Michigan.

Identification of Proposed Action: The amendment would consist of changes to the Technical Specifications (TSs) and would authorize an increase of storage capacity of the spent fuel pool (SFP)

from 798 fuel assemblies to 892 fuel assemblies with enrichments no greater than 3.27 weight percent U–235.

The amendment to the TSs is responsive to the licensee's application dated February 20, 1986. The Commission's staff has prepared an Environmental Assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to Expansion of the Spent Fuel Storage Capacity, Consumers Power Company, Palisades Plant, Docket No. 50–255" dated.

Summary of Environmental Assessment: The Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575) concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in SFP designs, the FGEIS recommended licensing SFP expansion on a case-by-case basis.

For Palisades Plant, the expansion of the storage capability of the SFP will not create any significant additional radiological effects or measurable non-radiological environmental impacts. The total occupational exposure for the reracking and the additional occupational exposure for the subsequent operation of the modified SFP is a very small percentage of the average annual occupational dose for all plant operations at Palisades Plant. Therefore, the Commission concludes that the exposure to workers is as low as is reasonably achievable (ALARA) and is acceptable.

Finding of No Significant Impact: The Commission has reviewed this proposed facility modification relative to the requirements set forth in 10 CFR 51. Based upon the environmental assessment, the Commission concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see: (1) The February 20, 1986, application for amendment to Operating License No. DRP–20, (2) the FGEIS on Handling and Storage of Spent Light Water Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for Palisades Plant issued June 1972, and (4) the Environmental Assessment dated July 14, 1987. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Bethesda, Maryland, this 14th day of July, 1987.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–16407 Filed 7–17–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 16, 1987 (52 FR 22867). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk(*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 A.M. and Subcommittee meetings usually begin at 8:30 A.M. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the August 1987 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634–3265, ATTN: Barbara Jo White) between 8:15 A.M. and 5:00 P.M., Eastern Time.

ACRS Subcommittee Meetings

Auxiliary Systems, July 23, 1987, Washington, DC. The Subcommittee will discuss the progress of the "Scoping Study" being performed by the Sandia National Laboratories for NRC on the need for future research in the fire protection area.

Metal Components, July 24, 1987, Washington, DC. The Subcommittee will review GDC–4 Amendment (leak-before break rule), research programs on dosimetry, irradiation effects on pressure vessel materials (Regulatory Guide 1.99, Revision 2), and other matters (e.g., drywell shell corrosion).

Thermal Hydraulic Phenomena, August 4, 1987, Washington, DC. The Subcommittee will: (1) Review development of Uncertainty Methodology for best estimate ECCS Codes, (2) review status of the Generic Issue addressing Steam Generator/Steam Line Overfill Issues, (3) discuss the status of the Water Hammer Issue, (4) discuss a potential issue regarding long-term core cooling given a LOCA, and (5) discuss proposed review of the NRC-RES thermal hydraulic research program.

Decay Heat Removal Systems, August 5, Washington, DC. The Subcommittee will review the resolution status for: (1) GI 23: "RCP Seal Failure", (2) GI 93: "Steam Binding of AFW Pumps", and (3) GI 124: "AFW System Reliability".

Waste Management, August 17 through 19, 1987, Washington, DC. The Subcommittee will review several pertinent HLW, LLW, and related research with the NMSS and RES Staffs.

Auxiliary Systems, August 18, 1987, Washington, DC. The Subcommittee will discuss the heating, ventilation, and air conditioning (HVAC) system malfunctions and their impact on safety systems. In addition, it will discuss problems associated with instrument air systems, AEOD findings concerning the instrument air system malfunctions and its recommendations to alleviate this problem.

Regional and I&E Programs, August 28, 1987, Walnut Creek, CA. The Subcommittee will review the activities under the control of the Region V Office.

Future LWR Designs, September 8, 1987, Washington, DC. The Subcommittee will discuss its reply to the 4/22/87 Staff Requirements Memorandum regarding the feasibility, benefit, and cost effectiveness of selected and combined systems as recommended in the ACRS letter of 1/15/87 on Improved LWRs.

Generic Items, Septmber 9, 1987, Washington, DC. The Subcommittee will continue the discussion on the effectiveness of the programs that address generic issues and USIs. Also, it will discuss with selected licensees the contribution to plant safety resulting from the implementation of the resolved generic issues and USIs.

Joint Waste Management and Quality and Quality Assurance, October 16,

1987, Washington, DC. The Subcommittees will review QA Experience in Readiness Reviews as applied to nuclear power plants, HLW geologic repositories, and monitored retrievable storage (MRS) facilities.

Decay Heat Removal Systems, Date to be determined (August), Washington, DC. The Subcommittee will continue its review of the NRR Resolution Position for USI A-45.

Babcock & Wilcox Reactor Plants, Date to be determined (late summer/early fall), Washington, DC. The Subcommittee will continue its review of the long-term safety review of B&W reactors. This effort was begun during the summer of 1986; initial Committee comments offered on July 16, 1986 in a letter to V. Stello, EDO.

Auxiliary Systems, Date to be determined (September), Washington, DC. The Subcommittee will discuss the criteria used by the utilities to design Chilled Water Systems, associated regulatory requirements, and the criteria being used by the NRC Staff to review the Chilled Water System design.

Thermal Hydraulic Phenomena, Date to be determined (September/October), Washington, DC. The Subcommittee will review: (1) The final version of revised ECCS Rule, and (2) the status of RES-proposed new integral test facility.

GE Reactors (ABWR), Date to be determined (September/October), Washington, DC. The Subcommittee will review the status of activities regarding the General Electric Advanced Boiling Water Reactor.

Standardization of Nuclear Facilities, Date to be determined (October), Washington, DC. The Subcommittee will review the Staff SER and Chapter I of the EPRI Requirements Document. Chapter II may also be discussed.

Diablo Canyon, Date to be determined (late November/early December), Location to be determined. The Subcommittee will review the status of the Diablo Canyon Long-Term Seismic Program.

Joint Seabrook/Occupational & Environmental Protection System/ Severe Accidents, Date to be determined, Washington, DC. The Subcommittees will review Seabrook Emergency Planning and other related matters.

Seabrook Unit 1, Date to be determined, Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook Unit 1.

ACRS Full Committee Meeting

August 6-8, 1987: Items are *tentatively* scheduled.

*A. *Meeting with NRC Commissioners (Open)*—Discuss ACRS Report on implementation of the NRC's Safety Goal Policy.

*B. *Degree Requirements for Senior Reactor Operators (Open)*—Discuss proposed ACRS comments on SECY 87-101.

*C. *Emergency Planning (Open)*—Discuss proposed ACRS recommendations for changes in emergency planning.

*D. *Foreign Reactors (Open/ Closed)*—Discuss regulatory practice in Italy.

*E. *TVA Nuclear Program (Open)*—Discuss TVA Nuclear Performance Plan and proposed restart of TVA nuclear plants.

*F. *Fire Protection (Open)*—Discuss fire protection record scoping study.

*G. *Safety Features for Future LWRs (Open)*—Discuss feasibility, cost effectiveness, etc., of improved safety features for future LWRs.

*H. *General Design Criterion 4 (Open)*— Discuss proposed ACRS comments on revisions to GDC 4.

*I. *High-Level Waste Program (Open)*—Discuss observations concerning various test sites.

*J. *Nuclear Power Plant Operating Experience (Open)*— Briefing and discussion with representatives of NRR concerning recent operating events.

*K. *ACRS Future Activities (Open)*—Discuss anticipated activities of ACRS Subcommittees and matters proposed for full committee consideration.

L. *Appointment of New Members (Closed)*—Discuss qualification of candidates for appointment to the Committee.

*M. *NRC Programs which Address USIs and UGIs (Open)*—Discuss proposed ACRS comments on the effectiveness of NRC programs to resolve USIs/UGIs.

*N. *Meeting with the Director, NMSS (Open)*—Discussion of topics of mutual interest.

*O. *South Texas, Unit 1 (Open)*—Briefing and discussion of items noted in ACRS report of June 10, 1986.

*P. *Seismic Margins (Open)*— Briefing on status of seismic margin program.

*Q. *Westinghouse Standard Plant Design (Open)*—Briefing on status of Development of review scope.

*R. *Standard Review Plan (Open)*—Briefing on revision to SRP 3.6.2 regarding assumed location of pipe breaks.

September 10-12, 1987—Agenda to be announced.

October 8-10, 1987—Agenda to be announced.

Dated: July 15, 1987.

Samuel J. Chilk,

Secretary, Office of the Secretary of the Commission.

[FR Doc. 87-16412 filed 7-17-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24701; File No. SR-CBOE-87-27]

Self-Regulatory Organizations; Chicago Board Options, Exchange, Inc., Relating to the Exemption of Certain Hedged Positions From Equity Option Position Limits

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on June 24, 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 organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Rule 4.11. Except with the prior written permission of the President or his designee, no member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange in any option contract dealt in on the Exchange if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, control an aggregate position in excess of 3,000 or 5,500 or 8,000 option contracts (whether long or short) of the put class and the call class on the same side of the market respecting the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange. Limits shall be determined in

the manner described in Interpretations .02 *and .04* below.

. . . Interpretations and Policies:

.01–.03 No change.

.04 The following positions, where each option contract is "hedged" by 100 shares of stock, shall be exempted from established limits up to that number of option contracts equal to the limit as computed in Commentary .02 above: (i) long call and short stock (ii) short call and long stock, (iii) long put and long stock; (iv) short put and short stock.

In no event may position limits for any class of stock options exceed twice the limits established by this Section 4.11.

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.[1]

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Position limits circumscribe the amount of options on the same side of the market (i.e., short calls and long puts or long calls and short puts) that an investor may control. Position limits for equity options are determined in accordance with a three-tiered system (i.e., 3,000, 5,500 or 8,000 contracts) based on the underlying stock's trading volume and/or the number of outstanding shares.

The proposed amendment is designed to allow a limited, automatic exemption from equity option position and exercise limits for accounts that have established one of the four most commonly used hedged positions consisting of stock and equity options on a 1-for-1 basis, i.e., 100 shares of stock for each option contract. The CBOE states that the exemption is to be automatic and no request or application need be made by a market participant to utilize the exemption. The exemption is intended to apply to exercise limits as well as position limits. Therefore, accounts will be allowed to exercise, during any five consecutive business days, the same number of contracts set forth as the position limit for that option, including those that are hedged. The exempted hedged positions are: (i) Long call and short stock, (ii) short call and long stock, (iii) long put and long stock and (iv) short put and short stock. In no event, however, would the maximum position limit (including the allowed exemptions) exceed twice the present position limit.

Utilizing the proposed exemption would afford investors the opportunity to hedge twice the amount of underlying shares of stock without increasing the possibility for manipulation in such securities.

The Exchange believes that this proposal will increase the depth and liquidity of equity options trading. Therefore, the proposed amendment is consistent with the provisions of the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, with section 6(b)(5) of the Act, in that the proposal is designed to perfect the mechanism for a full and open market, to enhance the ability of investors to use options for investment purposes, and to protect the investing public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments are 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 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 aslo 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 August 10, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 14, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–16423 Filed 7–17–87; 8:45 am]

BILLING CODE 8010-01-M

[1] The CBOE has supplemented the discussion of the proposed rule change contained in this filing by a letter dated July 2, 1987 from Nancy R. Crossman, Associate General Counsel, CBOE to Mary Revell, Esquire, Staff Attorney, Securities and Exchange Commission.

[Release No. IC–15867; File No. 812–6653]

Filing of Application; Aetna Life Insurance and Annuity Co. et al.

July 10, 1987.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants

Aetna Life Insurance and Annuity Company ("Aetna"); Variable Annuity Accounts B and C of Aetna Life Insurance and Annuity Company ("Accounts B and C"); and, Aetna Guaranteed Equity Trust ("GET").

Relevant 1940 Act Sections

Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2) and for approval of the terms of a joint transaction under section 17(d) and Rule 17d–1 thereunder.

Summary of Application

Applicants seek an order exempting and approving, to the extent necessary, the proposed payment to Aetna of a fee from the assets of Accounts B and C in

return for an investment portfolio performance guarantee offered by Aetna under certain variable annuity contracts (the "Contracts") and to permit Applicants to participate in the operation of the proposed guarantee.

Filing Date: The Application was filed on March 18, 1987 and was amended on June 16, 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 August 5, 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, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Aetna, Accounts B and C, and GET, 151 Farmington Avenue, Hartford, Connecticut 06156.

FOR FURTHER INFORMATION CONTACT: David S. Goldstein, Staff Attorney, (202) 272–2622 or Lesis B. Reich, Special Counsel, (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).

Applicant's Representations

1. Aetna is an insurance company organized under the laws of the State of Connecticut in 1976; Accounts B and C are separate accounts organized under the insurance laws of the State of Connecticut and registered as unit investment trusts under the 1940 Act; and GET is an open-end diversified management investment company, organized as a series fund, for which a registration statement on Form N–1A was filed by Applicants on March 18, 1987 and subsequently amended on May 18, 1987 and June 5, 1987.

2. GET's investment objective is to participate in favorable equity market performance, without compromising the achievement of a minimum targeted rate of return at a specified maturity date. To achieve GET's investment objective, the investment adviser (Aetna) will allocate the assets of each GET series between equity and fixed income securities ("Equity Component" and "Debt Component," respectively). Assets will be allocated between the Components in accordance with the instructions of a proprietary computer program which will indicate, on an ongoing basis, the percentage of assets in GET which must be allocated to the Equity and the Debt Components in a manner which would maximize the use of the Equity Component, yet be able to withstand certain declines in the value of the Equity Component and still assure that the GET series will meet the minimum targeted rate of return at the specified maturity date.

3. Each sub-account of Accounts B and C presently invests exclusively in the shares of one of the following open-end, diversified management investment companies: Aetna Variable Fund, Aetna Income Shares and Aetna Variable Encore Fund (hereinafter collectively referred to as the "Funds").

4. Applicants intend in the near future to add a new sub-account to each Separate Account. The new sub-account, and any sub-accounts established in the future under Accounts B and C or any other Aetna separate accounts in connection with which the guarantee is offered, will invest exclusively in shares of a series of GET.

5. The Contracts are currently intended to be used in connection with retirement plans which may or may not qualify for special tax treatement under the Internal Revenue Code. Except for a uniform charge for the guarantee described below, the Contracts vary with respect to purchase payment requirements and various fees imposed thereunder.

6. Under the Contracts, Aetna will offer a guarantee in connection with funds allocated to each series of GET. The guarantee will begin on the date the funds allocated to a particular series of GET are initially invested by the investment adviser in accordance with the proprietary computer program. The guarantee provides that on the fifth anniversary from such a date, the value of accumulation units which represent an investment in shares of a particular series of GET will not be less than at the beginning of such period. This guarantee does not apply to withdrawals or transfers made before the Maturity Date. Such withdrawals or transfers are made at the then prevailing accumulation unit value. The guarantee also does not cover the annual account maintenance fee deducted under some of Aetna's Contracts.

7. As a result of its obligations under the guarantee, Aetna will be subject to the reserve requirements under applicable state insurance laws and regulations.

8. The Contracts provide that in return for Aetna's assumption of the investment risk inherent in providing the guarantee, Aetna will make a deduction at an annual rate of .25% of the value of the sub-accounts of Accounts B and C which hold shares of GET. This charge will compensate Aetna for assuming the risk that after five years the assets held in GET will not be sufficient to meet its obligation under the guaranteee.

9. Applicants specifically represent that the charge of .25% is reasonable in relation to the risk Aetna assumes in providing the guarantee.

10. Applicants specifically represent that Aetna set the level of this charge only to cover the cost of bona fide insurance risks assumed by it under the guarantee. In setting the level of this charge, Applicants have considered, among other risks, the risk that the proprietary computer program may not operate as designed; that the proprietary computer program may be implemented improperly; and that the level of liquidity in equity markets may decrease sharply, adversely affecting the performance of the computer program.

11. The amount of the charge for the guarantee is contractual and may not be changed by Aetna.

12. The asset mix between the Equity and Debt Components is predetermined on an ongoing basis by the proprietary computer program. The investment adviser (Aetna) will have no discretion to contravene the instructions of the program with respect to this allocation.

13. The proposed guarantee arrangement is consistent with the provisions, policies and purposes of the 1940 Act and is no less advantageous to any one of the Applicants. GET will not be participating in the proposed guarantee arrangement on a basis less advantageous than Aetna.

Applicants' Conditions:

If the requested order is granted the Applicants agree to the following conditions:

1. Applicants will maintain and make available to the Commission upon request a memorandum outlining the methodology underlying representation 9.

2. The Board of Trustees, including a majority of the disinterested Trustees, of GET will approve the existence and operation of the guarantee arrangement.

3. In connection with condition 2 the Board, including a majority of the

disinterested Trustees, will make the following findings: (i) That the proposed guarantee arrangement is consistent with the provisions, policies and general purposes of the Act and is no less advantageous to any one of the Applicants and (ii) that the terms of the proposed transaction, including the consideration to be received by Aetna, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants will furnish to the Board, prior to its consideration and approval of the guarantee arrangement, the information reasonably necessary to evaluate the guarantee arrangement.

4. The Board of Trustees of GET will review at each quarterly meeting the asset allocation instructions and Aetna's response to such instructions to ensure that Aetna does not deviate from those instructions.

5. Aetna will manage the Equity Component of each series of GET in the same manner as its does Aetna Variable Fund, a common stock fund whose shares are available to fund other Aetna variable annuity and variable life insurance contracts. Specifically, the dollar-weighted beta of the Equity Component of each series of GET, as measured on the last trading day of each fiscal quarter (or on any of the subsequent five trading days), will not be more then .10 lower than the similarly measured dollar-weighted beta of Aetna Variable Fund.

5. Existing and prospective Contractholders will be provided with a prospectus disclosing the guarantee arrangement, the manner in which the assets of GET will be managed and the investment objectives of GET.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz

Secretary.

[FR Doc. 87-16396 Filed 7-17-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15873; File No. 811-4248]

Application for Order; Ameri-Fund, Inc.

July 14, 1987.

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

ACTION: Notice of Application for Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Ameri-Fund, Inc. (the "Fund").

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Application: Applicant requests an order declaring that it has ceased to be an investment company.

Filing Date: July 2, 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., August 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant 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.

ADDRESS: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 601 Poydras Street, New Orleans, Louisiana 70130.

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) 253-4300).

Applicant's Representatives

1. Applicant states that on March 8, 1985, it registered under the Act on Form N-8A, and filed its registration statement on Form N-1 pursuant to section 8(b) of the Act on the date. As of the date of the filing of this application, that registration statement pursuant to the Securities Act of 1933 has not become effective and no initial public offering of Applicant's securities has taken place.

2. Applicant represents that it has no securityholders and is not engaged in any business activities. Applicant further represents that it has no assets, has no debts or other liabilities outstanding and it is not a party to any litigation or administrative proceedings.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16424 Filed 7-17-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15871; 812-6572]

The Equitable Life Assurance Society of the United States et al.

July 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: The Equitable Life Assurance Society of the United States ("Equitable") Separate Accounts A of Equitable ("SA-A"), Separate Account C of Equitable ("SA-C"), Separate Account D of Equitable ("SA-D"), Separate Account E of Equitable ("SA-E"), Separate Account J of Equitable ("SA-J") and Separate Account K of Equitable ("SA-K") (collectively, the "Separate Accounts") and The Equitable Trust ("Trust"), a series-type mutual fund, organized as a Massachusetts business trust ("Applicants").

Relevant 1940 Act Sections and Rule: Exemptions requested under section 17(b) and Rule 17d-1, from sections 17(a), 17(d), and Rule 17d-1, and under section 6(c) from section 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to permit: (a) The combination of SA-C into SA-A, and then the combination of SA-D, SA-E, SA-J and SA-K into SA-A ("Continuing Account"); (b) the simultaneous reconstruction of SA-A into a unit investment trust ("UIT") with five investment divisions, which will be the functional equivalents of SA-A (including SA-C), SA-D, SA-E, SA-J and SA-K, as presently constituted; (c) the simultaneous issuance of shares of the Trust to SA-A, as proposed to be reconstructed, in exchange for all of the assets, and related liabilities, of the Separate Accounts ((a), (b) and (c) constituting the "Reorganization"); and (d) the deduction of certain mortality and expense risk charges and death benefit charges under certain variable annuity contracts.

Filing Dates: The application was filed in December 19, 1986, and amended on June 18, 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 August 3, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the

Applicant 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.

ADDRESS: SEC, 450 5th Street, Washington, DC 20549. Applicants, c/o James B. Keenan, Esq. 787 Seventh Avenue, Area 36–K, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Joseph R. Fleming, Attorney, at (202) 272–3017 or Lewis Reich, Special Counsel, at (202) 272–2027 (Office of Insurance Products and Legal Compliance).

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 which may be contacted at (800) 231–3282 (in Maryland (301) 253–4300.

Applicants' Representations

1. Equitable is a mutual life insurance company organized under the laws of the State of New York, and is authorized to sell life insurance and annuity contracts in all fifty states, the District of Columbia, Puerto Rico and the Virgin Islands. The Separate Accounts were established by Equitable pursuant to the insurance laws of the State of New York on the following dates: SA–A, August 1, 1968; SA–C, March 20, 1969; SA–D, April 12, 1972; SA–E, October 31, 1973; SA–J and SA–K, December 19, 1983. They fund benefits under certain annuity contracts and other agreements (the "Contracts") issued and administered by Equitable which currently fund various qualified and non-qualified tax-favored plan and arrangements under the Internal Revenue Code (the "Code"). There are three types of Contracts funded by the Separate Accounts, of which only one is currently being offered. They are: (a) The "Equivest Contracts" funded through SA–A, SA–E, SA–J and SA–K, which are currently offered (under File Nos. 2–30070, 2–50547, 2–88890 and 2–88891); (b) the "Old Contracts" funded through SA–A and SA–E (under File Nos. 2–30070 and 2–50547); and (c) the "Equiplan Contracts" funded through SA–C and SA–D (under File Nos. 2–32579 and 2–44921). The Old Contracts and the Equiplan Contracts are no longer offered, but Equitable continues to receive contributions from existing Participants. At this time, each of the Separate Accounts is registered under the 1940 Act as a management investment company.

2. The Trust is an open-end diversified management investment company organized in the form of a Massachusetts business trust. The Trust initially will be authorized to issue five series or classes of shares, each of which will represent an interest in one of the Trust's Portfolios (collectively, "Portfolios") which, in turn, will correspond to an investment division of the Continuing Account. As part of the Reorganization, SA–A and SA–C, SA–D SA–E, SA–J and SA–K will be succeeded by the Stock, Bond, Money Market, Balanced and Aggressive Stock Portfolios of the Trust. Under the Trust's Declaration of Trust, the Board of Trustees of the Trust is authorized to create additional funds or delete funds.

3. The Continuing Account will be a separate investment account of Equitable, operated as a UIT, which will fund benefits under the Contracts. The Trust, which will succeed to the assets and investment-related liabilities of the Separate Accounts, will be the continuing funding vehicle for Equitable's Contracts.

4. An Agreement and Plan of Reorganization ("Agreement") will be entered into, among Equitable, each of the Separate Accounts and the Trust, subject to the approval of the individuals who make contributions or for whom contributions are made under the Contracts ("Participants"). The Agreement provides that Equitable will assume all costs to be incurred in effecting the Reorganization, including the expenses of organizing the Trust. The Reorganization will not have adverse economic impact on the Participants' interests under the Contracts. The overall level of fees and charges borne, directly or indirectly, by Participants will be no greater after the Reorganization than before it.

5. Participants under the Contracts currently have voting rights with respect to each of the Separate Accounts in which they have an interest.

The number of votes that may be cast is equal to the number of units of a particular separate account credited to the Participant. Following the reorganization, Participants will have the opportunity to instruct Equitable as to the voting of Trust shares, attributable to their respective interests under the Contracts, on matters as to which they currently have a voting right. Equitable will vote the sales of each Portfolio held by the Continuing Account, attributable to their respective interest under the Contracts, on matters as to which they currently have a voting right. Equitable will vote the shares of each Portfolio held by the Continuing Account, attributable to the Contracts, in accordance with instuctions received from Participants. Shares of the Trust held by the Continuing Account which are not attributalbe to Participants or for which instructions have not been received will be voted in proportion to the instructions received from the Participants. Although the voting by the current Participants will be computed somewhat differently after the reorganization, these differences will not, as a practical matter, diminish the Participants' existing voting rights.

6.The Applicants may be deemed to be affiliated persons of each other or affiliated persons of an affiliated person under section 23(a)(3) of the 1940 Act, and the Reorganization may be deemed to involve one or more purchases or sales of securities or property between and among certain of the Applicants, specifically Equitable, each of the Separate Accounts, including SA–A as the Continuing Account, and the Trust. Therefore, applicants seek an exemption from section 17(a) of the 1940 Act, pursuant to section 17(b) of the 1940 Act, for the Agreement and the Reorganization.

7. Applicants maintain that, for the reasons summarized below, the terms of the proposed transactions satisfy the standards of section 17(b). In this regard, Applicants represent that the terms are reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the investment policies of each of the Separate Accounts; and are consistent with the general purposes of the 1940 Act.

8. The Reorganization will benefit existing and future Participants by facilitating the future expansion of investment alternatives under the Contracts and subsequent contracts. The addition of new funds to the Trust, with different investment objectives, is more easily and economically accomplished with a UIT than by the establishment of a new management separate account. This potential benefit is created at no cost to any Participants, as Equitable has undertaken to assume all expenses relating to the reorganization and the establishment of the Trust.

9. The transfer of the portfolio assets of the Separate Accounts in return for shares of the Trust will be effected in conformity with section 22(c) of the 1940 Act and Rule 22c–1 thereunder.

10. The transaction is consistent with the investment objectives and policies of the Separate Accounts, the investment divisions of the Continuing Account and Portfolios of the Trust. The investment

objectives of each of the Portfolios derived from the Separate Accounts will be identical to the investment objectives of the corresponding separate account immediately preceding the Reorganization. The Reorganization will not require liquidation of any assets of any of the Separate Accounts or the Trust. Therefore, neither the Separate Accounts nor the Trust will incur any extraordinary costs, such as brokerage commissions, in effecting the transfer of assets. Applicants assert, based on a review of existing federal income tax laws and regulations, that the transfer of assets and the combination of the Separate Accounts will be tax-free events. Therefore, none of the Continuing Account, the Separate Accounts or the Trust will realize any gain or loss on the transfers or combination, and the Trust will succeed to the same adjusted basis as such assets had prior to the transfers.

11. In each of Equitable's Separate Accounts prospectuses, Equitable has reserved the right, subject to compliance with applicable law and any necessary approval of Participants, to make certain transfers of separate account assets; to operate any of the separate accounts as a UIT, or in any other form permitted by law; and to deregister any Separate Accounts under the 1940 Act. These provisions are also included in the Contracts.

12. Participants will be fully informed of the terms of the Agreement through the proxy materials and will have an opportunity to approve or disapprove the Agreement and the Reorganization at the meetings of Participants called for that purpose.

13. The reorganization may also be deemed to be a transaction that is prohibited under section 17(d). The Agreement anticipates simultaneous purchase and sale transactions involving a number of registered companies, and each such purchase and sale transaction is dependent on the others. The application further provides that each purchase and sale transaction is, therefore, an essential aspect of a more comprehensive plan. In this sense, each transaction may be deemed to be in connection with a joint participation subject to section 17(d) and Rule 17d–1. Accordingly, Applicants request an order pursuant to Rule 17d–1 to eliminate any question of compliance with section 17(d) and Rule 17d–1.

14. Participation of each of the Separate Accounts, including SA–A as the Continuing Account, and the Trust in the Agreement will be on an equal basis and will not result in advantages to any one of the Separate Accounts or the Trust to the detriment of any other party. Each of the Separate Accounts will have its assets transferred to a corresponding Portfolio of the Trust with identical policies and restrictions. Since there will be no need to liquidate assets of any of the Separate Accounts or of the Trust because of the Reorganization, none of the Separate Accounts or the Trust will incur any extraordinary costs, such as brokerage commissions, in effecting the transfer of assets. Further, none of the Separate Accounts or the Trust will bear any of the costs of the Reorganization, which will be borne entirely by Equitable.

15. Although the voting privileges under the UIT structure will be different from the voting rights under the management separate account structure, these rights, in all fundamental respects, will remain the same.

16. The Reorganization will result in certain economies of scale and efficiencies of administration to Equitable that should also redound to the benefit of the Separate Accounts and Continuing Account and the Participants. For example, the Trust could be used (subject to any necessary further regulatory compliance) by other separate accounts of Equitable (or other insurance company separate accounts) as the underlying investment vehicle in order to fund their variable annuities, variable life insurance or other variable funding arrangements they may offer. The establishment of the Trust will benefit Participants by facilitating future expansion of investment alternatives under the Contracts and new contracts on a less costly basis than would be possible if new management separate accounts were used. Finally, as discussed above, Participants' interests will not be adversely affected because there should be no tax liabilities stemming from the reorganization and Equitable has undertaken to assume all costs relating to the reorganization and the establishment of the Trust.

17. Therefore, the terms of the proposed Agreement and the related transactions meet all of the requirements of section 17(d) of the 1940 Act and Rule 17d–1 thereunder and an order should be granted permitting the proposed transactions.

18. The Contracts each provide that there shall be deducted from the Separate Accounts an asset charge to cover expenses and expense risks, and mortality risks and death benefits, details of which are set forth below and in the application. The charges for expenses are for expenses actually incurred and are designed to reimburse Equitable for related research and development costs, and for administrative expenses that exceed other applicable administrative expense charges, described in the application, under the Contracts.

19. After the Reorganization, assuming it is approved by Participants, the expense and administrative expense charges described above, which now are deducted from the assets of the Separate Accounts, will be deducted from the assets of the appropriate investment divisions of the Continuing Account under the respective Contracts. In that regard, Equitable intends to rely on Rule 26a–1 under the 1940 Act for the deduction of such charges.

20. The mortality risk assumed by Equitable is that annuitants may live for a longer period of time than estimated. Equitable assumes this mortality risk by virtue of promising to pay annuitants according to the annuity rates set forth in the Contracts, without regard to the annuitant's own longevity or any improvement in life expectancy of the general population.

21. The expense risk assumed by Equitable is the risk that its actual expense of administering the Contracts will exceed the proceeds of the administrative and expense charges.

22. The death benefit provided by Equitable under a Contract prior to retirement is the greater of the Participant's total Contract values in all Accounts or the "minimum death benefit" which equals contributions less withdrawals and any outstanding loan amounts.

23. The table below shows the approximate apportionment of the foregoing charges as between expenses and expense risks, and between mortality risks and death benefits charges:

[In percent]

	Equivest contracts, sep. accts.		Old contracts, sep. accts. A/E	Equiplan contracts, sep. accts. C/D
	A/E/J	K		
Expenses	0.60	0.60	0.16	0.16
Expense risks	.30	.15	.08	.08
Mortality risks	.30	.30	.45	.45
Death benefits	.05	.05	.05	.05

In addition, an asset charge at the effective annual rate of .24% is deducted from SA–A, SA–E, SA–J and SA–K under the Equivest Contracts for financial accounting services. This charge also is designed to reimburse Equitable for its costs in providing such services, and, like the charge for expenses, is not designed to include an element of profit.

24. Under the Contracts, the total of the above expense, expense risk,

mortality risk and death benefit charges, together with the financial accounting charge and investment advisory fee, amounting to 1.75% for Equivest Contracts and 1.00% each for Old Contracts and Equiplan Contracts and 1.00% each for Old Contracts and Equiplan Contracts, may be reallocated among those categories of fees and charges, but the investment advisory fee (including such fee as determined under the proposed investment advisory arrangements with the Trust) may not be increased without Participant approval. Moreover, notwithstanding provisions of the Contracts, Equitable (as the staff understands) will limit any possible reallocation only as among the expense risk, mortality risk and death benefit charges.

25. Equitable represents that the expense risk and mortality risk charges, and the death benefit charges, assessed under the Contracts are reasonable in amount based on the experience of and evaluation by Equitable of the annuity products. Equitable and the Continuing Account also assert that the risk and death benefit charges are within the range of industry practice for comparison with comparable annuity contracts. Equitable and the Continuing Account state that this representation is based upon analysis of publicly available information by Equitable about similar variable annuity products, taking into consideration such factors as the manner of distribution, the degree of investment flexibility, payment minima and mixima, current charge levels, the existence of guaranteed expense charges, guaranteed annuity rates and guaranteed minimum death benefits. Equitable and the Continuing Account further represent that Equitable will maintain at its home office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Equitable's comparative survey.

26. Equitable and the Continuing Account further represent that Equitable has concluded that there is a reasonable likelihood that the distribution financing arrangement under certain Contracts, based on a contingent withdrawal charge, will benefit the Continuing Account and Participants under such Contracts, and Equitable will maintain at its home office and make available to the Commission upon request a memorandum seting forth the basis for this representation. Equitable acknowledges that the contingent withdrawal charges under certain Contracts may be insufficient to cover distribution costs and that any shortfall would be absorbed by Equitable's general account, which might include assets attributable to risk and death benefit charges. The Continuing 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 such an open-end management company, formulate and approve any plan under Rule 12b–1 promulgated under the 1940 Act to finance distribution expenses.

27. Accordingly, Applicants Equitable and Separate Account A, as the Continuing Account, request an order exempting them from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit the payment to Equitable of the aforementioned mortality and expense risk charges, and the death benefit charge, and represent that the order requested is consistent with section 6(c).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–16425 Filed 7–17–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15870; File No. 812–6667]

Filing of Application; Michael Steinhardt and Steinhardt Advisers, Inc.

July 14, 1987.

Notice is hereby given that Michael H. Steinhardt ("Steinhart") and Steinhardt Advisers, Inc. ("Advisers"), 605 Third Avenue, New York, New York 10158 (collectively, the "Applicants") have filed an application and amendments thereto requesting an order of the Commission pursuant to section 9(c) of the Investment Company Act of 1940, as amended (the "Investment Company Act"), that would permanently exempt Applicants from the provisions of sections 9(a)(2) and 9(a)(3) of the Investment Company Act in respect of the circumstances described below.

Applicants state that Steinhardt is the sole stockholder, director and Chairman of the Board of Directors of Advisers, a newly-formed Delaware corporation, which became registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act") on May 11, 1987. Advisers is not currently an investment adviser to any investment company registered under the Investment Company Act or otherwise. However, subject to the granting of the relief requested by the application, Advisers proposes to act as the investment adviser to the investment company described below. Steinhardt is also the sole managing general partner of Steinhardt Partners, a successor to Steinhardt, Fine, Berkowitz & Co., a partnership founded by Steinhardt and others in 1967.

The Applicants further state that the Steinhardt Fund, Inc., (the "Fund") a newly formed Maryland corporation, will shortly file for registration with the Commission as a closed-end, non-diversified management investment company under the Investment Company Act and the Securities Act of 1933 (the "Securities Act"). Upon effectiveness of the Registration Statement and commencement of the operations of the Fund, the Applicants state that Advisers will act as investment adviser to the Fund. Subject to the granting of the relief requested by the application, Steinhardt will serve as Chairman of the Board of Directors of the Fund.

On April 14, 1976, in an action entitled *SEC* v. *The Seaboard Corporation,*[1] the United States District Court for the Central District of California entered final orders against Steinhardt and Steinhardt, Fine, Berkowitz & Co. The orders prohibited Steinhardt and Steinhardt, Fine, Berkowitz & Co. from using any means or instrumentality of interstate commerce or of the mails or of any national securities exchange, directly or indirectly, whether alone or in concert with others:

(1) To purchase or to sell or to induce the purchase or sale by others of any security when such security or any security of the same class or series or any right to purchase or to sell such security is the subject of a distribution, either pursuant to an effective registration statement under the Securities Act or otherwise, and when such purchase or sale is made—

(a) For the purpose of raising or maintaining or depressing the price of such security;

(b) Upon a prior promise, agreement, arrangement, or understanding pursuant to which the purchaser or seller is protected against loss, is guaranteed a profit, or has any other similar arrangement in connection with such purchase or sale; or

(c) While Steinhardt or such purchaser is a participant in the distribution or is acting at the request or upon the recommendation of any person who is a participant in the distribution, except as permitted under Rules 10b–6 and 10b–7

[1] Civ. Action No. CV 74–567–MML (C.D. Cal., March 5, 1974), Lit. Rel. No. 6289, 3 SEC Docket 681.

under the Securities Exchange Act of 1934 (the "Exchange Act");

(2) To purchase or to induce the purchase by others of any security from a broker-dealer pursuant to an understanding that such security will be repurchased by the broker-dealer and when such purchase is made, or when the circumstances surrounding such purchase reasonably indicate that the purchase is being made, for the purpose of assisting the broker-dealer in giving the appearance of substantially improving its net capital position for purposes of section 15(c) of the Exchange Act or Rule 15c3-1 thereunder; or

(3) To purchase or to sell any security which is the subject of a distribution, either pursuant to an effective registration statement under the Securities Act or otherwise, and in connection with such purchase or sale, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

Steinhardt, Fine, Berkowitz & Co. was also ordered to establish policies and procedures reasonably calculated to prevent the acts, practices, and courses of conduct proscribed by the final order. Steinhardt was ordered to comply with those policies and procedures.

Section 9(a)(2) of the Investment Company Act applies to persons who, by reason of any misconduct, have been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security. The section prohibits these persons fron serving or acting as an employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) extends these prohibitions to companies whose affiliated persons are subject to the prohibitions of Section 9(a)(2).

Steinhardt and Steinhardt Partners are subject to the prohibitions of section 9(a)(2) by virtue of the entry of the final orders against Steinhardt and Steinhardt, Fine, Berkowitz & Co. (the predecessor to Steinhardt Partners). Steinhardt is therefore precluded by section 9(a)(2) from, among other things, serving as an officer or director of the Fund. Advisers is precluded by section 9(a)(3) from serving as the Fund's investment adviser so long as Steinhardt and Steinhardt Partners are affiliated with advisers.

Section (c) of the Investment Company Act provides that, upon application, the Commission may grant, either unconditionally or on appropriate temporary or conditional basis, an exemption from the provisions of section 9(a). The applicant must establish that the prohibitions of section 9(a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or the protection of investors to grant such application.

Applicants submit that the prohibitions of section 9(a) of the Investment Company Act, to the extent applicable by virtue of the final orders against Steinhardt and Steinhardt, Fine, Berkowitz & Co., would be unduly or disproportionately severe as applied to them. Applicants also submit that the conduct of Steinhardt and Steinhardt Partners has been such as not to make it against the public interest or the protection of investors to grant the Application. The Applicants therefore request that the Commission, pursuant to section 9(c) of the Investment Company Act, grant them a permanent exemption from the provisions of section 9(a) operative as a result of the entry of the final orders against Steinhardt and Steinhardt Partners.

The Applicants make the following representations in support of their application:

1. The facts and circumstances to which the final orders related in no way involved any activities of Steinhardt or Steinhardt Partners with respect to Advisers or the Fund or the activities of Advisers as investment adviser for the Fund.

2. The final orders relate to alleged misconduct of Steinhardt and Steinhardt Partners occurring more than 17 years ago.

3. The Stipulations to the entry of the final orders did not involve any admission or denial of the allegations of the complaint.

4. Steinhardt and Steinhardt Partners have complied fully with the terms of the final orders. Steinhardt has complied with the policies and procedures adopted by Steinhardt Partners in accordance with the final order against Steinhardt, Fine, Berkowitz & Co.

5. The Commission agreed in the Stipulation entered in the civil action that the entry of the final orders would not in and of themselves constitute the basis for institution of administrative proceedings against Steinhardt or Steinhardt Partners pursuant to section 15(b) of the Exchange Act or pursuant to section 203(e) of the Advisers Act.

6. Other than the entry of the final orders, neither Steinhardt nor Steinhardt Partners has ever been subject to the disabilities imposed by section 9(a) of the Investment Company Act nor has either ever been found to have committed any of the acts set forth in section 203(e) of the Advisers Act or ever been subject to any judicial or Commission order, judgment or decree barring or suspending them from any activity set forth in section 203(e).

7. Other than the entry of the final orders, Steinhardt and Steinhardt Partners have not been subject to any formal federal or state enforcement or regulatory disciplinary proceeding, either judicial or administrative.

8. Steinhardt has never before applied, or been required to apply, for an exemption from the prohibitions of Section 9(a) of the Investment Company Act.

9. Since the events giving rise to the entry of the final orders, Steinhardt has been actively engaged in the investment management business in connection with three private investment funds. Steinhardt is the sole managing general partner of Steinhardt Partners and of Institutional Partners, L.P., which Steinhardt founded in 1980. He is also the sole stockholder, director, and president of I.P. Management Co., Inc., which provides investment management services to Institutional Partners, L.P. He is the sole stockholder, director, and Chairman of the Board of Steinhardt Management Company, Inc., which provides investment management services to S.P. International, S.A., an offshore fund that Steinhardt founded in 1969. As of March 1, 1987, Steinhardt Partners, S.P. International, S.A., and Institutional Partners, S.P. (collectively, the "Private Funds") had net assets aggregating in excess of $1 billion. The Private Funds are not registered under the Investment Company Act.

10. Since the events giving rise to the entry of the final orders, Steinhardt has been engaged in portfolio management for, as well as providing general investment advisory services to, the Private Funds. Steinhardt will perform similar functions for the Fund.

11. Steinhardt has acted as an investment adviser with respect to the Private Funds and is generally familiar with the obligations imposed on an investment adviser to act as a fiduciary with respect to its accounts.

12. Steinhardt has been employed in the securities industry since 1960 and is generally familiar with the primary restrictions and regulations governing the trading of securities.

13. Advisers will implement policies designed to safeguard against the possibility of any misconduct by any person associated with Advisers. Thus, Advisers intends to employ a qualified compliance officer who will be responsible for regulatory filings and for overseeing compliance with federal and state securities and commodities laws.

In addition, submitted as an exhibit to the application are affidavits to the effect that Steinhardt is an man of recognized integrity, outstanding character and ability, who has contributed much to his community.

The Applicants represent that they acknowledge, understand, and agree that the Commission's issuance of the order requested by their application shall not prejudice nor limit the Commission's rights in any manner with respect to any investigation, enforcement action, or proceeding under Section 9(b) of the Investment Company Act, based, in whole or in part, upon conduct other than that giving rise to the application.

Notice is further given that any interested person may, not later than August 10, 1987, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement as to the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Investment Company Act, an order disposing of the application herein will be issued as of course following said date unless the Commission orders a hearing 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 postponement thereof.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–16391 Filed 7–17–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15872; File No. 811–4286]

Application for Order; Pan American Assurance Co. Separate Account AAI

July 14, 1987.

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

ACTION: Notice of Application for Order under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Pan-American Assurance Company Separate Account AAI ("Account AAI").

Relevant 1940 Act Sections: Order requested under section 8(f).

Summary of Application: Applicant requests an order declaring that it has ceased to be an investment company.

Filing Date: July 2, 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 August 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of 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.

ADDRESS: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 601 Paydras Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Jeffrey M. Ulness (202) 273–3027 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) 253–4300).

Applicant's Representatives

1. Applicant states that on April 25, 1985, it registered under the Act on Form N–8B–2, and filed its registration statement under the Securities Act of 1933 on Form S–6 pursuant to section 8(b) of the Act on the date. As of the date of the filing of this application, that registration statement pursuant to the Securities Act of 1933 has not become effective and no initial public offering of Applicant's securities has taken place.

2. Applicant represents that it has no securityholders and is not now engaged in any business activities. Applicant further represents that it has no assets, has no debts or other liabilities outstanding and it is not a party to any litigation or administration proceedings.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–16426 Filed 7–17–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 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:

Americus Trust for GM Shares
Units, Primes, Scores (File No. 7–0251)

Harley-Davidson, Inc.
Common Stock, $0.01 Par Value (File No. 7–0252)

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 August 3, 1987, written data, views and arguments concerning the above-referenced application. 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 application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications 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. 87–16389 Filed 7–17–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

July 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:

General Electric Credit Corporation
Currency Exchange Warrants (expiring July 1, 1992), File No. 7–0253

Student Loan Marketing Association
Foreign Currency Warrants (expiring July 15, 1992), File No. 7–0254

Xerox Credit Corporation
Long-Dated Exchange Traded Currency Warrants (expiring July 1, 1992), File No. 7–0255

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 August 3, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if is finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications 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. 87–16390 7–17–87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–15868; File No. 812–6716]

Application for an Order Under the Investment Company Act of 1940; Pruco Life Insurance Co. et al.

July 13, 1987.

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

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Pruco Life Insurance Company and Pruco Life Insurance Company of New Jersey (together "the Companies"), Pruco Life Variable Appreciable Account and Pruco Life of New Jersey Variable Appreciable Account (together "the Accounts") and Pruco Securities Corporation ("Prusec").

Relevant 1940 Act sections: Exemption requested under section 6(c) from the provisions of section 27(a)(3) and Rule 6e–2(b)(13)(ii).

Summary of application: Applicants seek an order which will permit the deduction of a front-end sales charge on premium payments made after the owners of certain universal-life insurance contracts (the "AL Contracts") exercise a proposed option to exchange those Contracts for certain variable life insurance contracts (the "VAL Contracts").

Filing date: The application was filed on May 13, 1987 and amended on July 8, 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 August 7, 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, D.C. 20549. Applicants, 213 Washington Street, Newark, N.J. 07102 Attention: William J. Kelly, Esq.

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 who may be contacted at (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations

1. The Companies are stock life insurance companies that are wholly-owned subsidiaries of The Prudential Insurance Company of America ("Prudential"). The Accounts are separate investment accounts of the Companies, established for the purpose of funding the VAL Contracts issued by the Companies. Prusec, an indirect wholly-owned subsidiary of Prudential and a registered broker-dealer, acts as the principal underwriter for the VAL Contracts.

2. The VAL Contracts are subject to both a front-end sales charge of 5% and a contingent deferred sales charge ("CDSL"). The CDSL is based on scheduled premiums for an insured in the non-smoker rating class. The maximum CDSL is equal to 25% of the first year's scheduled premiums due on or before the date of surrender or lapse and 5% of the scheduled premiums for the second through fifth contract years due on or before the date of surrender or lapse. These percentages are applied to the premium payments due on or before the fifth anniversary date that were actually paid, whether timely or not, before surrender or lapse. The CDSL is reduced for persistency beginning in the sixth contract year and disappears entirely after the end of ten contract years.

3. Each of the Accounts invests exclusively in shares of The Prudential Series Fund, Inc. (the "Fund"), a registered open-end diversified management investment company of the series type. Each of the Accounts has six subaccounts corresponding to the portfolios of the Fund in which the Accounts invest: Money Market; Bond; Common Stock; Aggressively Managed Flexible; Conservatively Managed Flexible; and High Yield Bond. Additional subaccounts and portfolios may be added in the future. In addition, the Companies offer owners of the VAL Contracts a fixed-rate option. Any portion of premium payments allocated to the fixed-rate option is not invested in the Account but rather held in the Company's general account. Interest is credited on amounts allocated to the fixed-rate option at rates periodically declared by the Company, but not less than 4%.

4. Applicants state that pursuant to a prior exemptive order (Release No. IC–14174 (Sept. 24, 1984)), the Accounts are entitled to rely on the exemptions granted by Rule 6e–2, in addition to such other specific individual exemptions as may be granted by order.

5. The Company is also the issuer of certain universal-life fixed benefit life insurance contracts known as Appreciable Life Contracts (the "AL Contracts"). Unlike the VAL Contracts,

the value of an AL Contract does not vary with the investment performance of a separate account. Rather, like the fixed-rate option, interest is credited at rates declared in the Company's discretion, but not less than 4%. Premiums under the AL Contracts are subject to the same 5% front-end sales charge as are premiums under the VAL Contracts.

6. Applicants propose to offer owners of AL Contracts the option to exchange those Contracts for VAL Contracts. The new VAL Contract would retain the contract date, face amount, and premium of the original AL Contract. In addition, all benefits and term riders on the original AL Contract would be transferred to the new VAL Contract. No charge would be made for the exchange. However, subsequent premium payments would be subject to the 5% front-end sales load normally applicable to premium payments on VAL Contracts. The contingent deferred sales load on the VAL Contract would be determined as if the VAL Contract had originally been purchased instead of an AL Contract. Each of these provisions will be fully disclosed to contract owners considering exchanging their contracts.

7. The cost of the proposed exchange option will be borne entirely by the Companies, and not by owners of AL Contracts or VAL Contracts or by the Accounts. Each owner of an AL Contract, prior to his or her acceptance of the offer of exchange, will receive: (i) A current prospectus for the Account and the Fund; (ii) a sticker or supplement to the prospectus for the Account describing the terms of the exchange offer and making applicable tax disclosures; (iii) an application authorizing the exchange and containing provisions relevant to the acquisition of the VAL contract; and (iv) a form to be signed by the applicant stating that the transaction is intended by him or her to be a tax free exchange under Section 1035 of the Internal Revenue Code of 1986. Each AL contract owner has the right to reject the exchange offer and continue the AL contract in effect.

8. Upon the exchange, the contract fund of the AL contract will initially be allocated to the fixed-rate option under the VAL contract. However, although there are generally limitations on transfers from the fixed-rate option to the subaccounts, the exchanging owner may at the time of the exchange transfer all or part of the contract fund from the fixed-rate option into the selected subaccounts without regard to the usual restrictions on transfers out of the fixed-rate option. There are no limitations on transfers from the subaccounts to the fixed-rate option. Thus, if an exchanging owner becomes dissatisfied with his or her variable contract, he or she may at any time transfer the entire contract fund into the fixed-rate option. If such a contract remains entirely invested in the fixed-rate option, the owner of the contract will be effectively in the same position as if he or she owned an AL contract. Apart from this right, there is no "free look" right accorded to exchanging contract owners.

9. Applicants submit that the deduction of the 5% front-end sales load from premium payments made after an exchange for a VAL Contract does not implicate the concerns that underlie the "stair-step" requirement of section 27(a)(3), as modified by Rule 6e-2(b)(13)(ii). Applicants submit that Rule 6e-3(T)(b)(13)(ii) recognizes that insurance-related rollovers on a reduced or no-load basis should not preclude the imposition of normal sales loads on subsequent payments, and that principle is equally applicable here even though the VAL Contracts are subject to Rule 6e-2. Moreover, Applicants state that the terms of the exchange are fair and nondiscriminatory. The 5% front-end sales charge to be imposed on subsequent premium payments is the same as that applied to VAL Contracts that are initially purchased as such. In addition, the VAL Contract's contract date will be the same as that of the original AL Contract; accordingly, reductions in deferred charges based on persistency will be fully applicable. Finally, all material provisions, including sales charges, will be fully disclosed by prospectus or sticker.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16304 Filed 7-17-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2284]

Declaration of Disaster Loan Area; Texas

Wichita County in the State of Texas constitutes a disaster area because of damage from flooding which occurred from May 27 to June 6, 1987. Applications for loans for physical damage may be filed until the close of business on September 10, 1987, and for economic injury until the close of business on April 11, 1988, at the address listed below:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

or other locally announced locations.

The interest rates are:

	Percent
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Businesses (EIDL) Without Credit Available Elsewhere	4.000
Other (Non-Profit Organizations Including Charitable and Religious Organizations)	9.500

The number assigned to this disaster is 228406 for physical damage and for economic injury the number is 653700.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 10, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-16419 Filed 7-17-87; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 1-A; Revision 15]

Delegation of Authority; Line of Succession to the Administrator

Delegation of Authority No. 1-A (Revision 14) is hereby revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act of 1958, 72 Stat. 384, as amended, authority is hereby delegated to the following officials in the following order:

(1) Deputy Administrator
(2) Chief of Staff
(3) Associate Deputy Administrator for Management and Administration (A)
(4) Associate Deputy Administrator for Special Programs
(5) General Counsel

to perform, in the event of the absence or incapacity of the Administrator any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under section 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in Paragraph (a) remains in the line of succession only if he or she has been designated acting by the

Administrator due to a vacancy in the position.

(c) This delegation is not in derogation of any authority residing in the above listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

Effective Date: July 20, 1987.

Dated: July 14, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-16420 Filed 7-17-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

[Docket Nos. 45003 and 45009]

Aviation Proceedings; Agreements Filed During the Week Ending July 10, 1987; International Air Transport Association and Air Transport Association of America

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45003

Parties: Members of International Air Transport Association.

Date Filed: July 7, 1987.

Subject: Amends add-ons between Canada and various points.

Proposed Effective Date: July 15, 1987.

Docket No. 45009

Parties: Air Transport Association of America.

Date Filed: July 10, 1987.

Subject: Application of Air Transport Association of America submitting an Air Carrier Flight Performance Information Agreement for the Department's prior approval under section 412 of the Act and for the Department's discretionary grant under section 414 of the Act of full antitrust immunity to the parties to the Agreement.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-16385 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ending July 10, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45001

Date Filed: July 6, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 3, 1987.

Description: Application of Lineas Aereas Mayas S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to fly from Guatemala City, Guatemala to the United States of America at points of Brownsville, Texas; Houston, Texas and Ft. Lauderdale, Florida.

Docket No. 45004

Date Filed: July 9, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 6, 1987.

Description: Application Servicio Aereo Leo Lopez, S.A. De C.V. pursuant to section 402 of the Act and Subpart Q of the Regulations, request a foreign air carrier permit seeking authority to perform non-scheduled, including charter flights between El Paso, Texas, and Chihuahua, Chihuahua, Mexico to transport passengers, property and mail.

Docket No. 45008

Date Filed: July 10, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 7, 1987.

Description: Application of USAir, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity to permit USAir to provide non-stop scheduled foreign air transportation of persons, property, and mail between the coterminal points New York City, New York and Newark, New Jersey, on the one hand, and the terminal point Ottawa, Canada, on the other hand.

Docket No. 45010

Dated Filed: July 10, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 7, 1987.

Description: Application of American Trans Air, Inc., pursuant to section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity to enable it to provide nonstop air transportation of persons, property and mail to the Caribbean.

Docket No. 42061

Date Filed: July 6, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 3, 1987.

Description: Amendment No. 2 to the application of Malaysian Airline System Berhad requests a foreign air carrier permit to enage in scheduled foreign air transportation of persons, property and mail on the following route: Between a point or points in Malaysia and the coterminal points Los Angeles, California and Honolulu, Hawaii via the intermediate point Tokyo, Japan, with local traffic rights between Los Angeles/Honolulu and Tokyo in both directions.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-16386 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Proposed Revision of Advisory Circular—Floor Proximity Emergency Escape Path Marking.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed revision of advisory circular and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed revision to an advisory circular (AC) concerning floor proximity emergency escape path markings.

DATE: Comments must be received on or before November 17, 1987.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Transport Standards Staff, at the above address, telephone (206) 431-2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the subject of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for ccmments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

On September 30, 1985, the FAA issued AC 25.812–1, Floor Proximity Emergency Escape Path Marking, to provide guidance for use in demonstrating compliance with the provisions of § 25.812(e) of the Federal Aviation Regulations. Section 25.812(e) sets forth the airworthiness standards for floor proximity emergency escape path markings.

During a public technical conference held in Seattle in September 1985 on the subject of emergency evacuation of transport airplanes, three task force working groups were formed to coordinate issues raised during the conference. One of the issues studied by the Design and Certification Working Group was escape path marking and emergency lighting standards. The Group recommended that AC 25.812–1 be revised to clarify what means would be acceptable for marking the emergency excape path, including, when applicable, cross aisles. Accordingly, it is proposed to revise AC 25.812–1 to provide this clarification and to provide guidelines for meeting other associated requirements, such as "critical ambient conditions" requirement for the energy supply, § 25.812(i), and the "transverse vertical separation" requirement for the emergency lighting system, § 25.812(l). Finally, the proposed revision adds an appendix to the AC which lists the different types of marking systems approved in different areas of the airplane.

Issued in Seattle, WA, on June 29, 1987.

Leroy A. Keith,

Manager, Aircraft Certification Division Northwest Mountain Region

[FR Doc. 87–16337 Filed 7–17–87; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket No. S–810]

Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended To Operate in the Domestic Trade; Sea-Land Service, Inc.

Notice is hereby given that Sea-Land Service, Inc. (Sea-Land) requests that the Maritime Administration (MARAD) permit the temporary transfer and use of three Lancer class vessels and one C6 class vessel (*American Lark, American Legion, American Liberty, and American Marketer*), each of which is currently in lay up on the West Coast, in a purely domestic Sea-Land West Coast-Hawaii-Guam service pursuant to the authority of section 506 of the Merchant Marine Act, 1936, as amended (Act). These four vessels are owned or charterd by United States Lines, Inc. (USL) and will be operated in the proposed domestic service by Sea-Land, pursuant to bareboat charters which Sea-Land anticipates will be approved by the United States Bankruptcy Court, Southern District of New York.

Section 506 of the Act permits the temporary transfer to such domestic service for up to six months in any year of vessels built with contruction-differential subsidy (CDS) whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act. Consent by MARAD is conditioned upon payment to MARAD, upon such terms as MARAD may prescribe of "an amount which bears the same portion to the CDS paid by the Secretary as such temporary period bears to the economic life of the vessels."

On June 8, 1987, the Maritime Administrator granted permission to USL, pursuant to section 506 of the act, for the *American Pioneer, American Entente, American Envoy, and American Merchant* to continue to operate in the U.S. West Coast/Hawaii-Guam trade (i) up to a maximum of 60 days from June 9, 1987 (but including an additional period of up to 30 days at the sole discretion of the Maritime Administator), or (ii) when the Bankruptcy Court handling the USL Chapter 11 bankruptcy proceeding approves the acquisition by another person of the vessels for which the permission is granted, and right to possession of the vessels is transferred to the acquirer, whichever occurs first.

Sea-Land advises that it expects shortly to enter into an agreement with USL with the intent that Sea-Land will acquire ownership, through an admiralty sale *in rem*, of six vessels, including the vessels currently deployed in USL's West Coast-Hawaii-Guam service.

Sea-Land advises that in the relatively near future the vessels operated by USL in domestic service are expected to be arrested pursuant to an order of a U.S. District Court in Admiralty and that process, of necessity, will render those vessels unable to operate for some unspecified period of time.

Sea-Land intends to bid on the arrested vessels in the admiralty foreclosure sale and upon receiving title after confirmation of such sale, to operate those vessels ina West Coast-Hawaii-Guam-Taiwan service. However, Sea-Land desires to implement a plan to commence the domestic service promptly upon termination of USL's operation of the vessels expected to be arrested. According to Sea-Land, the most efficient means of commencing the domestic service is with the four vessels bareboat chartered from USL—the three Lancer class and one C6 class vessel. Sea-Land advises that the six month period would commence upon the date on which the vessel is first placed on berth for revenue service from Sea-Land's terminal at Oakland or Long Beach, California.

Sea-Land states that it does not anticipate operating the four vessels that are the subject of this section 506 request on a long-term basis. The above referenced Sea-Land-USL charters will have a term of six months, (with a renewal option) and will require the redelivery of one of the chartered vessels by Sea-Land at such time as one of the vessels expected to be arrested (i) actually enters Sea-Land's ownership and the domestic service pursuant to order of the Admiralty Court or (ii) upon confirmation of sale of these vessels to a bidder other than Sea-Land.

Although publication of a Notice with respect to Sea-Land's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on Sea-Land's application.

Any person, firm, or corporation having any interest in the application for section 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business on July 31, 1987. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with

respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS)

By Order of the Maritime Administrator.

Dated: July 16, 1987

James E. Saari,

Secretary.

[FR Doc. 87-16577 Filed 7-20-87; 9:24 am]

BILLING CODE 4910-81-M

Approval of Applicant as Trustee

Notice is hereby given that Mercantile Bank National Association, with offices at 721 Locust Street, St. Louis, Missouri, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21 through 221.30.

Dated: July 15, 1987.

By Order of the Maritime Administration.

James E. Saari,

Secretary.

[FR Doc. 87-16406 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Rulemaking, Research, and Enforcement Programs; Public Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on September 2, 1987, beginning at 10:30 a.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by August 20, 1987. If sufficient time is available, questions received after the August 20 date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by August 20, and the issues to be discussed will be mailed to interested persons on August 24, 1987, and will be available at the meeting.

ADDRESS: Questions for the September 2 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street SW., Washington, DC 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on September 2, 1987. The meeting will begin at 10:30 a.m., and will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street SW., Washington, DC 20590.

Issued on July 15, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-16387 Filed 7-17-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 14, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0099.

Form Number: 1065 and Schedules D and K-1.

Type of Review: Revision.

Title: U.S. Partnership Return of Income, Capital Gains and Losses, Partner's Share of Income, Credits, Deductions, etc.

Description: Internal Revenue Code section 6031 requires partnerships to file returns that show gross income items, allowable deductions, partners' names, addresses, and distribution shares, and other information. This information is used to verify correct reporting of partnership items and for general statistics.

Respondents: Individuals or households, Farms, Businesses or other for-profit.

Estimated Burden: 17,916,671 hours.

OMB Number: 1545-0227.

Form Number: 6251.

Type of Review: Revision.

Title: Alternative Minimum Tax-Individuals.

Description: Form 6251 is used by individuals having adjustments or tax preference items or a taxable income above certain exemption amounts together with credits against their regular tax. The form provides a computation of the alternative minimum tax which is added to tax liability. The information is needed to see whether taxpayers are complying with the law.

Respondents: Individuals or households.

Estimated Burden: 337,770.

Clearance Officer: Garrick Shear, (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20305.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 87-16358 Filed 7-17-87; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 24]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; American Agricultural Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Agricultural Insurance Company, under the United States Code, Title 31, sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective June 30, 1987.

The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23926, July 1, 1986.

With respect to any bonds currently in force with American Agricultural Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2298.

Dated: July 10, 1987

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–16370 Filed 7–17–87; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 138
Monday, July 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 23, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbrad Avenue, Bethesda, MD.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY 89 Budget

The Commission will consider the proposed fiscal year 1987 budget.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800

Sheldon D. Butts,

Deputy Secretary.

July 16, 1987

[FR Doc. 87–16513 Filed 7–16–87; 12:53 pm]

BILLING CODE 6355–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: July 14, 1987, 52 FR 26396.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 15, 1987, 10:00 a.m.

CHANGE IN THE MEETING: The following docket number has been added to Item CAG–1.

Item No., Docket No. and Company

CAG–1

TA87–1–53–000, KN Energy, Inc.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–16553 Filed 7–16–87; 3:49 pm]

BILLING CODE 6717–02–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 14, 1987.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent of Federal Register on July 8, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Thursday, July 16, 1987.

CHANGES IN THE MEETING: The "STATUS" of the meeting has been changed to "CLOSED" (Pursuant to 5 U.S.C. 552b(c)(10)).

It was determined by a unanimous vote of Commissioners that the items scheduled for the meeting be determined in closed session and no earlier announcement of the change was posssible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87–16428 Filed 7–15–87; 4:49 pm]

BILLING CODE 6735–01–M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, August 5, 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 July, 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.

DATE OF NOTICE: July 14, 1987.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 87–16473 Filed 7–16–87; 8:45 am]

BILLING CODE 7550–01–M

NUCLEAR REGULATORY COMMISSION.

DATE: Weeks of July 20, 27, August 3, and 10, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 20

Tuesday, July 21

10:00 a.m.
Briefing on Final Plan for NUREG–0956 Uncertainty Areas (Source Term) (Public Meeting)

2:00 p.m.
Briefing on Research Plan in Response to the National Academy of Sciences Recommendations on Research (Public Meeting)

Thursday, July 23

10:00 a.m.
Briefing on Status of High Level Waste Management Program (Public Meeting)

2:00 p.m.
Briefing on the Status of TVA (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Citizens Concerned About Nuclear Power—Motion to Reopen Record in the South Texas Licensing Proceeding (Tentative)

Week of July 27—Tentative

Wednesday, July 29

10:00 a.m.
Briefing on Medical Use of Radioisotopes and the Medical Misadministration Rule (Public Meeting)

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, July 31

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Week of August 3—Tentative

Monday, August 3

2:00 p.m.
Discussion of Standardization Policy Statement Development (Public Meeting)

Tuesday, August 4

9:30 a.m.
Briefing on the Management of "Greater Than Class C Low Level Wastes" and the LLW Program (Public Meeting)

2:00 p.m.
Briefing on Performance of New Plants (Public Meeting)

Wednesday, August 5

10:00 a.m.
Briefing on Staff Response to Recommendations of the Materials Safety Review Group (Public Meeting)

2:00 p.m.
Briefing on the Status of B&W Reassessment (Public Meeting)

Thursday, August 6

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 10—Tentative

Thursday, August 13

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Revision to the General Statement of Policy and Procedures for Enforcement Action" scheduled for July 15, *postponed.*

TO VERIFTY THE STATUS OF MEETINGS CALL (RECORDING) (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

July 16, 1987.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 87–16538 Filed 7–16–87; 8:45 am]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 52, No. 138
Monday, July 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 9

Review of Exchange Disciplinary, Access Denial or Other Adverse Actions

Correction

In rule document 87-15299 beginning on page 25362 in the issue of Tuesday, July 7, 1987, make the following corrections:

1. On page 25363, in the third column, in the third line, "to" should read "of".

2. On page 25364, in the second column, in the second complete paragraph, in the 15th line, "procedure" should read "procedures".

3. On page 25366, in the second column, in the first complete paragraph, in the 18th line, "REA" should read "RFA".

§ 9.2 [Corrected]

4. On page 25367, in § 9.2(k), in the third column, in the first line, "or" should read "of".

§ 9.12 [Corrected]

5. On page 25370, in § 9.12(b), in the first column, in the seventh line, the word "be" should be removed.

§ 9.20 [Corrected]

6. On page 25370, in the second column, in § 9.20(b)(7), in the first line, insert "filing" before "fee".

§ 9.24 [Corrected]

7. On page 25371, in the first column, in § 9.24(b), in the third line from the bottom, "or" should read "of".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[COAR-FRL-3141-9(f)]

Ambient Air Quality Surveillance for Particulate Matter

Correction

In the rule document beginning on page 24736 in the issue of Wednesday, July 1, 1987, make the following corrections:

1. On page 24742, in the second column, in the sixth line, "M_{10}" should read "PM_{10}".

2. On page 24743, in Table 4, the first entry reading "1,000,000" should read "$>1,000,000$".

3. On page 24744, in Table 5, in the first column, in the fifth entry reading "Regional" and under the heading "Scale Applicable for SLAMS" add check marks under the third and sixth column, delete the check mark from the fourth column and remove "G7z" from the fifth column.

4. On page 24744, in the first column following Table 5, in the third line "112" should read "11".

5. On the same page and in the same column, in the seventh line of item "17." add to the end of the line the date "May 1987".

6. On pages 24747 and 24748 in Table 5 under the column heading "Distance from supporting structure, meters" in the second column, the heading "Horizontal[d]" should read "Horizontal[e]".

7. On page 24748, in Table 5, under the column heading "Other spacing criteria", in the 10th line, "$>$" should read ">20".

8. On page 24750, the document number should read "87-14535".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC-399-NC]

Medicare Program; Schedules of Limits on Home Health Agency Costs per Visit for Cost Reporting Periods Beginning on or After July 1, 1986 but Before July 1, 1987 and Cost Reporting Periods Beginning on or After July 1, 1987

Correction

In notice document 87-15347 beginning on page 25562 in the issue of Tuesday, July 7, 1987, make the following correction:

On page 25562, in the third column, in the last line, "1985" should read "1986".

BILLING CODE 1505-01-D

Federal Register

Monday
July 20, 1987

Part II

Department of Labor

Benefits Review Board

20 CFR Parts 801 and 802

Organization of the Benefits Review Board and Rules of Practice and Procedure; Final Rule

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Parts 801 and 802

Organization of the Benefits Review Board and Rules of Practice and Procedure

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: These final rules revise the organization of the Benefits Review Board in accordance with the Longshore and Harbor Workers' Compensation Act Amendments of 1984, Pub. L. 98–426, 98 Stat. 1639. The Board's Rules of Practice and Procedure are also being revised to permit the Board to respond more efficiently to procedural issues which have arisen since the last time these regulations were revised.

EFFECTIVE DATE: These final regulations shall become effective August 19, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia T. Hagerty, Senior Board Attorney, Suite 757, 1111 20th Street NW., Washington, DC 20036, (202) 653–5060.

SUPPLEMENTARY INFORMATION: These amended regulations are issued pursuant to the Longshore and Harbor Workers' Compensation Act Amendments of 1984 and except where specifically stated to the contrary, are applicable to all appeals of decisions or orders with respect to claims under: (1) The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), (2) the Defense Base Act (42 U.S.C. 1651 et seq.), (3) the District of Columbia Workmen's Compensation Act (36 D.C. Code 501 et seq.) (1973 ed.), (4) The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), (5) the Nonappropriated Fund Instrumentalities Act (5 U.S.C. 8171 et seq.), and (6) Title IV, Section 415 and Part C of the Federal Mine Safety and Health Act of 1977 (Pub. L. 95–164, 91 Stat. 1290) (formerly the Federal Coal Mine Health and Safety Act, hereinafter, FCMHSA, of 1969) as amended by the Black Lung Benefits Reform Act of 1977 (92 Stat. 95), the Black Lung Benefits Revenue Act of 1977 (92 Stat. 11), and the Black Lung Benefits Amendments of 1981 (95 Stat. 1643) (30 U.S.C. 901 et seq.).

Changes in the organization of the Board and in the rules of practice and procedure have been made to implement statutory changes made by the amendments to the Longshore Act. The major changes concern the appointment of permanent Board members, the provision for appointment of temporary Board members, establishment of panels within the Board, and provision for reconsideration en banc. Failure to issue procedural rules governing the consideration of appeals before the Board could result, for example, in confusion as to the correct procedures with regard to requests for en banc reconsideration.

Specifically, the changes in Part 801 and Part 802 are, among others, as follows:

1. Sections 802.105(b), 802.202 (d) and (e), and 802.301(c) are not included here. They are published elsewhere in this issue of the **Federal Register.** They are published separately because they are proposed regulations and public comment is invited on those provisions.

2. Section 801.201(b) is revised in accordance with the 1984 amendments, which provide that the Chairman of the Board has the authority, as delegated by the Secretary, to exercise all administrative functions necessary to operate the Board. The legislative history indicates that in this context administrative functions are housekeeping functions which do not relate to the adjudication of claims.

3. Section 801.201 is revised pursuant to the 1984 amendments, which increase the number of permanent Board members from three to five and provide for the appointment of up to four temporary Board members at any one time. The amendments are construed as not restricting temporary Board members to a single term.

4. Section 801.202(a) sets forth amended procedures for the designation of an Acting Chairman in the event that the Chairman is temporarily disabled or unavailable to perform his or her duties. Paragraph (b) is amended to differentiate between permanent and temporary Board members with respect to interim appointments to the Board. Because a temporary member's term shall be for no more than one year, there is no need to provide for interim replacements for temporary members. If a temporary member becomes unable to serve, the Secretary may appoint a new temporary member.

5. Section 801.301 has been amended pursuant to the 1984 amendments. Paragraph (a), dealing with quorum and votes, applies only to the situation where the newly enlarged permanent Board votes en banc. New paragraph (b) provides for the delegation of powers to panels of three Board members pursuant to the 1984 amendments. New paragraph (c) clarifies that the decision of a panel shall be considered a Board decision unless vacated or modified by the concurring vote of at least three permanent members. In situations in which there are insufficient permanent Board members to constitute a quorum or insufficient concurring votes of permanent members to constitute official action of the permanent Board, this provision shall apply. New paragraph (d), provides pursuant to *Keener* v. *Washington Metropolitan Area Transit Authority*, 800 F.2d 1173 (D.C. Cir 1986), that the provisions of these regulations providing for en banc action of the Board do not apply to cases arising under the District of Columbia Workmen's Compensation Act.

6. Section 801.304 is amended to change the office hours of the Clerk of the Board to 8:30 a.m.–5:00 p.m. The intent is for the Board's hours to coincide with the usual office hours of attorneys in the Washington, DC, area.

7. The language of § 802.104(a) is amplified to provide that the Board has sole discretion to consolidate cases; this change has been made in response to the administrative burden which frequently results from the consolidation of large numbers of cases.

8. Note that the Benefits Review Board has held that certain criteria required by § 802.105(a) do not have to be stated in their stay orders. *Rivere* v. *Raymond Fabricator Inc.*, 18 BRBS 6 (1985). The correctness of this ruling is being challenged and should be resolved by the courts.

9. Revisions to § 802.201(a) are intended to clarify both the standing of the Director, OWCP, in appeals to the Board and the basis for filing a cross-appeal.

10. Section 802.202, dealing with appearances by attorneys and other authorized persons, has been substantially revised. New paragraph (c) retains the requirement (previously contained in paragraph (a)) that a notice of appearance be filed, but eliminates the needless requirement that such notice be signed by the party. An additional requirement that prior notices of intent to withdraw from representation and notices of substitution of counsel be filed with the Board is intended for both administrative convenience and fairness to the parties.

11. Section 802.203, dealing with attorney's fees, has been substantially revised and the subsections redesignated. Paragraphs (a) and (b) remain unchanged. New paragraph (c) requires that any application for an attorney's fee be filed within 60 days of the issuance of a final Board decision. This requirement is imposed in order to facilitate Board record-keeping and to ensure that the reasonableness of the fee requested is evaluated as soon as

possible following a decision in the case. The language of redesignated paragraph (d) (formerly paragraph (c)) has been amplified to clarify that a fee application shall include only services performed while the appeal was pending before the Board. Additionally, paragraph (d)(2) requires a definition of any professional status other than attorney and further requires that the attorney affirmatively state that he or she was a member in good standing of a state bar at the time the services were rendered. These new provisions ensure that the Board does not approve fees for services performed by clerical employees or by attorneys who have been disbarred or suspended from the practice of law. Paragraph (d)(3), providing for a system of time-keeping in ¼ hour increments, will facilitate the fee approval process. In this context, the Board notes its disapproval of the association of co-counsel. Compelling reasons for such association in any particular case must be shown before the Board will consider awarding a fee to multiple counsel for work performed on behalf of a single claimant.

12. Paragraph (b) of § 802.205 is revised to rectify problems which have arisen when a petitioner fails to make timely service of the notice of appeal upon the respondent, thereby depriving respondent of the opportunity to file a cross-appeal. In such a case, the revised regulation permits the respondent to file a cross-appeal within 14 days of the date that service is effected. Former paragraph (b)(2), concerning the basis for filing a cross-appeal, has been deleted; the subject is now addressed in revised § 802.201(a).

13. A new paragraph (c) of § 802.206 specifies that the Board will consider a motion for reconsideration of an administrative law judge decision timely if it was postmarked by the U.S. Postal Service within the appropriate time prescribed in paragraph (b) and consequently will dismiss a notice of appeal, without prejudice, as premature pursuant to paragraph (e) in such a case even if the administrative law judge considered the motion for reconsideration untimely. Redesignated paragraph (f) contains a new requirement that any party having knowledge of the filing of a motion for reconsideration notify the Board of such filing; this addition is intended to improve administrative efficiency.

14. Paragraph (b) of § 802.207 is amended to provide that the date appearing on the U.S. Postal Service postmark shall be prima facie evidence of the date of mailing. This change is intended to resolve problems which have arisen when the dates on the U.S. Postal Service postmark and the in-house postage meter differ. The same amendment also is made in §§ 802.206(c) and 802.221(b).

15. The language of § 802.208(a)(7) has been amplified for reasons of administrative efficiency to require that a notice of appeal indicate the date of filing of any motion for reconsideration and whether the administrative law judge has acted on such motion.

16. Section 802.211(b) has been amplified to specify the format and content required of a brief in support of a petition for review. The Board expects that adherence to these new requirements will result in a significant reduction in the time involved in deciding appeals. New paragraph (e) provides that, based on the circumstances of any particular case involving a party appearing pro se, the Board may prescribe for that party an alternate method of preparing the arguments on appeal. (See revised § 802.220.)

17. Sections 802.212 and 802.213 are revised to clarify the limitations on the kinds of argument which may be made in response and reply briefs.

18. Revised § 802.216(b) requires the submission of the original and only two copies of papers filed with the Board. New paragraph (e) conforms with General Services Administration Bulletin FPMR 8–120 (June 12, 1982) and the decision of the Judicial Conference of the United States to eliminate legal-size documents; this paragraph codifies the notice in the **Federal Register** effective January 1, 1983.

19. New paragraphs (g)–(i) have been added to § 802.219 dealing with motions and orders. Paragraph (g) merely codifies the Board's practice of having the Clerk issue orders on routine procedural matters. Paragraph (h) provides that in all matters not disposed of by the Clerk, a three-member panel shall act (see explanation of revised § 801.301(b)). Provision also is made for a member to request consideration by the entire permanent Board. Paragraph (i) clarifies that parties may request reconsideration of the Board's orders. The Board, however, will not entertain parties' suggestions for en banc reconsideration of interlocutory orders. En banc reconsideration of interlocutory orders, therefore, may be had only at the request of a Board member pursuant to the provisions of paragraph (h). Reconsideration of non-interlocutory orders is treated in the same manner as reconsideration of the Board's decisions in accordance with § 802.407. Pursuant to *Keener* v. *Washington Metropolitan Area Transit Authority*, 800 F.2d 1173 (D.C. Cir. 1986), the provisions of this regulation providing for en banc reconsideration do not apply to cases arising under the District of Columbia Workmen's Compensation Act. (See § 801.301(d).)

20. Section 802.220 has been amended to modify procedures relating to parties who are not represented by attorneys (see explanation of revised § 802.211(e)).

21. Paragraph (b) has been added to §802.301 to reaffirm that the Board will not accept or consider new evidence submitted by the parties.

22. Sections 802.308 and 802.309 have been revised to provide for the senior judge of the panel to preside at oral argument in the absence of the Chairman.

23. Section 802.405(a), dealing with remand by the Board, has been simplified to provide that action shall be taken on remand as directed by the Board or, as appropriate, by a court.

24. Section 802.406 has been revised, as suggested by a recent decision of the Seventh Circuit, to clarify that when a motion for reconsideration has been timely filed with the Board the 60-day time period for filing a petition for review with the court of appeals will run from the issuance of the Board's decision on reconsideration. See *Arch Mineral Corp.* v. *Office of Workers' Compensation*, 798 F.2d 215 (7th Cir. 1986).

25. Section 802.407 has been revised to implement the provision under section 15(4) of the 1984 amendments for reconsideration en banc. See 33 U.S.C. 921(b)(5). The period for filing a request for reconsideration in all cases has been lengthened to 30 days to coincide with the statutory period for filing petitions for reconsideration en banc. A request for reconsideration en banc must be accompanied by a motion for reconsideration directed to the panel which rendered the decision. Section 802.407(a) also provides for the appointment of new panel members if the original judges are not available to consider a request for reconsideration. Pursuant to *Keener* v. *Washington Metropolitan Area Transit Authority*, 800 F.2d 1173 (D.C. Cir. 1986), the provisions of this regulation providing for en banc reconsideration do not apply to cases arising under the District of Columbia Workmen's Compensation Act. (See § 801.301(d).)

A few additional revisions contained herein reflect technical and clarifying changes felt necessary by the Department.

Publication in Final

Inasmuch as the revised regulations contained herein consist of rules of practice and procedure, the relevant provisions of the Administrative Procedure Act (15 U.S.C. 553) requiring notice of proposed rulemaking and opportunity for public comment are inapplicable.

Classification—Executive Order 12291

The Department has determined that these revisions are procedural in character and, therefore, that this rule is not a major rule under Executive Order 12291, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. No regulatory impact analysis is therefore required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, do not apply to these rules because they are, as discussed above, not subject to the notice and comment procedures of the Administrative Procedure Act. See 5 U.S.C. 603(a).

List of Subjects in 20 CFR Parts 801 and 802

Workers' Compensation, Administrative Practice and Procedure.

Accordingly, Part 801 and Part 802 of title 20 of the Code of Federal Regulations, as amended to date, are hereby revised and read as set forth below.

PART 801—ESTABLISHMENT AND OPERATION OF THE BOARD

Introductory

Sec.

Establishment and Authority of the Board

Members of the Board

Action by the Board

Representation

Authority: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

Introductory

§ 801.1 Purpose and scope of this part.

This Part 801 describes the establishment and the organizational structure of the Benefits Review Board of the Department of Labor, sets forth the general rules applicable to operation of the Board, and defines terms used in this chapter.

§ 801.2 Definitions and use of terms.

(a) For purposes of this chapter, except where the content clearly indicates otherwise, the following definitions apply:

(1) "Acts" means the several Acts listed in §§ 801.102 and 802.101 of this chapter, as amended and extended, unless otherwise specified.

(2) "Board" means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as described in § 801.101, and as provided in this part and Secretary of Labor's Order No. 38–72 (33 FR 90). Mention in these regulations of the "permanent Board" refers to the five permanent Board members only.

(3) "Chairman" or "Chairman of the Board" means Chairman of the Benefits Review Board. The Chairman of the Board is officially entitled Chief Administrative Appeals Judge.

(4) "Secretary" means the Secretary of Labor.

(5) "Department" means the Department of Labor.

(6) "Judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and Subpart B of 5 CFR Part 930, who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for benefits or compensation arising under the Acts.

(7) "Chief Administrative Law Judge" means the Chief Administrative Law Judge of the Department of Labor.

(8) "Director" means the Director of the Office of Workers' Compensation Programs of the Department of Labor (hereinafter OWCP).

(9) "Deputy commissioner" means a person appointed as provided in sections 39 and 40 of the LHWCA or his designee, authorized by the Director to make decisions and orders in respect to claims arising under the Acts.

(10) "Party" or "Party in Interest" means the Secretary or his designee and any person or business entity directly affected by the decision or order from which an appeal to the Board is taken.

(11) "Day" means calendar day.

(12) "Member" means a member of the Benefits Review Board. Unless specifically stated otherwise, the word "member" shall apply to permanent, temporary and interim members. Permanent Board members are officially entitled Administrative Appeals Judges. Temporary and interim Board members are designated as Acting Administrative Appeals Judges.

(b) The definitions contained in this part shall not be considered to derogate from the definitions of terms in the respective Acts.

(c) The definitions pertaining to the Acts contained in the several parts of chapter VI of this title 20 shall be applicable to this chapter as is appropriate.

§ 801.3 Applicability of this part to 20 CFR Part 802.

Part 802 of title 20, Code of Federal Regulations, contains the rules of practice and procedure of the Board. This Part 801, including the definitions and usages contained in § 801.2, is applicable to Part 802 of this chapter as appropriate.

Establishment and Authority of the Board

§ 801.101 Establishment.

By Pub. L. 92–576, 82 Stat. 1251, in an amendment made to section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921), there was established effective November 26, 1972, a Benefits Review Board, which is composed of members appointed by the Secretary of Labor.

§ 801.102 Review authority.

The Board is authorized, as provided in 33 U.S.C. 921(b), as amended, to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions or orders with respect to claims for compensation or benefits arising under the following Acts, as amended and extended:

(1) The Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 et seq.;

(2) The Defense Base Act (DBA), 42 U.S.C. 1651 et seq.;

(3) The District of Columbia Workmen's Compensation Act (DCWCA), 36 D.C. Code 501 et seq. (1973);

(4) The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq.;

(5) The Nonappropriated Fund Instrumentalities Act (NFIA), 5 U.S.C. 8171 et seq.;

(6) Title IV, Section 415 and Part C of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164, 91 Stat. 1290 (formerly the Federal Coal Mine Health and Safety Act, hereinafter, FCMHSA, of 1969) as amended by the Black Lung Benefits Reform Act of 1977, Pub. L. 92–239, 92 Stat. 95, the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, 92 Stat. 11, and the Black Lung Benefits Amendments of 1981, Pub. L. 97–119, 95 Stat. 1643 (30 U.S.C. 901 et seq.).

§ 801.103 Organizational placement.

As prescribed by the statute, the functions of the Benefits Review Board are quasi-judicial in nature and involve review of decisions made in the course of the administration of the above statutes by the Employment Standards Administration in the Department of Labor. It is accordingly found appropriate for organizational purposes to place the Board in the Office of the Deputy Secretary and it is hereby established in that Office, which shall be responsible for providing necessary funds, personnel, supplies, equipment, and records services for the Board.

§ 801.104 Operational rules.

The Deputy Secretary of Labor may promulgate such rules and regulations as may be necessary or appropriate for effective operation of the Benefits Review Board as an independent quasi-judicial body in accordance with the provisions of the statute.

Members of the Board

§ 801.201 Composition of the Board.

(a) The Board shall be composed of five permanent members appointed by the Secretary from among individuals who are especially qualified to serve thereon. Each permanent member shall serve an indefinite term subject to the discretion of the Secretary.

(b) The member designated by the Secretary as Chairman of the Board shall serve as chief administrative officer of the Board and shall have the authority, as delegated by the Secretary, to exercise all administrative functions necessary to operate the Board.

(c) The four remaining members shall be the associate members of the Board.

(d) Upon application of the Chairman of the Board, the Secretary may designate up to four Department of Labor administrative law judges to serve as temporary Board members in addition to the five permanent Board members. Up to four such temporary members may serve at any one time. The term of any temporary Board member shall not exceed 1 year from date of appointment.

§ 801.202 Interim appointments.

(a) *Acting Chairman.* In the event that the Chairman of the Board is temporarily disabled or unavailable to perform his or her duties as prescribed in this chapter VII, he or she shall designate a permanent member to serve as Acting Chairman until such time as the Secretary designates an Acting Chairman. In the event that the Chairman is physically unable to make such designation, the next senior permanent member shall serve as Acting Chairman until such time as the Secretary of Labor designates an Acting Chairman.

(b) *Interim members.* In the event that a permanent member of the Board is temporarily unable to carry out his or her responsibilities because of disqualification, illness, or for any other reason, the Secretary of Labor may, in his or her discretion, appoint a qualified individual to serve in the place of such permanent member for the duration of that permanent member's inability to serve.

§ 801.203 Disqualification of Board Members.

(a) During the period in which the Chairman or the other members serve on the Board, they shall be subject to the Department's regulations governing ethics and conduct set forth at 20 CFR Part 0.

(b) Notice of any objection which a party may have to any Board member who will participate in the proceeding shall be made by such party at the earliest opportunity. The Board member shall consider such objection and shall, in his or her discretion, either proceed with the case or withdraw.

Action by the Board

§ 801.301 Quorum and Votes of the permanent Board; panels within the Board.

(a) For the purpose of carrying out its functions under the Acts, whenever action is taken by the entire permanent Board sitting en banc, three permanent members of the Board shall constitute a quorum, and official action of the permanent Board can be taken only on the concurring vote of at least three permanent members.

(b) The Board may delegate any or all of its powers except en banc review to panels of three members. Each panel shall consist of at least two permanent members. Two members of the panel shall constitute a quorum and official panel action can be taken only on the concurring vote of two members of the panel.

(c) A panel decision shall stand unless vacated or modified by the concurring vote of at least three permanent members sitting en banc.

(d) En banc action is not available in cases arising under the District of Columbia Workmen's Compensation Act.

§ 801.302 Procedural rules.

Procedural rules for performance by the Board of its review functions and for insuring an adequate record for any judicial review of its orders, and such amendments to the rules as may be necessary from time to time, shall be promulgated by the Deputy Secretary. Such rules shall incorporate and implement the procedural requirements of section 21(b) of the Longshore and Harbor Workers' Compensation Act.

§ 801.303 Location of Board's proceedings.

The Board shall hold its proceedings in Washington, DC, unless for good cause the Board orders that proceedings in a particular matter be held in another location.

§ 801.304 Business hours.

The office of the Clerk of the Board at Washington, DC shall be open from 8:30 a.m.—5:00 p.m. on all days, except Saturdays, Sundays, and legal holidays, for the purpose of receiving notices of appeal, petitions for review, other pleadings, motions, and other papers.

Representation

§ 801.401 Representation before the Board.

On any issues requiring representation of the Secretary, the Director, Office of Workers' Compensation Programs, a deputy commissioner, or an administrative law judge before the Board, such representation shall be provided by attorneys designated by the Solicitor of Labor. Representation of all other persons before the Board shall be as provided by the rules of practice and procedure promulgated under § 801.302 (see Part 802 of this chapter).

§ 801.402 Representation of Board in court proceedings.

Except in proceedings in the Supreme Court of the United States, any representation of the Benefits Review Board in court proceedings shall be by attorneys designated by the Solicitor of Labor.

PART 802—RULES OF PRACTICE AND PROCEDURE

Authority: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

Subpart A—General Provisions

Introductory

§ 802.101 Purpose and scope of this part.

(a) The purpose of Part 802 is to establish the rules of practice and procedure governing the operation of the Benefits Review Board.

(b) Except as otherwise provided, the rules promulgated in this part apply to all appeals taken by any party from decisions or orders with respect to claims for compensation or benefits under the following Acts:

(1) The Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 et seq.;

(2) The Defense Base Act (DBA), 42 U.S.C. 1651 et seq.;

(3) The District of Columbia Workmen's Compensation Act (DCWCA), 36 D.C. Code 501 et seq. (1973);

(4) The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq.;

(5) The Nonappropriated Fund Instrumentalities Act (NFIA), 5 U.S.C. 8171 et seq.;

(6) Title IV, Section 415 and Part C of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164, 91 Stat. 1290 (formerly the FCMHSA of 1969), as amended by the Black Lung Benefits Reform Act of 1977, Pub. L. 95–239, 92 Stat. 95, the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–229, 92 Stat. 11, and the Black Lung Benefits Amendments of 1981, Pub. L. 97–119, 95 Stat. 1643 (30 U.S.C. 901 et seq.).

§ 802.102 Applicability of Part 801 of this chapter.

Part 801 of this chapter VII sets forth rules of general applicability covering the composition, authority, and operation of the Benefits Review Board and definitions applicable to this chapter. The provisions of Part 801 of this chapter are fully applicable to this Part 802.

§ 802.103 Powers of the Board.

(a) *Conduct of proceedings.* Pursuant to section 27(a) of the LHWCA, the Board shall have power to preserve and enforce order during any proceedings for determination or adjudication of entitlement to compensation or benefits or for liability for payment thereof, and to do all things in accordance with law which may be necessary to enable the Board to effectively discharge its duties.

(b) *Contumacy.* Pursuant to section 27(b) of the LHWCA, if any person in proceedings before the Board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Board shall certify the facts to the Federal district court having jurisdiction in the place in which it is sitting (or to the U.S. District Court for the District of Columbia if it is sitting in the District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or in the presence of the court.

§ 802.104 Consolidation; severance.

(a) Cases may, in the sole discretion of the Board, be consolidated for purposes of an appeal upon the motion of any party or upon the Board's own motion where there exist common parties, common questions of law or fact or both, or in such other circumstances as justice and the administration of the Acts require.

(b) Upon its own motion, or upon motion of any party, the Board may, for good cause, order any proceeding severed with respect to some or all issues or parties.

§ 802.105 Stay of payment pending appeal.

(a) As provided in section 14(f) of the LHWCA and sections 415 and 422 of the Black Lung Benefits Act, the payment of the amounts required by an award of compensation or benefits shall not be stayed or in any way delayed beyond ten days after it becomes due pending final decision in any proceeding before the Board unless so ordered by the Board. No stay shall be issued unless

irreparable injury would otherwise ensue to the employer, coal mine operator or insurance carrier. Any order of the Board permitting any stay shall contain a specific finding, based upon evidence submitted to the Board and identified by reference thereto, that irreparable injury would result to such employer, operator or insurance carrier, and specify the nature and extent of the injury.

(b) [Reserved]

Subpart B—Prereview Procedures

Commencing Appeal: Parties

§ 802.201 Who may file an appeal.

(a) *A party.* (1) Any party or party-in-interest adversely affected or aggrieved by a decision or order issued pursuant to one of the Acts over which the Board has appellate jurisdiction may appeal a decision or order of an administrative law judge or deputy commissioner to the Board by filing a notice of appeal pursuant to this subpart. (See § 802.205(b) and (c) for exceptions to this general rule.) A party who files a notice of appeal shall be deemed the petitioner. The Director, OWCP, when acting as a representative of the Special Fund established under the Longshore and Harbor Workers' Compensation Act or the Black Lung Disability Trust Fund established by the Black Lung Benefits Act, or, when appealing a decision or order which affects the administration of one of the Acts, shall be considered a party adversely affected.

(2) When a decision or order is favorable to a party (i.e., the prevailing party), the prevailing party may file a cross-appeal pursuant to § 802.205(b) to challenge any adverse findings of fact or conclusions of law in the same proceeding.

(b) *Representative parties.* In the event that a party has not attained the age of 18, is not mentally competent, or is physically unable to file and pursue or defend an appeal, the Board may permit any legally appointed guardian, committee, or other appropriate representative to file and pursue or defend the appeal, or it may in its discretion appoint such representative for purposes of the appeal. The Board may require any legally appointed representative to submit evidence of that person's authority.

§ 802.202 Appearances by attorneys and other authorized persons.

(a) *Appearances.* Any party or intervenor or any representative duly authorized pursuant to § 802.201(b) may appear before and/or submit written argument to the Board by attorney or any other person, including any representative of an employee organization, duly authorized pursuant to paragraph (d)(2) of this section.

(b) Any individual petitioner or respondent or his duly authorized representative pursuant to § 802.201(b) or an officer of any corporate party or a member of any partnership or joint venture which is a party may participate in the appeal on his or her own behalf, or on behalf of such business entity.

(c) For each instance in which appearance before the Board is made by an attorney or duly authorized person other than the party or his legal guardian, committee, or representative, there shall be filed with the Board a notice of appearance. Any attorney or other duly authorized person of record who intends to withdraw from representation shall file prior written notice of intent to withdraw from representation of a party or of substitution of counsel or other representative.

§ 802.203 Fees for services.

(a) No fee for services rendered on behalf of a claimant in the successful pursuit or successful defense of an appeal shall be valid unless approved pursuant to 33 U.S.C. 928, as amended.

(b) All fees for services rendered in the successful pursuit or successful defense of an appeal on behalf of a claimant shall be subject to the provisions and prohibitions contained in 33 U.S.C. 928, as amended.

(c) Within 60 days of the issuance of a decision or non-interlocutory order by the Board, counsel or, where appropriate, representative for any claimant who has prevailed on appeal before the Board may file an application with the Board for a fee. Where the Board remands the case and the administrative law judge on remand issues an award, a fee petition may be filed within 60 days of the decision on remand. In the event that a claimant who was unsuccessful before the Board prevails on appeal to the court of appeals, his or her representative may within 60 days of issuance of the court's judgment file a fee application with the Board for services performed before the Board.

(d) A fee application shall include only time spent on services performed while the appeal was pending before the Board and shall be complete in all respects, containing all of the following specific information:

(1) A complete statement of the extent and character of the necessary work done;

(2) The professional status of each person for whom a fee is claimed who performed services on behalf of the claimant (if such professional status is other than attorney, a definition of the professional status of such individual must be included in the fee petition, including a statment of that individual's professional training, education and experience) and a statement that the attorney was a member in good standing of a state bar at the time the services were performed;

(3) The number of hours, in ¼ hour increments, devoted by each person who performed services on behalf of the claimant and the dates on which such services were performed in each category of work;

(4) The normal billing rate for each person who performed services on behalf of the claimant. The rate awarded by the Board shall be based on what is reasonable and customary in the area where the services were rendered for a person of that particular professional status.

(e) Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues involved, the amount of benefits awarded, and, when the fee is to be assessed against the claimant, shall also take into account the financial circumstances of the claimant. A fee shall not necessarily be computed by multiplying time devoted to work by an hourly rate.

(f) No contract pertaining to the amount of a fee shall be recognized.

(g) A fee application shall be served on all other parties and accompanied by a certificate of service. The Board will not take action on the fee application until such service is effected. Any party may respond to the application within 10 days of receipt of the application. The response shall be filed with the Board and served on all other parties.

Notice of Appeal

§ 802.204 Place for filing notice of appeal.

Any notice of appeal shall be sent by mail or otherwise presented to the Clerk of the Board in Washington, DC. A copy shall be served on the deputy commissioner who filed the decision or order being appealed and on all other parties by the party who files a notice of appeal. Proof of service of the notice of appeal on the deputy commissioner and other parties shall be included with the notice of appeal.

§ 802.205 Time for filing.

(a) A notice of appeal, other than a cross-appeal, must be filed within 30 days from the date upon which a decision or order has been filed in the

Office of the Deputy Commissioner pursuant to section 19(e) of the LHWCA or in such other office as may be established in the future (see §§ 702.349 and 725.478 of this title).

(b) If a timely notice of appeal is filed by a party, any other party may initiate a cross-appeal by filing a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time prescribed by paragraph (a) of this section, whichever period last expires. In the event that such other party was not properly served with the first notice of appeal, such party may initiate a cross-appeal by filing a notice of appeal within 14 days of the date that service is effected.

(c) Failure to file within the period specified in paragraph (a) or (b) of this section (whichever is applicable) shall foreclose all rights to review by the Board with respect to the case or matter in question. Any untimely appeal will be summarily dismissed by the Board for lack of jurisdiction.

§ 802.206 Effect of motion for reconsideration on time for appeal.

(a) A timely motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner shall suspend the running of the time for filing a notice of appeal.

(b)(1) In a case involving a claim filed under the Longshore and Harbor Workers' Compensation Act or its extensions (see § 802.101(b)(1)–(5)), a timely motion for reconsideration for purposes of paragraph (a) of this section is one which is filed not later than 10 days from the date the decision or order was filed in the Office of the Deputy Commissioner.

(2) In a case involving a claim filed under title IV of the Federal Mine Safety and Health Act, as amended (see § 802.101(b)(6)), a timely motion for reconsideration for purposes of paragraph (a) of this section is one which is filed not later than 30 days from the date the decision or order was served on all parties by the administrative law judge and considered filed in the Office of the Deputy Commissioner (see §§ 725.478 and 725.479(b), (c) of this title).

(c) If the motion for reconsideration is sent by mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of reconsideration rights, it will be considered to have been filed as of the date of mailing. The date appearing on the U.S. Postal Service postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no such postmark or it is not legible, other evidence such as, but not limited to, certified mail receipts, certificates of service and affidavits may also be used to establish the mailing date.

(d) If a motion for reconsideration is granted, the full time for filing an appeal commences on the date the subsequent decision or order on reconsideration is filed as provided in § 802.205.

(e) If a motion for reconsideration is denied, the full time for filing an appeal commences on the date the order denying reconsideration is filed as provided in § 802.205.

(f) If a timely motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner is filed, any appeal to the Board, whether filed prior to or subsequent to the filing of the timely motion for reconsideration, shall be dismissed without prejudice as premature. Following decision by the administrative law judge or deputy commissioner pursuant to either paragraph (d) or (e) of this section, a new notice of appeal shall be filed with the Clerk of the Board by any party who wishes to appeal. During the pendency of an appeal to the Board, any party having knowledge that a motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner has been filed shall notify the Board of such filing.

§ 802.207 When a notice of appeal is considered to have been filed in the office of the Clerk of the Board.

(a) *Date of receipt.* (1) Except as otherwise provided in this section, a notice of appeal is considered to have been filed only as of the date it is received in the office of the Clerk of the Board.

(2) Notices of appeal submitted to any other agency or subdivision of the Department of Labor or of the U.S. Government or any State government shall be promptly forwarded to the office of the Clerk of the Board. The notice shall be considered filed with the Clerk of the Board as of the date it was received by the other governmental unit if the Board finds that it is in the interest of justice to do so.

(b) *Date of mailing.* If the notice of appeal is sent by mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of appeal rights, it will be considered to have been filed as of the date of mailing. The date appearing on the U.S. Postal Service postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no such postmark or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the mailing date.

§ 802.208 Contents of notice of appeal.

(a) A notice of appeal shall contain the following information:

(1) The full name and address of the pettioner;

(2) The full name of the injured, disabled, or deceased employee;

(3) The full names and addresses of all other parties, including, among others, beneficiaries, employers, coal mine operators, and insurance carriers where appropriate;

(4) The case file number which appears on the decision or order of the administrative law judge;

(5) The claimant's OWCP file number;

(6) The date of filing of the decision or order being appealed;

(7) Whether a motion for reconsideration of the decision or order of the administrative law judge has been filed by any party, the date such motion was filed, and whether the administrative law judge has acted on such motion for reconsideration (see § 802.206);

(8) The name and address of the attorney or other person, if any, who is representing the petitioner.

(b) Paragraph (a) of this section notwithstanding, any written communication which reasonably permits identification of the decision from which an appeal is sought and the parties affected or aggrieved thereby, shall be sufficient notice for purposes of § 802.205.

(c) In the event that identification of the case is not possible from the information submitted, the Clerk of the Board shall so notify the petitioner and shall give the petitioner a reasonable time to produce sufficient information to permit identification of the case. For purposes of § 802.205, the notice shall be deemed to have been filed as of the date the insufficient information was received.

§ 802.209 Transmittal of record to the Board.

Upon receipt of a copy of the notice of appeal or upon request of the Board, the deputy commissioner or other office having custody of such record shall immediately forward to the Clerk of the Board the official record of the case, which record includes the transcript or transcripts of all formal proceedings with exhibits, all decisions and orders rendered in the case.

Initial Processing

§ 802.210 Acknowledgment of notice of appeal.

Upon receipt by the Board of a notice of appeal, the Clerk of the Board shall as expeditiously as possible notify the petitioner and all other parties and the Solicitor of Labor, in writing, that a notice of appeal has been filed.

§ 802.211 Petition for review.

(a) Within 30 days after the receipt of an acknowledgment of a notice of appeal issued pursuant to § 802.210, the petitioner shall submit a petition for review to the Board which petition lists the specific issues to be considered on appeal.

(b) Each petition for review shall be accompanied by a supporting brief, memorandum of law or other statement which: Specifically states the issues to be considered by the Board; presents, with appropriate headings, an argument with respect to each issue presented with references to transcripts, pieces of evidence and other parts of the record to which the petitioner wishes the Board to refer; a short conclusion stating the precise result the petitioner seeks on each issue and any authorities upon which the petition relies to support such proposed result. The Longshore Desk Book and Black Lung Desk Book are not intended as final legal authorities and should not be cited or relied upon as such.

(c) Copies of the petition for review and accompanying documents must be served upon all parties and the Solicitor of Labor.

(d) Failure to submit a petition for review and brief within the 30-day period or to comply with any part of this section may, in the discretion of the Board, cause the appeal to be deemed abandoned (see § 802.402).

(e) When a party appears pro se the Board may, in its discretion, waive formal compliance with the requirements of this section and may, depending upon the particular circumstances, prescribe an alternate method of furnishing such information as may be necessary for the Board to decide the merits of any such appeal.

§ 802.212 Response to petition for review.

(a) Within 30 days after the receipt of a petition for review, each party upon whom it was served may submit to the Board a brief, memorandum, or other statement in response to it.

(b) Arguments in response briefs shall be limited to those which respond to arguments raised in petitioner's brief and to those in support of the decision below. Other arguments will not be considered by the Board (see § 802.205(b)).

§ 802.213 Reply briefs.

(a) Within 20 days after the receipt of a brief, memorandum, or statement submitted in response to the petition for review pursuant to § 802.212, any party upon whom it was served may file a brief, memorandum, or other statement in reply to it.

(b) Arguments in reply briefs shall be limited to those which reply to arguments made in the response brief. Any other arguments in a reply brief will not be considered by the Board.

§ 802.214 Intervention.

(a) If a person or legal entity shows in a written petition to intervene that his, her, or its rights are affected by any proceeding before the Board, the Board may permit that person or legal entity to intervene in the proceeding and to participate within limits prescribed by the Board.

(b) The petition to intervene shall state precisely:

(1) The rights affected, and

(2) The nature of any argument the person or legal entity intends to make.

§ 802.215 Additional briefs.

Additional briefs may be filed or ordered in the discretion of the Board and shall be submitted within time limits specified by the Board.

§ 802.216 Service and form of papers.

(a) All papers filed with the Board, including notices of appeal, petitions for review, briefs and motions, shall be secured at the top and shall have a caption, title, signature of the party (or his attorney or other representative), date of signature, and certificate of service.

(b) For each paper filed with the Board, the original and two legible copies shall be submitted.

(c) A copy of any paper filed with the Board shall be served on each party and the Solicitor of Labor, by the party submitting the paper.

(d) Any paper required to be given or served to or by the Board or any party shall be served by mail or otherwise presented. All such papers served shall be accompanied by a certificate of service.

(e) All papers (exclusive of documentary evidence) submitted to the Benefits Review Board shall conform to standard letter dimensions (8.5x11 inches).

§ 802.217 Waiver of time limitations for filing.

(a) The time periods specified for submitting papers described in this part, except that for submitting a notice of appeal, may be enlarged for a reasonable period when in the judgment of the Board an enlargement is warranted.

(b) Any request for an enlargement of time pursuant to this section shall be directed to the Clerk of the Board and must be received by the Clerk on or prior to the date on which the paper is due.

(c) Any request for an enlargement of time pursuant to this section shall be submitted in writing in the form of a motion, shall specify the reasons for the request, and shall specify the date to which an enlargement of time is requested.

(d) Absent exceptional circumstances, no more than one enlargement of time shall be granted to each party.

(e) Absent a timely request for an enlargement of time pursuant to this section and the Board's granting that request, any paper submitted to the Board outside the applicable time period specified in this part shall be accompanied by a separate motion stating the reasons therefor and requesting that the Board accept the paper although filed out of time.

(f) When a paper filed out of time is accepted by the Board, the time for filing a response shall begin to run from the date of a party's receipt of the Board's order disposing of the motion referred to in paragraph (e) of this section.

§ 802.218 Failure to file papers; order to show cause.

(a) Failure to file any paper when due pursuant to this part, may, in the discretion of the Board, constitute a waiver of the right to further participation in the proceedings.

(b) When a petition for review and brief has not been submitted to the Board within the time limitation prescribed by § 802.211, or within an enlarged time limitation granted pursuant to § 802.217, the petitioner shall be ordered to show cause to the Board why his or her appeal should not be dismissed pursuant to § 802.402.

§ 802.219 Motions to the Board; orders.

(a) An application to the Board for an order shall be by motion in writing. A motion shall state with particularity the grounds therefor and shall set forth the relief or order sought.

(b) A motion shall be a separate document and shall not be incorporated in the text of any other paper filed with the Board, except for a statement in support of the motion. If this paragraph is not complied with, the Board will not consider and dispose of the motion.

(c) If there is no objection to a motion in whole or in part by another party to the case, the absence of an objection shall be stated on the motion.

(d) The rules applicable to service and form of papers, § 802.216, shall apply to all motions.

(e) Within 10 days of the receipt of a copy of a motion, a party may file a written response with the Board.

(f) As expeditiously as possible following receipt of a response to a motion or expiration of the response time provided in paragraph (e) of this section, the Board shall issue a dispositive order.

(g) *Orders granted by Clerk.* The Clerk of the Board may enter orders on behalf of the Board in procedural matters, including but not limited to:

(1) First motions for extensions of time for filing briefs and any papers other than notices of appeal or cross-appeal;

(2) Motions for voluntary dismissals of appeals;

(3) Orders to show cause why appeals should not be dismissed for failure to timely file a petition for review and brief (see § 802.218(b)); and

(4) Unopposed motions which are ordinarily granted as of course, except that the Clerk may, in his or her discretion, refer such motions for disposition to a motions panel as provided by paragraph (h) of this section.

(h) *All other motions.* All other motions will be referred for disposition to a panel of three members constituted pursuant to § 801.301. Any member may request that any motion be considered by the entire permanent Board en banc except as provided in § 801.301(d).

(i) *Reconsideration of orders.* Any party adversely effected by any interlocutory order issued under paragraph (g) or (h) may file a motion to reconsider, vacate or modify the order within 10 days from its filing, stating the grounds for such request. Any motion for reconsideration, vacation or modification of an interlocutory order shall be referred to a three-member panel that may include any member who previously acted on the matter. Suggestions for en banc reconsideration of interlocutory orders shall not be accepted. Reconsideration of all other orders will be treated under § 802.407 of this part.

§ 802.220 Party not represented by an attorney; informal procedure.

A party to an appeal who is not represented by an attorney shall comply with the procedural requirements contained in this part, except as otherwise specifically provided in § 802.211(e). In its discretion, the Board may prescribe additional informal procedures to be followed by such party.

§ 802.221 Computation of time.

(a) In computing any period of time prescribed or allowed by these rules, by direction of the Board, or by any applicable statute which does not provide otherwise, the day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(b) Whenever a paper is served on the Board or on any party by mail, paragraph (a) of this section will be deemed complied with if the envelope containing the paper is postmarked by the U.S. Postal Service within the time period allowed, computed as in paragraph (a) of this section. If there is no such postmark, or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the mailing date.

(c) A waiver of the time limitations for filing a paper, other than a notice of appeal, may be requested by proper motion filed in accordance with §§ 802.217 and 802.219.

Subpart C—Procedure for Review

Action by the Board

§ 802.301 Scope of review.

(a) The Benefits Review Board is not empowered to engage in a de novo proceeding or unrestricted review of a case brought before it. The Board is authorized to review the findings of fact and conclusions of law on which the decision or order appealed from was based. Such findings of fact and conclusions of law may be set aside only if they are not, in the judgment of the Board, supported by substantial evidence in the record considered as a whole or in accordance with law.

(b) Parties shall not submit new evidence to the Board. Any evidence submitted by a party which is not part of the record developed at the hearing before the administrative law judge will be returned without being considered by the Board.

§ 802.302 Docketing of appeals.

(a) *Maintenance of dockets.* A docket of all proceedings shall be maintained by the Board. Each proceeding shall be assigned a number in chronological order upon the date on which a notice of appeal is received. Correspondence or further applications in connection with any pending case shall refer to the docket number of that case.

(b) *Inspection of docket; publication of decision.* The docket of the Board shall be open to public inspection. The Board shall publish its decisions in a form which is readily available for inspection, and shall allow the public to inspect its decisions at the permanent location of the Board.

Oral Argument Before the Board

§ 802.303 Decision; no oral argument.

(a) In the event that no oral argument is ordered pursuant to § 802.306, the Board shall proceed to review the record of the case as expeditiously as possible after all briefs, supporting statements, and other pertinent documents have been received.

(b) Each case shall be considered in the order in which it becomes ready for decision, regardless of docket number, although for good cause shown, upon the filing of a motion to expedite by a party, the Board may advance the order in which a particular case is to be considered.

(c) The Board may advance an appeal on the docket on its own motion if the interests of justice would be served by so doing.

§ 802.304 Purpose of oral argument.

Oral argument may be held by the Board in any case:

(a) When there is a novel issue not previously considered by the Board; or

(b) When in the interests of justice oral argument will serve to assist the Board in carrying out the intent of any of the Acts; or

(c) To resolve conflicting decisions by administrative law judges on a substantial question of law.

§ 802.305 Request for oral argument.

(a) During the pendency of an appeal, but not later than the expiration of 20 days from the date of receipt of the response brief provided by § 802.212, any party may request oral argument. The Board on its own motion may order oral argument at any time.

(b) A request for oral argument shall be submitted in the form of a motion, specifying the issues to be argued and justifying the need for oral argument (see § 802.219).

(c) The party requesting oral argument shall set forth in the motion suggested dates and alternate cities convenient to the parties when and where they would be available for oral argument.

§ 802.306 Action on request for oral argument.

As expeditiously as possible after the date upon which a request for oral argument is received, the Board shall determine whether the request shall be granted or denied.

§ 802.307 Notice of oral argument.

(a) In cases where a request for oral argument has been approved or where oral argument has been ordered, the Board shall give all parties a minimum of 30 days' notice, in writing, by mail, of the scope of argument and of the time when, and place where, oral argument will be held.

(b) Once oral argument has been scheduled by the Board, continuances shall not be granted except for good cause shown by a party, such as in cases of extreme hardship or where attendance of a party or his or her representative is mandated at a previously scheduled judicial proceeding. Unless the ground for the request arises thereafter, requests for continuances must be received by the Board at least 15 days before the scheduled date of oral argument, must be served upon the other parties and must specify good cause why the requesting party cannot be available for oral argument.

(c) The Board may cancel or reschedule oral argument on its own motion at any time.

§ 802.308 Conduct of oral argument.

(a) Oral argument shall be held in Washington, DC, unless the Board orders otherwise, and shall be conducted at a time reasonably convenient to the parties. For good cause shown, the presiding judge of the panel may, in his or her discretion, postpone an oral argument to a more convenient time.

(b) The proceedings shall be conducted under the supervision of the Chairman or, if the Chairman is not on the panel, the senior judge, who shall regulate all procedural matters arising during the course of the argument.

(c) Within the discretion of the Board, oral argument shall be open to the public and may be presented by any party, representative, or duly authorized attorney. Presentation of oral argument may be denied by the Board to a party who has not significantly participated in the appeal prior to oral argument.

(d) The Board shall determine the scope of any oral argument presented and shall so inform the parties in its notice scheduling oral argument pursuant to § 802.307.

(e) The Board in its discretion shall determine the amount of time allotted to each party for argument and rebuttal.

§ 802.309 Absence of parties.

The unexcused absence of a party or his or her authorized representative at the time and place set for argument shall not be the occasion for delay of the proceeding. In such event, argument on behalf of other parties may be heard and the case shall be regarded as submitted on the record by the absent party. The presiding judge may, with the consent of the parties present, cancel the oral argument and treat the appeal as submitted on the written record.

Subpart D—Completion of Board Review

Dismissals

§ 802.401 Dismissal by application of party.

(a) At any time prior to the issuance of a decision by the Board, the petitioner may move that the appeal be dismissed. If granted, such motion for dismissal shall be granted with prejudice to the petitioner.

(b) At any time prior to the issuance of a decision by the Board, any party or representative may move that the appeal be dismissed.

§ 802.402 Dismissal by abandonment.

(a) Upon motion by any party or representative or upon the Board's own motion, an appeal may be dismissed upon its abandonment by the party or parties who filed the appeal. Within the discretion of the Board, a party may be deemed to have abandoned an appeal if neither the party nor his representative participates significantly in the review proceedings.

(b) An appeal may be dismissed on the death of a party only if the record affirmatively shows that there is no person who wishes to continue the action and whose rights may be prejudiced by dismissal.

Decision of the Board

§ 802.403 Issuance of decisions; service.

(a) The Board shall issue written decisions as expeditiously as possible after the completion of review proceedings before the Board. The transmittal of the decision of the Board shall indicate the availability of judicial review of the decision under section 21(c) of the LHWCA when appropriate.

(b) The original of the decision shall be filed with the Clerk of the Board. A copy of the Board's decision shall be sent by certified mail or otherwise presented to all parties to the appeal and the Director. The record on appeal, together with a transcript of any oral proceedings, any briefs or other papers filed with the Board, and a copy of the decision shall be returned to the appropriate deputy commissioner for filing.

(c) Proof of service of Board decisions shall be certified by the Clerk of the Board or by another employee in the office of the Clerk of the Board who is authorized to certify proof of service.

§ 802.404 Scope and content of Board decisions.

(a) In its decision the Board shall affirm, modify, vacate or reverse the decision or order appealed from, and may remand the case for action or proceedings consistent with the decision of the Board. The consent of the parties shall not be a prerequisite to a remand ordered by the Board.

(b) In appropriate cases, such as where the issues raised on appeal have been thoroughly discussed and disposed of in prior cases by the Board or the courts, or where the findings of fact and conclusions of law are both correct and adequately discussed, the Board in its discretion may issue a brief, summary decision in writing, disposing of the appeal.

(c) In cases which cannot be disposed of as in paragraph (b) of this section, a full, written decision discussing the issues and applicable law shall be issued.

§ 802.405 Remand.

(a) *By the Board.* Where a case is remanded, such additional proceedings shall be initiated and such other action shall be taken as is directed by the Board.

(b) *By a court.* Where a case has been remanded by a court, the Board may proceed in accordance with the court's mandate to issue a decision or it may in turn remand the case to an administrative law judge or deputy commissioner with instructions to take such action as is ordered by the court and any additional necessary action.

§ 802.406 Finality of Board decisions.

A decision rendered by the Board pursuant to this subpart shall become final 60 days after the issuance of such decision unless a written petition for review praying that the order be modified or set aside, pursuant to section 21(c) of the LHWCA, is filed in the appropriate U.S. court of appeals prior to the expiration of the 60-day period herein described, or unless a timely request for reconsideration by the Board has been filed as provided in § 802.407. If a timely request for

reconsideration has been filed, the 60-day period for filing such petition for review will run from the issuance of the Board's decision on reconsideration.

Reconsideration

§ 802.407 Reconsideration of Board decisions.

(a) Any party-in-interest may, within 30 days from the filing of a decision or non-interlocutory order by a panel or the Board pursuant to § 802.403(b), request reconsideration of such decision by those members who rendered the decision. The panel of members who heard and decided the appeal will rule on the motion for reconsideration. If any member of the original panel is unavailable, the Chariman shall designate a new panel member.

(b) Except as provided in § 801.301(d), a party may, within 30 days from the filing of a decision or non-interlocutory order by a panel of the Board pursuant to § 802.403(b), suggest the appropriateness of reconsideration by the permanent members sitting en banc. Such suggestion, however, must accompany a motion for reconsideration directed to the panel which rendered the decision. The suggestion for reconsideration en banc must be clearly marked as such.

(c) Except as provided in § 801.301(d), even where no party has suggested reconsideration en banc, any permanent member may petition the permanent Board for reconsideration en banc of a panel decision.

(d) Reconsideration en banc shall be granted upon the affirmative vote of the majority of permanent members of the Board. A panel decision shall stand unless vacated or modified by the concurring vote of at least three permanent members.

§ 802.408 Notice of request for reconsideration.

(a) In the event that a party requests reconsideration of a decision or order, he or she shall do so in writing, in the form of a motion, stating the supporting rationale for the request, and include any material pertinent to the request.

(b) The request shall be sent by mail, or otherwise presented, to the Clerk of the Board. Copies shall be served on all other parties.

§ 802.409 Grant or denial of request.

All requests for reconsideration shall be reviewed by the Board and shall be granted or denied in the discretion of the Board.

Judicial Review

§ 802.410 Judicial review of Board decisions.

(a) Within 60 days after a decision by the Board has been filed pursuant to § 802.403(b), any party adversely affected or aggrieved by such decision may file a petition for review with the appropriate U.S. Court of Appeals pursuant to section 21(c) of the LHWCA.

(b) The Director, OWCP, as designee of the Secretary of Labor responsible for the administration and enforcement of the statutes listed in § 802.101, shall be deemed to be the proper party on behalf of the Secretary of Labor in all review proceedings conducted pursuant to section 21(c) of the LHWCA.

§ 802.411 Certification of record for judicial review.

The record of a case including the record of proceedings before the Board shall be transmitted to the appropriate court pursuant to the rules of such court.

Signed in Washington, DC, this 9th day of July, 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-16139 Filed 7-17-87; 8:45 am]

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Monday
July 20, 1987

Part III

Department of Labor

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure; Notice of Proposed Rulemaking

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure

AGENCY: Department of Labor.

ACTION: Notice of Proposed Rulemaking; request for comments.

SUMMARY: The Department of Labor proposes to amend three sections of the Rules of Practice and Procedure of the Benefits Review Board as set forth in Part 802 of Title 20 published elsewhere in this issue. The proposed amendments are designed to establish procedures for eliminating certain procedural issues that have arisen in responding to requests for a stay of payments filed under section 21(b)(3) of the Longshore and Harbor Workers' Compensation Act, and in resolving jurisdictional problems that arise when a party to a claim pending on appeal to the Board desires to seek modification of the underlying decision. Further, this proposal would establish a procedure for disqualifying persons from participation in a representative capacity in appeals filed with the Board.

DATE: Written comments must be submitted on or before September 18, 1987.

ADDRESS: Send written comments to: Patricia T. Hagerty, Senior Board Attorney, Suite 757, 1111 20th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Patricia T. Hagerty, (202) 653–5060.

SUPPLEMENTARY INFORMATION: The Department is requesting written comments on the proposed amendments to the Board's Rules of Practice and Procedure. These amendments, more fully discussed below, are designed to establish procedures for resolving issues that have been raised in appeals filed with the Board during the past several years. These issues have been resolved on a case by case approach. The Department believes, however, that the establishment of regulatory procedures specifically designed to cover these situations is in the best interest of all affected parties and should result in fewer appeals to the courts of appeals based on the lack of regulatory guidelines.

Specifically, the proposed amendments to Part 802 are as follows:

1. It is proposed to add a new subsection 802.105(b) which will address the apparent conflict between section 14(f) of the Longshore Act, which requires an employer to pay compensation within 10 days of an award unless a stay of payment has been ordered by the Benefits Review Board, and the 10 day response time within which other parties may respond to motions filed with the Board, including a motion for a stay of payment, provided by § 802.219(e) of this chapter. Under current regulations employers must choose between making the payment within ten days or not making the payment and incurring section 14(f) penalties. Pursuant to the proposed § 802.105(b), the Board will have the discretion to issue, within the 10 day period set forth in section 14(f), a temporary stay not to exceed 30 days. This would allow the claimant or other parties to file a response to the request for a stay before the Board issues a final order. Upon receipt of the response(s) or the expiration of the 10 day response period, an order granting or denying the stay of payment will be issued. If no order is issued within the 30 day temporary stay period, the stay will lapse. Public comment is invited on this subsection.

No amendment to § 802.105(a) is being proposed at this time. Note that the Benefits Review Board has held that certain criteria required by § 801.105(a) do not have to be stated in their stay orders. *Rivere* v. *Raymond Fabricator Inc.*, 18 BRBS 6 (1985). The correctness of this ruling is being challenged and should be resolved by the courts.

2. New subsection 802.202(d) sets forth the qualifications for attorneys and lay representatives; subsection (d)(2) further requires that a lay representative file an application for permission to appear before the Board in each case, stating the person's qualifications to appear. These new provisions are intended to ensure that parties are ably represented on appeal to the Board by their lay representatives. New paragraph (e) establishes a procedure for denial of authority to appear before the Board for both attorneys and lay representatives and sets forth the circumstances which may result in such denial of authority to appear. This section is intended to address questions of the competence or misconduct of attorneys or lay representatives which are not covered by 33 U.S.C. 931(b)(2)(C). Public comment is invited on these sections.

3. A new paragraph (c) is added to § 802.301 to state what effect the filing of a request for modification (see Longshore Act section 22) will have on appeals pending before the Board for review. Under the proposal, the Board will dismiss the appeal without prejudice, subject to being reinstated should the request for modification be denied. If the request is granted, any party adversely affected by the decision or order may file a new appeal with the Board within the thirty day period set forth in section 21(a) of the Longshore Act. Public comment is invited on this subsection.

Classification—Executive Order 12291

The Department has determined that this rule is not a major rule under Executive Order 12291, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. No regulatory impact analysis is therefore required.

Regulatory Flexibility Act

The Department believes that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendments will only establish procedures to be followed in resolving issues arising under the Longshore Act and they do not, other than the provisions relating to representation (§ 802.202), in themselves, impose any additional requirements upon small entities. The proposed amendments to § 802.202 will permit the Board to determine the qualifications of those persons who should participate in the appellate process. Accordingly, no regulatory impact analysis is required.

List of Subjects in 20 CFR Part 802

Workers' compensation, Administrative practice and procedure.

Accordingly, it is proposed that 20 CFR Part 802 be amended as set forth below.

PART 802—[AMENDED]

1. The authority citation for Part 802 continues to read as follows:

Authority: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

2. By adding paragraph (b) to § 801.105 to read as follows:

§ 802.105 Stay of payment pending appeal.

* * * * *

(b) When circumstances require, the Board, in its discretion, may issue a temporary order not to exceed 30 days granting a motion for stay of payment prior to the expiration of the ten-day period allowed for filing responses to motions pursuant to § 802.219(e). Following receipt of a response to the motion or expiration of the response time provided in § 802.219(e), the Board will issue a subsequent order ruling on the motion for stay of payment.

3. By adding paragraphs (d) and (e) to § 802.202 to read as follows:

§ 802.202 Appearances by attorneys and other authorized persons; denial or authority to appear.

* * * * *

(d) *Qualifications*—(1) *Attorneys.* An attorney at law who is admitted to practice before the Federal courts or before the highest court of any State, the District of Columbia, or any territory or commonwealth of the United States, may practice before the Board unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C), or unless authority to appear has been denied pursuant to § 802.202(e) (1) and (3). An attorney's own representation that he or she is in good standing before any of such courts shall be sufficient proof thereof, unless otherwise ordered by the Board.

(2) *Persons not attorneys.* Any person who is not an attorney at law may be admitted to appear in a representative capacity unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C). An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Board at the time such person's appearance is entered. The application shall state such person's name, address, telephone number, general education, any special training or experience in claims representation, and such person's relationship, if any, to the party being represented. The Board may, at any time, make further inquiry as to the qualification or ability of such person to render assistance. In the event of a failure to make application for admission to appear, the Board shall issue an order to show cause why admission to appear should not be denied. Admission to appear in a particular case shall not be deemed a blanket authorization to appear in other cases.

(e) *Denial of authority to appear.*—(1) *Attorneys.* The Board may deny the privilege of appearing to any attorney, within applicable statutory constraints, e.g., 5 U.S.C. 555, who has been disbarred or suspended from the practice of law; who has surrendered his or her license while under investigation or under threat of disciplinary action; or who, after notice of an opportunity for hearing in the matter is found by the Board to have engaged in any conduct which would result in the loss of his or her license. No provision hereof shall apply to any attorney who appears on his or her own behalf.

(2) *Persons not attorneys.* The Board may deny the privilege of appearing to any person who, in the Board's judgment, lacks sufficient qualification or ability to render assistance. No provision hereof shall apply to any person who appears on his or her own behalf.

(3) Denial of authority to appear may be considered, after notice of and opportunity for a hearing, by the panel (constituted pursuant to § 801.301) which is assigned to decide the appeal in which the attorney or other person has entered an appearance. If such proceeding reveals facts suggesting that one of the circumstances described in 33 U.S.C. 931(b)(2)(C) exists, the Board shall refer that information to the Director, OWCP, for further proceedings pursuant to 33 U.S.C. 931(b)(2)(C) and 907(j). An attorney or other person may appeal a panel's decision to deny authority to appear to the entire permanent Board sitting en banc.

4. By adding paragraph (c) to § 802.301 to read as follows:

§ 802.301 Scope of review.

* * * * *

(c) Any party who considers new evidence necessary to the adjudication of the claim may apply for modification pursuant to section 22 of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 922. A party who files a petition for modification shall promptly notify the Board of such filing. Upon receipt of such notification, the Board shall dismiss the case without prejudice. Should the petition for modification be declined, the petitioner may file a request for reinstatement of his or her appeal with the Board within 30 days of the date the petition is declined. Should the petition for modification be accepted, any party adversely affected by the decision or order granting or denying modification may file a new appeal with the Board within 30 days of the date the decision or order on modification is filed.

Signed in Washington, DC, this 9th day of July, 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-16140 Filed 7-17-87; 8:45 am]

BILLING CODE 4510-23-M

federal register

Monday
July 20, 1987

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 36

Noise and Emission Standards for Aircraft Powered by Advanced Turboprop (Propfan) Engines; Advance Notice of Proposed Rulemaking (ANPRM); Reopening of Comment Period

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 36

[Docket No. 25206; Notice No. 87-2]

Noise Standards; Aircraft Type and Airworthiness Certification; SFAR 27; Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes; Noise and Emission Standards for Aircraft Powered by Advanced Turboprop (Propfan) Engines; Reopening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period for Advance Notice of Proposed Rulemaking (ANPRM) No. 87-2 which invited comments on the need to establish noise and emission standards for the type certification of civil aircraft powered by advanced turboprop (propfan) engines. ANPRM No. 87-2 solicited information on the economic reasonableness and technological feasibility of limiting enroute noise by adding one or more measurements to the current requirements. In addition, information, data, and views were solicited on the appropriate smoke and/or gaseous emissions standards that should be applied to the certification and operation of propfan engines. This reopening is necessary to afford all interested persons an opportunity to present their views on the questions presented in the advance notice. Furthermore, because the FAA finds that public comment regarding a reopening of the comment period is unnecessary, this reopening is made effective July 17, 1987.

DATES: Comments must be received on or before October 1, 1987.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25206, 800 Independence Avenue, SW., Washington, DC 20591;

Or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, weekdays except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Starley, Noise Abatement Division (AEE-100), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3553.

SUPPLEMENTARY INFORMATION:

Comments Invited

Advance Notice of Proposed Rulemaking (ANPRM) No. 87-2 was issued on March 13, 1987 (52 FR 8050; March 13, 1987) under FAA's policy of soliciting public participation in rulemaking. Interested persons are invited to participate by submitting such written data, views, or arguments regarding the proposed rule as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasonable regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate 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 Docket No. 25206." 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 by the Administrator before taking action on the proposed rule. The rulemaking concepts discussed in this advance 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 ANPRMS

Any person may obtain a copy of this advance notice of proposed rulemaking (ANPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3479. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Regulatory Background

On March 13, 1987, the FAA published an Advance Notice of Proposed Rulemaking (ANPRM) No. 87-2 (52 FR 8050), which provided for a 120-day comment period closing on June 11, 1987. In that notice, the FAA announced it is considering amending Parts 27 and 36 of the Federal Aviation Regulations for type certification of civil aircraft powered by advance turboprop (propfan) engines and to establish appropriate smoke and/or gaseous emissions standards. The new engines currently in development in the U.S. and abroad could create significant enroute noise levels on the ground. Because of new engine design and the anticipated civil emissions under consideration it is difficult to adequately assess either the environmental or economic consequences of any proposed regulatory alternative. It is important that both airplane and engine designers consider the possible noise impacts of these new aircraft.

The FAA invited interested persons to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Since ANPRM No. 87-2 was published, the Aerospace Industries Association of America, Inc., requested a 120-day reopening of the comment period to allow industry time to analyze, compare, and comment on current data and test data to be obtained after the close of the original comment period.

The FAA considers it vital to obtain the comments of all interested persons concerning the equitableness, economic reasonableness, technical feasibility, and environmental impact of the proposed standards. Therefore, solicitation of additional comment on the reopening is unnecessary.

Economic Impacts and Benefits

As discussed in ANPRM No. 87-2, agencies of the Federal Government are required by Executive Order 12291 to examine any proposed regulation to ascertain its economic impact and to adopt only those regulatory programs in which potential benefits to society clearly outweigh the potential costs to society. Any regulatory proposal by the FAA must be accompanied by an evaluation quantifying and/or qualifying, to the extent possible, the benefits and cost of such proposals. Although the FAA does not have sufficient information to generate definitive costs at this time, preliminary evaluation indicates that this ANPRM is

not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). However, if comments to the Docket for this ANPRM indicate this assumption is erroneous, a complete cost evaluation will be prepared.

Conclusion

This notice reopened, without additional comment, the comment period of the ANPRM to afford interested persons additional time to review and respond to Advance Notice No. 87–2. It is premature at this time for the FAA to generate definitive costs and benefits of amending Parts 27 and 36.

Reopening of Comment Period

In consideration of the foregoing, the FAA concludes that the comment period should be reopened. Accordingly, the comment period for Notice No. 87–2 is reopened to October 1, 1987.

List of Subjects in 14 CFR Part 36

Aircraft certification, Aircraft noise levels, subsonic aircraft. *14 CFR SFAR 27*: Aircraft emission levels, Airport air quality standards, Airports.

PART 36—[AMENDED]

The authority citation for Part 36 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 1431(b), 1651(b)(2), 2121 through 2125.; 42 U.S.C. 43212 *et seq.*; sec. 124 of Pub. L. 08–473, E.O. 11514, 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

The authority citation for SFAR 27 continues to be as follows:

Authority: 42 U.S.C., 1857f–10, (Revised Pub. L. 91–604, December 31, 1970); 49 U.S.C. 1348(c), 1345(a), 1421, 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

Issued in Washington, DC, on July 14, 1987.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 87–16335 Filed 7–7–87; 8:45 am]

BILLING CODE 6717-01-M

federal register

Monday
July 20, 1987

Part V

The President

Federal Register
Vol. 52. No. 138
Monday, July 20, 1987

Presidential Documents

Title 3—

The President

Proclamation 5679 of July 16, 1987

Extension of Temporary Duty Increases and Quantitative Limitations on the Importation Into the United States of Certain Stainless Steel and Alloy Tool Steel

By the President of the United States of America

A Proclamation

1. On July 5, 1983, pursuant to section 202(b)(1) of the Trade Act of 1974 (the Act) (19 U.S.C. 2252(b)(1)) and after taking into account the considerations specified in section 202(c) of the Act (19 U.S.C. 2252(c)) and the report and recommendations of the United States International Trade Commission (the Commission), I determined to impose additional tariffs and quantitative restrictions on imports of certain bars; wire rods; and plates, sheets and strips, not cut, not pressed, and not stamped to nonrectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high-speed tool steel, provided for in specified items of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). By Proclamation 5074 of July 19, 1983, pursuant to sections 203(a)(1), 203(a)(3), and 203(e)(1) of the Act (19 U.S.C. 2253(a)(1), 2253(a)(3), and 2253(e)(1)), I provided import relief through the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel as set forth in the Annex to that Proclamation.

2. Further, in Proclamation 5074 I directed the United States Trade Representative (USTR) to take such actions and perform such functions for the United States as may be necessary to administer and implement such relief, to negotiate orderly marketing agreements pursuant to section 203 of the Act (19 U.S.C. 2253), to modify such relief pursuant to section 203, and to make any changes in the headnote or TSUS items created in the Annex to that Proclamation that may be necessary to implement the foregoing authority. I also directed the USTR to conduct an annual review of the necessity for and effectiveness of such relief and to recommend any appropriate action under section 203(h)(4) of the Act (19 U.S.C. 2253(h)(4)).

3. On September 18, 1984, I established a national policy for the steel industry and directed the USTR to coordinate and direct the implementation of that policy, including the negotiation of new arrangements with exporting countries and the reaffirmation of existing measures limiting steel exports into the United States. Supplemental authority to enforce the national policy for the steel industry was provided in Title VIII of the Trade and Tariff Act of 1984 (19 U.S.C. 2253 note).

4. Pursuant to the above authority, the USTR concluded agreements with the European Community and 18 other exporting nations and made such modifications to the import relief proclaimed in Proclamation 5074 as were necessary to implement these agreements.

5. I have now determined that the relief provided in Proclamation 5074, as subsequently modified, should be extended through September 30, 1989, as set forth in the Annex to this Proclamation. Finally, I have determined to continue the authority of the USTR under the national policy for the steel industry to take such actions as he determines necessary and appropriate to carry out that policy, including further actions with respect to articles subject to the relief set forth in the Annex to this Proclamation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 203 and 604 of the Act (19 U.S.C. 2253 and 2483), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (16 Stat. [pt. 5] A58; 8 UST [pt. 2] 1786), do proclaim that—

(1) Part I of Schedule XX of the GATT is modified to conform to the action taken in the Annex to this Proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this Proclamation.

(3) The authority delegated to the USTR by Proclamation 5074 is hereby continued throughout the duration of the relief set forth in the Annex to this Proclamation.

(4) The President's authority to prescribe regulations concerning any restriction proclaimed in Proclamation 5074 and continued by this Proclamation, or governing the entry or withdrawal from warehouse of articles covered by orderly marketing agreements negotiated thereunder or of like articles that are the product of countries not parties to any such agreement, previously delegated by Proclamation 5074 to the Secretary of the Treasury, shall continue to be exercised under the terms provided in such Proclamation for the duration of the relief provided herein.

(5) The Secretary of the Treasury shall take such actions as the USTR shall determine are necessary to implement any import relief under this Proclamation, or modifications thereof.

(6) Nothing in this Proclamation shall limit the authority delegated to the USTR pursuant to the national policy for the steel industry, including the authority to take such further action as he may determine to be necessary and appropriate to carry out that policy.

(7) This Proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 20, 1987, and before the close of September 30, 1989, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of July, 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 twelfth.

Ronald Reagan

Billing code 3195-01-M

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules fo the United States (19 U.S.C. 1202) is modified --

(a) by deleting headnote 10(f) and inserting in lieu thereof new headnote 10(f) to read as follows:

"(f) United States International Trade Commission (USITC) surveys.--The USITC shall conduct annual mandatory surveys with respect to the products subject to import relief under each item involved to obtain from domestic producers data by calendar quarter on profits, orders, and inventories, and annual data on production, shipments, employment, capital expenditures, capacity, and research and development expenditures. The initial survey shall cover calendar year 1987, and the results shall be published by March 31, 1988. The final survey shall cover calendar year 1988, and the results shall be published by March 31, 1989. With each annual survey, the USITC shall also report the production, capacity, and capacity utilization, to the extent the information can be obtained, for each country which is a major supplier of imports, and any projected changes in production, capacity, and capacity utilization for those countries."

(b) by deleting headnote 10(g) and inserting in lieu thereof new headnote 10(g) to read as follows:

"(g) Products Subject to Certain Export Restraint Agreements.

(i) The duties provided for in items 926.00 and 926.05 shall not apply to products of Australia, Austria, Brazil, Czechoslovakia, the European Communities, German Democractic Republic, Hungary, Japan, Mexico, People's Republic of China, Poland, the Republic of Korea, Romania, South Africa, Venezuela, or Yugoslavia, exported to the United States on or after March 1, 1986.

(ii) The quantitative limitations provided for in items 926.10 through 926.21 shall not apply to products of Austria, Brazil, or the following Member States of the European Communities: Belgium, Denmark, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom of Great Britain and Northern Ireland)."

(c) by striking items 926.00 through 926.23, inclusive, and inserting in lieu thereof the following new items and superior headings thereto:

"Item	Articles	Rates of Duty			
		1			2
		Effective with respect to articles entered during the period --			
		July 20, 1987 through July 19, 1988	July 20, 1988 through July 19, 1989	July 20, 1989 through September 30, 1989	
926.00	Sheets and strip of stainless steel (except as provided for in headnote 10(g)(i) to this subpart, and except razor blade steel, cladding grade 434 stainless steel sheet, cold-rolled sheets of stainless steel, over 71 inches in width, stainless steel of the type described in headnote 10(a)(v), and flapper valve steel) provided for in items 607.76, 607.90, 608.29, 608.43, and 608.57, part 2B, schedule 6, all the foregoing whether or not entitled to duty-free treatment under item 832.00, part 3A, schedule 8.....	3% ad val.	2% ad val.	1% ad val.	No Change
926.05	Plates of stainless steel (except as provided in headnote 10(g)(i) to this subpart, and except stainless steel of the type described in headnote 10(a)(v)) provided for in items 607.76 and 607.90, part 2B, schedule 6, all the foregoing whether or not entitled to duty-free treatment under item 832.00, part 3A, schedule 8.....	3% ad val.	2% ad val.	1% ad val.	No Change

Item	Article	Quota Quantity (in short tons)
	Whenever the respective aggregate quantity of articles the product of a foreign country specified below for items 926.10 through 926.21, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 6 or in item 832.00 of schedule 8), no article in such item the product of such country may be entered during the remainder of such restraint period, except as provided in headnote 10:	
	Bars of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in item 606.90, part 2B, schedule 6:	
926.10:	If entered during the period from July 20, 1987, through October 19, 1987, inclusive:	
	Argentina	55
	Canada	268
	Japan	3,442
	Korea	454
	Mexico	40
	Spain	1,069
	Sweden	330
	Other, except as provided in headnote 10(g)(ii) to this subpart	80
926.11:	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided in headnote 10(g)(ii) to this subpart	17,717
926.12:	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	24,159
926.13:	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	4,977

Item	Article	Quota Quantity (in short tons)
	[Whenever...(con.):]	
	Wire rod of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in items 607.26 and 607.43, part 2B, schedule 6:	
926.14	If entered during the period from July 20, 1987, through October 19, 1987, inclusive:	
	Japan	1,542
	Spain	452
	Sweden	964
	Taiwan	50
	Other, except as provided in headnote 10(g)(ii) to this subpart	299
926.15	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided in headnote 10(g)(ii) to this subpart	10,213
926.16	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	13,926
926.17	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	2,869

Item	Article	Quota Quantity (in short tons)
	[Whenever...(con.):]	
	Bars, wire rods, plates, sheets, and strip, all the foregoing of alloy tool steel (except chipper knife steel, band saw steel, rotor steel for hysteresis motors, and tool steel of the type described in headnote 10(a)(viii)), provided for in items 606.95, 607.28, 607.34, 607.46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64, and round wire of high speed tool steel, provided for in item 609.45, part 2B, schedule 6:	
926.18	If entered during the period from July 20, 1987, through October 19, 1987, inclusive:	
	Argentina	56
	Canada	386
	Japan	1,123
	Mexico	76
	Poland	69
	Spain	45
	Sweden	2,120
	Other, except as provided for in headnote 10(g)(ii) to this subpart	396
926.19	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided in headnote 10(g)(ii) to this subpart	13,182
926.20	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	17,977
926.21	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided in headnote 10(g)(ii) to this subpart	3,703

[FR Doc. 87-16595
Filed 7-17-87; 11:25 am]
Billing code 3195-01-C

Presidential Documents

Executive Order 12603 of July 16, 1987

Presidential Commission on the Human Immunodeficiency Virus Epidemic

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to increase the number of members of the Presidential Commission on the Human Immunodeficiency Virus Epidemic, it is hereby ordered that Section 1(a) of Executive Order No. 12601 of June 24, 1987, is amended by changing the number of members of the Commission from 11 to 13.

Ronald Reagan

THE WHITE HOUSE,
July 16, 1987.

[FR Doc. 87-16596
Filed 7-17-87; 11:28 am]
Billing code 3195-01-M

Presidential Documents

Memorandum of July 16, 1987

Specialty Steel Import Relief Determination

Memorandum for the United States Trade Representative

Pursuant to section 203(h)(3) of the Trade Act of 1974 (P.L. 93–618), I have determined the action I will take with respect to the report of the U.S. International Trade Commission, transmitted to me on May 15, 1987, concerning the results of its investigation on the question of extending import relief granted to the specialty steel industry in 1983. This investigation was initiated as a result of a petition filed by the Specialty Steel Industry of the United States and the United Steelworkers of America.

I have determined that the extension of relief as provided under Proclamation 5074, as subsequently modified under my national policy for the steel industry, is consistent with our national economic interest.

I will, therefore, proclaim the extension of import relief in the form currently in effect. I will impose this relief for a period to extend from July 20, 1987, through September 30, 1989, in order to provide time for this industry to complete important investment projects, improve productivity, and regain profitability. I have decided to provide relief in a form consistent with my belief in minimal government interference in the marketplace, in a manner that facilitates the orderly adjustment of the industry while recognizing the substantial differences in the competitive conditions of the various segments of this industry.

For the "flat-rolled" products (stainless steel sheet and strip and stainless steel plate), I will proclaim the continuation of a degressive tariff, as modified by headnote 10(g)(i) of Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States. The tariff will be decreased from 3 percent ad valorem in the first year, to 2 percent ad valorem in the second year, and to 1 percent in the final period (July 20, 1989, to September 30, 1989).

In recognition of the weaker competitive position of the stainless steel bar, rod, and alloy tool steel sectors, I will proclaim the extension of global quotas for these products in the form currently in effect, as modified by headnote 10(g)(ii) of Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States.

In order to facilitate the orderly transition between my original import relief measure and the extension that I will proclaim, as well as to provide adequate time for the negotiation or renegotiation of orderly marketing agreements, I will extend the country allocations for stainless steel bar and wire rod and alloy tool steel for a period of 92 days, to end on October 19, 1987, at the levels cited in the Annex to my proclamation.

For stainless steel bar, imports will be limited during the remainder of the first year to 17,717 net tons; imports in the second year will be limited to 24,159 net tons; and imports in the final period will be limited to 4,977 net tons.

For stainless steel wire rod, imports will be limited during the remainder of the first year of extended import relief to 10,213 net tons; imports in the second year will be limited to 13,926 net tons; and imports in the final period will be limited to 2,869 net tons.

For alloy tool steel, imports will be limited to 13,182 net tons during the remainder of the first year of extended import relief; imports in the second year will be limited to 17,977 net tons; and imports in the final period will be limited to 3,703 net tons.

These limitations may be unilaterally allocated on a country-by-country basis, or bilateral agreements may be negotiated or renegotiated with countries that request such negotiations.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 16, 1987.

[FR Doc. 87-16597
Filed 7-17-87; 11:27 am]
Billing code 3195-01-M

federal register

Monday
July 20, 1987

Part VI

Department of the Interior

Bureau of Land Management

43 CFR Part 4100

Grazing Administration, Exclusive of Alaska; Amendments to the Grazing Regulations; Proposed Rulemaking

Part VI

Department of the Interior

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-220-87-4322-02]

43 CFR PART 4100

Grazing Administration, Exclusive of Alaska; Amendments to the Grazing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking; correction and extension of comment period.

SUMMARY: The Department of the Interior is correcting omissions from, and an inadvertent editing error in, the proposed amendments of the grazing regulations of the Bureau of Land Management published on May 20, 1987, in the **Federal Register** (52 FR 19032). It is also extending the comment period 30 days to allow the public a reasonable opportunity to review the corrections.

DATE: Comments should be submitted by August 19, 1987. Comments received or postmarked after the above date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Building, 1800 C Street NW., Washington, DC 20240.

Comments will be available for public review at 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) 653-9195.

SUPPLEMENTARY INFORMATION: Item 16. in the regulatory text of the proposed rulemaking was inadvertently stated in terms of amending § 4120.2(a) of the final rulemaking published on February 21, 1984 (49 FR 6454), which was enjoined from going into effect by the U.S. District Court, in an order published December 18, 1985 (50 FR 51522), rather than amending the text of 43 CFR 4120.2-3(a) currently in effect. This error is corrected in this notice by proposing to remove section 4120.2, which appears in the current edition of the Code of Federal Regulations, and by inserting the full text of the section as proposed to be amended.

The U.S. District Court also enjoined § 4170.1-4, which was never removed from the Code of Federal Regulations. This section is now proposed to be removed.

The preamble to the proposed rulemaking stated that §§ 4120.2-1(c) and 4130.2(d)(3), and paragraphs (7) and (8) of § 4140.1(b), were being removed, and that § 4130.6-3 was being retained as published in a final rulemaking of February 21, 1984 (49 FR 6440). However, the regulatory text in the proposed rulemaking does not make these changes. This notice also corrects these omissions by stating fully the language removed and retained.

James E. Cason,

Acting Assistant Secretary of the Interior.

July 10, 1987.

1. Item 16., on page 19039, column 3, is revised to read as follows:

16. A new section 4120.2-3 is added to read:

§ 4120.2-3 Allotment management plans.

When allotment management plans are developed, the following provisions apply:

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan, and other affected interests. The allotment management plan shall include terms and conditions under §§ 4130.6, 4130.6-1, 4130.6-2 and 4130.6-3 of this title, and shall prescribe the livestock grazing practices necessary to meet specific multiple-use management objectives. The plan shall specify the limits of flexibility within which the permittee or lessee may adjust operations without prior approval of the authorized officer. The plan shall provide for monitoring to evaluate the effectiveness of management actions in achieving the specific multiple-use management objectives of the plan.

(b) Private and State lands shall be included in allotment management plans with the consent or at the request of the parties who own or control those lands.

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.

2. Item 22., on page 19040, column 1, is revised to read as follows:

"22. Section 4140.1 is amended by removing paragraphs (b)(7) and (b)(8), which had read as set forth below,[1] and by revising paragraph (a)(3) to read:

§ 4140.1 [Amended]

(a) * * *

(3) Placing supplemental feed on these lands without authorization.

(b) * * *

(7) Violating any provision of Part 4700 of this subchapter concerning the protection and management of wild free-roaming horses and burros;

(8) Violating any Federal or State laws or regulations concerning conservation or protection of natural resources and cultural resources or the environment including, but not limited to, those relating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

3. A new item 25. is added to read as follows:

25. Sections 4120.2-1(c) and 4130.2(d)(3) are removed in their entirety. These sections had read as follows: [2]

§ 4120.2-1 Mandatory terms and conditions.

* * * * *

(c) All permits and leases shall be made subject to cancellation, suspension, or modification, as required by land use plans, and subject to applicable law.

* * * * *

§ 4130.2 Grazing permits or leases.

* * * * *

(d) * * *

(3) Grazing permits or leases shall be modified, suspended, or canceled as required by land use planning decisions.

4. A new item 26. is added to read as follows:

26. Section 4130.6-3, as added on February 21, 1984 (49 FR 6453), which was enjoined as stated in a notice published December 18, 1985 (50 FR 51522), and which appears in the 1986 edition of the Code of Federal Regulations, is retained.

5. A new item 27. is added to read as follows:

27. Section 4170.1-4, as added on February 21, 1984 (49 FR 6453), which was enjoined as stated in a notice published December 18, 1985 (50 FR 51522), and which appears in the 1986 edition of the Code of Federal Regulations, is removed.

6. A new item 28. is added to read as follows:

28. Section 4120.2, as amended on February 21, 1984 (49 FR 6453), which was enjoined as stated in a notice published December 18, 1985 (50 FR 51522), and which appears in the 1986 edition of the Code of Federal Regulations, is removed.

[FR Doc. 87-16237 Filed 7-17-87; 11:41 am]

BILLING CODE 4310-84-M

[1] Due to the amendment published February 21, 1984 (49 FR 6454), which was enjoined by court order published December 18, 1985 (50 FR 51522), this text does not appear in the current Code of Federal Regulations.

[2] See footnote 1, above.

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S.J. Res. 138/Pub. L. 100-73

To designate the period commencing on July 13, 1987, and ending on July 26, 1987, as "U.S. Olympic Festival—'87 Celebration", and to designate July 17, 1987, as "U.S. Olympic Festival—'87 Day." (July 15, 1987; 101 Stat. 478; 1 page) Price: $1.00

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

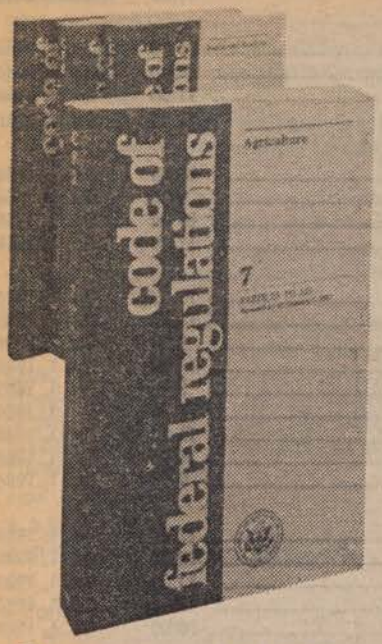
[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.



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